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SITTING DAYS—2010

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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

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 Ludwig
Manager of Opposition Business in the Senate—Senator Stephen Shane Parry
Deputy Manager of Opposition Business in the Senate—Senator Mitchell Peter Fifield

Senate Party Leaders and Whips

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

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

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

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

Heads of Parliamentary Departments

Clerk of the Senate—R Laing
Clerk of the House of Representatives—B Wright
Secretary, Department of Parliamentary Services—A Thompson
GILLARD MINISTRY

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<tr>
<td>Prime Minister and Minister for Education, Minister for Employment and</td>
<td>Hon. Julia Gillard MP</td>
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<tr>
<td>Workplace Relations and Minister for Social Inclusion</td>
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<tr>
<td>Deputy Prime Minister and Treasurer</td>
<td>Hon. Wayne Swan MP</td>
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<tr>
<td>Minister for Immigration and Citizenship and Leader of the Government</td>
<td>Senator Hon. Chris Evans</td>
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<td>Minister for Defence and Vice President of the Executive Council</td>
<td>Senator Hon. John Faulkner</td>
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<td>Minister for Trade</td>
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<td>Minister for Foreign Affairs and Deputy Leader of the House</td>
<td>Hon. Simon Crean MP</td>
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<tr>
<td>Minister for Health and Ageing</td>
<td>Hon. Stephen Smith MP</td>
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<td>Minister for Families, Housing, Community Services and Indigenous Affairs</td>
<td>Hon. Jenny Macklin MP</td>
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<td>Hon. Lindsay Tanner MP</td>
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<td>Hon. Anthony Albanese MP</td>
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<td>Government and Leader of the House</td>
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<td>Senator Hon. Stephen Conroy</td>
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<td>Senator Hon. Penny Wong</td>
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<tr>
<td>Minister for Environment Protection, Heritage and the Arts</td>
<td>Hon. Peter Garrett AM, MP</td>
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<tr>
<td>Attorney-General</td>
<td>Hon. Robert McClelland MP</td>
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<tr>
<td>Cabinet Secretary, Special Minister of State and Manager of Government</td>
<td>Senator Hon. Joe Ludwig</td>
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<td>Business in the Senate</td>
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<td>Hon. Martin Ferguson AM, MP</td>
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<td>Minister for Human Services and Minister for Financial Services,</td>
<td>Hon. Chris Bowen MP</td>
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[The above ministers constitute the cabinet]
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<td>Minister for Veterans’ Affairs and Minister for Defence Personnel</td>
<td>Hon. Alan Griffin MP</td>
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<td>Minister for Housing and Minister for the Status of Women</td>
<td>Hon. Tanya Plibersek MP</td>
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<td>Hon. Brendan O’Connor MP</td>
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<td>Minister for Indigenous Health, Rural and Regional Health and</td>
<td>Hon. Warren Snowdon MP</td>
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<td>Minister for Small Business, Independent Contractors and the Service</td>
<td>Hon. Dr Craig Emerson MP</td>
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<td>Economy, Minister Assisting the Finance Minister on Deregulation and</td>
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<td>Minister for Competition Policy and Consumer Affairs</td>
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<td>Hon. Justine Elliot MP</td>
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<td>Minister for Early Childhood Education, Childcare and Youth</td>
<td>Hon. Kate Ellis MP</td>
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<td>and Minister for Sport</td>
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<td>Hon. Gary Gray AO, MP</td>
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<td>Parliamentary Secretary for Disabilities and Children’s Services and</td>
<td>Hon. Bill Shorten MP</td>
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<td>Parliamentary Secretary for Victorian Bushfire Reconstruction</td>
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<td>Parliamentary Secretary for International Development Assistance</td>
<td>Hon. Bob McMullan MP</td>
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<tr>
<td>Parliamentary Secretary to the Prime Minister and Parliamentary Secretary for Trade</td>
<td>Hon. Anthony Byrne MP</td>
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<td>Parliamentary Secretary for Social Inclusion and Parliamentary</td>
<td>Senator Hon. Ursula Stephens</td>
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<td>Secretary for Volunteer Sector</td>
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<td>Parliamentary Secretary for Multicultural Affairs and Settlement Services</td>
<td>Hon. Laurie Ferguson MP</td>
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<td>Hon. Jason Clare MP</td>
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<td>Parliamentary Secretary for Innovation and Industry</td>
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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]
Shadow Minister for Tourism and the Arts and Shadow Minister for Youth and Sport  Mr Steven Ciobo MP

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

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

Shadow Assistant Treasurer  Hon. Sussan Ley MP

Shadow Minister for COAG and Modernising the Federation  Senator Marise Payne

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

Shadow Minister for Justice, Customs and Border Protection  Mr Michael Keenan MP

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

Shadow Minister for Veterans Affairs  Mrs Louise Markus MP

Shadow Minister for Ageing  Senator Concetta Fierravanti-Wells

Shadow Minister for Seniors  Hon. Bronwyn Bishop MP

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

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

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

Shadow Parliamentary Secretary for Roads and Transport  Mr Don Randall MP

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

Shadow Parliamentary Secretary for Tourism  Mrs Jo Gash MP

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

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

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

Shadow Parliamentary Secretary for Defence  Mr Stuart Robert MP

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

Shadow Parliamentary Secretary for Disabilities, Carers and the Voluntary Sector and Deputy Manager of Opposition Business in the Senate  Senator Mitch Fifield

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

Shadow Parliamentary Secretary for Agriculture, Fisheries and Forestry and Shadow Parliamentary Secretary for Innovation, Industry, Science and Research  Senator Hon. Richard Colbeck
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Thursday, 24 June 2010

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

BUSINESS

Rearrangement

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (9.31 am)—by leave—I move:

That the routine of business for today be as follows:

(a) consideration of government business notice of motion no. 3 relating to the exemption of bills from the cut-off order; and

(b) consideration of the following bills:

Building Energy Efficiency Disclosure Bill 2010;
No. 7—Bankruptcy Legislation Amendment Bill 2009
No. 8—Trade Practices Amendment (Infrastructure Access) Bill 2009
No. 9—Broadcasting Legislation Amendment (Digital Television) Bill 2010
Trade Practices Amendment (Australian Consumer Law) Bill (No. 2) 2010
No. 10—Excise Tariff Amendment (Aviation Fuel) Bill 2010 and a related bill
Tax Laws Amendment (2010 Measures No. 3) Bill 2010
No. 11—Tax Laws Amendment (2010 GST Administration Measures No. 3) Bill 2010
Tax Laws Amendment (Foreign Source Income Deferral) Bill (No. 1) 2010
International Monetary Agreements Amendment Bill (No. 1) 2010
No. 12—National Health Amendment (Continence Aids Payment Scheme) Bill 2010
No. 13—Corporations Amendment (Corporate Reporting Reform) Bill 2010
No. 14—Financial Sector Legislation Amendment (Prudential Refinements and Other Measures) Bill 2010
Crimes Amendment (Royal Flying Doctor Service) Bill 2010
Higher Education Support Amendment (Indexation) Bill 2010
Farm Household Support Amendment (Ancillary Benefits) Bill 2010
Superannuation Industry (Supervision) Amendment Bill 2010
Agricultural and Veterinary Chemicals Code Amendment Bill 2010
Food Standards Australia New Zealand Amendment Bill 2010
Tax Laws Amendment (Confidentiality of Taxpayer Information) Bill 2009
Immigration (Education) Amendment Bill 2010

Question agreed to.

Consideration of Legislation

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (9.31 am)—At the request of the Special Minister of State (Senator Ludwig), I seek leave to amend government business notice of motion No. 3 by omitting the Insurance Contracts Amendment Bill 2010.

Leave granted.

Senator STEPHENS—I move the motion as amended:

That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:
Agricultural and Veterinary Chemicals Code Amendment Bill 2010
Building Energy Efficiency Disclosure Bill 2010
Crimes Amendment (Royal Flying Doctor Service) Bill 2010

Question agreed to.
Farm Household Support Amendment (Ancillary Benefits) Bill 2010
Food Standards Australia New Zealand Amendment Bill 2010
Higher Education Support Amendment (Indexation) Bill 2010
Immigration (Education) Amendment Bill 2010
International Monetary Agreements Amendment Bill (No. 1) 2010
Superannuation Industry (Supervision) Amendment Bill 2010
Tax Laws Amendment (2010 Measures No. 3) Bill 2010
Tax Laws Amendment (Confidentiality of Taxpayer Information) Bill 2009
Tax Laws Amendment (Foreign Source Income Deferral) Bill (No. 1) 2010
Trade Practices Amendment (Australian Consumer Law) Bill (No. 2) 2010
Veterans’ Affairs and Other Legislation Amendment (Miscellaneous Measures) Bill 2009.

Question agreed to.

BUILDING ENERGY EFFICIENCY DISCLOSURE BILL 2010

First Reading

Bill received from the House of Representatives.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (9.32 am)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (9.32 am)—I table a revised explanatory memorandum and move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

The Building Energy Efficiency Disclosure Bill 2010 aims to ensure that credible and meaningful energy efficiency information is given to prospective purchasers and lessees of large commercial office space. This information will help these parties to make better informed decisions and take full account of the economic costs and environmental impacts associated with operating the buildings they are intending to purchase or lease.

Energy efficiency represents one of the fastest and cheapest ways we can reduce our nation’s greenhouse gas emissions, and the commercial building sector has the potential to deliver some of the lowest cost abatement. Requiring the disclosure of commercial building energy efficiency is an important part of the government’s approach to unlocking this abatement potential.

This will not only lead to more informed purchasers and lessees, it will also help to transition the market to a low carbon future. It will reward current market leaders and encourage owners of inefficient buildings to pay more attention to energy efficiency opportunities, some of which might be as simple as turning off the lights and air-conditioning when nobody is in the building, or putting someone in charge of monitoring energy use.

Recognising the major role that energy efficiency can play in tackling climate change, the government made a commitment at the last election to introduce a disclosure scheme of this nature. Building energy efficiency disclosure was subsequently included as one of the key building sector measures in the National Strategy on Energy Efficiency, which was signed off in July 2009 by the Council of Australian Governments.

The development of this scheme has been managed by a working group from the Australian, state and territory governments and has involved a large amount of research, analysis and public consultation spanning the past three years. A full regulatory impact assessment has been undertaken.
Industry has been engaged throughout this process and has indicated a broad level of support for the scheme. A number of elements of the scheme have been developed in response to these consultations.

A number of claims were made by the Member for Paterson in earlier phases of the debates on this bill as to commitments made by the Government in respect of the Scheme. By way of clarification, I want to make clear that the Government's commitment extends to administration of the scheme in an effective and efficient manner, consistent with the legislation, and in consultation with relevant stakeholders.

In essence, this bill will create a legal requirement for owners of large commercial office buildings to obtain energy efficiency information for their building and to disclose it to prospective purchasers and lessees. It will also require head tenants who are subletting office space to disclose this information.

The requirement will apply when office space covering 2,000 square metres or more is offered for sale, lease or sublease. Under the scheme, a full building energy efficiency certificate will be made available to interested parties from the beginning of the enquiry process. The information in the certificate will include a star rating of the building’s energy efficiency, an assessment of the efficiency of lighting and additional guidance on improving the building. The star rating for the building will need to be included in any advertisement.

By instituting a building energy efficiency disclosure scheme such as this, Australia continues its move to the forefront of global action to mitigate greenhouse gas emissions from the built environment—joining jurisdictions in the European Union and the State of California, which have already begun comparable schemes.

While there is more work that both government and industry can do to unlock the abatement potential of commercial buildings, this bill represents an important step in the right direction. It harnesses the power of the market, providing a powerful incentive for businesses to operate buildings efficiently and reduce their impacts on the environment.

**Senator RONALDSON (Victoria)** (9.33 am)—I rise to speak on the Building Energy Efficiency Disclosure Bill 2010. This bill will require energy information to be provided to prospective purchasers, lessees and sublessees of commercial office space of 2,000 square metres or more. The bill will create a legal requirement for owners of large commercial buildings to obtain energy efficient information for their building and provide this information to any prospective lessees or purchasers in the form of a building energy efficiency certificate, or BEEC. The BEEC will include an energy efficiency star rating, information about lighting energy efficiency and generic guidance about how the building’s energy efficiency may be improved. I commend the bill to the Senate.

**Senator MILNE (Tasmania)** (9.33 am)—I rise to speak on the government’s Building Energy Efficiency Disclosure Bill 2010. Energy efficiency is not only one of the fastest ways to reduce our greenhouse gas emissions but, when thoughtfully implemented, it also saves us more money than is expended to achieve the savings. With the implementation of sensible energy efficiency policies Australia can actually achieve far greater greenhouse gas emission reductions than the government had proposed in the CPRS and at far lower cost. Indeed, the government’s failure to understand the huge economic benefits of embracing energy efficiency is central to the failure of ambition in the CPRS.

In order to play our fair part in avoiding catastrophic climate change Australia needs to commit to cut emission to at least 40 per cent below 1990 levels by 2020, and on our way to building a zero emissions economy we need to implement significant change. The built environment is one way of actually doing that. The Greens have already introduced to this chamber measures for residential energy efficiency, which, I might add,
have not been implemented by the government.

Where we have industrial scale energy efficiency, we have also said that the energy efficiency opportunities identified by utility scale facilities ought to be implemented in a mandatory way. Those companies that use more than five petajoules of energy should be forced, in a mandatory environment, to implement the energy efficiency opportunities they identify with a payback period and that can be designated over a period of years. The government has not done that. It is still voluntary and as a result many of those energy-intensive trade-exposed companies, which expect to get benefits and exemption from the CPRS, from the renewable energy targets, have not implemented the energy efficiency opportunities that they have identified as being part of the regime. I want to put on the record here that, in terms of that utility scale, the government can hardly expect to give them more exemptions when they will not implement the energy efficiency opportunities that are before them.

But we are talking today about the non-residential building sector, and again the government has missed a big opportunity here. All we are talking about is offices. We are not talking about all the buildings that should be coming under a non-residential scheme. We should be looking at energy efficiency upgrades not only in offices but in hotels, in shopping centres, in hospitals and in schools. So I think the government has really made a big mistake opting to deal with energy efficiency, even at this very superficial level, just for office buildings.

I inform the Senate that there are eight new shopping centres outside the city of Jakarta in Indonesia. Those shopping centres use more energy than Jakarta airport. They are mega shopping centres. That gives you some idea of just how much energy those massive buildings use when you build those large-scale shopping centres.

In this government bill, as I indicated, we are dealing just with office buildings. While you might be talking about energy efficiency upgrades in the office sector around Australia, what about the massive shopping centres? What about hospitals? What about schools and hotels? What about all of those incredibly energy-consuming buildings? We should be looking at a scheme which covers all non-residential sector buildings, not just office buildings.

We know that the main barriers to taking up energy efficiency measures include: firstly, that energy costs are typically a small proportion of the total expenditure for most people in these sectors, so the potential savings are perceived as small compared to the time and effort needed to research and implement energy efficiency improvements; secondly, that frequently the person who pays the energy bill is not the person responsible for the selection and purchase of energy-using equipment; thirdly, that the benefits and payback of these investments are gradual, accruing over the medium to long term as savings on energy bills; fourthly, that information is not always available at the right time to consumers, tradespeople, managers and policymakers to enable informed energy efficiency choices to be made; and, finally, that many consumers lack the capital to buy new energy-efficient equipment or make the required changes to their businesses. Energy efficiency has to compete with other priorities for capital investment, and it has been really clear in the commercial sector that the people who are building the buildings and leasing them out are not the same people who are dealing with the day-to-day expenditure in those buildings in terms of energy and amenity.
Because these barriers are unaddressed, there is tremendous untapped potential in Australia for energy efficiency. The greenhouse intensity of our economy means that every gain in efficiency gives us a larger cut in emissions than in almost any other OECD country. According to the Climate Institute, Australia has the third-highest energy intensity of all OECD countries, with only Canada and the US being worse performers. During the period from 1990 to 2004, Australia’s energy efficiency improved at a rate three times slower than the OECD average. Energy use in Australia’s non-residential buildings alone was responsible for 17.7 per cent of our total energy-related emissions in 2005. I will say that again, because it is a really critical statistic: energy use in Australia’s non-residential buildings alone was responsible for 17.7 per cent of our total energy-related emissions in 2005. So, if we dealt with the emissions in our commercial buildings, we could not only bring down our emissions substantially but improve life for people who work in those buildings.

The Senate committee have visited several buildings that have been upgraded for energy efficiency. What that usually means is that you get better natural light, which is a better environment to work in than artificial light. You get plants in the building. You get all sorts of improved amenity in managing everything from the airflows in the building to the sunlight—everything about it—and you get better productivity, which is something on which Lend Lease gave evidence to the committee inquiry that we had on the Greens bill. They pointed out that there was much greater productivity in those buildings and many fewer sick days taken by staff. So, as I say to people often, by dealing with climate change and peak oil, you actually make yourselves healthier and happier at the same time because the improvements that you make actually lead to better personal outcomes as well as better outcomes for the planet.

Unfortunately, when the Australian government brought out the CPRS and identified in its statements to the UNFCCC what energy efficiency across all sectors could result in, it identified savings of only three megatonnes per annum from energy efficiency by 2020. Contrast this to what McKinsey and Co. have said. They think around 50 megatonnes is achievable. If you consider that the savings identified by just 165 companies—this is in the top end and the utilities end—in the first round of that energy efficiency opportunities report amount to 4.7 megatonnes, it is clear that the government just has not understood, or has chosen not to really calculate, the big opportunity that is there in energy efficiency for greenhouse gas reduction.

There are several options that have been tried around the world to deal with the non-residential sector. One of them is disclosure of energy efficiency, which is what the government is doing here today by bringing in a bill to disclose the energy efficiency performance of an office building at the time of sale or lease. The Greens believe that that is not good enough, but we will just park that for a moment and say that disclosure is one thing to do, and the beginnings of that are happening here today. You can have green tax incentives, such as accelerated depreciation and the like, or you can have some form of white certificate trading. Those things have all been tried and promoted in the past, and they have had limited success both locally in Australia and internationally.

The Greens believe that there should be mandatory disclosure of building energy performance and greenhouse gas emissions at both the time of sale and lease and on an ongoing basis. One of the amendments that I will be moving will require that to happen. We believe that we need to go much further
than disclosure at the time of sale or lease to ongoing disclosure, and that the information that you get enables you to move to a much more stringent regime. One of the problems with white certificate trading is that it is a voluntary scheme, and we are well beyond voluntary schemes. We need to get into mandatory schemes to achieve the kind of greenhouse gas emission reductions that need to occur.

The Greens brought in legislation earlier this year; we worked with Lend Lease, with Lincolne Scott and Advanced Environmental to bring in what was quite revolutionary legislation in the field of non-residential buildings. Lend Lease, of course, and Lincolne Scott have worked all over the world in the sector. They worked with us and came up with something which I think was groundbreaking internationally. I have to say that I was delighted to see that Rand Corporation in the US—not a corporation that would normally say anything positive about the Greens—came out and said that the legislation that the Greens introduced into the Australian parliament was the best energy efficiency legislation for non-residential buildings internationally. I have to say that I was delighted to see that Rand Corporation in the US—not a corporation that would normally say anything positive about the Greens—came out and said that the legislation that the Greens introduced into the Australian parliament was the best energy efficiency legislation for non-residential buildings in the Asia-Pacific region. Yet we brought it here for a Senate inquiry and it was given only cursory attention by both the government and the coalition. I was really disappointed because this is something we have worked very hard on with people in the sector to introduce what was effectively a trading scheme in the area of non-residential buildings. It required these buildings to collect data on an ongoing basis. You would then set a benchmark for those buildings for energy efficiency performance and then you would say that those buildings that perform above the benchmark have credits to sell and those below the benchmark have to buy them. It was a mandatory scheme to actually force buildings to be upgraded over time.

There is also the issue of procurement. The government made some promises in relation to procurement, saying that the Commonwealth would use its purchasing power with lease arrangements for commercial buildings to make sure that they were upgraded. Everybody welcomed that because the Commonwealth is a large purchaser in this field, but now we discover that the Commonwealth has exempted itself on many occasions from actually complying with its own standards in relation to this. Even the Department of Climate Change moved into a building that did not meet the standards in the first place. That did not give me much hope that anyone was actually very serious about this, although I believe that over time that has actually been improved. I will be interested to hear from the government how many of the buildings it leases actually meet the standards that it set for itself. I move the second reading amendment standing in my name:

At the end of the motion, add: “but the Senate, while supporting the proposal that the building energy efficiency disclosure scheme initially only apply to buildings and building areas over 2 000 square metres, calls on the Government to commit to extend the scheme in 2011 to all buildings and building areas equal to or greater than 1 000 square metres, subject to a detailed regulatory impact assessment”.

I would like the Senate to consider this amendment because disclosure at the point of lease or sale, whilst it is important and it is a first step, is not enough. You cannot move to anything else unless you get a lot more data than that. We are not going to be able to collect that data unless we get ongoing performance, and I cannot see how the Commonwealth is going to get that data. I will be very interested to hear how it is going to be collected on an ongoing basis in order to be able to move to a scheme such as the one that we are suggesting, which actually pro-
vides for something beyond the voluntary: a mandatory scheme which will require the upgrading of buildings.

We will move a number of amendments in the course of the debate. I also have concerns about the NABERS rating. Part of that is that currently NABERS only applies to a very small number of buildings—a couple of hundred, I suppose, across the country. Whilst you are only in a system requiring mandatory disclosure at the point of lease or sale, you can probably manage the system. But if you go to something that is mandatory for everything beyond office buildings, to all non-residential buildings, and you implement that across the country, then I cannot see how this scheme is actually manageable. I will be interested to hear from the government what they have to say in response to that particular proposal from the Greens.

I want to make it very clear that energy efficiency has the potential to move to substantial cuts in greenhouse gas emissions way beyond the five per cent. The unfortunate thing is that we always have a lack of ambition from the government. Every aspect of its climate work shows a complete lack of ambition. We have the private sector identifying massive potential to reduce greenhouse gas emissions and to improve the lives of people who are in these commercial non-residential buildings, yet at the same time the government comes out with a scheme which simply requires disclosure of energy efficiency at the time of lease or sale. Frankly, that is not good enough; it is way beyond starting in this way and being so slow about it. Everywhere else in the world has moved on this. You have got global experience in a whole range of fields; this is just such a small step.

Why would we not try something more ambitious? It seems to me that for every single effort that is made on greenhouse gas emissions, whether it be for renewable energy, we always have the most conservative target and a lot of sectors complain about that. When it comes to energy efficiency, it is voluntary and the whole business about energy efficiency opportunities not requiring corporates to implement those energy efficiency opportunities and then giving them exemptions from the renewable energy target because they use a lot of energy seems to me to be ridiculous. Those two things should be tied. When it comes to non-residential buildings we should be a lot more ambitious in our target and in the scope of what we are doing. I hope that the Senate will support the second reading amendment of the Greens so that we can extend the scheme in 2011 to all buildings and building areas equal to or greater than 1,000 square metres subject to a detailed regulatory impact assessment.

Senator XENOPHON (South Australia) (9.53 am)—My contribution on the Building Energy Efficiency Disclosure Bill 2010 will be very brief. As an aside, I take this opportunity to congratulate Julia Gillard on her ascension as Australia’s 27th Prime Minister. Senator Milne has covered the areas that I wanted to cover in this bill. She is right: this bill is a welcome step but the bill ought to go further on mandatory disclosure. The low-hanging fruit in the debate around energy and reducing greenhouse gases is to have energy efficient buildings. That is very much the way forward. We ought to have a white certificate scheme that is mandatory. We ought to go much further than that, but at least this is a step in the right direction. I think we need to seriously consider including other buildings, not just the buildings included in this scheme. With those few words, I indicate my support for this bill. I will support the Greens amendment, but ultimately we need to have a white certificate scheme in this country, a mandatory scheme which will be very effective in reducing greenhouse emissions from energy inefficient buildings.
because it will require greater energy efficiency. In recent meetings I have had with those who are responsible for servicing air conditioners, for instance, there are great gains to be made by mandatory and detailed inspections of air-conditioning units to reduce the waste that occurs now through inefficient air-conditioning units. I have put my position on this and I now look forward to the passage of the bill.

Senator Milne—On a point of order, Mr Acting Deputy President: there have been a number of interjections across the chamber with regard to arrangements that have supposedly been made. I wish to indicate that nobody discussed with the Greens the proposal that we would speak for two or three minutes and that there would not be amendments or divisions. That was never discussed—

The ACTING DEPUTY PRESIDENT (Senator McGauran)—No, you are going on. That was never a point of order, so I will pull you up there.

Senator Milne—I thought it was important, though—

The ACTING DEPUTY PRESIDENT—No, there are other opportunities. It is not a point of order.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (9.55 am)—In summing up, I thank those who have contributed to the debate on the Building Energy Efficiency Disclosure Bill 2010. We are trying, in the shortest possible time available, to get through a range of non-controversial pieces of legislation. It would be appreciated if senators would confine their speeches. I know I can only request that they cooperate. The object is to get through as many bills this morning in the shortest time as possible—some of them will have requests and some of them will have amendments—so that they can go to the House and come back and we can conclude the program in a reasonable time. I require all senators’ cooperation with that. I understand the opposition have very generously extended their cooperation to achieve this for the government. I do acknowledge and recognise their cooperation. I thank them for their cooperation in dealing with the legislation. I will not say any more. I hope everyone understands what we are trying to achieve this morning. It is to ensure that we can get through the program, that we can all make the necessary contributions to make our points and that we can do that expeditiously and in a way that will ensure that the legislative program of the government is finalised. I end by thanking the opposition again.

Question negatived.

Senator Milne—Mr Acting Deputy President, on a point of order: I would like to have on the record how senators voted and then I will not call a division. I heard the government saying no and I want an indication from the coalition.

Senator Ronaldson—The opposition said no.

Original question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator MILNE (Tasmania) (9.58 am)—I hope that the Greens amendments are now before senators, but in view of the changed arrangements I apologise that they have been circulated at a late stage. I move Greens amendment (1):

(1) Page 26 (after line 20), after Part 2, insert:

Part 2A—Obligation to report annual energy use

23B Buildings and areas of buildings to report annual energy use
(1) If a constitutional corporation owns a building or an area of a building that is:
(a) used or capable of being used as an office; and
(b) equal to or greater than 2,000 square metres in area;
the corporation must provide to the Secretary by 31 January in each year the information listed in subsection (2) in relation to the preceding calendar year, for inclusion in the Building Energy Efficiency Register.

Civil penalty: 1,000 penalty units.

(2) The information to be provided by a constitutional corporation under subsection (1) is:
(a) the size of the building or area of a building to which the information relates;
(b) the electricity consumption for the building or area of the building for the relevant calendar year;
(c) the natural gas consumption, if any, for the building or area of the building for the relevant calendar year;
(d) any other information prescribed by the regulations for the purpose of this paragraph.

We do not have a running sheet so I will read what the Greens are proposing so that senators can clearly understand it. The first Greens amendment introduces a requirement that all office buildings affected by the bill—that is, those owned by a corporation and greater than 2,000 square metres—must annually report electricity and gas usage data with the building area. This data would be included on the Building Energy Efficiency Register. This energy use data—

Senator Ronaldson—On a point of order: if it is of assistance, I know that the parliamentary secretary has these amendments. I most certainly have these amendments. They have been circulated. To save some time, I am happy for Senator Milne to assume that the opposition, and I hope I can speak for the government also, are aware of these amendments, so they will not need to be detailed.

The TEMPORARY CHAIRMAN (Senator McGauran)—There is no point of order; that was helpful, nevertheless.

Senator MILNE—I thank Senator Ronaldson for indicating that they now have the amendments in front of them. As I was just indicating, this energy data is essential if more advanced policies to improve commercial energy efficiency are to be introduced in the future. Such policies may include but are not limited to the energy efficient building scheme, which is the one we have introduced. That has been worked through with Lend Lease, Lincoln Scott and Advanced Environmental. If the government and the opposition will not support this, how are we going to accumulate the data in order to move to a different and much more comprehensive scheme so that we can actually get some mandatory changes happening in the built environment? This is about a data collection process with the current disclosure.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (10.01 am)—I indicate that the government is not supporting the amendments circulated by the Greens. We are unable to support them. We really believe that the amendments in these terms will not enhance the scheme and that the requirement for annual reporting will increase costs and deliver limited benefits. Requiring annual public display of a BEEC in a building is also unlikely to deliver significant additional benefits. Enforcement and monitoring of this provision would be difficult, given the form in which the certificate would be created.

The key is that this bill provides information at the point where it is most useful: the time of sale or lease. The government is open
to considering further extensions of the scheme in the future. We will be looking at how government buildings not affected by the bill will be handled. The call for government buildings to display a BEEC would also be problematic to implement in these terms. So we do not see any benefits and we do see considerable risks in agreeing to these amendments as presently drafted.

I would like to say that this was non-controversial legislation. We were not expecting to see amendments in the committee stage. It is very difficult to negotiate around these things if we do not get the kind of notice that we need.

Senator RONALDSON (Victoria) (10.02 am)—To save some time, I would like to comment on all the Greens amendments, and they can be taken as read as they are moved. The coalition identified the opportunity to better align the data collection and reporting systems with broader energy efficiency and emission abatement initiatives. The Green amendments pursue a similar goal, minus the consultative engagement of the coalition’s advocacy. The display requirement would trigger new obligations beyond the point of sale and point of lease requirements, and no opportunity has been provided to evaluate the costs and benefits of this new burden.

Given the lateness of the hour when the Greens have raised these amendments, it is difficult to judge how effectively they may contribute to the shared policy objective of this bill—and at what cost, impact and regulatory burden. There has been no opportunity for considered consultation with stakeholders. While not discounting the general ideas behind the amendments, it is not possible for the coalition to support the Greens proposed amendments at this time.

In closing, I will add further to the parliamentary secretary’s comments. This is meant to be non-controversial. We are all trying to facilitate the rapid passage of a large amount of legislation. The Greens’ behaviour in relation to this has certainly undermined the goodwill that should be behind these matters.

Senator SIEWERT (Western Australia) (10.04 am)—Senator Ronaldson, with all due respect, your comments do not help. We indicated that we had issues with this bill. Senator Milne has been working extremely hard on this. Even though the government wants to put this under ‘non-controversial legislation,’ we indicated that we had amendments and that we still wanted to talk about them. We have been trying to facilitate this program all week, so I really resent being accused of trying to hold up the agenda when we indicated that there were a couple of bills on this list on which we have more extensive comments and amendments and on which we may even want to divide.

This bill is an important one for us. If the government want to pull it and discuss it at a later hour, they should pull it. But do not blame us for suddenly changing the rules. Apparently it was put at the top of the list so that it could be dealt with more fully. So please do not have a go at us when we are just doing our job and have been trying all week to facilitate the agenda.

Question negatived.

Senator MILNE (Tasmania) (10.05 am)—by leave—I move Australian Greens amendments (2) and (3) on sheet 6124 together:

(2) Clause 13, page 12 (after line 16), before paragraph (1)(a), insert:

(aa) the size of the building; and
(ab) the electricity consumption for the building for the preceding calendar year; and
(ac) the natural gas consumption, if any, for the building for the preceding calendar year; and
(3) Clause 13, page 12 (after line 24), before paragraph (2)(a), insert:

(aa) the size of area of the building; and

(ab) the electricity consumption for the area of the building for the preceding calendar year; and

(ac) the natural gas consumption, if any, for the area of the building for the preceding calendar year; and

The chamber having rejected the first Greens amendment, I have moved these amendments which basically say that the same harvesting of data should occur but only when a neighbour’s rating is done for mandatory disclosure purposes. Obviously this would harvest much less data, but it is better than nothing. I am really shocked at what little concern there is about this issue, which is so critical to climate change.

Question negatived.

Senator MILNE (Tasmania) (10.06 am)—Mr Temporary Chairman McGauran, I ask that it be recorded that it was only the Greens in the Senate who supported Greens amendments (2) and (3). I now move Greens amendment (4) on sheet 6124:

(4) Page 14 (after line 7), after clause 13, insert:

13A Display of current building energy efficiency certificates

(1) If the Commonwealth owns a building that is:

(a) used or capable of being used as an office; and

(b) equal to or greater than 1,000 square metres in area;

the Commonwealth must, by 1 January 2011, display the current building energy efficiency certificate for the building prominently in a location in the building that is accessible by the public.

(2) If the Commonwealth leases a building or an area of a building that is:

(a) used or capable of being used as an office; and

(b) equal to or greater than 1,000 square metres in area;

the owner of the building must, by 1 January 2011, display the current building energy efficiency certificate for the building or the relevant area of the building prominently in a location in the building or in the relevant area that is accessible by the public.

(3) If a constitutional corporation owns or leases a building or an area of a building that is:

(a) used or capable of being used as an office; and

(b) equal to or greater than 5,000 square metres in area;

the constitutional corporation must, by 1 January 2011, display the current building energy efficiency certificate for the building or the relevant area of the building prominently in a location in the building or in the relevant area that is accessible by the public.

(4) If a constitutional corporation owns or leases a building or an area of a building that is:

(a) used or capable of being used as an office; and

(b) equal to or greater than 4,000 square metres in area;

the constitutional corporation must, by 1 January 2012, display the current building energy efficiency certificate for the building or the relevant area of the building prominently in a location in the building or in the relevant area that is accessible by the public.

(5) If a constitutional corporation owns or leases a building or an area of a building that is:

(a) used or capable of being used as an office; and
(b) equal to or greater than 3,000 square
metres in area;

the constitutional corporation must,
by 1 January 2013, display the cur-
rent building energy efficiency cer-
tificate for the building or the rele-
vant area of the building prominently
in a location in the building or in the
relevant area that is accessible by the
public.

(6) If a constitutional corporation owns or
leases a building or an area of a build-
ing that is:

(a) used or capable of being used as an
office; and
(b) equal to or greater than 2,000 square
metres in area;

the constitutional corporation must,
by 1 January 2014, display the cur-
rent building energy efficiency cer-
tificate for the building or the rele-
vant area of the building prominently
in a location in the building or in the
relevant area that is accessible by the
public.

13B Independent review about reporting
annual energy use and display require-
ments

(1) The Minister must cause an independ-
ent review to be undertaken and com-
pleted by 31 December 2013 to con-
sider whether the obligation to report
annual energy use and the display re-
quirements in subsections 13A(3) to (6)
should be extended to buildings or ar-
eas of buildings owned or leased by
constitutional corporations and that are:

(a) used or capable of being used as an
office; and
(b) equal to or greater than 1,000 square
metres in area.

(2) The review must be undertaken by a
person who, in the Minister’s opinion,
possesses appropriate qualifications to
undertake the review.

(3) The person undertaking the review
must give the Minister a written report
of the review before 31 December
2013.

(4) The Minister must cause a copy of the
report to be tabled in each House of the
Parliament within 15 sitting days of
that House after the day on which the
report is given to the Minister.

(5) The report is not a legislative instru-
ment.

(6) The Minister must ensure that any bill
to implement the recommendations of
the review is introduced into the Par-
liament by 28 February 2014.

Where a building is larger than 1,000 square
metres and owned or leased by the Com-
monwealth from January 2011, where a
building is larger than 5,000 square metres
and owned or leased by a corporation from
January 2011, where a building is larger than
4,000 square metres and owned or leased by
a corporation from January 2012, where a
building is larger than 3,000 square metres
and owned or leased by a corporation from
January 2013 and where a building is larger
than 2,000 square metres and owned or
leased by a corporation from January 2014,
we have specified that all of those require the
minister to commission a review in 2013 to
consider extending the scheme by requiring
office buildings down to 1,000 metres to dis-
play the BEEC. I think that is self-
 explanatory and I would be very surprised as
to why anyone would object to it.

Question negatived.

Senator MILNE (Tasmania) (10.07
am)—Mr Temporary Chairman, I ask that it
be recorded that only the Greens supported
Greens amendment (4).

Bill agreed to.

Bill reported without amendment; report
adopted.

Third Reading

Senator STEPHENS (New South
Wales—Parliamentary Secretary for Social
Inclusion and Parliamentary Secretary for the Voluntary Sector (10.08 am)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

**BANKRUPTCY LEGISLATION AMENDMENT BILL 2009**

**Second Reading**

Debate resumed from 2 December 2009, on motion by Senator Ludwig:

That this bill be now read a second time.

**Senator BRANDIS** (Queensland) (10.09 am)—The Bankruptcy Legislation Amendment Bill 2009 is to streamline the process for fixing and reviewing trustee remuneration in a bankruptcy, strengthen the penalties for offences, abolish bankruptcy districts, increase the minimum debt for a creditor’s petition, increase the stay period following a declaration with intention to file a debtor’s petition and increase the debt income and assets test thresholds for debt agreements.

The bill is intended to streamline and update the regime to reflect the change in the value of money since the last significant revisions in 1996. The most important of these is to increase the minimum amount for which a creditor may petition. In addition, the threshold amount for debt agreements—that is, a voluntary agreement between a debtor and creditors principally available to debtors with low levels of income, assets and debts—has been increased by 20 per cent. The threshold is calculated by reference to the pension rate multiplied by a fixed amount. The multiplier is to be raised from seven to 8.4. A proposal in the exposure draft to significantly reduce the bankruptcy periods was removed following stakeholder protests. The amendments in relation to offences and bankruptcy districts, which are outmoded, are unlikely to be controversial. However, stakeholders have complained that consultation was inadequate in relation to other amendments. The raising of the creditors’ petition threshold will excise a substantial proportion of consumer debt from the bankruptcy regime. Some insolvency practitioners, particularly those with significant practice in arranging debt agreements, have complained that lifting the bankruptcy threshold will reduce the utility of the debt agreement regime notwithstanding the relatively modest increase in the debt agreement limit.

The bill was referred to the Senate Legal and Constitutional Affairs Legislation Committee, which reported on 23 February. The Liberal members of the committee recommended that the original proposal in the draft bill to lift the threshold from $2,000 to $10,000 be changed by lifting the threshold only to $5,000. The threshold of $2,000 set in 1996 would be worth $2,770 in today’s money. The arguments in favour of a fivefold increase have clearly not been substantiated. As a compromise, an increase to $5,000, which the government amendments secure, is more balanced and more broadly in line with indexation. There was evidence before the committee that the stay period of 28 days was too long. A 21-day stay period would grant debtors sufficient time to consult with financial advisers and reorganise their affairs without unduly prejudicing the rights and interests of creditors. The government has also conceded that point raised by Liberal senators on the committee.

Finally, any increase in the eligibility threshold for debt agreements would not be justified until the findings of previous impending reviews of the regime have been taken into account. A review is due to be undertaken in mid- to late-2010 and the proposed amendments in relation to that matter are premature. I welcome the fact that the government has also yielded to the views of the Liberal senators on the Senate committee.
that these amendments should be deferred pending the completion of those reviews. In the circumstances, and with the three amendments—that is, lowering the increase in the threshold from $10,000 to $5,000, shortening the stay period from 28 days to 21 days and deferring consideration of the debt agreements provisions until the completion of the reviews I have mentioned—the coalition supports the bill.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (10.14 am)—I thank the opposition for indicating their support. This is non-controversial legislation. It aims to modernise Australia’s personal insolvency system and, in particular, provide debtors with overwhelming debts a more realistic opportunity to obtain advice and consider all options before contemplating bankruptcy. I thank Senator Brandis for outlining the government’s amendments to the bill. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (10.15 am)—by leave—I move government amendments (1) to (4) and (6) and (7) on sheet BM364 together:

(1) Schedule 4, item 1, page 26 (line 6), omit “$10,000”, substitute “$5,000”.

(2) Schedule 4, item 2, page 26 (line 8), omit “$10,000”, substitute “$5,000”.

(3) Schedule 4, item 3, page 26 (line 10), omit “$10,000”, substitute “$5,000”.

(4) Schedule 4, item 5, page 27 (line 6), omit “28”, substitute “21”.

(6) Schedule 4, item 13, page 28 (line 2), omit “(1)”.

(7) Schedule 4, item 13, page 28 (lines 5 and 6), omit subitem (2).

The TEMPORARY CHAIRMAN (Senator McGauran)—The question is that those amendments be agreed to.

Question agreed to.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (10.15 am)—The government opposes schedule 4 in the following terms:

(5) Schedule 4, item 11, page 27 (lines 24 and 25), to be opposed.

It indicates that the government is not pursuing the amendment made by item 11 of schedule 4, which would have increased the income, asset and debt thresholds for entering into debt agreements, to make debt agreements more widely available.

The TEMPORARY CHAIRMAN (Senator McGauran)—The question is that schedule 4, item 11, page 27, lines 24 and 25, stand as printed.

Question agreed to.

The TEMPORARY CHAIRMAN—The question now is that the bill as amended be agreed to.

Question agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (10.17 am)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.
TRADE PRACTICES AMENDMENT (INFRASTRUCTURE ACCESS) BILL 2009

Second Reading

Debate resumed from 2 December 2009, on motion by Senator Ludwig:

That this bill be now read a second time.

Senator RONALDSON (Victoria) (10.17 am)—I rise to speak on the Trade Practices Amendment (Infrastructure Access) Bill 2009. The objective of this bill is to minimise delays in decision making under the National Access Regime. The National Access Regime provides a mechanism for business operators to be granted access to privately held infrastructure which cannot be reasonably duplicated by a competitor. The regime provides a mechanism for access to privately held, nationally significant infrastructure where two parties cannot reach an agreement on its use.

Under the Howard government, COAG agreed to introduce the requirement that regulators will be bound to make regulatory decisions within six months. Also, where a merits review is provided for, reviews are to be limited to the information submitted to the original decision maker. This bill gives effect to the amendments agreed to by COAG.

The amendments to infrastructure access are welcomed by the coalition, as they will encourage competition in all sectors that require access to privately held infrastructure of national significance. Consequently, the coalition supports the bill, which will result in a more effective and efficient market arrangement.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (10.20 am)—by leave—I move government amendments (2) to (5), (7), (8), (10) to (14) and (16) to (19) on sheet AE225:

(2) Schedule 1, item 11, page 7 (line 29), omit “subsection 44ZZOAA(7)”, substitute “section 44ZZOAA”.

(3) Schedule 1, item 13, page 8 (line 23), omit “subsection 44ZZOAA(7)”, substitute “section 44ZZOAA”.

(4) Schedule 1, item 34, page 15 (line 5), omit “subsection 44ZZOAA(7)”, substitute “section 44ZZOAA”.

(5) Schedule 1, item 42, page 18 (line 18), omit “subsection 44ZZOAA(7)”, substitute “section 44ZZOAA”.

(7) Schedule 1, item 46, page 19 (line 14), omit “subsection 44ZZOAA(7)”, substitute “section 44ZZOAA”.

(8) Schedule 1, item 51, page 22 (line 12), omit “subsection 44ZZOAA(7)”, substitute “section 44ZZOAA”.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (10.20 am)—by leave—I table the supplementary explanatory memorandum relating to the government amendments to be moved to this bill. This memorandum was circulated in the chamber on 21 June 2010.

The TEMPORARY CHAIRMAN (Senator McGauran)—Minister, I have been advised that we must move amendments (1), (6), (9) and (15) separately, but that the other amendments may be moved together.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (10.20 am)—by leave—I move government amendments (1), (6), (9) and (15) separately.
(10) Schedule 1, item 55, page 23 (line 3), omit “subsection 44ZZOAA(7)”, substitute “section 44ZZOAA”.

(11) Schedule 1, item 66, page 27 (line 17), omit “subsection 44ZZOAA(7)”, substitute “section 44ZZOAA”.

(12) Schedule 1, item 68, page 27 (lines 24 and 25), omit “the power to request information under subsection 44ZZBCA(1) and”.

(13) Schedule 1, item 70, page 28 (line 12) to page 30 (line 29), omit section 44ZZOAA, substitute:

44ZZOAAA Information to be given to tribunal

Tribunal to notify decision maker

(1) If an application for review of a decision (however described) is made under this Part, the Tribunal must notify the decision maker of the application.

(2) If the application is made under section 44K, 44L, 44LJ, 44LK or 44O, the Tribunal must also notify the Council of the application.

Decision maker to give material to Tribunal

(3) The decision maker must give the following information to the Tribunal within the period specified by the Tribunal:

(a) if the decision is taken to have been made because of the operation of subsection 44H(9), 44J(7), 44LG(6), 44LJ(7), 44N(4) or 44NB(3A)—all of the information that the Council took into account in connection with making the recommendation to which the decision under review relates;

(b) if the decision is taken to have been made because of the operation of subsection 44PD(6), 44XA(6) or 44ZZBC(6)—any information or documents given to the Commission in connection with the decision to which the review relates, other than information or documents in relation to which the Commission could not have regard because of subpara-

(c) otherwise—all of the information that the decision maker took into account in connection with the making of the decision to which the review relates.

Tribunal may request further information

(4) The Tribunal may request such information that the Tribunal considers reasonable and appropriate for the purposes of making its decision on a review under this Part.

(5) A request under subsection (4) must be made by written notice given to a person specifying the information requested and the period within which the information must be given to the Tribunal.

(6) The Tribunal must:

(a) give a copy of the notice to:

(i) the person who applied for review; and

(ii) if the application is made under section 44K, 44L, 44LJ, 44LK or 44O—the Council; and

(iii) if the application is made under section 44PG, 44PH, 44ZP, 44ZX or 44ZZBF—the Commission; and

(iv) any other person who has been made a party to the proceedings for review by the Tribunal; and

(b) publish, by electronic or other means, the notice.

(7) Without limiting the information that may be given in accordance with the notice, information may include information that could not have reasonably been made available to the decision maker at the time the decision under review was made.
Certain material before the Tribunal not to be disclosed

(8) The Tribunal may, on the application of a person, prohibit or restrict the disclosure of the contents of a document or other information given to the Tribunal under this section if the Tribunal is satisfied that it is desirable to do so because of the confidential nature of the document or other information, or for any other reason.

(9) In this section:

decision maker, in relation to an application for review under this Part, means:

(a) if the application was made under section 44K, 44L, 44LJ or 44LK—the designated Minister; or

(b) if the application was made under section 44O—the Commonwealth Minister; or

(c) if the application was made under section 44PG, 44PH, 44ZP, 44ZX, or 44ZZBF—the Commission.

44ZZOAA Tribunal only to consider particular material

For the purposes of a review under this Part, the Tribunal:

(a) subject to paragraph (b), must have regard to:

(i) information that was given to the Tribunal under subsection 44ZZOAAA(3); and

(ii) any information given to the Tribunal in accordance with a notice given under subsection 44ZZOAAA(5); and

(iii) any thing done as mentioned in subsection 44K(6), 44L(5), 44LJ(5), 44O(5), 44PG(5), 44PH(5), 44ZP(5), 44ZX(5) or 44ZZBF(5); and

(iv) any information or report given to the Tribunal in relation to the review under subsection 44K(6A), 44L(5A), 44LJ(6), 44LK(6), 44O(5A), 44PG(5A), 44PH(5A), 44ZP(5A), 44ZX(5A) or 44ZZBF(5A) within the specified period; and

(b) may disregard:

(i) any information given to the Tribunal in response to a notice given under subsection 44ZZOAAA(5) after the period specified in the notice has ended; and

(ii) any information or report of the kind specified in a notice under subsection 44K(6A), 44L(5A), 44LJ(6), 44LK(6), 44O(5A), 44PG(5A), 44PH(5A), 44ZP(5A), 44ZX(5A) or 44ZZBF(5A) that is given to the Tribunal after the specified period has ended.

(14) Schedule 1, item 71, page 31 (table item 2), omit “44ZZOAA(4)”, substitute “44ZZOAAA(5)”.

(16) Schedule 1, item 72, page 34 (line 13), omit “44,”.

(17) Schedule 1, item 72, page 34 (line 13), omit “53,”.

(18) Schedule 2, item 7, page 47 (lines 16 and 17), omit “subsection 44ZZOAA(7)”, substitute “section 44ZZOAA”.

(19) Schedule 2, item 7, page 49 (lines 2 and 3), omit “subsection 44ZZOAA(7)”, substitute “section 44ZZOAA”.

The TEMPORARY CHAIRMAN—I think Senator Ronaldson wants to say something.

Senator RONALDSON (Victoria) (10.21 am)—Yes, indeed. What I wish to say is that I do not have instructions in relation to these amendments. I can only assume that they have been circulated to the shadow minister, and I am working on the assumption that if I speak very slowly I might, I hope, get some instructions in relation to this matter. I could talk about last night, I suppose—about the dinner I was at with some of the parliamen-
tary secretary's colleagues! I am working on
the basis that there are no issues with this,
but if the parliamentary secretary wants to
say a couple of words I would be very grate-
ful.

Senator STEPHENS (New South
Wales—Parliamentary Secretary for Social
Inclusion and Parliamentary Secretary for the
Voluntary Sector) (10.21 am)—Thank you
very much, Senator Ronaldson. I can assure
the members of the opposition that the
shadow minister, Mr Billson, has agreed to
these amendments.

Senator RONALDSON (Victoria) (10.22
am)—That is very good news!

The TEMPORARY CHAIRMAN—
Then the question is that those amendments
be agreed to.

Question agreed to.

Senator STEPHENS (New South
Wales—Parliamentary Secretary for Social
Inclusion and Parliamentary Secretary for the
Voluntary Sector) (10.22 am)—The govern-
ment opposes schedule 1 in the following
terms:

(1) Schedule 1, item 7, page 6 (line 20) to page
7 (line 11), to be opposed.

(6) Schedule 1, item 44, page 18 (lines 24 to
26), to be opposed.

(9) Schedule 1, item 53, page 22 (lines 15 to
17), to be opposed.

(15) Schedule 1, item 72, page 34 (lines 6 to 8),
to be opposed.

These amendments vary the scope of the
limited merits review arrangements that the
bill is to introduce.

The TEMPORARY CHAIRMAN
(Senator McGauran)—The question is that
schedule 1, items 7, 44, 53 and 72 of the bill
stand as printed.

Question negatived.

Bill, as amended, agreed to.

Third Reading

Senator STEPHENS (New South
Wales—Parliamentary Secretary for Social
Inclusion and Parliamentary Secretary for the
Voluntary Sector) (10.24 am)—I thank the
Senate for its cooperation in this morning’s
debate and I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

BROADCASTING LEGISLATION
AMENDMENT (DIGITAL
TELEVISION) BILL 2010

Second Reading

Debate resumed from 15 June, on motion
by Senator Stephens:

That this bill be now read a second time.

Senator LUDLAM (Western Australia)
(10.25 am)—I rise to speak very briefly on
the Broadcasting Legislation Amendment
(Digital Television) Bill 2010 and to thank
the clerks for keeping us on track this morn-
ing. The bill is largely positive. It seeks to
ensure that some quarter of a million house-
holds in some of Australia’s more remote
areas that currently cannot receive digital
television terrestrially will receive substan-
tially the same content via satellite.

However, as mentioned in our additional
comments in the committee report on the
bill, the Greens were quite concerned that
open narrowcasters, such as the publicly
funded National Indigenous Television, and
other community broadcasters may find
themselves unable to get access to the new
satellite platform despite the fact that it is
being funded by the public purse to the tune
of $40 million per year. The government
have assured us that they have done every-
thing they can to address this issue, including
an amendment that ensures that open nar-
rowcasters and community broadcasters will be able to be received on the same reception equipment as the commercial and national broadcasters rather than being condemned to obscurity on disused equipment. However, the government have advised us that there is a legal impediment to giving open narrowcasters and community broadcasters the kind of legislated guarantee that they are looking for that they will not be excluded from the new platform by the joint-venture company that will be running it—as I remind the chamber—at taxpayers’ expense. Nevertheless, the government have given us some assurances that go some way towards addressing our concern for these very important and very independent players in the Australian media landscape.

To put it on the formal record, once other senators have spoken, I ask the minister to confirm for us the following four things: firstly, that there is a legal impediment to providing a legislated guarantee that all open narrowcasters and community broadcasters will be able to access the new platform on fair and non-discriminatory commercial terms and, secondly, that the government’s amendment will mean that open narrowcasters and community broadcasters will be able to be received by the same reception equipment as the commercial and national broadcasters, including by the smartcard and subscriber management system, by dealing solely with the satellite owner, Optus. This is quite important. They will not need to deal with VAST at all, although that is up to them if they so choose. I ask the minister to confirm, thirdly, that the funding agreements prevent VAST from discriminating against access seekers or blocking their access and, fourthly, that, if ACMA does not voluntarily take action, the minister intends to use his powers under the government’s amendment and under the existing part 9B of the Broadcasting Services Act to ensure that ACMA does in fact ensure that the domestic reception equipment cannot exclude narrowcasters and community broadcasters, nor can the electronic program guide subscriber management system or smartcard.

In closing, I thank the minister for bringing this legislation forward—I think it is important and timely—and I thank his staff for the constructive way in which they engaged with the Australian Greens in negotiating this bill through the Senate.

Senator CORMANN (Western Australia) (10.28 am)—The Broadcasting Legislation Amendment (Digital Television) Bill 2010 is yet another case study of what an incompetent government the Rudd-Gillard Labor government have been over the last three years. They promise the world and deliver next to nothing. They do not think things through. They have to organise things at the last minute. There is mismanagement, failure and incompetence wherever you look. This legislation, which of course follows a grandiose promise made by Senator Conroy in January this year that the government would fund a new satellite service to bring digital television to all Australians who cannot adequately receive terrestrial digital television services, was introduced by the government only in March. And here we are, with less than one week to go before the digital switch-over in Mildura, on the last day in parliament, and the government have to fix up the stuff-ups in their original legislation, which was introduced less than three months ago.

Now we understand that perhaps members, senators and ministers of the Rudd-Gillard Labor government have been somewhat distracted. But even this week the government has been all over the place. On late Tuesday afternoon we were asked if we could deal with this the next morning. When we turned up in the Senate this urgent, im-
important legislation that desperately needed to be passed had been prioritised way down at No.9 on the legislative agenda that day, which meant that there was absolutely no chance that we were ever going to deal with this legislation.

The government has now put forward nearly 40 pages of amendments to a piece of legislation they introduced only in the middle of March. We will support most of those amendments. We have had discussions with the government and it has conceded that some of the amendments are not as time critical as might have been initially claimed and those amendments have been removed.

I will pick up on one area of amendments: the captioning and content requirements on digital multichannels. Under the Broadcast Services Act broadcasters are currently required to apply the full captioning and content requirements to all of the digital multichannels after switchover has occurred in their licensed area. However, because regional broadcasters switch over earlier than metropolitan broadcasters, the obligation will be imposed on regional broadcasters before those metropolitan broadcasters, which will have major consequences for regional broadcasters as they source their programs from metropolitan markets.

Why didn’t anybody think of that before they introduced the original legislation? If this is a problem which pops up at the last minute—with one day to go and less than a week to go before the switchover in Mildura—how many other problems will be discovered on 1 July when Senator Conroy is going to be in Mildura pressing the button, as he has been telling us so frequently here in this chamber?

This is non-controversial legislation and we have been facilitating along every step of the way to get this legislation passed very quickly. It passed very quickly through the House of Representatives. It took the government a very long time to bring it to the Senate for us to deal with it. Clearly, Senator Conroy was struggling in his negotiations with his own colleagues to get appropriate priority for this particular bill, which is why we are dealing with this bill so late in the piece.

I want to draw the attention of the Senate to the fact that the amendments that were originally circulated—which related to the restack of digital channels to achieve the so-called digital dividend—have been withdrawn by the government, so we are led to believe, as will amendments 58 and 59 relating to an exemption for broadcasters from converting certain terrestrial sites to digital.

We are not making a judgment or a comment on the merits or otherwise of those amendments, but our view is that, given the rushed process that we are forced to go through on this occasion, those amendments warrant some further scrutiny and exposure to proper process—something that this bad and incompetent Rudd-Gillard Labor government does not know much about.

In concluding my contribution to this bill, there are examples of failure, incompetence and mismanagement right across the Rudd-Gillard Labor government. This is just one small example of how a lack of proper process and thinking things through leads to you dealing with things at the last minute and trying to fix things up at five minutes to midnight. We are helping to facilitate this process here today because we do not want the good people of Mildura to be caught up in the middle of the incompetence and the mess generated by Senator Conroy on this occasion.

My message to the people across Australia is this: if you want a return to good government then vote for the coalition at the next election. Only the coalition will deliver good
government after the next election. If you want the continuation of the bad government that you have had over the last three years, you might want to consider supporting a Gillard Labor government at the next election. Of course, I hope the people of Australia have the good sense to vote for good government at the next election.

**Senator Xenophon** (South Australia) (10.34 am)—I give my support to the Broadcasting Legislation Amendment (Digital Television) Bill 2010 but I would like to put the government on notice about some concerns I have regarding its implementation. Television has become more than a form of entertainment. I note that the government has allocated some $400 for eligible households to subsidise the installation of equipment needed to receive a digital signal in black spots that cannot receive terrestrial digital reception.

I have concerns that this may not be enough to cover costs in regional and remote areas, including in my home state of South Australia—although I acknowledge that the government has included increased subsidies for pensioners and other low-income groups. However, I encourage the government to monitor the subsidy as closely as possible. There is some uncertainty about which areas will need satellite equipment and I call on the government to make sure the subsidy is appropriately scrutinised.

I am also concerned that some people may not realise that they are living in a black spot and need satellite equipment to receive the digital signal until it is too late because digital and analog signals are not being broadcast simultaneously in black spot areas. There is also the issue of households that may not receive all the available channels despite having satellite reception. While I support the bill, I call on the government to act quickly if and when problems arise, and I seek their undertakings on this.

Television has become an important tool of communication in modern Australian society, and families and individuals should not be excluded from easy access to this tool of communication simply because of where they live. I believe the switchover to digital is a good thing and will open up a whole range of broadcasting opportunities. I acknowledge that there are some concerns about how the government has decided to deal with this problem; however, at this stage I believe it is important to begin implementing the new system and ensuring appropriate safeguards are in place. I believe digital broadcasting is the future but as we move into the future we must make sure that we do not leave some people in the past.

**Senator Stephens** (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (10.36 am)—I thank senators for their contributions to this important piece of legislation, the Broadcasting Legislation Amendment (Digital Television) Bill 2010. I place on the record the issues raised by Senator Ludlam. I note those concerns and his understanding of the issue relating to the amendment he sought is correct. I am pleased to offer the government’s assurance that we will continue to monitor provisions for access to the platform by community and narrow-cast broadcasters, and we specifically confirm the four points he raised in his contribution.

This bill introduces a legislative framework for the implementation of the new satellite service to bring digital television to all Australians who cannot adequately receive terrestrial digital television services. The government are committed to improving the choice and quality of digital television services for viewers in regional and remote
Australia as we move towards digital switchover. For the first time, the bill and its amendments will provide broadcasters with the opportunity to deliver, over time, the full suite of free-to-air digital television services to every viewer in Australia, wherever they live. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (10.37 am)—I table a supplementary explanatory memorandum relating to the government amendments to be moved to this bill. The memorandum was circulated in the chamber on 16 June 2010. I seek leave to move government amendments (1) to (11), (13) to (54), (57), (60) to (70) and (72) to (78) together and I indicate that I will not be moving amendments (58), (59) and (79).

Leave granted.

Senator STEPHENS—I move government amendments (1) to (11), (13) to (54), (57), (60) to (70) and (72) to (78) on sheet BT230:

(1) Clause 2, page 2 (at the end of the table), add:

3. Schedule 2 The day after this Act receives the Royal Assent.

(2) Schedule 1, item 2, page 3 (lines 12 and 13), omit “complies with section 130ZB”, substitute “sets out rules relating to access to services provided under a commercial television broadcasting licence allocated under section 38C”.

(3) Schedule 1, page 3 (after line 29), after item 4, insert:

4A Subsection 6(1)

Insert:

final digital television switch-over day
has the meaning given by section 8AE.

(4) Schedule 1, item 7, page 4 (lines 14 to 18), omit the item, substitute:

7 Subsection 6(1)

Insert:

scheme administrator has the meaning given by subsection 130ZB(8).

(5) Schedule 1, page 4 (before line 19), before item 8, insert:

7A After section 8AD

Insert:

8AE Final digital television switch-over day

(1) For the purposes of this Act, the final
digital television switch-over day is the
last switch-over day.

(2) For the purposes of subsection (1), the
last day of a simulcast period is a
switch-over day.

(3) In this section:
simulcast period has the same meaning
as in Schedule 4.

(6) Schedule 1, item 28, page 14 (lines 4 to 6), omit subsection 41B(1A) (including the note), substitute:

(1A) Subsection (1) does not apply, after the commencement of section 38C, to:

(a) an eligible parent licence; or

(b) an eligible section 38A licence.

Note 1: For eligible parent licence, see subsection (2E).

Note 2: For eligible section 38A licence, see subsection (2E).

(7) Schedule 1, item 29, page 14 (after line 12), after paragraph 41B(2A)(a), insert:

(aa) an eligible section 38A licence; or

(8) Schedule 1, item 29, page 14 (after line 14), after note 1, insert:

Note 1A: For eligible section 38A licence, see subsection (2E).

(9) Schedule 1, item 29, page 15 (after line 26), after subsection 41B(2C), insert:
Eligible section 38A licences in force immediately before 1 January 2009

(2CA) If:

(a) an eligible section 38A licence for a licence area was in force immediately before 1 January 2009; and

(b) the eligible section 38A licence authorised the licensee to provide the following 3 services in the licence area:

(i) the core commercial television broadcasting service;

(ii) a HDTV multi-channelled commercial television broadcasting service;

(iii) a SDTV multi-channelled commercial television broadcasting service;

the eligible section 38A licence is taken to authorise the licensee to provide the following services in the licence area:

(c) the core commercial television broadcasting service;

(d) either:

(i) a HDTV multi-channelled commercial television broadcasting service and a SDTV multi-channelled commercial television broadcasting service;

(ii) 2 SDTV multi-channelled commercial television broadcasting services;

the eligible section 38A licence is taken to authorise the licensee to provide the following services in the licence area:

(e) the core commercial television broadcasting service;

(f) either:

(i) a HDTV multi-channelled commercial television broadcasting service and a SDTV multi-channelled commercial television broadcasting service;

(ii) 2 SDTV multi-channelled commercial television broadcasting services;

or

(d) 3 SDTV multi-channelled commercial television broadcasting services in the licence area;

during the simulcast period, or the simulcast-equivalent period, as the case may be, for the licence area.

Note: For eligible section 38A licence, see subsection (2E).

(10) Schedule 1, item 29, page 16 (lines 8 to 24), omit subsection 41B(2E), substitute:

Eligible parent licence, eligible section 38A licence and eligible section 38B licence

(2E) For the purposes of this section, if:

(a) a person (the original licensee) is or was the licensee of a commercial television broadcasting licence (other than a commercial television broadcasting licence allocated under section 38A or subsection 38B(6), (7), (8) or (9)); and

(b) the original licensee is or was allocated an additional commercial television broadcasting licence under section 38A; and

(c) after the commencement of section 38C, the original licensee is allocated an additional commercial television broadcasting licence under subsection 38B(6), (7), (8) or (9); and
(d) at a particular time, the licences mentioned in paragraphs (a), (b) and (c) are held by the same person (whether or not that person is the original licensee);

then, at that time:

(e) the licence mentioned in paragraph (a) is an eligible parent licence; and

(f) the licence mentioned in paragraph (b) is an eligible section 38A licence; and

(g) the licence mentioned in paragraph (c) is an eligible section 38B licence.

(11) Schedule 1, item 32, page 18 (line 37), omit “43A(3A) or”.

(13) Schedule 1, item 41, page 22 (line 12), omit “and information”.

(14) Schedule 1, item 41, page 22 (lines 17 and 18), omit “, or a local information program;”.

(15) Schedule 1, item 41, page 22 (after line 18), after paragraph 43AA(1)(a), insert:

(aa) the licensee has not previously broadcast the program in the licence area; and

(16) Schedule 1, item 41, page 22 (lines 23 and 24), omit “, or the local information program, as the case may be.”.

(17) Schedule 1, item 41, page 23 (lines 3 to 7), omit subsection 43AA(3), substitute:

(3) If:

(a) apart from this subsection, a commercial television broadcasting licensee for a regional licence area (the regional licensee) is required by subsection (1) to provide a program to the licensee of a commercial television broadcasting licence allocated under section 38C; and

(b) the regional licensee believes, on reasonable grounds, that the broadcasting of a part of the program in any jurisdiction in the licence area of the section 38C licence could result in the section 38C licensee:

(i) committing an offence; or

(ii) becoming liable to a civil penalty; or

(iii) breaching an order or direction of a court; or

(iv) being in contempt of court;

subsection (1) has effect as if the program did not include that part of the program.

(3A) If:

(a) apart from this subsection, a commercial television broadcasting licensee for a regional licence area (the regional licensee) is required by subsection (1) to provide a program to the licensee of a commercial television broadcasting licence allocated under section 38C; and

(b) the regional licensee believes, on reasonable grounds, that the broadcasting of the program in any jurisdiction in the licence area of the section 38C licence could result in the section 38C licensee:

(i) committing an offence; or

(ii) becoming liable to a civil penalty; or

(iii) breaching an order or direction of a court; or

(iv) being in contempt of court;

subsection (1) does not apply to the program.

(3B) A commercial television broadcasting licence for a regional licence area is subject to the condition that, if:

(a) the licensee broadcasts a local news program in the licence area on 2 or more occasions; and

(b) the licence area is wholly or partly included in the licence area of a licence allocated under section 38C; the licensee of the regional commercial television broadcasting licence
will take reasonable steps to ensure that the licensee of the regional commercial television broadcasting licence does not, on more than one occasion, provide the program to the section 38C licensee for broadcast by the section 38C licensee.

(18) Schedule 1, item 41, page 23 (lines 8 to 11), omit subsections 43AA(4) and (5).

(19) Schedule 1, item 41, page 23 (before line 15), before the definition of metropolitan licence area in subsection 43AA(7), insert:

local news program means:
(a) a program that consists solely of local news and/or local weather information; or
(b) a program:
(i) that consists primarily of local news and/or local weather information; and
(ii) the remainder of which consists of other news and/or other weather information;
but does not include:
(c) a short segment, or a headline update, that is broadcast for the sole or primary purpose of promoting another program; or
(d) a short segment, or a headline update, that repeats news content that has previously been broadcast by the licensee concerned.

(20) Schedule 1, item 41, page 23 (lines 24 and 25), omit the definition of regional aggregated commercial television broadcasting licence in subsection 43AA(7).

(21) Schedule 1, item 41, page 27 (line 13), omit paragraph 43AD(1)(a).

(22) Schedule 1, item 41, page 27 (line 17), omit “or material”.

(23) Schedule 1, item 50, page 29 (line 1), omit “subsection 43A(3A),”.

(24) Schedule 1, items 57 to 61, page 29 (line 27) to page 30 (line 33), omit the items, substitute:

57 Subsections 122(7) and (8)
Repeal the subsections, substitute:

(7) Standards under subsection (1) do not apply to a commercial television broadcasting service provided by a commercial television broadcasting licensee before the end of the final digital television switch-over day, unless that service is the core/primary commercial television broadcasting service provided by the licensee.

58 Subsection 122(9)
Omit “section 36 or”.

59 Subsection 122(10)
Repeal the subsection.

(25) Schedule 1, page 31 (before line 1), before item 62, insert:

61A After section 123A
Insert:

123B Review by the ACMA—application of code of practice to section 38c licences
Scope

(1) This section applies if:

(a) a code of practice (the original code) is registered under section 123; and
(b) the code applies to the broadcasting operations of commercial television broadcasting licensees.

Review of original code

(2) The ACMA may conduct a review of whether the original code is appropriate in its application to the broadcasting operations of licensees of commercial television broadcasting licences allocated under section 38C.

Request for development of replacement code

(3) If the ACMA:

(a) conducts a review of the original code under subsection (2); and
(b) considers that the original code is not appropriate in its application to the broadcasting operations of licen-
sees of commercial television broadcasting licences allocated under section 38C;
the ACMA may, by written notice given to the industry group that developed the original code:
(c) request the industry group to:
(i) develop another code of practice (the replacement code) that is expressed to replace the original code; and
(ii) give a copy of the replacement code to the ACMA within the period specified in the notice; and
(d) specify particular matters that, in the ACMA’s opinion, should be addressed in the replacement code.
(26) Schedule 1, item 63, page 32 (line 6), omit “either or both”, substitute “any or all”.
(27) Schedule 1, item 63, page 32 (line 11), omit “satellite.”, substitute “satellite;”.
(28) Schedule 1, item 63, page 32 (after line 11), at the end of subsection 130BB(1), add:
(c) community television broadcasting services provided with the use of a satellite;
(d) open narrowcasting television services provided with the use of a satellite.
(29) Schedule 1, item 63, page 32 (line 16), omit “either or both”, substitute “any or all”.
(30) Schedule 1, item 63, page 32 (line 21), omit “and”.
(31) Schedule 1, item 63, page 32 (after line 21), at the end of paragraph 130BB(2)(c), add:
(iii) community television broadcasting services provided with the use of a satellite;
(iv) open narrowcasting television services provided with the use of a satellite; and
(32) Schedule 1, item 63, page 32 (line 27), omit “either or both”, substitute “any or all”.
(33) Schedule 1, item 63, page 32 (line 32), omit “and”.
(34) Schedule 1, item 63, page 32 (after line 32), at the end of paragraph 130BB(3)(a), add:
(iii) community television broadcasting services provided with the use of a satellite;
(iv) open narrowcasting television services provided with the use of a satellite; and
(35) Schedule 1, item 63, page 33 (line 9), omit “either or both”, substitute “any or all”.
(36) Schedule 1, item 63, page 33 (after line 14), after paragraph 130BB(6)(b), insert:
(ba) community television broadcasting services provided with the use of a satellite;
(bb) open narrowcasting television services provided with the use of a satellite;
(37) Schedule 1, item 63, page 33 (after line 17), after subsection 130BB(6), insert:
Ministerial direction
(6A) The Minister may, by legislative instrument, direct the ACMA about the exercise of its powers to:
(a) determine technical standards under subsection (1); or
(b) vary technical standards determined under subsection (1).
(6B) The ACMA must comply with a direction under subsection (6A).
(38) Schedule 1, item 63, page 33 (before line 25), before the definition of digital mode in subsection 130BB(8), insert:
community television broadcasting service means a community broadcasting service that provides television programs.
(39) Schedule 1, item 64, page 34 (lines 27 and 28), omit “must be”, substitute “complies with this section if the scheme is”.
(40) Schedule 1, item 64, page 36 (line 19), omit “14 days”, substitute “15 business days”.
(41) Schedule 1, item 64, page 38 (lines 18 to 25), omit paragraph 130ZC(1)(d), substitute:
(d) any of the following subparagraphs applies:
   (i) the body or association gives the copy of the new scheme to the ACMA within 45 days after the first or only occasion on which a licence for the licence area is allocated under section 38C;
   (ii) the body or association gives the copy of the new scheme to the ACMA in response to an invitation under section 130ZCAA;
   (iii) the new scheme is expressed to replace another conditional access scheme registered under this section; and
   (da) the ACMA is satisfied that the new scheme complies with section 130ZB; and

(42) Schedule 1, item 64, page 39 (line 5), omit “28”, substitute “35”.

(43) Schedule 1, item 64, page 39 (after line 6), after section 130ZC, insert:

130ZCAA  ACMA may invite representative body or association to develop a revised conditional access scheme

Scope

(1) This section applies if:
   (a) the ACMA is satisfied that a body or association represents commercial television broadcasting licensees; and
   (b) that body or association develops a conditional access scheme (the new scheme) for the licence area of a commercial television broadcasting licence allocated under section 38C; and
   (c) the body or association gives a copy of the new scheme to the ACMA; and
   (d) the body or association gives the copy of the new scheme to the ACMA within 45 days after the first or only occasion on which a licence for the licence area is allocated under section 38C; and either:
      (e) the ACMA is not satisfied that the new scheme complies with section 130ZB; or
      (f) the ACMA is not satisfied that the new scheme is consistent with the principle that a person in the licence area should have adequate reception of:
         (i) all of the applicable terrestrial digital commercial television broadcasting services; or
         (ii) all of the commercial television broadcasting services that the section 38C licensee is required to provide under clauses 7B and 7C of Schedule 2.

Invitation

(2) The ACMA must:
   (a) by written notice given to the body or association, invite the body or association to:
      (i) develop a revised conditional access scheme for the licence area; and
      (ii) give a copy of the revised scheme to the ACMA within 30 days after the invitation is given; and
   (b) do so within 60 days after the copy of the new scheme is given to the ACMA.

(44) Schedule 1, item 64, page 39 (before line 7), before section 130ZCA, insert:

130ZCAB  ACMA may request development of replacement conditional access scheme

Scope

(1) This section applies if:
   (a) a conditional access scheme for a licence area is registered under section 130ZC; and
   (b) the ACMA is satisfied that the scheme is not achieving one or more
of the objectives set out in section 130ZB.

Request

(2) The ACMA may, by written notice given to the body or association that developed the scheme:

(a) request the body or association to:

(i) develop another conditional access scheme (the replacement scheme) that is expressed to replace the scheme registered under section 130ZC; and

(ii) give a copy of the replacement scheme to the ACMA within the period specified in the notice; and

(b) specify particular matters that, in the ACMA’s opinion, should be addressed in the replacement scheme.

(3) The period specified in a notice under subsection (2):

(a) must not be shorter than 30 days after the notice is given; and

(b) must not be longer than 60 days after the notice is given.

(45) Schedule 1, item 64, page 39 (lines 9 to 18), omit subsection 130ZCA(1), substitute:

Scope

(1) This section applies if:

(a) the following conditions are satisfied:

(i) a commercial television broadcasting licence is allocated under section 38C for a particular licence area;

(ii) that is the first or only occasion on which a commercial television broadcasting licence is allocated under section 38C for the licence area;

(iii) if the ACMA has not given an invitation under section 130ZCAA in relation to the licence area—90 days pass after the allocation of the licence, and no conditional access scheme for the licence area has been registered, or is required to be registered, under section 130ZC;

(iv) if the ACMA has given an invitation under section 130ZCAA in relation to the licence area—60 days pass after the invitation is given, and no conditional access scheme for the licence area has been registered, or is required to be registered, under section 130ZC; or

(b) the following conditions are satisfied:

(i) a commercial television broadcasting licence is allocated under section 38C for a particular licence area;

(ii) a conditional access scheme for the licence area is registered under section 130ZC;

(iii) the ACMA gives a notice under subsection 130ZCAB(2) to a body or association in relation to the scheme;

(iv) the body or association does not give the ACMA a copy of a replacement scheme within the period specified in the notice; or

(c) the following conditions are satisfied:

(i) a commercial television broadcasting licence is allocated under section 38C for a particular licence area;

(ii) a conditional access scheme for the licence area is registered under section 130ZC;

(iii) the ACMA gives a notice under subsection 130ZCAB(2) to a body or association in relation to the scheme;

(iv) the body or association gives the ACMA a copy of a replacement scheme within the period specified in the notice;
(v) 35 days pass after the copy is given to the ACMA, and the replacement scheme has not been, and is not required to be, registered under section 130ZC.

(46) Schedule 1, item 64, page 39 (lines 22 to 30), omit subsection 130ZCA(3), substitute:

(3) The ACMA must not formulate a conditional access scheme unless:

(a) the ACMA is satisfied that the scheme complies with section 130ZB; and

(b) the ACMA is satisfied that the scheme is consistent with the principle that a person in the licence area should have adequate reception of:

(i) all of the applicable terrestrial digital commercial television broadcasting services; or

(ii) all of the commercial television broadcasting services that the section 38C licensee is required to provide under clauses 7B and 7C of Schedule 2.

(47) Schedule 1, item 64, page 42 (line 14), omit “14 days”, substitute “15 business days”.

(48) Schedule 1, item 68, page 46 (before line 3), before section 211A, insert:

211AA Time when a television program is broadcast—certain terrestrial licence areas

Nomination of place

(1) The licensee of a commercial television broadcasting licence for:

(a) the Remote Central and Eastern Australia TV1 licence area; or

(b) the Remote Central and Eastern Australia TV2 licence area;

may, by written notice given to the ACMA, nominate a specified place in the licence area for the purposes of the licence.

(2) The nomination must be expressed to be a nomination under subsection (1).

Withdrawal of nomination

(3) If a nomination is in force under subsection (1), the licensee may, by written notice given to the ACMA, withdraw the nomination.

(4) The withdrawal of a nomination does not prevent the licensee from making a fresh nomination under subsection (1).

Time when a program is broadcast

(5) If a nomination of a place is in force under subsection (1) for the purposes of a commercial television broadcasting licence, then:

(a) this Act; and

(b) any program standards; and

(c) any other instrument under this Act; and

(d) any codes of practice registered under section 123;

have effect, in relation to any programs broadcast on a commercial television broadcasting service provided under the licence, as if those programs had been broadcast in all parts of the licence area at the time that is legal time in the nominated place.

(49) Schedule 1, page 48 (after line 13), after item 71, insert:

71A After subclause 7(4) of Schedule 2

Insert:

(4A) For the purposes of paragraphs (1)(k) and (m), if:

(a) a transmitter licence was issued under section 100 of the Radiocommunications Act 1992; and

(b) the transmitter licence authorises the operation of one or more transmitters for transmitting one or more commercial television broadcasting services in digital mode;

ignore any transmission of those services in digital mode by those transmitters.
Paragraph 7(8)(a) of Schedule 2
After “subclause”, insert “(4A),”.

Schedule 1, item 72, page 50 (line 34), omit “(d)”, substitute “(c)”.

Schedule 1, item 72, page 56 (lines 5 to 15), omit clause 7D, substitute:

Paragraph 7(8)(a) of Schedule 2
After “subclause”, insert “(4A),”.

Schedule 1, item 72, page 50 (line 34), omit “(d)”, substitute “(c)”.

Schedule 1, item 72, page 56 (lines 5 to 15), omit clause 7D, substitute:

7D Condition about the provision of local news services
(1) A licence allocated under section 38C is subject to the condition that, if a program is provided, or required to be provided, to the licensee by another licensee under subsection 43AA(1), the section 38C licensee will broadcast the program on a service authorised by paragraph 41CA(1)(c), (f) or (g) as soon as practicable after the other licensee begins to broadcast the program.

(2) Subclause (1) does not apply if the section 38C licensee has previously broadcast the program on such a service.

(3) Subclause (1) does not apply to a program the broadcasting of which in any jurisdiction in the licence area of the section 38C licence could result in the section 38C licensee:
(a) committing an offence; or
(b) becoming liable to a civil penalty; or
(c) breaching an order or direction of a court; or
(d) being in contempt of court.

Schedule 1, page 63 (after line 12), after item 74, insert:

74A Clause 2 of Schedule 4 (at the end of the definition of coverage area)
Add:
Note: For overlapping coverage areas, see clause 5J.

Schedule 1, page 65 (after line 20), after item 88, insert:

88A Subparagraph 6(3)(c)(iia) of Schedule 4
Omit “for 8 years”, substitute “until the end of 31 December 2013”.

Schedule 1, page 67 (after line 26), after item 98, insert:

98A After clause 6B of Schedule 4
Add:
6C Digital conversion of re-transmission facilities
(1) In addition to the policy objectives set out in paragraph 6(3), Part A of the commercial television conversion scheme must be directed towards ensuring the achievement of the policy objective set out in subclause (2).

(2) The objective is that, if:
(a) immediately before the commencement of this clause, a self-help provider provided a service that does no more than re-transmit programs that are transmitted by a commercial television broadcasting licensee within the licence area of the licence; and
(b) the self-help provider did so using a radiocommunications transmitter operating at a particular location under the authority of a transmitter licence held by the self-help provider; and
(c) the sole or principal purpose of the service provided by the self-help
provider was to enable persons living in a particular area to obtain or improve reception of the commercial television broadcasting service concerned; and

(d) the commercial television broadcasting licensee notifies the ACMA before:

(i) the 9-month period ending on the earliest applicable digital television switch-over date for the licence area; or

(ii) if this clause commences in that 9-month period—the earliest applicable digital television switch-over date for the licence area;

that the licensee is willing to transmit the commercial television broadcasting service, under a transmitter licence held by the commercial television broadcasting licensee, using a radiocommunications transmitter at or near that location; and

(e) such other conditions (if any) as are specified in the scheme are satisfied; then:

(f) the commercial television broadcasting licensee should be authorised, under a transmitter licence held by the licensee, to transmit the commercial television broadcasting service in digital mode using a radiocommunications transmitter at or near that location; and

(g) if the radiocommunications transmitter mentioned in paragraph (b) is the sole radiocommunications transmitter the operation of which is authorised under the transmitter licence mentioned in that paragraph—the transmitter licence should be cancelled; and

(h) if the radiocommunications transmitter mentioned in paragraph (b) is not the sole radiocommunications transmitter authorised by the transmitter licence mentioned in that paragraph—the transmitter licence should be varied so that it ceases to authorise the operation of the radiocommunications transmitter.

(3) For the purposes of this clause, if:

(a) clause 6 applies to a commercial television broadcasting licence; and

(b) there is a simulcast period for the licence area of the licence; and

(c) there is no local market area included in the licence area of the licence;

the last day of the simulcast period for the licence area is the **applicable digital television switch-over date** for the licence area.

(4) For the purposes of this clause, if:

(a) clause 6 applies to a commercial television broadcasting licence; and

(b) there is a simulcast period for the licence area of the licence; and

(c) a local market area is included in the licence area of the licence;

the day on which the local market area becomes a digital-only local market area is an **applicable digital television switch-over date** for the licence area.

(60) Schedule 1, page 68 (before line 9), before item 102, insert:

**101B After clause 35 of Schedule 4**

Insert:

**35A Certain transmissions to be disregarded**

For the purposes of clauses 34 and 35, if:

(a) a transmitter licence was issued under section 100 of the Radiocommunications Act 1992; and

(b) the transmitter licence authorises the operation of one or more transmitters for transmitting one or more national television broadcasting services in digital mode;
ignore any transmission of those services in digital mode by those transmitters.

(61) Schedule 1, item 103, page 68 (lines 15 to 17), omit the item, substitute:

103 Paragraph 38(4)(a) of Schedule 4
Repeal the paragraph, substitute:
(a) a commercial television broadcasting licence is in force; and
(aa) the licence was not allocated under section 38C; and

103A Paragraph 38(4)(b) of Schedule 4
Omit “core”, substitute “core/primary”.

103B Subclause 38(4) of Schedule 4
Omit “, during that period.”, substitute “, before the end of the final digital television switch-over day.”.

103C Subclause 38(4) of Schedule 4
Omit “the core”. substitute “the core/primary”.

(62) Schedule 1, item 104, page 68 (line 19), omit “or (2C)”, substitute “, (2C) or (2CB)”.

(63) Schedule 1, page 68 (after line 19), after item 104, insert:

104A Paragraph 38(4A)(b) of Schedule 34
Repeal the paragraph.

104B Subclause 38(4A) of Schedule 4
Omit “, during that period.”, substitute “, before the end of the final digital television switch-over day.”.

(64) Schedule 1, item 105, page 69 (lines 3 and 4), omit “, until the end of the last applicable terrestrial digital television switch-over date for the licence area.”, substitute “, before the end of the final digital television switch-over day.”.

(65) Schedule 1, items 106 to 108, page 69 (lines 13 to 20), omit the items, substitute:

106 Subclause 38(5) of Schedule 4
Repeal the subclause, substitute:

(5) If:
(a) a national broadcaster provides a national television broadcasting service in a coverage area; and
(b) the service is not provided with the use of a satellite;
then, before the end of the final digital television switch-over day, subclause (1) does not require the provision of a captioning service for a television program transmitted on:
(c) a SDTV national television broadcasting service provided by the national broadcaster otherwise than with the use of a satellite; or
(d) a HDTV national television broadcasting service provided by the national broadcaster otherwise than with the use of a satellite; unless:
(e) during the simulcast period, or the simulcast-equivalent period, as the case may be, for the coverage area, the television program was previously transmitted by the national broadcaster on the national television broadcasting service that is:
(i) provided by the national broadcaster; and
(ii) the service to which clause 19 applies; or
(f) after the end of the simulcast period, or the simulcast-equivalent period, as the case may be, for the coverage area, the television program was previously transmitted by the national broadcaster on the primary national television broadcasting service provided by the national broadcaster.

(66) Schedule 1, item 109, page 69 (lines 27 and 28), omit “, until the end of the last applicable terrestrial digital television switch-over date for the licence area that corresponds to the satellite delivery area.”, substitute “, before the end of the final digital television switch-over day.”.
(67) Schedule 1, item 110, page 70 (lines 7 to 9), omit the item, substitute:

110 Paragraph 38(9)(a) of Schedule 4
Repeal the paragraph, substitute:
(a) a commercial television broadcasting licence is in force; and
(aa) the licence was not allocated under section 38C; and

110A Paragraph 38(9)(b) of Schedule 4
Omit “during that period,”, substitute “before the end of the final digital television switch-over day.”.

(68) Schedule 1, item 111, page 70 (lines 15 to 17), omit “last applicable terrestrial digital television switch-over date for the licence area,”, substitute “final digital television switch-over day.”.

(69) Schedule 1, page 70 (after line 30), after item 111, insert:

111A Paragraph 38(10)(a) of Schedule 4
Repeal the paragraph.

111B Paragraph 38(10)(b) of Schedule 4
Omit “during that period, the national broadcaster”, substitute “before the end of the final digital television switch-over day, a national broadcaster”.

111C Paragraph 38(10)(b) of Schedule 4
Omit “in the coverage area”, substitute “in a coverage area”.

(70) Schedule 1, item 112, page 71 (lines 10 to 12), omit “last applicable terrestrial digital television switch-over date for the licence area that corresponds to the satellite delivery area”, substitute “final digital television switch-over day”.

(72) Schedule 1, item 115, page 71 (line 34), omit “or (2C)”, substitute “, (2C) or (2CB)”.

(73) Schedule 1, item 118, page 72 (line 12), omit “or (2C)”, substitute “, (2C) or (2CB)”.

(74) Schedule 1, item 123, page 75 (line 25), omit “or (2C)”, substitute “, (2C) or (2CB)”.

(75) Schedule 1, page 81 (after line 8), after item 132, insert:

132A At the end of Part 8 of Schedule 4
Add:

60D Review of content and captioning rules applicable to multi-channelled television broadcasting services

(1) Before 31 December 2012, the Minister must cause to be conducted a review of the following matters:

(a) the operation of Part 9 of this Act and clause 38 of this Schedule, in so far as those provisions apply to:

(i) SDTV multi-channelled commercial television broadcasting services; and

(ii) HDTV multi-channelled commercial television broadcasting services;

(b) whether Part 9 of this Act and clause 38 of this Schedule, in so far as those provisions apply to:

(i) SDTV multi-channelled commercial television broadcasting services; and

(ii) HDTV multi-channelled commercial television broadcasting services;

should be amended;

(c) the operation of clause 38 of this Schedule, in so far as that clause applies to:

(i) SDTV multi-channelled national television broadcasting services; and

(ii) HDTV multi-channelled national television broadcasting services;

(d) whether clause 38 of this Schedule, in so far as that clause applies to:

(i) SDTV multi-channelled national television broadcasting services; and
(ii) HDTV multi-channelled national television broadcasting services; should be amended.

(2) The Minister must cause to be prepared a report of a review under sub-clause (1).

(3) The Minister must cause copies of a report to be tabled in each House of the Parliament within 15 sitting days of that House after the completion of the report.

(76) Schedule 1, item 141, page 83 (lines 18 to 29), omit subsection 135ZZZG(1).

(77) Schedule 1, item 141, page 86 (lines 20 to 23), omit subsection 135ZZZI(5), substitute:

(5) If:

(a) a copy of an eligible program is made for a purpose referred to in subsection (3) or (4); and

(b) under a law of the Commonwealth, the satellite BSA licensee is required to retain the copy for a period longer than 7 days after the copy is made; and

(c) the copy is not destroyed as soon as practicable after the end of that period;

subsection (3) or (4), as the case requires, does not apply, and is taken never to have applied, in relation to the making of the copy.

(5A) If:

(a) a copy of an eligible program is made for a purpose referred to in subsection (3) or (4); and

(b) subsection (5) does not apply; and

(c) the copy is not destroyed within 7 days after it is made;

subsection (3) or (4), as the case requires, does not apply, and is taken never to have applied, in relation to the making of the copy.

(78) Schedule 1, page 101 (after line 11), at the end of the Schedule, add:

Radiocommunications Act 1992

144A Subsection 100(5)

Before “153H”, insert “102AF, 102AH or”.

144B Subsection 101B(1)

Omit all the words from and including “may,” to and including “under this section”, substitute “may apply in writing to the ACMA for the issue of a transmitter licence under this section”.

144C Subsection 101B(6)

Repeal the subsection.

144D Subsection 101C(1)

Omit all the words from and including “may,” to and including “under this section”, substitute “may apply in writing to the ACMA for the issue of a transmitter licence under this section”.

144E Subsections 101C(5) and (9)

Repeal the subsections.

145 Before section 102B

Insert:

102AE Variation of transmitter licences—digital conversion of re-transmission facilities

(1) If:

(a) there is in force a transmitter licence issued under section 102 or 102A; and

(b) the transmitter licence is held by the licensee of a commercial television broadcasting licence (the related licence); and

(c) the transmitter licence authorises the operation of one or more specified radiocommunications transmitters for transmitting a commercial television broadcasting service in digital mode in accordance with the related licence; and

(d) under a scheme in force under clause 6 of Schedule 4 to the Broadcasting Services Act 1992, the ACMA is required to vary the transmitter licence so that the transmitter
licence authorises the operation of one or more additional radiocommunications transmitters for transmitting the commercial television broadcasting service in digital mode in accordance with the related licence; and

(e) the requirement that the ACMA vary the transmitter licence is related to the objective set out in clause 6C of Schedule 4 to the Broadcasting Services Act 1992; the ACMA must, by written notice to the transmitter licensee, vary the transmitter licence accordingly.

(2) In this section:

commercial television broadcasting licence has the same meaning as in the Broadcasting Services Act 1992.

commercial television broadcasting service means a commercial broadcasting service that provides television programs.

102AF Variation or cancellation of transmitter licences—digital conversion of re-transmission facilities

(1) If:

(a) a transmitter licence is in force; and
(b) the transmitter licence is held by a self-help provider; and
(c) the transmitter licence authorises the operation of 2 or more specified radiocommunications transmitters for re-transmitting programs that are transmitted by a commercial television broadcasting licensee; and
(d) under a scheme in force under clause 6 of Schedule 4 to the Broadcasting Services Act 1992, the ACMA is required to vary the transmitter licence by removing the specification of one or more, but not all, of the radiocommunications transmitters; and
(e) the requirement that the ACMA vary the transmitter licence is related to the objective set out in clause 6C of Schedule 4 to the Broadcasting Services Act 1992; the ACMA must, by written notice to the transmitter licensee, vary the transmitter licence accordingly.

(2) If:

(a) a transmitter licence is in force; and
(b) the transmitter licence is held by a self-help provider; and
(c) the transmitter licence authorises the operation of a specified radiocommunications transmitter for re-transmitting programs that are transmitted by a commercial television broadcasting licensee; and
(d) under a scheme in force under clause 6 of Schedule 4 to the Broadcasting Services Act 1992, the ACMA is required to cancel the transmitter licence; and
(e) the requirement that the ACMA cancel the transmitter licence is related to the objective set out in clause 6C of Schedule 4 to the Broadcasting Services Act 1992; the ACMA must, by written notice to the transmitter licensee, cancel the transmitter licence.

(3) In this section:

commercial television broadcasting licence has the same meaning as in the Broadcasting Services Act 1992.

self-help provider has the meaning given by section 212A of the Broadcasting Services Act 1992.

102AG Transmitter licences—re-transmission of commercial television broadcasting services to be in digital mode

(1) The ACMA must not issue a transmitter licence to a self-help provider that authorises the operation of one or more specified radiocommunications transmitters for re-transmitting in analog mode the programs transmitted by a commercial television broadcasting li-
licensee in the licence area of the commercial television broadcasting licence.

(2) Subsection (1) does not apply to the issue of a transmitter licence if the ACMA issues the transmitter licence:

(a) by way of renewal; and

(b) during the simulcast period, or simulcast-equivalent period, for the licence area mentioned in subsection (1).

(3) In this section:

analog mode has the same meaning as in Schedule 4 to the Broadcasting Services Act 1992.

commercial television broadcasting licence has the same meaning as in the Broadcasting Services Act 1992.

self-help provider has the meaning given by section 212A of the Broadcasting Services Act 1992.

simulcast-equivalent period has the same meaning as in Schedule 4 to the Broadcasting Services Act 1992.

simulcast period has the same meaning as in Schedule 4 to the Broadcasting Services Act 1992.

102AH Cancellation of transmitter licences—re-transmission of commercial television broadcasting services

Scope

(1) This section applies if:

(a) a transmitter licence (the analog transmitter licence) is in force; and

(b) the analog transmitter licence is held by a self-help provider; and

(c) the analog transmitter licence authorises the operation of one or more specified radiocommunications transmitters for re-transmitting in analog mode the programs transmitted by a commercial television broadcasting licensee in the licence area of the commercial television broadcasting licence.

Cancellation of transmitter licence

(2) The analog transmitter licence is cancelled at the end of the simulcast period, or the simulcast-equivalent period, for the licence area of the commercial television broadcasting licence.

Definitions

(3) In this section:

analog mode has the same meaning as in Schedule 4 to the Broadcasting Services Act 1992.

commercial television broadcasting licence has the same meaning as in the Broadcasting Services Act 1992.

self-help provider has the meaning given by section 212A of the Broadcasting Services Act 1992.

simulcast-equivalent period has the same meaning as in Schedule 4 to the Broadcasting Services Act 1992.

simulcast period has the same meaning as in Schedule 4 to the Broadcasting Services Act 1992.

Senator CORMANN (Western Australia) (10.38 am)—Could I have clarification from the government in relation to amendment (1). Doesn’t that also relate to the restack and shouldn’t it also be withdrawn?

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (10.38 am)—Thank you, Senator Cormann, you are absolutely right. I missed that one on my list. We also seek to withdraw amendment (1).

The TEMPORARY CHAIRMAN (Senator Cash)—The question is that government amendments (2) to (11), (13) to (54), (57), (60) to (70) and (72) to (78) be agreed to.

Question agreed to.
Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (10.39 am)—The government opposes schedule 1 in the following terms:

(12) Schedule 1, items 36, 37, 38, 39 and 40, page 21 (line 9) to page 22 (line 9), to be opposed.

(55) Schedule 1, item 94, page 66 (lines 18 to 32), to be opposed.

(56) Schedule 1, item 96, page 67 (lines 5 to 19), to be opposed.

(71) Schedule 1, item 113, page 71 (lines 23 to 27), to be opposed.

The TEMPORARY CHAIRMAN—The question is that schedule 1, items 36 to 40, 94, 96 and 113, stand as printed.

Question negatived.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (10.41 am)—I move:

That this bill be now read a third time.

Bill read a third time.

EXCISE TARIFF AMENDMENT (AVIATION FUEL) BILL 2010

CUSTOMS TARIFF AMENDMENT (AVIATION FUEL) BILL 2010

Second Reading

Debate resumed from 17 June, on motion by Senator Ludwig:

That these bills be now read a second time.

Senator IAN MACDONALD (Queensland) (10.42 am)—I am conscious of the need for speed in dealing with these very important bills, but regrettably I will have to take just a few minutes to put on record the coalition’s position in relation to the Excise Tariff Amendment (Aviation Fuel) Bill 2010 and the Customs Tariff Amendment (Aviation Fuel) Bill 2010.

This is important legislation. Aviation safety, to which this legislation relates, is also very important. But the government, as with all things aviational, seems to treat it as an afterthought. The government has become recognised for its lack of any real consultation with the industry in relation to aviation matters. The passage of this legislation—its introduction and the way it is being rushed through the Senate on the last day of what will be the last sitting of this parliament, one would think, after the events of this morning—is typical of the Labor Party’s inability to manage anything in government, particularly the safety of our airways.

Because of the lack of consultation with the industry and because of the cavalier way in which the minister and the government treat aviation safety, the coalition quite rightly wanted this to be looked at by a Senate committee, and I am delighted that Senator Back and Senator Colbeck, as part of the committee, looked very carefully into the legislation and came up with a number of recommendations. Whilst the coalition does not like to increase any aviation taxes, in the end we thought that in the interests of safety we should allow this bill through subject to some very strict requirements, that key performance indicators are adopted by CASA.

The committee recommended and the coalition supports that CASA must consult more with its clients and improve its own level of efficiency. The organisation—that is, CASA and its staff—must develop these key performance indicators and measure its own performance.

The coalition, whilst not opposing this legislation today, will be questioning CASA at Senate estimates and on other occasions.
about how they are using the extra funding provided by these bills. Effectively, we want to make sure that CASA are effective in their expenditure and that they enter into meaningful discussions with the industry and make sure that the things they do are talked through with industry.

Industry are, in fact, the best people to advise on the safety of our skies. There is nothing more important to the industry than safety; yet the government and CASA seem to ignore them and treat them as some aliens when it comes to these questions. If in this instance the industry had been more involved by the government in these issues, the whole thing would have gone through much smoother and much more effectively and we would not be rushing it through in a couple of minutes on the last day of sitting in this parliament.

There are a lot of complaints about CASA. We know they have a difficult job and an important job, but the way they interact with their clients is very, very important. From time immemorial we have had those complaints, and they seem to be on the increase again. We need to ensure that CASA and the government, for as long as it remains the government—and, after today, you would think that would not be very long—or even an incoming coalition government are aware that parliament will be looking at CASA’s expenditure and will be looking at their consultation with industry, and their ability to work with industry rather than against industry.

These bills, as we know, increase the excise levied on fuel by 25 per cent, and the funds raised from that increase are to be allocated to CASA to enable them to recruit new staff and to expand their surveillance activities. I understand that, if this legislation is not passed, 50 existing CASA inspectors will be put off in the next couple of weeks. Of course, one of the reasons that we are letting this through is to provide money so that that does not happen. Some of the money raised by this tax increase will go towards CASA to clear up a backlog of regulatory reforms.

The way in which these increases in levies are calculated has been very clearly enumerated by the shadow minister, Mr Truss, in the other place. So, for brevity, I will not go through the details, except to indicate that not all aviation fuel is subject to excise. The military, for example, are not charged excise on aviation fuel. Importantly, under international treaties, aviation fuel on international flights is also exempt. So it is rather ironic that, while these levies are for safety principally on international routes, it is actually the domestic aviation sector that is paying the levies to ensure safety.

A lot of issues were raised by the committee—and, again, I thank my colleagues on the committee for their careful inquisition into all aspects of this. I know the committee and the airline industry were shattered by the aggressive approach taken by government senators on this committee. Some of the airline operators were quite amazed at the vehemence of attacks by Labor senators—for example, saying, ‘Why didn’t you read the budget papers and so something about this before we got to the committee hearing?’ The people they were talking to belong to an association with one or two employees, who are not in a position to trawl through every line of the budget to try to look at these things. If the minister and the government had taken the time to bring the industry in, had taken them into their confidence to look into these issues and had worked with the industry rather than against them, the whole passage of this legislation would have been much smoother.
The industry was surprised when this came in, in spite of claims by the government. There is no reference in the white paper to an impending increase in the excise on aviation fuel. As I mentioned, the government had not contacted any aviation industry stakeholders on this issue before introducing these bills. It is the same with the disallowance motion that we dealt with last week, which I think we disallowed yesterday—if not, it will be disallowed later today when the government finishes speaking on it. Many in the aviation industry found out about the excise increase when they were contacted by Mr Truss for their opinion on this. Some of them were not even aware of this. That shows the lack of consultation by this government, which is renowned for its lack of consultation, its mismanagement and its lack of understanding of any business principles whatsoever.

Of course, today we seem to have gone out of the frying pan and into the fire when it comes to the leadership of government. We know that the gang of four have been making decisions that have been disastrous for Australia—the insulation fiasco, the ETS fiasco, the mining tax fiasco. All of those things were determined by the former Prime Minister, the current Prime Minister—or about to be the current Prime Minister, I think—Mr Swan and Mr Tanner. So things will not change unless we change the government—and, hopefully that will happen. One of the reasons that the government must change is that this government simply has no idea of good business principles, good management and how to consult and deal with the industry it is trying to administer.

There are many other issues I want to raise, but time is not going to allow me. I do just mention that maintaining Australia’s reputation for safe skies is important and ensuring our top level status with the International Civil Aviation Organisation—ICAO—and with the American Federal Aviation Authority is something that everyone in this parliament and the industry supports. Whilst this is all related to maintaining those ratings, the minister did not mention that at all in his speech. He simply spent his speech trying to create confected outrage because the opposition and the industry actually wanted to have a look at what this bill was all about.

In spite of our concerns and lack of consultation, and in spite of the very aggressive way in which Labor senators attacked the industry at the committee, the coalition will, in the interests of safety and in the interests of allowing CASA to be properly resourced to ensure that Australia maintains its reputation for safe skies, not be opposing this legislation in the Senate. The aviation industry is made up of very reasonable people. They are all willing to pay their way, but they quite rightly expect to be treated fairly rather than arrogantly and in a bullying manner by a government that is renowned for that. Me-thinks it will get worse with recent happenings in the Labor Party.

In concluding, I make it clear to the government and the aviation industry that the coalition will not be agreeing to any further increases in this excise unless CASA is able to clearly demonstrate that it is delivering better results. As I have indicated, for this government—as long as it remains—and for an incoming coalition government, we will be carefully watching CASA to ensure that they get key performance indicators in place and that they do measure their performance and actually work with the industry in the interests of safety in our skies, which is of paramount importance to all of us and particularly to the aviation industry itself.
Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (10.55 am)—I thank Senator Macdonald for that contribution of sorts to the Excise Tariff Amendment (Aviation Fuel) Bill 2010 and the Customs Tariff Amendment (Aviation Fuel) Bill 2010 and reassure him that I have never been categorised as a bully and hope never to be that way. I commend the bills to the Senate.

Question agreed to.

Bills read a second time.

Third Reading

Bills passed through their remaining stages without amendment or debate.

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

First Reading

Bill received from the House of Representatives.

Senator CHRIS EVANS (Western Australia—Minister for Immigration and Citizenship) (10.56 am)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator CHRIS EVANS (Western Australia—Minister for Immigration and Citizenship) (10.56 am)—I table a revised explanatory memorandum relating to the bill and move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

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

This bill amends various taxation and superannuation laws to implement a range of improvements to Australia’s tax laws.

Schedule 1 implements the Government’s 2010-11 Budget changes to the superannuation co-contribution.

The Government co-contribution scheme matches personal contributions made by eligible low to middle income earners. Currently, eligible personal superannuation contributions are matched at a rate of 100 per cent up to a maximum co-contribution of $1,000.

We are keeping a generous co-contribution, worth up to $1,000 per year and matching eligible contributions dollar for dollar. For the 2010-11 and 2011-12 income years, the lower and higher income thresholds will remain at $31,920 and $61,920 respectively.

Current indexation arrangements will recommence for the 2012-13 and later income years.

The Government also will permanently maintain the superannuation co-contribution matching rate at 100 per cent and the maximum co-contribution payable at $1,000.

These changes are not expected to have a significant impact on the level of superannuation contributions. The co-contribution scheme will continue to provide eligible individuals with a very generous dollar for dollar contribution incentive.

These amendments deliver a fiscal saving of $645 million over the forward estimates.

The Government will be substantially boosting the superannuation savings of lower income Australian through its Stronger, Fairer, Simpler superannuation reforms announced on 2 May 2010.

From 1 July 2010 the Government will provide a contribution of up to $500 for workers with incomes up to $37,000. This will directly assist 3.5 million Australians with incomes up to $37,000 who currently receive little or no concessions on their compulsory superannuation guarantee contributions.

In contrast, only 20 per cent of eligible low income earners benefit from the existing co-contribution scheme; the Government will still
provide the co-contribution of up to $1,000 to assist them.

These changes form part of broader superannuation reforms. In addition to the superannuation contributions tax rebate, the Government will increase the superannuation guarantee rate from 9 to 12 per cent which will directly address issues raised by our ageing population and boost private and national savings, bringing broader benefits to the community and nation. It will also increase the annual concessional superannuation contributions cap to $50,000 for individuals aged 50 and over with superannuation balances below $500,000. This doubles the cap of $25,000 which is scheduled to apply from 1 July 2012 and will allow these individuals to ‘catch up’ on their superannuation contributions when most able.

The Government’s Stronger, Fairer, Simpler superannuation measures will cost around $2.4 billion over the next four years.

Schedule 2 amends the operation of the thin capitalisation rules for authorised deposit-taking institutions to take into account the January 2005 adoption of the Australian equivalent to International Financial Reporting Standards.

This measure formed part of the Governments’ 2009-2010 Budget announcement and clarifies the treatment of treasury shares, the business insurance asset known as EMVONA which is the excess market value over net assets, and capitalised software costs.

Transitional provisions have applied to allow authorised deposit-taking institutions to elect to use the accounting standards that applied immediately before January 2005.

This Schedule amends Division 820 of the Income Tax Assessment Act 1997 to broadly retain this transitional treatment for those specified assets for the thin capitalisation calculations of authorised deposit-taking institutions.

The amendments apply to income years commencing on or after 1 January 2009.

Schedule 3 amends the Taxation Administration Act 1953 to remove the possibility of conflicts arising between Australia’s national security interests and obligations imposed by Commonwealth tax laws.

It does that by empowering the Director-General of Security and the Director-General of the Australian Secret Intelligence Service to declare that Commonwealth tax laws do not apply to specified transactions in relation to specified entities.

When such a declaration is made, tax liabilities, obligations and benefits will not apply in relation to the specified transactions. As a result, there will be no obligation to provide information about those transactions to the tax authorities and no power to seek that information. That will ensure that information that bears on the operational activities of Australia’s security and intelligence agencies, which should remain secret in the interests of national security, will not be disclosed.

The power to make these declarations is potentially wide, so it is important that the Directors-General must be satisfied before making a declaration that is necessary for the proper performance of the functions of the relevant agency. Exercises of the power will also be overseen by the Inspector-General of Intelligence and Security and, more generally, by the Joint Parliamentary Committee on Intelligence and Security.

Schedule 4 amends Division 6 of the Income Tax Assessment Act 1936 so that the unexpended income of a Special Disability Trust is taxed at the relevant principal beneficiary’s personal income tax rate rather than automatically at the top personal tax rate plus the Medicare Levy.

This measure delivers on the Government’s commitment to help support people with severe disability, their families and carers. It will further assist immediate family members and carers to make private financial provision for the care and accommodation needs of people with severe disability by ensuring that taxation is not a disincentive for the establishment of a Special Disability Trust.

Schedule 5 amends the definition of a managed investment trust (a ‘MIT’) to more closely align the definition for withholding tax, with the definition for the MIT capital account treatment (which has recently passed both Houses of Parliament). These changes to the definition of a MIT were first announced on 10 February 2010.

This Schedule amends the definition of a MIT in Subdivision 12-H of Schedule 1 to the Taxation
Administration Act 1953 and makes consequential amendments to Division 275 of the Income Tax Assessment Act 1997, which deals with capital account treatment afforded to MITs.

This measure extends the MIT definition to cover certain wholesale managed investment schemes and government-owned managed investment schemes, commonly referred to as wholesale funds. The amendments ensure the rules apply appropriately to both retail funds and wholesale funds that are widely held collective investment vehicles undertaking passive investments — while ensuring that any changes to the definition for withholding tax purposes do not unfairly disadvantage existing investors and funds.

Consistent with the original policy objectives underpinning the MIT withholding tax rules — to support the Australian funds management industry — this measure will limit the operation of the MIT withholding tax rules to funds that carry out their investment management activities in Australia.

The changes made by this Schedule are in line with the Government’s objective to secure Australia’s position as a financial services centre. This will support the Australian funds management industry.

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

Senator Fifield (Victoria) (10.57 am)—I rise to speak on the Tax Laws Amendment (2010 Measures No. 3) Bill 2010. This bill makes changes to the superannuation co-contribution scheme, thin capitalisation rules for authorised deposit taking, financial transactions involving security and intelligence agencies, the taxation of unexpended income of special disability trusts and the definition of a managed investment trust. In speaking on this bill, I firstly touch on the changes to special disability trusts, which make up schedule 4. Special disability trusts were established by the former coalition government in 2006 at the instigation of then senator Kay Patterson and the intention was to assist families and carers in making financial provisions for the current and future care of a family member with a severe disability. The former government provided incentives to open up such trusts by ensuring they received gift concessions up to $500,000 and an assets exemption up to $551,750, which is indexed annually.

However, the unexpended income of those trusts was taxed at the top marginal tax rate, as is the case with other trusts. The changes in this bill, outlined in schedule 4, will reduce the tax rate of unexpended income of a special disability trust from the highest marginal rate to the beneficiary’s personal tax rate. The coalition is supportive of moves to provide additional incentives for families to set up special disability trusts and to meet the financial challenges in caring for a person with a severe disability. Special disability trusts are by no means the answer for all families with a child with a severe disability. They will be of great assistance for some but certainly they are not the solution for all.

As I think is becoming more widely known in Australia, regrettably, the level of support that you receive if you have a disability is determined not so much by the need that you have but by the manner in which you acquired your disability. If, for instance, you were in a motor vehicle accident, a transport accident scheme will probably look after your long-term care needs. If you are in a workplace accident, a workers compensation scheme will probably cover you. However, if you acquire your injury by falling off the roof at home or if you are born with a disability, the level of support that you receive is significantly less. There is a fundamental inequity. The solution for many families and for many individuals who have a disability is to shift from a system which is based on rationing, more often than not, to one which is based on meeting the need that a person has. A shift to a new system is, I think, ultimately the way that a solution will be found for many Australians with a disabil-
ity. That is something which is, as I mentioned before, very much in the public domain at the moment. The Productivity Commission is currently undertaking an inquiry to look at the concept of a national scheme, and the coalition has indicated that when the Productivity Commission reports in the middle of next year we will consider very seriously the recommendations of the Productivity Commission review.

This legislation also seeks to remove the indexation of the superannuation co-contribution income thresholds for the 2010-11 and 2011-12 financial years, as outlined in schedule 1. Schedule 1 also removes the legislative increase in the maximum co-contribution. Currently the maximum co-contribution amount was scheduled to increase from $1,000 to $1,250 in 2012-13 and to $1,500 in 2014-15. The amendments in schedule 1 will mean that the maximum co-contribution amount will remain at $1,000.

Schedule 2 amends the thin capitalisation rules for authorised deposit-taking institutions to reflect the new accounting treatment of certain assets under the Australian equivalents to International Financial Reporting Standards that the industry adopted in January 2005. Those assets that are affected are Treasury shares; the value of business in force component of the excess market value over net assets, MVONA; and capitalised software costs.

Schedule 3 will allow the Director-General of Security and the Director-General of the Australian Security Intelligence Service to exempt certain financial transactions from Australian tax law. Schedule 3 will allow certain transactions to certain entities to be exempt from tax law to ensure that information related to national security remains secret.

Lastly, schedule 5 expands the definition of a managed investment trust in relation to the withholding tax rules to provide a closer alignment between the withholding tax rules and the capital account election rules that were passed by the parliament with the support of the coalition earlier this year. The MIT withholding tax definition will be expanded to include wholesale managed investment schemes and government-owned managed investment schemes. The changes will also amend the MIT withholding tax definition to introduce a trading business test for trusts that would otherwise qualify as an MIT and will clarify the operation of the definition where there is only one member. The opposition supports this legislation.

Senator SIEWERT (Western Australia) (11.04 am)—This is an issue that I have been passionate about for some time. In fact I initiated the Senate inquiry into special disability trusts that I think has led—along with the very strong community campaign—to the government putting forward the Tax Laws Amendment (2010 Measures No. 3) Bill 2010. On the whole we support this legislation. We are pleased that the government has taken up the recommendations and I encourage them to look again at some of the recommendations they have not taken up—and they know very well that I was going to say that! I remind the government that those recommendations had cross-party support. The report from the committee was unanimous and it also had the support of parents, particularly parents of children with a disability. So we are pleased with this bill on the whole and we are supporting it.

We do have a concern around schedule 4. We discussed this in estimates and I am aware that the government knows that there are some parents who have concerns. As has been articulated, it makes changes to the taxation of unexpected income for special disability trusts. Schedule 4 amends division 6 of the Income Tax Assessment Act so that unexpected income from special disability
trusts is taxed at the relevant principal beneficiary’s personal tax rate rather than automatically at the top personal rate plus the Medicare levy. While the lowering from the top tax rate to the beneficiary’s personal marginal rate for unexpected income is a step in the right direction and we acknowledge that, another change in the bill means that unexpected income would now be grossed up from the expanded STD income instead of only the expended income being attributed to the beneficiary for assessment purposes, as is currently the case. While we acknowledge that overall it benefits more people—which is why we are supporting the legislation—it does not benefit all people. We are aware that there are a group of people who have some concerns about this, so I did want to put it on the record and ask the government to do something. This particular change will mean that beneficiaries who have a personal income may have to pay tax when they previously did not, or they may pay an increased tax or be forced into a higher tax bracket—which of course will have an impact on them. I would ask the government and the department to keep an eye on whether this is having an adverse impact on a particular group of people, because there are concerns that it may put some people off setting up trusts—and, of course, these changes are designed to encourage more people to take up the trusts.

Former health minister Kay Patterson established the special disability trusts. She did a lot of hard work on this and is very passionate about this concept. We initiated the Senate inquiry because people were not taking the trusts up at the rate we expected. That is why the inquiry was held—to identify the barriers. We acknowledge that the government has understood the fact that there were some barriers. We are a little concerned that the changes may be a barrier to a particular group of people and we ask that the government monitors that and in the future considers taking some further action if it is proved that the changes are a significant barrier. I want that on the record because it has been raised with me. I know it has been raised with the government and I am pretty certain it has also been raised with the opposition. We ask that the government follow that up. I thank the government and ask them to review those amendments which have not been followed up. The Greens will be supporting the bill.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (11.08 am)—Thank you. I will take on board what Senator Siewert has said and ask the relevant minister to review those amendments. I thank those who made contributions to the debate on the Tax Laws Amendment (2010 Measures No. 3) Bill 2010. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

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

Second Reading

Debate resumed from 22 June, on motion by Senator Carr:

That this bill be now read a second time.

Senator FIFIELD (Victoria) (11.09 am)—I rise to speak on the Tax Laws Amendment (2010 GST Administration Measures No. 3) Bill 2010. I note at the outset that this week marks 10 years since the introduction of the goods and services tax. The Hansard from the other place will show that the member for Griffith referred to that day as ‘fundamental injustice day’, but I suspect that there may be another day that now
figures in his mind under that particular description. In noting that, I obviously acknowledge that there is a very human dimension to the events of this morning on the other side of this building. I think we are all keenly aware of that.

This bill seeks to simplify and streamline the administration of the GST. Schedule 1 amends the A New Tax System (Goods and Services Tax) Act 1999 to make the supply of goods transport services in Australia GST-free if that supply is made as part of the international transport of goods to a nonresident who is not in Australia. Schedule 1 also changes the liability for paying GST on the transport of goods within Australia where that transport is part of the international transport of imported goods from the transport service provider to the importer of the goods. The amendment will mean that importers will add the cost of domestic transport into the value of taxable importation used to calculate GST liability on importation and will remove the GST liability on the supply of domestic transport services made to a nonresident. I can tell by your nodding, Madam Acting Deputy President Cash, that I did not need to say that; you knew that already.

Schedule 2 of this bill amends the A New Tax System (Goods and Services Tax) Act 1999 to ensure that global roaming telecommunication services remain GST-free. The measures contained in schedule 2 were initially announced by the former government, and the former government announced in December 2006 the intention to clarify the law to maintain the intention that suppliers of global roaming telecommunications services would remain GST-free.

There was a requirement for clarification in this area of GST law, because a tax ruling by the Australian tax office cast doubt on the treatment of such suppliers. These suppliers were always intended to be GST-free, in accordance with Australia’s obligations under the international telecommunications regulations. The former coalition government began consultation with the telecommunications industry to ensure the amendments were properly targeted. The current government confirmed their intention to continue with the amendments in the 2008-09 budget.

Schedule 3 contains further amendments relating to third-party payments. It amends the A New Tax System (Goods and Services Tax) Act 1999 to allow entities to make appropriate adjustments where the entities are members of the same GST group, GST religious group or GST joint venture. Whenever there is a GST bill in this chamber, I am fondly reminded of a previous time where issues of what was subject to GST and what was GST-free occupied a fair amount of time. The coalition supports these changes.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (11.13 am)—I thank the opposition for their contribution to the debate on the Tax Laws Amendment (2010 GST Administration Measures No. 3) Bill 2010. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

TAX LAWS AMENDMENT (FOREIGN SOURCE INCOME DEFERRAL) BILL (No. 1) 2010

First Reading

Bill received from the House of Representatives.

LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (11.14 am)—I move:
That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (11.14 am)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

Schedule 1 to this Bill implements the first part of the Government’s decision to reform Australia’s foreign source income anti-tax-deferral (attribution) rules that was announced as part of the 2009-10 Budget.

This Schedule repeals the foreign investment fund, or FIF, provisions and the deemed present entitlement rules that are contained in the Income Tax Assessment Act 1936.

This measure will assist Australian managed funds and other businesses to compete internationally by reducing the complexity and compliance costs that are associated with the making of foreign investments.

The repeal of the FIF and deemed present entitlement rules further contributes to the Government’s objective of promoting Australia as a financial hub in our region. This will support Australian jobs.

This measure, being part of wider reforms to better target Australia’s attribution rules, will also further simplify the taxation law and bring consolidation of the two income tax Acts a significant step closer.

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

Senator FIFIELD (Victoria) (11.15 am)—I rise to speak on the Tax Laws Amendment (Foreign Source Income Deferral) Bill (No. 1) 2010. This bill repeals the Foreign Investment Fund provisions, and the deemed present entitlement rules that are contained in the Income Tax Assessment Act 1936. These changes seek to reduce the complexity in compliance costs that are associated with the making of foreign investments.

These changes are a result of a review of attribution rules by the Board of Taxation initiated by the former coalition government in October 2006. The existing attribution rules were introduced in 1992 and were based on the rules developed in the 1960s by the United States. The former coalition government recognised that those rules had become outdated and that the global economy had significantly changed since those rules were introduced. In its report, which the government received in September 2008, the Board of Taxation argued that the abolition of the FIF rules would significantly reduce compliance costs for Australian managed funds and would enhance global competitiveness and attractiveness to foreign investors. The board also argued that their recommended changes would significantly reduce compliance costs for Australian companies and superannuation funds. The amendments are based on the recommendations made by the Board of Taxation to reduce compliance costs for affected taxpayers, and the coalition supports these changes.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (11.17 pm)—I thank Senator Fifield for his contribution to the second reading debate and I commend the bill to the Senate.

Question agreed to.

Bill read a second time.
Third Reading

Bill passed through its remaining stages without amendment or debate.

INTERNATIONAL MONETARY AGREEMENTS AMENDMENT BILL
(No. 1) 2010

Second Reading

Debate resumed from 23 June, on motion by Senator Ludwig:
That this bill be now read a second time.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (11.17 am) — I rise to speak on the International Monetary Agreements Amendment Bill (No. 1) 2010. The coalition supports the International Monetary Agreements Amendment Bill (No. 1) 2010. This bill amends the International Monetary Agreements Act 1947 to allow Australia to accept the changes to the New Arrangements to Borrow adopted by the executive board of the IMF on 12 April.

On 2 April 2009, the G20 countries agreed to increase the level of finance available to, and the number of members involved in, the IMF’s New Arrangements to Borrow. The New Arrangements to Borrow is a credit arrangement between the IMF and 26 members and institutions to provide supplementary resources to the IMF in times of economic turmoil.

The former Treasurer, Peter Costello, worked to establish this mechanism, which came into effect on 17 November 1998 and has been renewed twice, most recently in November 2007. Australia has supported these arrangements since that time, and that support is not wavering today at all. On 12 April this year, the executive board of the IMF approved changes to the new arrangements to increase the finances available and to make the system more flexible. This decision resulted in a tenfold expansion of the resources available.

This bill will increase the credit line in the IMF’s currency of special drawing rights. Australia’s potential exposure will be approximately $7.3 billion at today’s exchange rate, and one should note that at this point in time Australia’s gross borrowings are in excess of $147 billion and heading very quickly to $150 billion as a result of extremely bad management by the current Labor government, which, for all intents and purposes, seems to be in a state of turmoil. Should the IMF access this credit—and we hope it will not have to—the loan would have to be repaid in full with interest in five years. No doubt, Australians would have to acknowledge that they would most likely be going overseas to borrow this money to lend back to overseas.

The changes to the new arrangements also include changes to the number of participants in the mechanism. China, Russia, India, Brazil and nine other countries will now be involved in the new arrangements. In terms of flexibility, the changes require a large majority of participating members to agree before the New Arrangements to Borrow can be activated. The successful passage of this bill would mean that Australia will be supporting the New Arrangements to Borrow and therefore would provide the consent required by the executive board of the IMF to activate the changes to the terms and conditions. This bill will also confirm Australia’s commitment to that G20 agreement, as well as its strong and ongoing support of the IMF.

The coalition acknowledges that the participants at the G20 meeting that is scheduled have lately changed—as of this morning—and we acknowledge that the current turmoil and pandemonium that is apparent in the Australian Labor Party is having effects on how people perceive Australia. The sooner Australia can settle down and get itself good government, the better it will be for all of us.
Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (11.21 am)—I thank Senator Joyce for his contribution to the second reading debate and I commend the bill to the Senate. 

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

NATIONAL HEALTH AMENDMENT (CONTINENCE AIDS PAYMENT SCHEME) BILL 2010

Second Reading

Debate resumed from 22 June, on motion by Senator Carr:

That this bill be now read a second time.

Senator FIERRAVANTI-WELLS (New South Wales) (11.22 am)—I rise to speak on the National Health Amendment (Continence Aids Payment Scheme) Bill 2010. The National Continence Management Strategy was established in 1998 by the coalition government to provide funding to research and service development initiatives aimed at prevention and treatment. This affects primarily the Ageing portfolio but also involves the disability portfolio. The Continence Aids Assistance Scheme provides a payment to assist eligible people who have permanent, severe incontinence to meet some of the costs of their continence products. In February 2007, the Continence Aids Assistance Scheme was expanded to include people aged five to 15 years and 65 years and over. In the May 2007 budget the scheme was further expanded from 1 July to include anyone over the age of five years with a permanent cause for their incontinence with either a neurological or non-neurological cause for their conditions.

In the 2009-10 budget the government announced that from 1 July 2010 it would replace the Continence Aids Assistance Scheme with the continence support payment. This change is a savings measure of $10.7 million. Under the new scheme eligible people will instead receive a payment as a contribution towards the cost of products. The disability sector has expressed concerns that the new scheme may incur delivery costs, as under the current scheme there are no delivery costs. It is understood that the increased competition will ensure that free delivery will likely be offered as an incentive to purchasers. This is a view that has been put forward by the Continence Foundation of Australia. However, the coalition is yet to be convinced that this will occur, and we will be watching the rollout of this program. There is also concern that the government may reduce or change eligibility at 30 June 2011. There is also some concern that the government has not done the best job in communicating this change to recipients of the scheme, notwithstanding the distribution of an information kit.

I make two quick points in relation to that. We are trying to claw back $10 million at a time when this government is wasting billions and billions of dollars on pink batts and, of course, the worst offending scheme—the $16.2 billion waste of funds for the Julia Gillard memorial halls. Here we are taking money away from this scheme for people with continence problems, affecting our most aged and frail and people with disabilities. How typical that we will now be looking to save this sort of money when we have wasted so much money on all sorts of reckless spending. I place those comments on the record. The coalition will not be opposing the bill.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (11.34 am)—I thank Senator Fierravanti-Wells for her contribution to the second read-
ing debate and I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

CORPORATIONS AMENDMENT (CORPORATE REPORTING REFORM) BILL 2010

Second Reading

Debate resumed from 22 June, on motion by Senator Carr:

That this bill be now read a second time.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (11.25 am)—I rise to speak on the Corporations Amendment (Corporate Reporting Reform) Bill 2010. This bill aims to improve Australia’s corporate reporting framework by reducing red tape and regulatory burdens on companies, altering disclosure requirements and implementing a number of other refinements to the framework. Reducing the regulatory burden is something the coalition passionately progressed in government and supports in opposition. It is the coalition’s ideal to make sure that small business, especially, is not encumbered with onerous reporting requirements.

This bill contains four main measures that I will briefly mention. First, it streamlines the reporting requirements imposed on companies limited by guarantee. Companies limited by guarantee will no longer be required to distribute an annual report; instead they will be required to write to members, informing them that an annual report has been prepared and how they can obtain it. Hopefully, this will even have consequences in reducing greenhouse gases. Companies limited by guarantee will also be prohibited from paying dividends, because these companies almost exclusively consist of non-profit organisations. The government wishes to make it clear in the legislation that this type of company structure is not suitable for dividends to be paid. Reflecting industry concerns, the government has supported a coalition proposed amendment to insert a grandfathering clause which will exempt these types of currently operating companies limited by guarantees from being forced to restructure.

Second, this legislation streamlines how parent entities are treated for the purposes of reporting. Third, these measures clarify the treatment of dividends by allowing a company to pay a dividend where the company assets exceed its liabilities immediately before the dividend is declared and where net assets are sufficient for the payment of the dividend. The coalition notes the concerns from company groups such as the Australian Institute of Company Directors, which thinks a profit based test and these amendments today are still too restrictive.

Further, other groups remain concerned that small proprietary companies who currently have no legal obligation to prepare audited accounts will have to apply accounting standards to determine the company’s net asset position prior to the payment of a dividend. The potential application of accounting standards to determine net assets requires the understanding of how to apply a two-inch thick book of accountancy standards of which I am very aware, having made a little bit of money applying them for people. None of those entities operating as small companies in Australia will understand it without paying money applying them for people. None of those entities operating as small companies in Australia will understand it without paying money to advisers like the good accountants, of which I am a member as a fellow of the Australian CPAs. It will be a tremendous cost burden to the sector. I must note that accountants prefer not to indulge in excessive work for no real purpose but to merely impose new regulatory guidelines on
private companies which generally have a limited use for the report and in which the number of people who have access to the report can find out the details by a more direct purpose than total reliance on the report.

While this legislation does allow more flexibility for determining dividend payments, it would be useful for the government to review how the measures operate and, in effect, reassure small proprietary companies that they will not have an additional burden placed on them. Finally, the legislation allows an entity to vary the length of a financial year subsequent to restarting a 12-month reporting requirement. The coalition supports this bill but notes the concerns and its aims to reduce compliance burdens placed on industry. I commend the bill to the Senate.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (11.29 am)—I thank Senator Joyce for his contribution to the second reading debate and commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

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

Second Reading

Debate resumed from 22 June, on motion by Senator Carr:

That this bill be now read a second time.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (11.30 am)—I rise to speak on the Financial Sector Legislation Amendment (Prudential Refinements and Other Measures) Bill 2010. The objective of this bill is to amend a number of acts, including the Australian Prudential Regulation Authority Act 1998, to improve Australia’s crisis management and prudential framework. The bill makes a number of small amendments to APRA’s preventative powers, APRA’s correction powers, APRA’s and the ATO’s investigation powers, APRA’s failure management powers, the Financial Claims Scheme and the financial sector levies.

The reforms were announced by the minister in January this year, and the legislation follows a public consultation period with the industry. The measures will commence 28 days after the bill receives royal assent. The legislation is supported by the opposition. The exposure draft consultation process allowed the Treasury to address small technical concerns, and the legislation is now broadly supported by stakeholders in the financial sector. The bill amends a number of acts to improve Australia’s prudential framework by introducing a number of small measures that will improve the ability of the Australian Prudential Regulation Authority to manage Australia’s financial institutions during a crisis.

The bill contains several main areas of amendments. Firstly, the legislation will strengthen APRA’s power to prevent prudential concerns from arising. Secondly, the bill will amend the Financial Sector (Collection of Data) Act 2001 to allow more flexibility in the financial data collection and publishing regime of APRA. Thirdly, the legislation will amend the financial sector levies framework, which will improve the methodologies governing the determination of levies. Finally, the bill will amend the Financial Claims Scheme to improve the scheme’s operation and to expand APRA’s administration of the scheme. APRA will be able to determine the rate of interest that applies to protected accounts for the purposes of determining entitlements under the Financial Claims
Scheme when APRA considers that the rate of interest is not certain.

The bill considered today allows APRA to deliver a more direct response to turmoil in global and Australian financial markets. It is appropriate that the intervention powers be taken out of the hands of the Rudd Labor government—but we think that might have already been done; we think it might now be the Gillard Labor government—and given to market experts at APRA. The government caused chaos—and we know what that looks like; we had a good show of it last night—in the market through its bungled bank guarantee scheme.

The coalition supports this bill. The bill improves Australia’s prudential framework by providing some measures allowing APRA to be more responsive to market fluctuations and financial services. I note that, even during the drafting of this speech, so many things have changed around here as this place has become ‘Pandemonium Palace’ but, in trying to get some normality into the operation of business here, I commend this bill to the Senate.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (11.33 am)—I thank Senator Joyce for his contribution to the second reading debate and I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

TRADE PRACTICES AMENDMENT (AUSTRALIAN CONSUMER LAW) BILL (No. 2) 2010

First Reading

Bill received from the House of Representatives.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (11.34 am)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (11.35 am)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

The Trade Practices Amendment (Australian Consumer Law) Bill (No. 2) 2010 is a Bill to the amend the Trade Practices Act 1974, the Australian Securities and Investments Commission Act 2001 and the Corporations Act 2001 to implement decisions made in 2008 by the Council of Australian Governments to introduce a single, national consumer law—to be called the Australian Consumer Law.

This Bill is the second legislative step to give effect to the most far-reaching consumer law reforms since the inception of the Trade Practices Act 35 years ago.

It completes the initial text of the Australian Consumer Law, following on from the Trade Practices Amendment (Australian Consumer Law) Bill, which I introduced on 24 June 2009.

This Bill reflects the efforts and toil of many people, including my State and Territory colleagues on the Ministerial Council on Consumer Affairs, which on 4 December 2009 agreed to the content of the Australian Consumer Law. The personal commitment of my Ministerial Council colleagues has ensured that this landmark reform of Australia’s consumer laws will—at long last—happen, the Australian Senate permitting.

The complex array of 17 national, State and Territory generic consumer laws, along with other
provisions scattered throughout many other laws, must be rationalised.

While these laws may work well for many purposes, each of them differs—to the cost of consumers and business.

Australian consumers deserve laws which make their rights clear and consistent, and which protect them equally wherever they are. At the same time, Australian businesses deserve simple, national consumer laws that make compliance easier.

A single national consumer law is the best means of achieving these results. Rather than relying on nine parliaments making piecemeal changes, the Australian Consumer Law will ensure responsive consumer laws with a truly national reach.

In developing the reforms contained in this Bill, the Australian Government—in close consultation with the States and Territories—has also drawn on the views of many consumers and businesses, and those bodies which represent their interests. I thank those many people who have provided the Government with the benefit of their views and expertise in preparing the legislation.

I also thank the many State and Territory officials who have contributed to the development of the Australian Consumer Law, as well as, of course the Treasury Officials who have worked tirelessly on this reform.

The reforms implemented by this Bill represent one of the great successes of the Business Regulation and Competition Working Group of COAG—which I co-chair with the Minister for Finance and Deregulation—and are a great example of co operation between Australia’s governments.

Progress of the Australian Consumer Law

The Bill completes the initial text of the Australian Consumer Law.

In July 2009, the Government, with the States and Territories, settled an Intergovernmental Agreement that will govern the future administration and development of the Australian Consumer Law.

In accordance with the Intergovernmental Agreement, the Australian Consumer Law incorporates the current consumer protection and unconscionable conduct provisions of the Trade Practices Act. It creates national laws for consumer product safety and for statutory consumer guarantees, to reform and replace existing Commonwealth, State and Territory laws.

The Australian Consumer Law enhances the consumer provisions of the Trade Practices Act by drawing on existing legislative approaches to these matters in the States and Territories.

The Bill also implements measures that complement, but do not form part of, the Australian Consumer Law, and makes consequential amendments of a minor nature to other Acts.

It changes the name of the Trade Practices Act to the Competition and Consumer Act 2010—a name which is much more accessible and reflects the focus of Australia’s main law which regulates markets.

It also amends the consumer protection provisions of the ASIC Act and the Corporations Act to maintain consistency with the Australian Consumer Law concerning consumer protection for financial services.

The Bill enables the Australian Competition and Consumer Commission to impose infringement notices for specified civil contraventions of the Australian Consumer Law. It strengthens product safety enforcement and investigation powers to assist agencies in taking a proactive approach to consumer safety.

The Bill also strengthens the enforcement arrangements for prescribed industry codes of conduct—like the Franchising Code of Conduct—by implementing the Government’s response to the Report of the Parliamentary Joint Committee on Corporations and Financial Services into conduct in Australian franchising.

The entire Australian Consumer Law is to be fully implemented by the end of 2010 by the Australian Government and each State and Territory in accordance with the National Partnership Agreement to Deliver a Seamless National Economy.

Key amendments in the Bill

I turn now to the key provisions of the Bill.

The Australian Consumer Law

The first Bill to implement the Australian Consumer Law provides for the application, admini-
The Australian Consumer Law, creates the national unfair contract terms regime and introduces new penalties, enforcement powers and consumer redress provisions.

This Bill that I am introducing today, implements general and specific consumer protections, including prohibitions against misleading and deceptive conduct and unconscionable conduct, and provisions covering unfair practices and consumer transactions. Many of these consumer protections are substantially the same as those in the Trade Practices Act—although they have been redrafted to reflect modern, easier to comprehend drafting conventions—and draw variously on the existing legislative approaches in the States and Territories, and in New Zealand.

The case law associated with the understanding and interpretation of these protections—and the equivalent provisions in State and Territory fair trading laws—will continue to be relevant to the interpretation and application of the Australian Consumer Law.

This Bill also introduces a new system of statutory consumer guarantees which reform and replace existing Commonwealth, State and Territory laws, and a new, standard consumer product safety law for consumer goods and product related services.

General protections

The Australian Consumer Law contains general consumer protections, including a national unfair contract terms law. It prohibits misleading or deceptive conduct and includes provisions prohibiting persons who are operating in trade or commerce from engaging in unconscionable conduct towards consumers or businesses. These prohibitions will operate on the same basis as those currently in the Trade Practices Act. In addition, corporations are prohibited from engaging in unconscionable conduct within the meaning of the unwritten law of the States and Territories.

I also recently announced that the Government will make clarifying amendments to the unconscionable conduct provisions, which will be introduced in a separate Bill.

Specific protections

The Australian Consumer Law provides for a wide range of specific consumer protections covering unfair practices, consumer transactions, the safety of consumer goods and product related services, information standards and the liability of manufacturers for goods with safety defects.

Unfair practices

Specific business conduct that is generally accepted as being unfair is prohibited under the Australian Consumer Law. These prohibitions are targeted at particular kinds or activities, rather than the effect that more general conduct might have on a consumer.

The Australian Consumer Law incorporates equivalents to all of the existing provisions of the Trade Practices Act dealing with false or misleading representations or conduct, unsolicited supplies, pyramid schemes, pricing, referral selling, and harassment and coercion. Changes to existing Trade Practices Act provisions which are based on provisions that now exist in State and Territory consumer laws are also incorporated, to improve the operation of the existing provisions by adopting best practice in State and Territory laws. These changes were agreed by the Ministerial Council on Consumer Affairs on 4 December 2009.

Consumer transactions

The Australian Consumer Law implements specific protections relating to consumer transactions, including consumer guarantees, unsolicited selling, lay-by agreements and other unfair practices.

Consumer guarantees

A single set of statutory consumer guarantees replaces the existing system of implied conditions and warranties in the Trade Practices Act under State and Territory laws. Statutory consumer guarantees will give consumers clearer and more effective laws regarding their rights when buying goods and services. They will also make business obligations clearer.

These reforms are to be supported by administrative changes and changes to enforcement regimes to make the law more effective, through greater coordination of enforcement and better provision...
of information to consumers and businesses. These reforms are based on comprehensive analysis by the Commonwealth Consumer Affairs Advisory Council, which examined all of these issues in 2009. Those well-considered recommendations were adopted by the Ministerial Council on Consumer Affairs on 4 December 2009. I thank the Council for its excellent contribution to the development of this reform.

The consumer guarantees law is closely aligned to the existing New Zealand law and I also thank my New Zealand colleague, the Minister for Consumer Affairs, the Hon Heather Roy MP, on the Ministerial Council for the contributions that Minister Roy and her officials have made to the development of these reforms. Indeed, this reform reconfirms the commitment of our two nations to a Single Economic Market.

Unsolicited selling
While unsolicited selling methods may often be convenient for consumers, bad conduct by unscrupulous operators can, in some cases, lead to serious harm.

The Australian Consumer Law introduces a national law that deals with unsolicited sales practices, including door-to-door selling, telephone sales and other forms of direct selling which do not take place in a retail context. The provisions replace the current State and Territory regulatory regimes that apply to unsolicited sales. They do not apply to matters already covered by the Commonwealth Do Not Call Register Act 2006 and associated legislation.

The Australian Consumer Law contains express supplier obligations about the way in which consumers are approached and about the making of agreements, including permitted visiting hours; disclosing the purpose and identity of the supplier; and duties imposed on suppliers to leave premises on request and inform a consumer of their rights to terminate the agreement.

The Australian Consumer Law also contains express disclosure obligations for suppliers about the making of agreements, express consumer rights and obligations, including a 10-day termination right and the grounds for termination and express supplier obligations about post contractual behaviour.

Lay-by agreements and miscellaneous unfair practices
The Australian Consumer Law applies some basic rules to lay-by sales transactions, including basic consumer rights and business obligations. This will replace the various lay-by sales laws that currently exist in New South Wales, Victoria and the ACT.

Information standards
Under the Australian Consumer Law, the Commonwealth will prescribe all information standards for goods and services. This will require suppliers to provide certain information or present information in a certain manner, when supplying particular goods and services. These standards replace existing powers in the Trade Practices Act and in State and Territory laws.

Safety of consumer goods and product related services
The Australian Consumer Law also introduces a national consumer product safety law for consumer goods and product related services. This new product safety framework will replace the product-safety provisions in the Trade Practices Act, and the equivalent provisions of the State and Territory consumer protection laws.

Under the national consumer product safety law, the Commonwealth will be able to make safety standards for the supply of certain goods or services. The Commonwealth will have the power to impose interim and permanent bans on certain goods or services which pose a risk to consumer safety. All responsible Ministers from the Commonwealth, States and Territories can recall goods which create a risk of injury to any person, as well as publish safety warning notices to inform consumers about safety investigations or warn consumers of the potential dangers with using particular goods or services.

Suppliers who voluntarily recall a good because of potential safety concerns are required to notify the Commonwealth Minister about the recall. The Minister may choose to publish details of the recall on the internet.
These provisions include a new reporting requirement to assist regulators to proactively respond to emerging consumer product safety hazards.

Suppliers must report to the ACCC if they become aware that a consumer good or related service has been associated with a death or serious injury. Businesses may become aware of incidents through consumer complaints, legal proceedings or other means. A business is not required to investigate, or otherwise make itself aware of an incident that they do not become aware of in the ordinary course of their business. A business does not need to report incidents where the product, design flaw or defect is clearly not the cause of the incident, such as when a consumer trips over a product in a store.

Liability of manufacturers for goods with safety defects

The new national consumer product safety law is supported by a national statutory liability regime to enable consumers to recover against manufacturers of goods that contain safety defects, for any loss or damage suffered as a result of defects. It is modelled on the manufacturers’ liability provisions of the Trade Practices Act, and provides manufacturers with a number of defences against action that has been brought against them.

Offences, enforcement and remedies

The Australian Consumer Law provides for a national approach to enforcement which will mean that regulators can take effective and proportionate action against unprincipled operators. Contraventions of specific consumer protections in the Australian Consumer Law have associated criminal offence provisions. These cover unfair practices, unsolicited consumer agreements, lay-by sales, safety of goods and product-related services and information standards. Most of these offences exist in the Trade Practices Act and carry maximum fines of $220,000 for a person other than a body corporate and $1.1 million for a body corporate.

Regulators can accept administrative undertakings, and will have the power to issue substantiation notices and public warning notices.

A suite of remedies is available for contraventions of certain provisions of the Australian Consumer Law. These include civil pecuniary penalties, injunctions, damages, compensation orders, orders seeking redress for consumers not party to enforcement proceedings, non-punitive orders, adverse publicity orders and an order disqualifying a person from managing a corporation.

Defences

The Australian Consumer Law provides for a number of defences to contraventions of consumer protection provisions in certain circumstances relating to the publication of advertisements or the supply of certain goods or product-related services that were not compliant with a safety or information standard outside Australia.

Remedies for consumer guarantees

In addition to the general remedies available under the Australian Consumer Law, consumers can take action against suppliers of goods and services, and action for damages against manufacturers of goods, where a relevant guarantee is not complied with. The provisions cover rejected and replaced goods, and the termination of contracts.

Amendments to the Trade Practices Act

In addition to completing the Australian Consumer Law, Schedule 2 of the Bill creates an infringement notice regime for the ACCC, which is the same as that in the first Bill. The Bill that I am introducing today strengthens product safety enforcement and investigation powers and amends the industry codes of conduct provisions.

Infringement notices

The ACCC can issue infringement notices for most breaches of the Commonwealth applied Australian Consumer Law. Infringement notices provide penalties that can be paid to avoid further court action by the ACCC. However, unlike traditional parking fines, these notices are not enforceable by a court and non-payment means only that the ACCC may still pursue them for the original alleged breach.

The infringement notice power in the Australian Consumer Law also serves as a template for the States and Territories to apply to breaches of the Australian Consumer Law, if they choose to do so.
Product safety investigation and enforcement

Schedule 2 of the Bill provides for enhanced entry, search and seizure powers for the ACCC in respect of product safety, as well as information gathering powers and the ability to apply to a court to order the destruction of goods that pose a risk of injury to any person. These powers assist the ACCC to take on a lead enforcement role in the national product safety system established by the Australian Consumer Law.

Conclusion

This Bill marks an exciting and important development in Australia’s consumer protection laws. It introduces reforms that will significantly reduce regulatory complexity for businesses and takes Australia further towards a seamless national economy. It will empower Australian consumers and free Australian businesses to make our markets work better—delivering tangible benefits for all.

I can also inform the House that the Ministerial Council for Corporations was consulted in relation to the amendments to the laws in the national corporate regulation scheme—namely the amendments to the ASIC Act and the Corporations Act—and has approved them as required under the Corporations Agreement.

In introducing this Bill, the Australian Government has met its obligation to introduce a single, national consumer law, which is among the most important of the 27 regulatory reforms currently being pursued through COAG.

The Australian Government hopes to pass this legislation in the Winter Sittings to achieve, with further cooperation by State and Territory governments, our goal of a single consumer law for Australia by the beginning of 2011.

This will enable, for the first time, all Australian consumers to enjoy the benefits of consistent rights wherever they may be, and will allow all Australian businesses to obtain greater efficiencies through a single, simplified national law.

I commend the Bill.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (11.35 am)—I rise to speak on the Trade Practices Amendment (Australian Consumer Law) Bill (No. 2) 2010. This bill follows the Trade Practices Amendment (Australian Consumer Law) Bill (No. 1) 2010, which was passed by the Senate only a couple of months ago. Combined, these two bills introduce a comprehensive national consumer law regime. This outcome is the culmination of two reviews called for by the former Treasurer, Peter Costello—and weren’t things more balanced when he was around! These reviews highlighted the costs of the divergent and fragmented approaches to consumer law across the states and territories. The changes in this bill complete the recommendations of these reviews and the subsequent discussions between the Australian government and state and territory governments. Australian consumer laws are generally sound, and the vast majority of consumer transactions in this country are concluded satisfactorily. Nonetheless, this bill delivers a number of important benefits for businesses and additional protections for consumers.

There are four major changes provided for in this bill, and I shall now go through them. Firstly, this bill completes the construction of a truly national consumer law. Secondly, this bill will implement statutory guarantees for consumer goods at a national level. Thirdly, the legislation implements a national product safety scheme by clarifying and implementing various state and territory laws to provide for a national product safety system. Fourthly, the bill will implement laws in relation to unsolicited selling. The coalition has supported each of these changes, though we do note concerns have been brought up by door-to-door salespeople.

The legislation was subject to an inquiry by the Senate Economics Legislation Committee through the excellent work of my Senate colleagues Senator Eggleston and Senator Bushby. It should be noted that the economics committee is by far and away the premier committee in the Senate system. It
became evident that there were a number of areas where the legislation could have been improved, and the coalition has been successful in calling for a number of amendments to this bill. I would like to recognise the open and constructive approach taken by the government and the minister in considering and agreeing to these amendments.

There are other concerns with this legislation not explicitly addressed by these specific amendments. In particular, there are issues in relation to unsolicited agreements concerning the requirement for a salesperson to gain agreement to contact the consumer outside of the prescribed hours. I note that delegations dealing with this issue have been in our office of late, and I note their concerns. This agreement cannot be completed in person and must be arranged through mail or by telephone. The coalition believe that some of these issues can be clarified by regulations, however.

The bill as amended contains provisions that the coalition have been able to agree with the minister. Through these amendments we have been able to improve the legislation whilst maintaining our broad support for uniform consumer laws. I commend the bill to the Senate.

**Senator LUDWIG** (Queensland—Special Minister of State and Cabinet Secretary) (11.38 am)—in reply—I thank Senator Joyce for his contribution to the second reading debate and commend the bill to the Senate.

Question agreed to.

Bill read a second time.

**In Committee**

Bill—by leave—taken as a whole.

**Senator LUDWIG** (Queensland—Special Minister of State and Cabinet Secretary) (11.39 am)—I table a supplementary explanatory memorandum relating to the government amendments to be moved to this bill and corrections to the explanatory memorandum which was circulated to the chamber on 23 June 2010. I seek leave to move government amendments (1) to (24) and (26) to (33) together.

Leave granted.

**Senator LUDWIG**—I move:

(1) Schedule 1, item 1, page 16 (line 2), before “In this Schedule:”, insert “(1)”.

(2) Schedule 1, item 1, page 16 (after line 28), after the definition of assert a right to payment in section 2, insert:

associate regulator:

(a) for the purposes of the application of this Schedule as a law of the Commonwealth—means a body that is, for the purposes of the application of this Schedule as a law of a State or a Territory, the regulator within the meaning of the application law of the State or Territory; or

(b) for the purposes of the application of this Schedule as a law of a State or a Territory—means:

(i) the Commission; or

(ii) a body that is, for the purposes of the application of this Schedule as a law of another State or a Territory, the regulator within the meaning of the application law of that other State or Territory.

(3) Schedule 1, item 1, page 22 (after line 31), after the definition of materials in section 2, insert:

mixed supply: see section 3(11).

(4) Schedule 1, item 1, page 28 (after line 9), at the end of section 2, add:

(2) In this Schedule:

(a) a reference to engaging in conduct is a reference to doing or refusing to do any act, including:

(i) the making of, or the giving effect to a provision of, a contract or arrangement; or
(ii) the arriving at, or the giving effect to a provision of, an understanding; or
(iii) the requiring of the giving of, or the giving of, a covenant; and

(b) a reference to conduct, when that expression is used as a noun otherwise than as mentioned in paragraph (a), is a reference to the doing of or the refusing to do any act, including:
   (i) the making of, or the giving effect to a provision of, a contract or arrangement; or
   (ii) the arriving at, or the giving effect to a provision of, an understanding; or
   (iii) the requiring of the giving of, or the giving of, a covenant; and

(c) a reference to refusing to do an act includes a reference to:
   (i) refraining (otherwise than inadvertently) from doing that act; or
   (ii) making it known that that act will not be done; and

(d) a reference to a person offering to do an act, or to do an act on a particular condition, includes a reference to the person making it known that the person will accept applications, offers or proposals for the person to do that act or to do that act on that condition, as the case may be.

(5) Schedule 1, item 1, page 28 (line 10) to page 29 (line 5), omit section 3, substitute:

3 Meaning of consumer

Acquiring goods as a consumer

(1) A person is taken to have acquired particular goods as a consumer if, and only if:
   (a) the amount paid or payable for the goods, as worked out under subsections (4) to (9), did not exceed:
      (i) $40,000; or
   (ii) if a greater amount is prescribed for the purposes of this paragraph—that greater amount; or
   (b) the goods were of a kind ordinarily acquired for personal, domestic or household use or consumption; or
   (c) the goods consisted of a vehicle or trailer acquired for use principally in the transport of goods on public roads.

(2) However, subsection (1) does not apply if the person acquired the goods, or held himself or herself out as acquiring the goods:
   (a) for the purpose of re-supply; or
   (b) for the purpose of using them up or transforming them, in trade or commerce:
      (i) in the course of a process of production or manufacture; or
      (ii) in the course of repairing or treating other goods or fixtures on land.

Acquiring services as a consumer

(3) A person is taken to have acquired particular services as a consumer if, and only if:
   (a) the amount paid or payable for the services, as worked out under subsections (4) to (9), did not exceed:
      (i) $40,000; or
   (ii) if a greater amount is prescribed for the purposes of subsection (1)(a)—that greater amount; or
   (b) the services were of a kind ordinarily acquired for personal, domestic or household use or consumption.

Amounts paid or payable for purchases

(4) For the purposes of subsection (1) or (3), the amount paid or payable for goods or services purchased by a person is taken to be the price paid or payable by the person for the goods or services, unless subsection (5) applies.
(5) For the purposes of subsection (1) or (3), if a person purchased goods or services by a mixed supply and a specified price was not allocated to the goods or services in the contract under which they were purchased, the amount paid or payable for goods or services is taken to be:

(a) if, at the time of the acquisition, the person could have purchased from the supplier the goods or services other than by a mixed supply—the price at which they could have been purchased from the supplier; or

(b) if:

(i) paragraph (a) does not apply; but

(ii) at the time of the acquisition, goods or services of the kind acquired could have been purchased from another supplier other than by a mixed supply; the lowest price at which the person could, at that time, reasonably have purchased goods or services of that kind from another supplier.

(6) For the purposes of subsection (1) or (3), the amount paid or payable for goods or services acquired by a person other than by way of purchase is taken to be the price at which, at the time of the acquisition, the person could have purchased the goods or services from the supplier, unless subsection (7) or (8) applies.

(7) For the purposes of subsection (1) or (3), if:

(a) goods or services acquired by a person other than by way of purchase could not, at the time of the acquisition, have been purchased from the supplier, or could have been purchased only by a mixed supply; but

(b) at that time, goods or services of the kind acquired could have been purchased from another supplier other than by a mixed supply; the amount paid or payable for the goods or services is taken to be the lowest price at which the person could, at that time, reasonably have purchased goods or services of that kind from another supplier.

(8) For the purposes of subsection (1) or (3), if goods or services acquired by a person other than by way of purchase could not, at the time of the acquisition, have been purchased from any supplier other than by a mixed supply, the amount paid or payable for the goods or services is taken to be the value of the goods or services at that time.

Amounts paid or payable for obtaining credit

(9) If:

(a) a person obtains credit in connection with the acquisition of goods or services by him or her; and

(b) the amount paid or payable by him or her for the goods or services is increased because he or she obtains credit;

obtaining the credit is taken for the purposes of subsection (3) to be the acquisition of a service, and the amount paid or payable by him or her for the service of being provided with the credit is taken to include the amount of the increase.

Presumption that persons are consumers

(10) If it is alleged in any proceeding under this Schedule, or in any other proceeding in respect of a matter arising under this Schedule, that a person was a consumer in relation to particular goods or services, it is presumed, unless the con-
trary is established, that the person was a consumer in relation to those goods or services.

Mixed supplies

(11) A purchase or other acquisition of goods or services is made by a mixed supply if the goods or services are purchased or acquired together with other property or services, or together with both other property and other services.

Supplies to consumers

(12) In this Schedule, a reference to a supply of goods or services to a consumer is a reference to a supply of goods or services to a person who is taken to have acquired them as a consumer.

(6) Schedule 1, item 1, page 46 (line 6), before “Without”, insert “(1)”.

(7) Schedule 1, item 1, page 47 (after line 5), at the end of section 25, add:

(2) Before the Governor-General makes a regulation for the purposes of subsection (1)(n) prescribing a kind of term, or a kind of effect that a term has, the Minister must take into consideration:

(a) the detriment that a term of that kind would cause to consumers; and

(b) the impact on business generally of prescribing that kind of term or effect; and

(c) the public interest.

(8) Schedule 1, item 1, page 79 (after line 3), at the end of section 61, add:

(4) This section does not apply to a supply of services of a professional nature by a qualified architect or engineer.

(9) Schedule 1, item 1, page 80 (after line 7), at the end of Subdivision C, add:

64A Limitation of liability for failures to comply with guarantees

(1) A term of a contract for the supply by a person of goods other than goods of a kind ordinarily acquired for personal, domestic or household use or consumption is not void under section 64 merely because the term limits the person’s liability for failure to comply with a guarantee (other than a guarantee under section 51, 52 or 53) to one or more of the following:

(a) the replacement of the goods or the supply of equivalent goods;

(b) the repair of the goods;

(c) the payment of the cost of replacing the goods or of acquiring equivalent goods;

(d) the payment of the cost of having the goods repaired.

(2) A term of a contract for the supply by a person of services other than services of a kind ordinarily acquired for personal, domestic or household use or consumption is not void under section 64 merely because the term limits the person’s liability for failure to comply with a guarantee to:

(a) the supplying of the services again; or

(b) the payment of the cost of having the services supplied again.

(3) This section does not apply in relation to a term of a contract if the person to whom the goods or services were supplied establishes that it is not fair or reasonable for the person who supplied the goods or services to rely on that term of the contract.

(4) In determining for the purposes of subsection (3) whether or not reliance on a term of a contract is fair or reasonable, a court is to have regard to all the circumstances of the case, and in particular to the following matters:

(a) the strength of the bargaining positions of the person who supplied the goods or services and the person to whom the goods or services were supplied (the buyer) relative to each other, taking into account, among other things, the availability of equivalent goods or services and suitable alternative sources of supply;
(b) whether the buyer received an inducement to agree to the term or, in agreeing to the term, had an opportunity of acquiring the goods or services or equivalent goods or services from any source of supply under a contract that did not include that term;

c) whether the buyer knew or ought reasonably to have known of the existence and extent of the term (having regard, among other things, to any custom of the trade and any previous course of dealing between the parties);

d) in the case of the supply of goods, whether the goods were manufactured, processed or adapted to the special order of the buyer.

(10) Schedule 1, item 1, page 82 (after line 25), after subsection 69(1), insert:

(1A) The consumer is not taken, for the purposes of subsection (1)(c), to have invited the dealer to come to that place, or to make a telephone call, merely because the consumer has:

(a) given his or her name or contact details other than for the predominant purpose of entering into negotiations relating to the supply of the goods or services referred to in subsection (1)(c); or

(b) contacted the dealer in connection with an unsuccessful attempt by the dealer to contact the consumer.

(11) Schedule 1, item 1, page 94 (after line 20), after subsection 88(1), insert:

(1A) Subsection (1) does not apply to:

(a) bringing, or asserting an intention to bring, legal proceedings against the consumer; or

(b) taking, or asserting an intention to take, any other action against the consumer;

to enforce a liability under section 85(3), or a liability of a kind referred to in section 85(6).

(12) Schedule 1, item 1, page 125 (line 7), omit “of a particular kind”.

(13) Schedule 1, item 1, page 125 (lines 8 to 10), omit paragraph 131(1)(b), substitute:

(b) the supplier becomes aware of the death or serious injury or illness of any person and:

(i) considers that the death or serious injury or illness was caused, or may have been caused, by the use or foreseeable misuse of the consumer goods; or

(ii) becomes aware that a person other than the supplier considers that the death or serious injury or illness was caused, or may have been caused, by the use or foreseeable misuse of the consumer goods;

(14) Schedule 1, item 1, page 125 (lines 17 to 20), omit paragraphs 131(2)(a) and (b), substitute:

(a) it is clear that the death or serious injury or illness was not caused by the use or foreseeable misuse of the consumer goods; or

(b) it is very unlikely that the death or serious injury or illness was caused by the use or foreseeable misuse of the consumer goods; or

(15) Schedule 1, item 1, page 125 (line 21), after “supplier”, insert “, or another person, “.

(16) Schedule 1, item 1, page 125 (line 25), after “supplier”, insert “, or another person,”.

(17) Schedule 1, item 1, page 125 (line 27), after “supplier”, insert “, or other person”.

(18) Schedule 1, item 1, page 126 (line 26), omit “of a particular kind”.

(19) Schedule 1, item 1, page 126 (lines 27 to 29), omit paragraph 132(1)(b), substitute:

(b) the supplier becomes aware of the death or serious injury or illness of any person and:

(i) considers that the death or serious injury or illness was caused, or may have been caused, by the
use or foreseeable misuse of the consumer goods to which the services relate; or

(ii) becomes aware that a person other than the supplier considers that the death or serious injury or illness was caused, or may have been caused, by the use or foreseeable misuse of the consumer goods to which the services relate;

(20) Schedule 1, item 1, page 127 (lines 1 to 6), omit paragraphs 132(2)(a) and (b), substitute:

(a) it is clear that the death or serious injury or illness was not caused by the use or foreseeable misuse of the consumer goods to which the services relate; or

(b) it is very unlikely that the death or serious injury or illness was caused by the use or foreseeable misuse of the consumer goods to which the services relate; or

(21) Schedule 1, item 1, page 127 (line 7), after “supplier”, insert “, or another person,”.

(22) Schedule 1, item 1, page 127 (line 11), after “supplier”, insert “, or another person,”.

(23) Schedule 1, item 1, page 127 (line 13), after “supplier”, insert “or other person”.

(24) Schedule 1, item 1, page 128 (after line 6), at the end of Division 5, add:

132A Confidentiality of notices given under this Division

(1) A person must not disclose to any other person a notice given under this Division, or any part of or information contained in such a notice, unless the person who gave the notice has consented to the notice, or that part or information, not being treated as confidential.

(2) This section does not apply if:

(a) the disclosure is made by the Commonwealth Minister to:

(i) another responsible Minister; or

(ii) the regulator; or

(iii) an associate regulator; or

(b) the disclosure is made by the Commonwealth Minister and the Commonwealth Minister considers that the disclosure is in the public interest; or

(c) the disclosure is made by a member of the staff of the regulator, or an associate regulator, in the performance of his or her duties as such a member of staff, and is made:

(i) to another member of the staff of the regulator or associate regulator; or

(ii) if the person making the disclosure is a member of the staff of the regulator—to an associate regulator; or

(iii) if the person making the disclosure is a member of the staff of an associate regulator—to the regulator or another associate regulator; or

(d) the disclosure is required or authorised by or under law; or

(e) the disclosure is reasonably necessary for the enforcement of the criminal law or of a law imposing a pecuniary penalty.

(26) Schedule 1, item 1, page 235 (lines 8 to 25), omit section 265, substitute:

265 Termination of contracts for the supply of services that are connected with rejected goods

(1) If:

(a) under section 259, a consumer notifies a supplier of goods that the consumer rejects the goods; and

(b) the supplier is required under section 263(4)(a) to give the consumer a refund; and

(c) a person supplies, in trade or commerce, services to the consumer that are connected with the rejected goods;
the consumer may terminate the contract for the supply of the services.

(2) The termination takes effect:
   (a) at the time the termination is made known to the supplier of the services (whether by words or by conduct indicating the consumer's intention to terminate the contract); or
   (b) if it is not reasonably practicable to communicate with the supplier of the services—at the time the consumer indicates, by means which are reasonable in the circumstances, his or her intention to terminate the contract.

(3) The consumer is entitled to recover, by action against the supplier of the services, a refund of:
   (a) any money paid by the consumer for the services; and
   (b) an amount that is equal to the value of any other consideration provided by the consumer for the services;
   to the extent that the consumer has not already consumed the services at the time the termination takes effect.

(27) Schedule 1, item 1, page 238 (lines 12 to 16), omit subsection 269(3), substitute:

(3) The consumer is entitled to recover, by action against the supplier of the services, a refund of:
   (a) any money paid by the consumer for the services; and
   (b) an amount that is equal to the value of any other consideration provided by the consumer for the services;
   to the extent that the consumer has not already consumed the services at the time the termination takes effect.

(28) Schedule 1, item 1, page 244 (after line 34), at the end of section 276, add:

(3) This section does not apply to a term of a contract that is a term referred to in section 276A(4).

(29) Schedule 1, item 1, page 245 (before line 1), before section 277, insert:

276A Limitation in certain circumstances of liability of manufacturer to seller

(1) Despite section 274, if goods are not of a kind ordinarily acquired for personal, domestic or household use or consumption, the liability under that section of the manufacturer of the goods to a person (the supplier) who supplied the goods to a consumer is limited to a liability to pay to the supplier an amount equal to:
   (a) the cost of replacing the goods; or
   (b) the cost of obtaining equivalent goods; or
   (c) the cost of having the goods repaired;
   whichever is the lowest amount.

(2) Subsection (1) does not apply in relation to particular goods if the supplier establishes that it is not fair or reasonable for the liability of the manufacturer of the goods to be limited as mentioned in subsection (1).

(3) In determining for the purposes of subsection (2) whether or not it is fair or reasonable for the liability of a manufacturer to a supplier in relation to goods to be limited as mentioned in subsection (1), a court is to have regard to all the circumstances of the case, and in particular to the following matters:
   (a) the availability of suitable alternative sources of supply of the goods;
   (b) the availability of equivalent goods;
   (c) whether the goods were manufactured, processed or adapted to the special order of the supplier.

(4) This section is subject to any term of a contract between the manufacturer and the supplier imposing on the manufacturer a greater liability than the liability mentioned in subsection (1).

(30) Schedule 2, item 1, page 256 (after line 27), after the definition of enforcement order in section 130, insert:
Family Court Judge means a Judge of the Family Court (including the Chief Judge, the Deputy Chief Judge, a Judge Administrator or a Senior Judge).

(31) Schedule 2, item 1, page 322 (after line 2), after section 139D, insert:

139DA Application of section 229 of the Australian Consumer Law to a person other than a body corporate

If, as a result of the operation of Part 2.4 of the Criminal Code, a person other than a body corporate is:

(a) convicted of an offence (the relevant offence) against subsection 229(1) of the Australian Consumer Law; or

(b) convicted of an offence (the relevant offence) against section 11.4 of the Criminal Code in relation to an offence referred to in subsection 229(1) of the Australian Consumer Law;

the relevant offence is taken to be punishable on conviction by a fine not exceeding $550.

(32) Schedule 5, page 351 (after line 23), after item 6, insert:

6A Subsection 4(1) (definition of Family Court Judge)

Repeal the definition.

(33) Schedule 5, page 362 (after line 21), after item 100, insert:

100A Subsection 87CB(1)

Omit “section 82”, substitute “section 236 of the Australian Consumer Law”.

Question agreed to.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (11.42 am)—The government opposes section 231 in the following terms:

(25) Schedule 1, item 1, page 207 (lines 15 to 25), section 231, to be opposed.

The TEMPORARY CHAIRMAN (Senator Cash)—The question is that section 231 of the bill stand as printed.

Question negatived.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (11.42 am)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

CRIMES AMENDMENT (ROYAL FLYING DOCTOR SERVICE) BILL 2010

First Reading

Bill received from the House of Representatives.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (11.42 am)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (11.43 am)—I table a revised explanatory memorandum and I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

The Royal Flying Doctor Service of Australia is one of the largest and most comprehensive aeromedical organisations in the world. The
Royal Flying Doctors (the RFDS) delivers vital health care and emergency services to people living, working and travelling in rural and remote parts of Australia.

As part of this service, the RFDS administers the Medical Chest Program. These Medical Chests contain a range of pharmaceutical items, including pain relief drugs such as pethidine and morphine. The chests are an important tool, enabling RFDS medical practitioners to treat people on-site for many conditions and provide necessary treatment, including pain relief, for those requiring emergency evacuation. The availability of Medical Chests provides enormous comfort to those living in the outback.

The RFDS and its agents currently supply and maintain approximately 2,600 Medical Chests across Australia, including those located in national parks, remote homesteads, pastoral stations, Aboriginal and Torres Strait Islander communities, outback schools and mining exploration sites. The RFDS regularly reviews the contents of the Chests to ensure relevance and currency of pharmaceuticals.

Without the supply and maintenance of these Medical Chests by the RFDS, pharmaceutical treatment, including pain relief in emergency situations, for people in remote Australia, would be unavailable.

Until recently, pharmaceuticals for these Medical Chests were distributed utilising Australia Post. These deliveries have ceased following the discovery, in early 2010, that this practice contravenes section 85W of the Crimes Act.

Section 85W of the Crimes Act 1914 makes it an offence for Australia Post or the RFDS to arrange for the distribution of pharmaceuticals containing prescribed narcotic substances.

This is because section 85W contains an offence for intentionally causing to carry by post an article that consists of, encloses or contains a ‘prescribed narcotic substance’ within the meaning of the Customs Act 1901. Because ‘carried by post’ is defined in section 85E of the Crimes Act to mean ‘carried by or through Australia Post’, the offence in section 85W applies uniquely to persons arranging for the delivery of these articles by Australia Post.

The Government understands that there are no viable alternatives to Australia Post for supplying medicines for the RFDS Medical Chest Program. Australia Post is the only delivery provider servicing many remote locations.

An urgent amendment will address the risk of emergency medicines not being available to treat serious illness or injury in rural and remote areas of Australia.

The Bill will allow Australia Post and the RFDS to lawfully provide for the supply of medicines through Australia Post under its Medical Chest Program.

The Bill amends section 85W of the Crimes Act to insert an exception to the offence of ‘causing narcotic substances to be carried by post’. This exception will apply to Australia Post, the RFDS and their officers, employees, agents and contractors.

The exception allows those organisations to arrange for the carriage of prescription and non-prescription medicine by Australia Post. The Bill provides a specific requirement that the exception will only apply to conduct engaged in by a person for the purpose of enabling the RFDS to administer its Medical Chest Program. This provides an important safeguard, ensuring that the exceptions to the offence of carrying narcotic substances by post are restricted to the purpose of the RFDS Medical Chest Program.

After the Bill was introduced in the House of Representatives, it became apparent that there are other organisations that administer programs for the purpose of supplying medicines to remote communities, which may also require an exception to the offence.

To address this, the Government amended the Bill to insert a further exception to the offence in section 85W for conduct engaged in by a prescribed person or body for the purposes of a prescribed program. Regulations to be made at a later date will prescribe the relevant persons, bodies and programs. There are appropriate limits on the scope of the new exception. It will only apply to conduct engaged in for the purposes of a program that is for the supply of medicines to remote locations, by a body or person in the performance of
their duties, powers or functions, in relation to the program.

The Bill also amends section 85W to apply the offence in subsection 85W(1) to the controlled drugs and controlled plants listed in Part 9.1 of the Criminal Code, rather than to ‘prescribed narcotic substances, within the meaning of the Customs Act 1901’.

The definition of the term ‘prescribed narcotic substance’ was repealed in 1990 and, due to an oversight, section 85W was not updated to take account of this repeal. This amendment will address this oversight by giving effect, as closely as possible to the original policy intention behind the offence in section 85W. Applying the offence to the lists of ‘controlled drugs’ and ‘controlled plants’ in the Criminal Code will ensure that the offence has similar coverage to the domestic drug offences in the Code, to which those lists apply, and to the original section 85W offence.

This Bill will remove any legislative impediments to the lawful delivery and maintenance of Medical Chests to rural and remote Australia.

The retrospective application of the exemptions will also ensure that those persons involved in administering the Medical Chest program, and other prescribed programs, are protected from prosecution under section 85W for conduct engaged in before the commencement of the amendment.

Senator HUMPHRIES (Australian Capital Territory) (11.43 am)—On behalf of Senator Brandis, I am very pleased to indicate the opposition will support this legislation, the Crimes Amendment (Royal Flying Doctor Service) Bill 2010. The Royal Flying Doctor Service of Australia is one of the largest and most comprehensive aeromedical organisations in the world. The Royal Flying Doctor Service delivers primary care and 24-hour emergency services throughout all of Australia. A fleet of 53 aircraft, with 21 bases across the country, provides assistance to over 270,000 people every year—one every two minutes. The purpose of this legislation is to affect the way in which the contents of medical chests that are used by the service are replenished, particularly the conveying of prescription drugs through devices such as Australia Post.

At the present time, only authorised registered custodians are permitted to manage medical chests and are encouraged to have a senior first aid certificate. The Royal Flying Doctor Service receives Commonwealth funding to replenish chest items free of charge to remote locations where there is a duty of care to the public, such as outback schools, stations, nursing posts, Indigenous communities and roadhouses. The Royal Flying Doctor Service is responsible for 3,000 medical chests around Australia, and they were replenished up until the beginning of this year through delivery by Australia Post.

The bill makes an urgent amendment to ensure that emergency medicines may be made available to treat serious illness or injury throughout Australia in remote areas. It will amend section 85W of the Crimes Act 1914 to insert an exception to the offence of ‘causing narcotic substances to be carried by post’ for Australia Post and the Royal Flying Doctor Service and their officers, employees, agents and contractors. It ensures that those organisations may arrange for the carriage of medicine by Australia Post for the purpose of enabling the service to administer its medical chests program. The amendment will enable prescribed persons and bodies to arrange for the provision of vital medicines to remote Australian communities utilising the delivery services of Australia Post in certain circumstances and it will be very important in ensuring that the vital work of the Royal Flying Doctor Service continues and that access to appropriate medicines continues. I commend this bill to the Senate.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (11.46 am)—in reply—I thank the opposition
for its contribution in relation to this important bill and commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

HIGHER EDUCATION SUPPORT AMENDMENT (INDEXATION) BILL 2010

First Reading

Bill received from the House of Representatives.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (11.47 am)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (11.47 am)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

The Higher Education Support Amendment (Indexation) Bill 2010 amends the Higher Education Support Act 2003 to deliver on this government’s commitment to sustainable financing for our higher education system.

The amendment gives effect to the recommendation to increase indexation made by the Bradley Review.

Under new indexation arrangements, the Safety Net Adjustment, which makes up 75 per cent of the current index, will be replaced by the Professional, Scientific and Technical Services labour price index (discounted by 10 per cent) published by the Australian Statistician.

This index is considered to better reflect wage price increases in the higher education sector and best replaces the discontinued Labour Price Index (Professional) proposed in the report of the Review. The remaining 25 per cent of the index will continue to be the Consumer Price Index.

From 2012 the revised indexation arrangements will apply to all amounts subject to indexation under Part 5-6 of the Higher Education Support Act 2003. This includes all programs funded under the act, maximum student contribution amounts, the OS-HELP loan limit and the FEE-HELP loan limit as well as the new SA-HELP loan limit which is subject to the passage of the Higher Education Legislation Amendment (Student Services and Amenities) Bill 2009.

Programs which will benefit from the improved indexation, in both education and research, are:

- Commonwealth Grant Scheme
- The new equity programs
- Performance Funding
- the Capital Development Pool
- the Open Learning Initiative
- the Structural Adjustment Fund
- the JCU Dental School
- the Quality Initiatives program
- the Australian Learning and Teaching Council
- the Indigenous Support Program
- the Transitional costs program
- Joint Research Engagement program
- Research Infrastructure Block Grants Scheme
- Research Training Scheme
- Australian Postgraduate Awards program

In 2011 universities will receive additional funding equivalent to the increase in indexation on teaching and learning if they sign on to the government’s new performance indicators. Student contributions will also be indexed at the new rate from 2011 delivering an increase in revenue to universities.
At a time when, in response to the global financial crisis, some countries are reducing their expenditure on higher education, this government has acted to provide substantial additional resources to the sector.

Take for example two comparable nations like England and the USA.

In England there have been deep cuts to higher education spending. The Higher Education Funding Council of England (HEFCE) grant available for the 2010-11 financial year has been reduced by £449 million (A$740.9 million) compared with the previously announced plans.

And in the US the experience has been mixed. In many states the push to address historic budget gaps has resulted in cuts to state government support. While there has been additional investment at a federal level to offset state cuts, this has not always been enough to prevent severe measures to address funding shortfalls.

This is particularly the case in California where state budgets for higher education have been cut by US$8 billion.

To deal with these funding cuts, both the University of California (UC) and California State University (CSU) have eliminated spring enrolment in 2010 which means that many students who would have transferred across from a community college will not have the opportunity.

According to the American Association of Community Colleges, California’s community colleges may turn away up to 200,000 students this fall.

In contrast to these approaches the Australian government has made a massive investment in the tertiary education and research sectors.

This is because we know that Australia’s universities have a critical part to play in making this country smarter, fairer and more prosperous.

In order to meet our economic and social ambitions we need to make sure that our universities are properly resourced and able to tackle the problems, and teach the workforce, of the future.

Our new system brings in a range of institutional and regulatory reforms, which, coupled with substantial additional resourcing, will allow more students from across the community to achieve a higher education qualification and find a rewarding job in the knowledge economy.

Our reforms will also dramatically strengthen the nation’s research effort and the national innovation system, which is so vital to building productivity.

And, importantly, this amendment puts the government’s commitment to a much higher rate of indexation into legislation.

The importance of providing this resourcing is made even more salient because we know that other forward thinking nations, such as many of the developing nations in our region are already increasing their investment.

Over the five years from 2003 to 2007, China and India both invested heavily to increase total tertiary enrolments in all programs by an average of 16 per cent and 7.2 per cent per year respectively.

This makes it even more important to invest in the knowledge and skills of our people if we are to thrive in the competitive global economy.

DEEWR estimates that this new, higher, indexation rate will deliver over $2.6 billion in additional resourcing to universities over the five calendar years from 2011 to 2015.

This comes in addition to the funding we will be providing for the student centred system. The additional funding for extra student places is now $1.3 billion up from the $437 million estimated at last year’s budget, over the Budget forward estimates period. And of course, universities also receive additional resourcing from student contributions. This increase in funding is resulting from the 9.9% over-enrolment above target places this year, and continuing pipeline, far in excess of budget projections.

This funding is in addition to the $7.1 billion of additional funding already committed to higher education which is made up of:

- Almost $4.2 billion of other funding announced for higher education and research in the government’s response to the Bradley and Cutler reviews;
- $1.1 billion announced on higher education infrastructure in the December stimulus package, and
$1.8 billion announced at the 2008-09 Budget when the government came to power. The government has a massive reform agenda in higher education. Enrolments driven by student demand and informed choice, performance-based funding, mission-based compacts—all of these reforms will give universities an entirely new degree of control over their own destinies. There is still a great deal of work to be done and by entrenching the new, higher, indexation formula in legislation the government is clearly demonstrating that we are committed to driving reform backed by sustainable funding for the long term.

Senator MASON (Queensland) (11.47 am)—The coalition is committed to the principle of the continuation of indexation of university funding and certainly supports the Higher Education Support Amendment (Indexation) Bill 2010. This bill contains a technical amendment to the Higher Education Support Act 2003 to specify revised indexation arrangements which have arisen following the Bradley review of higher education. Professor Bradley’s committee recommended that the government maintain the future value of increased base funding for higher education by an indexation formula that is based on 90 per cent of the labour price index (professional) plus the consumer price index with weightings of 75 per cent and 25 per cent, respectively.

Education is the fundamental, essential and enduring building block of opportunity for young Australians and of prosperity and cohesion for Australia’s future. The coalition values the important dual role that universities play in our society, both as engines of economic growth, through educating our workforce and producing quality research, and by preserving and growing the shared values and culture that connect us with the past and unite us in the present. Quality education and research are crucial to our nation’s and our people’s success in an increasingly interconnected and interdependent world. As such, universities need greater freedom and flexibility to respond to changing circumstances and to ensure that Australia is able to meet emerging challenges. The coalition recognises that this new index does better reflect the impact of inflation on the higher education sector and will better support our universities into the future. I commend this bill to the Senate.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (11.49 am)—in reply—I thank the opposition for their contribution in the second reading debate and commend the bill to the Senate. Question agreed to. Bill read a second time.

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

SUPERANNUATION INDUSTRY (SUPERVISION) AMENDMENT BILL 2010
First Reading
Bill received from the House of Representatives.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (11.50 am)—I move:
That this bill may proceed without formalities and be now read a first time.
Question agreed to. Bill read a first time.

Second Reading
Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (11.51 am)—I move:
That this bill be now read a second time.
I seek leave to have the second reading speech incorporated in Hansard.
Leave granted.

The speech read as follows—

The Superannuation Industry (Supervision) Amendment Bill 2010 introduces amendments to the Superannuation Industry (Supervision) Act 1993 (the act) to reduce the risks for superannuation funds investing in limited recourse borrowing arrangements.

The government recognises that for many Australians their superannuation savings will form a major part of their retirement income. The government considers it vital that members of the community have complete confidence that the regulatory framework surrounding superannuation is robust and that superannuation funds are managed prudently in a way which maximises Australians’ income in retirement. This bill enhances the regulatory framework governing superannuation fund investments in leveraged products to ensure that the borrowing exemption under section 67 of the act is not used in a manner that places the superannuation savings of everyday Australians at undue risk.

This bill contains amendments that reduce the risk to superannuation fund trustees created through arrangements involving personal guarantees, on-lending or related borrowings, multiple assets and where the asset is replaced.

The definition of ‘asset’

Some limited recourse borrowing arrangements targeted towards superannuation funds have been designed on the basis that ‘asset’ should be interpreted as including the plural. Borrowing arrangements over multiple differentiated assets could expose superannuation funds to greater risk than if a trustee took out a number of discrete loans, each relating to, and only enforceable against, a single asset.

This bill ensures that the term ‘asset’ should now be read in the singular, so that it is not interpreted as permitting borrowing arrangements over multiple non-identical assets. However, the definition permits borrowing arrangements over assets that are known collectively as a single asset, or a single collection of identical assets.

Related expenses and refinancing

Consultations with industry stakeholders on the bill revealed considerable uncertainty regarding whether the existing borrowing exemption allowed refinancing or related expenses to be incorporated into instalment warrant arrangements. Refinancing may allow the superannuation fund trustee to minimise the risk of default on a borrowing resulting from a temporary inability to make a repayment (for example, where the fund is facing solvency issues due to benefit payment obligations). Some expenses, such as conveyancing fees, stamp duty, and loan establishment costs, are so readily associated with the borrowing that it would be difficult and costly to dissociate them from the borrowing itself. Consequently, this bill amends the act to clarify the circumstances under which refinancing and related expenses are permitted.

Replacement assets

In prescribing the terms to which a borrowing arrangement must adhere, the act provides that the borrowing must be used or maintained to acquire ‘the original asset, or another asset (the replacement)’.

The broadness of this definition may result in arrangements that allow the lender to require a trustee to replace an asset within an arrangement if its value falls below a certain level with an asset of greater value than the outstanding loan.

To prevent replacements that increase the risk to fund assets, this bill amends the act to list the specific circumstances in which a replacement asset is permitted. The amended legislation provides for the regulations to expand on the list of eligible assets should the need for further exemptions arise.

This bill also amends the act to make clear that the original asset can be ‘maintained’ or ‘repaired’ to ensure that its functional value is not diminished, but that the asset cannot be ‘improved’, as this would fundamentally change the nature of the asset used as security by the lender, potentially increasing the risk to the fund. The bill also amends the act to allow for regulations to provide for further clarification should the need arise.

Personal guarantees and related borrowings

Several providers of limited recourse borrowing arrangements are requiring trustees, or third par-
ties including fund members, to provide guaran-
tees of the borrowing to underwrite the provider’s risk from the limited recourse nature of an instal-
ment warrant. Similarly, persons may enter into on-lending arrangements or associated borrow-
ings that may circumvent the limited recourse nature of borrowing arrangement.

This bill introduces amendments to ensure that the rights of the lender or any other person against the superannuation fund trustee are limited to rights relating to the acquirable asset. No guarantee arrangement or other related borrowing can be enforceable against the superannuation fund trustee other than the rights relating to the acquirable asset. This guards against guarantees and risks associated with any other charges not associated with the direct borrowing. These amendments will ensure that other superannuation fund assets are protected in the event of a default on a limited recourse borrowing arrangement.

Conclusion
The government is bringing forward these amendments to ensure the regulatory framework governing exempted borrowing by superannuation funds reduces the risks for superannuation funds.

The coalition does not support risks to superannuation balances unless the investor has assumed that risk with due diligence. Superannuation investors should not have to worry about risks that are beyond their control. This is one of the reasons the coalition opposes Labor’s great big tax on mining, which follows up their great big tax on everything, which has now been book-ended by their great big change in leadership. This is the main reason the coalition supports the amendments to the Superannuation Industry (Supervision) Act.

The bill makes some important amendments and clarification to the exemption in the act allowing superannuation trustees to access limited recourse loans for the purposes of producing or purchasing investment assets. These amendments will limit loans to a single asset or asset class. This will limit the risk to one asset and prevent a member’s superannuation balance from being accessed in the event of a default on a loan. The amendments will also prevent personal guaranties relating to superannuation assets from being used as security against the recourse loan. This protects the balance of the investor’s superannuation account and provides that investor and the lender with certainty as to which asset is attached to the risk involved. The coalition support these principles and we support the legislation. I commend the bill to the Senate.
Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (11.54 am)—in reply—I thank Senator Joyce for his delightful speech on the second reading and I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

AGRICULTURAL AND VETERINARY CHEMICALS CODE AMENDMENT BILL 2010

First Reading

Bill received from the House of Representatives.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (11.54 am)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (11.55 am)—I table a revised explanatory memorandum and I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

The Agricultural and Veterinary Chemicals Code Amendment Bill 2010 is an important step forward in the Government’s plans to reform the way we regulate agricultural and veterinary—or agvet—chemicals.

The overriding priorities are always the protection of human health and the environment.

But the Government remains committed to delivering greater efficiencies without jeopardising those priorities.

A more efficient system for regulating chemicals will benefit farmers and the environment and encourage more innovation in chemical companies.

The Agricultural and Veterinary Chemicals Code Amendment Bill 2010 consists of five measures which amend the Schedule to the Agricultural and Veterinary Chemicals Code Act 1994.

The bill gives effect to reforms agreed by the Council of Australian Governments, or COAG, and delivers on an early harvest reform identified in conjunction with the Productivity Commission research report in 2008. It also brings forward measures identified through the Better Regulation Ministerial Partnership between the Minister for Agriculture, Fisheries and Forestry and the Minister for Finance and Deregulation, announced in March this year.

These measures will simplify the administration of agvet chemicals, allowing the industry regulator, the Australian Pesticides and Veterinary Medicines Authority, or APVMA, to better focus on its priority of protecting human health and the environment.

The measures will also help producers of agvet chemicals to deliver new and improved products to the market sooner.

Firstly, the bill will allow for applicants to notify the APVMA of a limited range of defined, low risk, minor changes to their products.

But the Government remains committed to delivering greater efficiencies without jeopardising those priorities.

A more efficient system for regulating chemicals will benefit farmers and the environment and encourage more innovation in chemical companies.

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The measures will also help producers of agvet chemicals to deliver new and improved products to the market sooner.

Firstly, the bill will allow for applicants to notify the APVMA of a limited range of defined, low risk, minor changes to their products.

But the Government remains committed to delivering greater efficiencies without jeopardy
The variations must result in no material change to active product chemistry, no risk to the quality, stability or safety of the product and no risk to the environment or trade.

Applicants will be allowed to make changes through a simplified application process, effectively allowing them to notify the APVMA of the change.

This could see quality products made available to the market sooner.

It will improve the timeliness of minor, low risk changes to agvet chemicals and chemical label approvals and registrations while maintaining full assessment for all other changes.

Secondly, the bill deals with a cumbersome requirement that registrants notify the APVMA in writing of an ‘approved person’ and that the APVMA verifies that each person it corresponds with is an approved person.

The amendments would remove the requirement for industry to advise the APVMA in writing of an ‘approved person’.

The proposed measures would cut red tape while maintaining safeguards, including that an approved person is liable for non-resident registrants, where applicable.

Thirdly, the bill seeks to limit APVMA’s role in regulating labels to matters related to the safe and effective use of the chemical.

The APVMA must currently assess and approve all aspects of labels, even details of colour and presentation.

This is an unnecessary burden and can delay product registration.

The bill will limit the APVMA’s role to assessing whether labels have ‘adequate instructions’ for the safe handling and effective use of a product.

The APVMA will not expect registrants to seek approval to change a label if the changes don’t detract from the particulars which must be displayed.

Registrants will be able to make changes such as changing their logo or adding marketing information.

They will still be responsible for all other label aspects such as warranty and contact information.

Further, the bill seeks to include trade issues as a consideration when determining whether product labels remain adequate.

The APVMA is currently required to consider trade risk when determining whether to grant or refuse an application, but not when approving a label.

Initial instructions on the product label ensure that proper use of the product will not adversely affect Australia’s exports.

However, over time issues may arise that require changes to the label to update the instructions.

If the APVMA currently needs to update label instructions to address a trade-only issue, it has no choice but to reconsider the entire product registration.

The Bill seeks to address this problem by enabling the APVMA to take prompt action to update the label instructions directly.

This may be necessary where an importing country reduces its maximum residue limit or establishes a zero tolerance.

It reduces risk of our exporters unwittingly breaching importing country requirements.

Finally, the bill will clarify what constitutes confidential commercial information when applying for certain types of permits for chemical use.

Currently, all matters about a permit application are confidential commercial information, including the fact that an application has even been made.

Clearly some permit applications to use agricultural and veterinary chemicals will include some commercially valuable information.

However, not all information needs to be protected in the same inflexible way.

Under the present legislation, the APVMA must first obtain the applicant’s approval before seeking information from a product registrant, or others, to inform its expert assessment of permit applications.

This bill would allow the APVMA to seek certain information about a minor use or emergency use permit application without compromising the commercial parties involved.
Regulations will specify the types of information the APVMA can release as it assesses an application.

Details of research permits—which are commonly used by agricultural and veterinary chemical manufacturers during product development—would be protected.

And other information—for example, product formulation details—will remain confidential commercial information.

As I outlined earlier, the key priorities for the government remain protecting human health and the environment.

Nothing else is more important. But we will continue to look for ways to improve the efficiency of chemicals and pesticides regulation in Australia, without jeopardising these priorities.

This bill gives effect to reform agreed on by COAG. It is a down payment on a broader set of reforms to the Australian Pesticides and Veterinary Medicines Authority and the national regulation of agriculture and veterinary chemicals.

We are working with industry and state and territory governments to develop a single national regulatory framework for agricultural and veterinary chemicals.

This forms part of COAG’s initiative to achieve a seamless national economy and is an important reform agenda.

As part of the Better Regulation Ministerial Partnerships initiative, the government is also looking at measures to improve the efficiency and effectiveness of the APVMA.

We are aware that the authority has a very difficult and important role, particularly in protecting human health and the environment.

However, it is clear from industry and other stakeholder feedback that reform is needed.

This bill marks an important milestone in the broader reform process. It will allow the government to begin to remove red tape affecting the work of the APVMA. The bill will benefit not only those who use agricultural and veterinary chemicals, but also the wider community, our food security and our export markets.

**Senator COLBECK** (Tasmania) (11.55 am)—The Agricultural and Veterinary Chemicals Code Amendment Bill 2010 consists of two measures and will amend the schedule of the Agricultural and Veterinary Chemicals Code Act 1994, the Agvet Code. The bill seeks to improve the efficiency of the registration process of the Australian Pesticides and Veterinary Medicines Authority, the APVMA, without jeopardising human health or the environment. The bill proposes for the APVMA effectively being exempted from the general prohibition on using confidential commercial information when registering a permit for minor use or emergency use, and that effectively allows for multiple applications to be considered at once rather than separately and without the sharing of information, and also trade issues being considered when addressing the adequacy of product labels by extending the definition of ‘adequate’. That effectively means that making minor changes to labels will be made much simpler and will be done more quickly, to the benefit of industries affected, instead of having to go through a full label application, which takes a lot longer. So the opposition is quite happy to support this piece of legislation.

**Senator SIEWERT** (Western Australia) (11.56 am)—I seek leave to have my speech on the Agricultural and Veterinary Chemicals Code Amendment Bill 2010 incorporated in *Hansard*.

Leave granted.

*The speech read as follows—*

This bill permits APVMA to alter the label on chemical products to make them compliant with lower chemical residues regulations in our export markets. As the Minister for Agriculture, Fisheries and Forestry acknowledges ’Trade risks can arise where residues are below the Australian maximum residue limit but exceed the standards set by an importing country’. 
The Greens won’t stand in the way of legislation that will reduce the quantity of chemicals being applied to our crops, but the fact that this measure is necessary hints at a deeper problem.

Why is it that other countries benefit from a higher standard of protection from potentially harmful chemicals than Australia?

[Govt will say ‘because of different climatic conditions, crops, soils etc’, but this doesn’t explain their demand for lower chemical residues on foods that are grown elsewhere and imported, which is what we’re concerned with here.]

There are a number of conspicuous examples of chemicals that are permitted in Australia even though they have been abandoned elsewhere due to concerns with their health and environmental impacts. These include:

Atrazine
Used to control weeds and algae in crops and timber plantations in Australia. It is an endocrine disruptor (i.e. it interferes with hormones) that has been de-registered in the EU since 2003 because it kept showing up in the groundwater. Earlier this year, the Endocrine Society released a scientific statement that advocated reducing the exposure of people to endocrine disrupters in light of the risk of adverse health effects. This was endorsed by the American Medical Association. Yet the APVMA continues to permit its use in Australia even though it has been found in our drinking water.

Endosulfan
Used in agricultural and horticultural crops in Australia for the control of a variety of insects and mites. It is another endocrine disruptor that the Persistent Organic Pollutants Review Committee (POPRC) of the Stockholm Convention on Persistent Organic Pollutants described as ‘persistent, bioaccumulative and has the potential for long-range environmental transport and adverse human health or environmental effects’. It has been banned in more than 60 countries.

Lindane
An insecticide used on pineapples. It is neurotoxic in humans, is suspected to be a risk factor for Parkinson’s Disease, has been associated with abnormalities of the blood, and the International Agency for Research on Cancer has concluded that it ‘is possibly carcinogenic to humans’. It is banned in 52 countries.

Carbofuran
Registered in Australia to control pests on rice, tobacco, sugarcane and some cereal crops. It’s a neurotoxin. Symptoms of overexposure in humans include headache, weakness, abdominal cramping, nausea, blurred vision, convulsion, tremor, and coma. Carbofuran is highly toxic to birds, fish, and bees. The US EPA has banned any amount of Carbofuran from appearing on any food crops, and has announced that it will revoke all licenses for the product.

Carbofuran is being phased out in Australia, which is welcome, but it’s due to disuse rather than its toxicity.

So while the Greens will support any measure that results in less of these substances being used, the Government really needs to be having a close look at our chemical regulation to work out how we can be so out of step with the rest of the world that they won’t accept our exports unless we take the steps proposed in this bill.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (11.56 am)—in reply—I thank Senators Colbeck and Siewert for their contribution to the second reading debate and I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

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

IMMIGRATION (EDUCATION) AMENDMENT BILL 2010
First Reading
Bill received from the House of Representatives.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (11.57 am)—I move:
That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (11.58 am)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

The Rudd Labor Government is committed to providing English language tuition to newly arrived migrants through a targeted, well designed program that supports clients in their transition to life in Australia.

Consistent with this commitment, this Bill amends the Immigration (Education) Act 1971 (‘the Act’), which provides the legislative basis to the Adult Migrant English Program (AMEP). The purpose of the amendments is to implement the new AMEP Business Model, which forms part of the Government’s broader settlement framework.

The settlement framework provides a continuum from offshore to onshore to deliver long term sustainable settlement outcomes, developing an integrated service delivery network that will support new arrivals to rebuild their lives in Australia. The government’s intention is that improvements to settlement programs will be client centred and achieve real and practical outcomes in line with the Government’s social inclusion agenda.

Research has demonstrated that English language proficiency is the single most important determinant of successful settlement. The AMEP plays a significant role in this regard by providing clients with settlement focussed English language tuition and settlement support.

A significant feature of the new AMEP Business Model is to provide greater support for clients whilst improving client retention and the English language proficiency of clients. A key initiative, announced in the 2009-10 Budget, is an increase in the number of AMEP counsellors to provide clients with guidance to help them meet their goals. This includes guidance on pathways to further English language tuition, education, employment or vocational training.

This support, combined with the reinforcement of client obligations and responsibilities in participating in the program, will play an important role in retaining clients and helping them gain the most from their involvement in the program. Improving AMEP client outcomes through targeted and agreed learning pathways is consistent with the goals articulated in the settlement framework.

The new AMEP Business Model will also improve program delivery and administrative arrangements.

The amendments in this Bill will provide greater settlement support for clients, greater consistency and transparency in decision making and greater clarity in relation to the eligibility requirements for the program.

Greater support for clients

Firstly, the Bill proposes to extend the three month timeframe for program registration to six months, to provide clients with increased flexibility early in their settlement period. Clients currently find the three month timeframe difficult to meet because they are fully occupied with establishing themselves and their families when they arrive in Australia. This has resulted in a number of requests for waivers of the registration timeframe, increasing administrative costs.

Secondly, the Bill proposes to amend the Act to introduce a five year timeframe for program completion. A number of clients cease English language tuition soon after arriving in Australia without using the full number of hours of English language tuition to which they are entitled and without obtaining a functional level of English. Clients cease tuition in this way in the knowledge that they can return to complete the remaining hours at any time in the future. In reality, very few clients return to complete their tuition. A consequence of this can be migrants with limited English skills in the community and an ongoing liability for the Commonwealth.
The introduction of the five year timeframe for completion of the English language tuition, combined with the support of AMEP counsellors and targeted tuition, will provide an incentive for clients to make better use of the program early in their settlement period. Early engagement with the program will allow clients to move on more rapidly to further education or employment, and to more fully participate in Australian society. This amendment will also eliminate the ongoing liability to the Commonwealth.

Greater consistency and transparency in decision making

It is also proposed that the Act be amended to allow the Secretary to extend the registration, commencement and completion timeframes for the AMEP retrospectively. Under the current Act, clients must apply for a waiver of the registration and commencement timeframes before those timeframes have ended. This has proven to be impractical, as most clients seek to defer registration or commencement after the timeframes have lapsed. To provide greater consistency and transparency in decision making, the timeframe and process for applying for an extension of the timeframes will be prescribed in the regulations. As in the current Act, the matters that must be taken into account when granting an extension of the timeframes will also be prescribed in the regulations.

One of the current matters that must be taken into account when granting a waiver of the registration and commencement timeframes will be removed through these amendments. The matter in question concerns the prevention of a person from undertaking the whole or part of an approved English course by the action or inaction of an AMEP provider. The reason for removing this is that it has been exploited by clients who claim they were not informed of their eligibility for the program. All clients are provided information on the program and advised of their potential eligibility when they are granted their visas. This is reinforced for refugee and humanitarian clients through their participation in the Integrated Humanitarian Settlement Strategy. AMEP providers are also required to actively promote their programs to potential clients.

The five year timeframe for program completion will only be extended for compassionate and compelling reasons. The extension may be applied before or after the five year timeframe has expired. This will provide the Department with the discretion to extend the timeframe when vulnerable clients present with difficult circumstances that have prevented them from starting or completing the AMEP within five years.

Should decisions be made not to extend a timeframe, clients will have access to an internal review process undertaken by senior departmental officers.

Clarify program eligibility

The provisions relating to eligibility for the AMEP in the current Act are repetitive and complex to administer due to ambiguous phrasing. This is addressed by amending definitions and clarifying eligibility provisions in the Bill.

The eligibility provisions in the current Act also create a situation of inequity between client groups. Clients may currently access the AMEP through one of two provisions, but only one of the two groups is subject to restrictions on their eligibility. In practice this means that approximately 60% of all clients are subject to the registration and commencement timeframes, while the remaining 40% are not. To date this inequity has been addressed by applying the registration and commencement timeframes to the second client group under policy.

The proposed amendments will provide a legislative basis for this approach. This means that all clients—with the exception of those under 18 years of age—will be subject to the same restrictions on their eligibility. They will be required to register in the AMEP within 6 months, commence class within 12 months, and complete the program within five years of arrival in Australia. As noted earlier, clients will be able to apply for extensions to these timeframes.

Access to the AMEP for 15 to 17 year olds who are not participating in school within the first year of arrival in Australia was announced in the 2009-10 Budget. This measure was undertaken to encourage these vulnerable youth to remain engaged in education and develop a pathway to further education and employment and continue social
participation—otherwise these youth are put at risk. To implement this measure, the proposed amendments will ensure that clients under 18 years will not be subject to the six month registration timeframe, but rather will be required to register and commence the program within 12 months. The five year completion timeframe will apply to these clients.

The proposed amendments will also remove eligibility to the AMEP from New Zealand citizens who hold special category visas.

Following the 2008 review of the Australian citizenship test, the Australian Government gave a commitment to the development of a citizenship course as an alternative pathway to citizenship for vulnerable or disadvantaged refugees and migrants.

The course will cater for the different learning needs of clients who are likely to face significant difficulty with the citizenship test, in particular those with low or no literacy skills and limited prior education. The Government is committed to ensuring that all people who have a commitment to Australia and have a strong desire to become Australian citizens, have the opportunity to do so.

The course is expected to be introduced in the first half of 2010 and will be delivered through the AMEP network in locations where sufficient demand exists. AMEP providers are well equipped to deliver the course given their expertise and experience in teaching and assessing this client group.

The proposed amendments are designed to continue access to the course for those clients referred by the Department to the course as an alternative to undertaking a computer-based citizenship test. The amendments will separate the provision of the citizenship course from English courses to ensure that citizenship course participants are not subject to the registration, commencement and completion timeframes. The client group who may have access to citizenship courses will be prescribed in the Regulations. It is intended that only citizenship applicants will have access to citizenship courses.

Conclusion

English language tuition has been delivered through the AMEP to newly arrived migrants for over 60 years. It is Australia’s largest and longest running settlement program. As learning English is the most important contributor to successful settlement, the AMEP plays a vital role in helping newly arrived migrants transition to life in Australia and start on the path to further education and employment.

This Bill ensures that the AMEP continues to play this role whilst providing greater support and certainty for clients, enabling them to be more fully participative in Australian society at an early stage of their settlement.

Senator HUMPHRIES (Australian Capital Territory) (11.58 am)—I am pleased to indicate that the coalition will support the Immigration (Education) Amendment Bill 2010, which introduces amendments which will encourage more vulnerable migrants to learn English. This bill implements minor changes to the delivery and eligibility requirements of the Adult Migrant English Program. In particular, the proposed act will remove administration fees, which at the moment raise only $10,000 or so each year. It will make New Zealand citizens ineligible for taxpayer funded classes and will allow new arrivals up to six months to register for classes but will require them to commence classes within 12 months, which is an existing requirement. It will allow migrants five years to complete these classes under the program. It will also give the Secretary of the Department of Immigration and Citizenship discretion to adjust time limits on registration, commencement and completion of the program when required.

This increased flexibility is an important change given the broad range of individual circumstances of those who come to Australia under the Refugee and Humanitarian Program. Those circumstances can range from experiences of extreme hardship and trauma in their country of origin, as well as differences in age, literacy, employment history, disability and a myriad of cultural practices. It is important to recognise these differences
and to do what we can to tailor our programs to suit individual circumstances and to assist the integration and assimilation of these people into the Australian community. Without competency in English, it is very difficult for people to engage in our society.

Additionally, the legislation will also provide access to programs for 15- to 17-year-olds who are not participating in school within the first year of arrival in Australia. The proposed amendments will ensure that clients under 18 years of age will not be subject to the six-month registration time frame but, rather, will be required to register and commence the program within 12 months. The five-year completion time frame will also apply. The bill will also allow the program to deliver a citizenship course for vulnerable refugee migrants who are unable to sit the computer based test. This is a provision that was not part of the Adult Migrant English Program. The AMEP has been in existence since 1948, when it was originally developed to assist migrants and displaced people coming to Australia after the Second World War to learn English. It is delivered through 250 locations around Australia and is one of the most important settlement services provided to empower new arrivals to contribute to Australian society. Australia has a proud history of migration and also a very proud history of humanitarian intake. At 13,750 or so per annum, it is the third-largest humanitarian refugee intake in the world. These are minor amendments to make that program and the Adult Migrant English Program work better and they are supported by the opposition.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (12.01 pm)—in reply—I thank Senator Humphries for his contribution to the second reading debate and I commend the Immigration (Education) Amendment Bill 2010 to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

BUSINESS

Rearrangement

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (12.03 pm)—I move:

That the order of the Senate agreed to earlier today relating to the consideration of bills, be varied to add government business order of the day no. 18 (Electoral and Referendum Amendment (Modernisation and Other Measures) Bill 2010 and Electoral and Referendum Amendment (How-to-Vote Cards and Other Measures) Bill 2010).

I understand I have got agreement on that, but with all of these matters, and because we are moving at a clip, if there is a difficulty we will not proceed with it.

Question agreed to.

Consideration of Legislation

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (12.04 pm)—I move:

That the Electoral and Referendum Amendment (Modernisation and Other Measures) Bill 2010 be listed on the Notice Paper as a separate order of the day.

Question agreed to.

Senator PARRY (Tasmania—Manager of Opposition Business in the Senate) (12.04 pm)—by leave—Just so there is absolutely no doubt and for the information of other senators listening to the proceedings, I have circulated a note on my side about what is going to happen for the remainder of the day by agreement with the government and the Greens. We will be completing the non-controversial list of legislation, then moving to the appropriation bills, then to the child
care bill and then to the orders of the day as listed on the red, as they would ordinarily have commenced at 9.30, picking up everything that we have not so far covered. I seek verbal agreement in the chamber from the Manager of Government Business so that we are all clear as to where we are going. I also ask that we receive a fresh list of where the last items of non-controversial legislation will appear so that we are all working from the same sheet and so that our shadow ministers can be ready and available to meet those requirements.

Senator Ludwig—I can confirm what the Manager of Opposition Business has outlined, but there is one hiccup. The intention is to do the Agricultural and Veterinary Chemicals Code Amendment Bill 2010.

Senator PARRY—To assist the chamber, can we move to the Food Standards Australia New Zealand Amendment Bill 2010, which I understand is next? I understand it is not here. What is the next bill that is here?

The ACTING DEPUTY PRESIDENT (Senator Cash)—Senator Parry, I understand that we have not yet received the messages from the House of Representatives in relation to the three outstanding non-controversial pieces of legislation. I will seek confirmation of that from the minister.

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (12.06 pm)—What I was going to go on to say, while the Clerk obtains the bills that we can do, is that we are waiting for the messages for the Agricultural and Veterinary Chemicals Code Amendment Bill 2010, the Food Standards Australia New Zealand Amendment Bill 2010 and the Tax Laws Amendment (Confidentiality of Taxpayer Information) Bill 2009.

The ACTING DEPUTY PRESIDENT (Senator Cash)—Minister, my understanding is that the third reading of the Agricultural and Veterinary Chemicals Code Amendment Bill has already occurred. We are still awaiting a message in relation to the Farm Household Support Amendment (Ancillary Benefits) Bill 2010.

Senator LUDWIG—Yes: the farm household support bill, the food standards bill and the tax laws amendment bill are three we are waiting on messages for. The remaining bills are the veterans affairs bill and the social security bill.

Senator Parry—It is agreed.

Senator LUDWIG—It is agreed? So we can proceed to veterans affairs now and then go to social security, appropriations and child care.

The ACTING DEPUTY PRESIDENT—For the purpose of clarifying this for senators: we have called on the Electoral and Referendum Amendment (How-to-Vote Cards and Other Measures) Bill 2010. Are there any senators wishing to speak to this bill?

Senator RONALDSON (Victoria) (12.09 pm)—I will not speak on the second reading, but there are amendments which I will seek to move shortly.

ELECTORAL AND REFERENDUM AMENDMENT (HOW-TO-VOTE CARDS AND OTHER MEASURES) BILL 2010

Second Reading

Debate resumed from 16 June, on motion by Senator Arbib:

That this bill be now read a second time.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (12.09 pm)—I commend the Electoral and Referendum Amendment (How-to-Vote Cards and Other Measures) Bill 2010 to the Senate.

Question agreed to.
Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (12.10 pm)—I table a supplementary explanatory memorandum relating to the government amendments to be moved to this bill. The memorandum was circulated in the chamber on 23 June 2010. I move government amendment (1) on sheet CA250:

(1) Schedule 1, item 1, page 3 (lines 15 to 21), omit paragraphs (b) and (c) of the definition of how-to-vote card, substitute:

(b) that lists the names of 2 or more of the candidates or registered political parties in an election, with a number indicating the order of voting preference in conjunction with the names of 2 or more of the candidates or parties; or

c) that otherwise directs or encourages the casting of votes in an election in a particular way, other than a card, handbill or pamphlet:

(i) that only relates to first preference votes; or

(ii) that only relates to last preference votes.

Question agreed to.

Senator RONALDSON (Victoria) (12.11 pm)—by leave—I move opposition amendments (1) to (4) on sheet 6140 together:

(1) Schedule 1, item 6, page 4 (line 6), after “top”, insert “or bottom”.

(2) Schedule 1, item 6, page 5 (line 13), omit “10 penalty units”, substitute “50 penalty units”.

(3) Schedule 1, item 6, page 5 (line 30), omit “10 penalty units”, substitute “50 penalty units”.

(4) Schedule 1, item 7, page 6 (line 2), after “top”, insert “, bottom”.

I will just speak very briefly in relation to these matters. Amendment (1) to schedule 1 of the bill enables the new authorisation details on how-to-vote cards, which I will not go into in great depth, to be put either at the top or the bottom of the how-vote-card. This is a minor amendment. The other part of the schedule, relating to penalty units, is far more significant and I will speak briefly to that.

I am sure honourable senators are aware of the events that surrounded the South Australian state election where members of the Australian Labor Party were effectively masquerading as Family First booth workers. The government, to its credit I suppose, though it should never have got to this position, have moved to address that with amendments to the how-to-vote card, which we obviously support. The coalition’s view from day one in relation to this was that indeed 10 penalty units did not fit the crime, and our very strong view was that a minimum of 50 penalty units, $5½ thousand, was far more fitting to redress what occurred on that day in South Australia and hopefully to deter forever people who would seek to behave in this manner. Given the significant legislative program we have, I do not seek to make any further comments.

Question agreed to.

Senator XENOPHON (South Australia) (12.14 pm)—There has been a slight scheduling problem—it has been a pretty extraordinary day. I have amendments that I wish to move to this bill. These will be circulated in the chamber at any moment. I do not want to delay the committee stage of this bill, but I do want to put on the record my concerns and to move these amendments. I thought that this was going to be dealt with a little later on, but it has been a moveable feast this morning. To save time, I will speak to the intent of my proposed amendments.

Very shortly I will be moving amendments relating to misleading or deceptive conduct.
These amendments relate to what occurred in the South Australian state election just three months ago—as Senator Ronaldson made reference to—and the abuse of how-to-vote cards. Labor Party operatives—to put it objectively—were masquerading as Family First, or handing out how-to-vote cards and wearing t-shirts and conducting themselves as though they had a link to Family First. It has been something that I think this government has disassociated itself from, and it needs to be sorted out.

My concern is that, in order to close this loophole, there needs to be an amendment relating to misleading or deceptive conduct, so that a person would commit an offence if the person engages in conduct or authorises another person to engage in conduct during an election and that conduct is likely to mislead or deceive an elector in relation to the casting of a vote. These amendments provide a defence if the person proves that he or she did not know or could not reasonably be expected to have known that the conduct was likely to mislead or deceive an elector in relation to the casting of a vote. These amendments broaden the circumstances to deal with the issues that arose out of the South Australian election. I know Senator Fielding and others have been very concerned about this. This is a situation where conduct is caught within these proposed amendments. The current laws do not address this sort of conduct, and my concern is that, even as amended, the current laws do not address the issue of conduct. The issue of printed material is dealt with, but, for instance, the issue of t-shirts, which are not incorporated as printed material for the definitional purposes of our electoral laws, and the baseball caps and other material not covered under the requirement for a how-to-vote card authorisation are not covered.

So, with respect to the government, I think that the government’s amendment is a half-hearted amendment. It is of course welcomed but it does not deal with the mischief that took place on election day in South Australia just three months ago. My concern is that, unless and until we deal with the issues of conduct, there will not be a remedy to this sort of behaviour and this behaviour can continue unabated. That is my concern.

I would be grateful if the various parties could indicate their position in relation to my proposed amendments. I will not seek to divide with respect to the amendments, pursuant to a previous agreement, but I would like to know what the position is of the parties in relation to these amendments. I seek leave to move amendments (1) and (2) on sheet 6152 together.

Leave granted.

Senator XENOPHON—I move:

(1) Page 9 (after line 5), at the end of the bill, add:

Schedule 3—Amendment relating to misleading or deceptive conduct

Commonwealth Electoral Act 1918

1 After section 329

Insert:

329A Misleading or deceptive conduct

(1) A person commits an offence if:

(a) the person either:

(i) engages in conduct; or
(ii) authorises another person to engage in conduct; and
(b) that conduct occurs during the relevant period in relation to an election under this Act; and
(c) that conduct is likely to mislead or deceive an elector in relation to the casting of a vote.

Penalty:
(a) if the offender is a natural person—$1,000 or 6 months' imprisonment; or
(b) if the offender is a body corporate—$5,000.

(2) In a prosecution of a person under subsection (1), it is a defence if the person proves that he or she did not know, and could not reasonably be expected to have known, that the conduct was likely to mislead or deceive an elector in relation to the casting of a vote.

Note: A defendant bears a legal burden in relation to the defence in subsection (2) (see section 13.4 of the Criminal Code).

(3) If the Electoral Commissioner is satisfied that, during the relevant period in relation to an election under this Act, a person is engaging in, or has engaged in, conduct that is likely to mislead or deceive an elector in relation to the casting of a vote, the Electoral Commissioner may request the person to desist from that conduct.

(4) In proceedings for an offence under this section, the court may take into account a person's response to a request under subsection (3) in assessing any penalty to which the person may be liable.

(5) If the court is satisfied, in proceedings for an offence under this section, that a person has engaged in conduct that is likely to mislead or deceive an elector in relation to the casting of a vote, the court may order the person to desist from that conduct.

2 Application of amendment

The amendment made by this Schedule applies in relation to elections the writs for which are issued on or after the commencement of the amendment.

(2) Clause 2, page 2 (before line 1), at the end of the table, add:

4. Schedule 3 The day this Act receives the Royal Assent

Senator ARBIB (New South Wales—Minister for Employment Participation and Minister Assisting the Prime Minister for Government Service Delivery) (12.19 pm)—I have only just entered the chamber, but my advice from the Australian Electoral Commission is that such amendments would be too difficult to implement and administer.

Senator RONALDSON (Victoria) (12.19 pm)—Having been advised of that by the government, I do not think in all conscience that the opposition can support these amendments if the Australian Electoral Commission has expressed concerns about the matter. I acknowledge Senator Xenophon's active involvement in events that occurred post the South Australian state election, but if that indeed is the advice of the Australian Electoral Commission, I am not entirely sure how these amendments can be supported, I have to say, and we will not be doing so.

Senator LUDLAM (Western Australia) (12.20 pm)—I indicate that, for the reasons Senator Xenophon has expressed and reasons that Senator Bob Brown has put on the record on numerous occasions, the Australian Greens will be supporting these amendments.

Senator FIELDING (Victoria—Leader of the Family First Party) (12.20 pm)—We have got to remember where the bill got some of its genesis—that is, some outrageous behaviour by the Labor Party in South
Australia. It seems odd that the Labor Party would allow—I would even suggest endorse—Labor Party workers to dress up and deceive people and make themselves look like Family First workers, handing out material, clearly being misleading, clearly being deceptive, and to get away with it. But not only that: quite clearly, from the media reports, there were people who knew about this. But at least some candidates had the decency to say, ‘No; I won’t go to such dirty politics. I won’t stoop that low and try to deceive electors.’

It is very important that in Australia we have trust in our electoral system. When you think about it, to make someone look like someone else and deceive them, and hand out material making it look like it was from some other party, is just totally wrong. It could have happened to any of us. It happened to Family First. The Labor Party was dressing up as Family First workers and handing out material making it look like it was Family First material.

I understand that this bill does make some attempt to address the issue but it does not stop the issue. In the commercial world if you were someone from Pepsi and you dressed up as someone from Coke and tried to deceive people, you would be sued. It is outrageous to think that this could happen. What is even more outrageous is that Kevin Rudd would not come out publicly and rule it out at this election. I am wondering whether the new Prime Minister will come out today and rule out not using such dirty tactics at the next federal election. This is very important.

What is being put forward by Senator Xenophon does attempt to address that issue in his home state. We are worried that, in desperation, this will occur again. I think the new Prime Minister should come out and say that she will ensure her party will not stoop so low as to use these dirty tricks during an election campaign. I will be supporting these amendments.

Senator XENOPHON (South Australia) (12.24 pm)—I thank the Australian Greens and Family First for their support in relation to these amendments. I note the minister indicates that the Australian Electoral Commission says that these are not practical reforms. I indicate to the minister that I will seek a further briefing and an explanation from the commission in relation to this. Clearly, something more has to be done than has been done with this piece of legislation and I hope we will have an opportunity to deal with this before the next election, assuming we have got more sitting weeks before the next election—whenever that will be. It is also disappointing that the coalition, who expressed their genuine concerns about what occurred, have not seen fit to support reforms that would have gone some considerable way to deal with the sort of the behaviour that occurred—

Senator Ronaldson—The AEC said they could not do it.

Senator XENOPHON—I take Senator Ronaldson’s interjection that the AEC said they could not do it. The question is though: what amendment does the AEC say would work to deal with the issue of behaviour and to deal with the issue of people masquerading as another political party in the context of how-to-vote cards. It is not a criticism of Senator Ronaldson; I want to make that clear. It is a concern that we may not be able to fix this problem before the next election given where we are in the electoral cycle.

Question negatived.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Question agreed to.

Bill read a second time.
Third Reading

Senator ARBIB (New South Wales—Minister for Employment Participation and Minister Assisting the Prime Minister for Government Service Delivery) (12.27 pm)—I move:

That this bill be now read a third time.
Question agreed to.

Bill read a third time.

BUSINESS

Rearrangement

Senator ARBIB (New South Wales—Minister for Employment Participation and Minister Assisting the Prime Minister for Government Service Delivery) (12.27 pm)—I move:

That the order of the Senate agreed to earlier today relating to the consideration of bills, be varied to add the following bills:
No. 15 Social Security and Indigenous Legislation Amendment (Budget and Other Measures) Bill 2010.
No. 6 Veterans’ Affairs Legislation Amendment (2010 Budget Measures) Bill 2010
No. 1 Appropriation (Parliamentary Departments) Bill (No. 1) 2010-2011
Appropriation Bill (No. 1) 2010-2011
Appropriation Bill (No. 2) 2010-2011.
No. 2 Family Assistance Legislation Amendment (Child Care Budget Measures) Bill 2010.

Question agreed to.

SOCIAL SECURITY AND INDIGENOUS LEGISLATION AMENDMENT (BUDGET AND OTHER MEASURES) BILL 2010

Second Reading

Debate resumed from 15 June, on motion by Senator Stephens:
That this bill be now read a second time.
Senator ARBIB (New South Wales—Minister for Employment Participation and Minister Assisting the Prime Minister for Government Service Delivery) (12.30 pm)—I thank Senator Siewert and the opposition for their comments and commend the Social Security and Indigenous Legislation Amendment (Budget and Other Measures) Bill 2010 to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

VETERANS’ AFFAIRS LEGISLATION AMENDMENT (2010 BUDGET MEASURES) BILL 2010

Debate resumed from 15 June, on motion by Senator Stephens:

That this bill be now read a second time.

VETERANS’ ENTITLEMENTS AMENDMENT (INCOME SUPPORT MEASURES) BILL 2010

Second Reading

Debate resumed from 13 May, on motion by Senator Stephens:

That this bill be now read a second time.

Senator PARRY (Tasmania) (12.31 pm)—The coalition support the Veterans’ Affairs Legislation Amendment (2010 Budget Measures) Bill 2010 and related bill. It makes five minor housekeeping amendments to the Veterans’ Entitlements Act 1986. All the provisions are noncontroversial and we support them. We have one criticism of the process. This has been languishing in the House of Representatives for seven months and we believe that it should have been dealt with in a more timely fashion. Nevertheless, the coalition support the bills.

Senator LUDLAM (Western Australia) (12.31 pm)—I will make some brief remarks on the Veterans’ Affairs Legislation Amendment (2010 Budget Measures) Bill 2010 and related bill. Veterans of British atomic weapons testing that occurred in Australia between 1952 and 1963 at Maralinga, Emu Field and the Monte Bello Islands have been calling for compensation for a very long time. Some of them have joined a class action in Britain now that the EU high court has ruled that they deserve a day in court so that they can make their case.

Former opposition Labor spokesman, now Minister for Veterans’ Affairs, Alan Griffin, acknowledged, during the 2006 election campaign, that Australian members of the armed services were used as guinea pigs in its tests and that the strategic ambitions of the UK were given priority over the safety and wellbeing of people that the Australian government should have been protecting. That was a very clear acknowledgment of responsibility and perhaps even liability. The bills we are debating today address the neglect that these people have endured for decades. Of course, the Greens welcome this. I add my comments to those of Senator Parry that these bills have been held up, for some reason that we simply do not understand, in the House of Representatives. We believe that the compensation is clearly insufficient but it is welcome that these bills are with us today.

We believe that given these people were exposed to ionising radiation and that there are severe health impacts arising from this, they should get full comprehensive health care, in particular at a gold card standard, as many of their advocates have been claiming. I understand that in this legislation as it is drafted there is no automatic access to the gold card for British nuclear test participants. However, if they become eligible for a disability pension of a rate equal to or greater than 100 per cent of the general rate, my understanding is that, as the bill is written, they
will receive a gold card. Widowers of nuclear test veterans and participants who become eligible for a war widow or widowers pension will receive a gold card.

The Greens believe that it is not too much to ask to simply extend this protection further and extend the gold card as a matter of routine to these participants in the tests. There is strong evidence internationally of genetic effects of nuclear tests on children and grandchildren of those exposed, that the damage wrought by ionising radiation affects the very DNA that makes us human, and that these effects are carried on through the generations. For families and particularly the children of nuclear veterans, we believe the government should be taking great care to recognise if second and third generations have been affected by their parents’ or grandparents’ exposure to this radiation and, if they have been, then we have an obligation to care for them.

While this legislation does not address this issue, the belated acknowledgment of the health impacts on veterans should lead also to acknowledgement of effects still being endured by Aboriginal people. Of course, this legislation is completely silent on those who were inadvertently and against their will exposed to radiation, to the fallout and to the trauma of having their lands bombed for British nuclear tests. The compensation and the recognition for Aboriginal people has been utterly insufficient. It has been a shameful and terrible story which is deserving of an apology, because these people were not warned and they were not looked after.

Senator Faulkner recently provided information to the Senate in response to a question of mine about the very small sums of money that have been paid that pale into insignificance when compared with the budget line items set aside in this and future budgets for veterans. I am of course not arguing for the funding to veterans or to service personnel to be cut; I am arguing that Aboriginal people affected by the tests should also receive just compensation and health care. To date, the government’s response has been utterly insignificant to the trauma that these people experienced. I move the Greens second reading amendment:

At the end of the motion, add “but the Senate calls on the Government to extend eligibility for the Repatriation Health Card – All conditions (known as the ‘Gold Card’) to former Australian Defence Force members in the new category of service established by this bill, the British nuclear test defence service, and to their medically-affected dependants”.

Senator XENOPHON (South Australia) (12.36 pm)—I will be supporting the second reading amendment of Senator Ludlam and I join with him in his sentiments and his concerns. These British atomic weapons detonation tests that were conducted at Emu Field, Maralinga in South Australia and the Monte Bello Islands off the west coast of Western Australia were conducted to enable the United Kingdom to develop nuclear fission bombs and later nuclear fusion, or hydrogen, bombs; and the tests were carried out with the full cooperation of the Australian government under Prime Minister Menzies. More than 17,000 Australian soldiers and civilians were directly involved in the tests and assessment of the fallout from the tests. Many of these Australians have gone on to suffer a range of illnesses as a result of dangerous and continued exposure to high levels of radiation from cancers to genetic diseases inherited by their children. In May 2007, Professor Al Rowland, from Massey University in New Zealand, published a scientific paper on chromosome damage, providing hard evidence of the relationship between the exposure to the ionising radiation from the atomic blasts and certain cancers and birth defects.
Today only 2,500 ex-service men and women out of the 8,000 who were involved in the nuclear testings are still alive. Over the past few months that I have been approached on this issue, I have been contacted by veterans who were involved in the nuclear testing. One of them was Geoffrey, who was 23 years old when he served at Maralinga with the Air Force. He arrived in the middle of 1961 just after two major bombs had been tested. During his 12 months on the base, tests on smaller nuclear weapons were continuing as well as assessment of the fallout from these bombs. Geoff tells me how he recalls walking in the dust, wearing nothing more than a singlet and shorts. He admits he volunteered to go there but says had he known of the risks, had he been told about the risks, he would have stayed away as far as possible. Geoff has survived a brain tumour, and both his son and grandson suffer severe health effects. Geoff blames these illnesses on his time at Maralinga. Sadly, Geoff's story is one of many. Some veterans have told me about how they did nothing more than turn their backs for mere moments before turning back around to watch the aftermath of the explosion.

I am pleased that through this bill the government has finally introduced one of the recommendations of the Clarke review to recognise veterans in the atomic tests as ‘non-warlike hazardous’ under the Veterans' Entitlements Act. That is a good thing. Under this amendment, veterans will be able to access a disability pension and healthcare treatment for conditions arising from their service, and war widows and widowers can access pensions where the death of the service person is attributable to that service.

Another thing that needs to be said is that in 1993 the government accepted a £20 million ex gratia payment, valued at approximately $100 million today, from Britain. The deal was negotiated by the then Minister for Primary Industries and Energy, Simon Crean, and the then Minister for Foreign Affairs, Gareth Evans. The government argued that this fund was to go towards repatriation of the land; however, in a speech to the House in October 2006, Minister Crean said:

We successfully got the British government to make a contribution of some £20 million—an outcome that was designed to, in its own words, support future claims for compensation for participants.

In other words that fund should have been used to give direct compensation for participants, not used just for cleaning up the land. He went on to say that ‘it was recognised that there could be future claims’. As I understand it, that money has solely gone for rehabilitation of the land and not for compensation of victims.

There is now a court case in the UK which Australian veterans are seeking to join—it is a very difficult and expensive case—so that they can get lump-sum compensation, and I wish them well in that class action. Unfortunately, even if they were to be successful in this lawsuit, under the agreement of the 1993 ex gratia payment, any compensation may have to be paid to the Australian government. That is an area of real concern. In any event, I hope that they are successful with their claim.

I commend the government for at least acting on the Clarke review recommendations. We need to go further, as Senator Ludlam said, but at least this is a first step to assist veterans.

Senator ARBIB (New South Wales—Minister for Employment Participation and Minister Assisting the Prime Minister for Government Service Delivery) (12.40 pm)—I thank Senator Ludlam and Senator Xenophon for their comments and their sentiment. The government appreciates the Greens’ concerns on this issue, but their position un-
Unfortunately is not supported by the evidence. This would not be a responsible measure, and therefore the government opposes the amendment.

Question negatived.
Original question agreed to.
Bills read a second time.

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

APPROPRIATION (PARLIAMENTARY DEPARTMENTS) BILL (No. 1) 2010-2011
APPROPRIATION BILL (No. 1) 2010-2011
APPROPRIATION BILL (No. 2) 2010-2011

Second Reading
Debate resumed from 22 June, on motion by Senator Carr:
That these bills be now read a second time.

Senator FIELDING (Victoria—Leader of the Family First Party) (12.41 pm)—I rise to speak on the Appropriation (Parliamentary Departments) Bill (No. 1) 2010-2011, Appropriation Bill (No. 1) 2010-2011 and Appropriation Bill (No. 2) 2010-2011. The Rudd government has been treating Australian taxpayers like a bunch of mugs. Open up any paper, turn on the radio or the TV—even just drive your car past one of the many billboards—and you are bound to hear the government’s propaganda on the Labor Party’s mining tax. Guess what? It is paid for with Australian taxpayers’ money. I am aware of an announcement the soon-to-be Prime Minister, Julia Gillard, has just made, but I will come to that in a moment.

The Labor government has been spending millions of dollars to fund its Labor Party election campaign and it is sending Australian taxpayers the bill. Over $30 million is still set aside for Labor Party propaganda, and it would come out of the pockets of mums and dads. What a joke. Planning to spend over $30 million of working families’ money to fund the Labor Party’s election campaign is an absolute disgrace. It is an outrageous abuse of taxpayers’ dollars and it smacks of total hypocrisy from the Labor government.

In 2007, Labor promised to clean up political advertising during election campaigns. That was when Labor was still in opposition and did not hold the purse strings. But, now that Labor has gained control of the taxpayers’ money, they have had second thoughts. They have just taken that promise and flushed it down the toilet, like many of the other promises they have made, such as not cutting the health rebate and promising to build 260 childcare centres.

Labor has gone back on its word time and time again and, quite frankly, Australians have had enough. Clearly, the Labor Party are losing the trust of the Australian people, who have come to believe that their word does not really represent their word. This fact is evident in the opinion polls. The Australian public are fed up with getting told one thing by the government and then seeing them do the complete opposite. Over $30 million is still set aside by this government to sell its latest tax to Australians. It is an absolute disgrace and I think it makes a lot of people sick. Even Labor members of parliament have said that it is not right. What message is the Labor government sending to families when the government can find money to spend on election advertising but they cannot find the money to help pensioners, our stay-at-home mums or our military veterans?

Clearly, the reckless mining tax is only Labor Party policy; therefore the Labor Party should be paying for the ads out of their own pocket. It is ridiculous that the Labor Party
should keep using taxpayers’ dollars to flog Labor Party policy when it is still yet to be approved by parliament. And, in case the Labor government has forgotten, let me enlighten them: you do not have the numbers in the Senate, so you cannot just ram through Labor Party policy such as the reckless mining tax. You have to work with the Senate.

It is a good thing that the government of the day cannot just ram through their policy. We saw what happened with that under the Howard government. Family First is on the record as saying that we are against the reckless mining tax in its current form. Family First will not be voting for a policy which has been recklessly put forward without any proper consultation with the actual industry and which is going to destabilise a sector of our economy that Australians have come to rely on. I am certainly not going to let the Labor government get away with wasting taxpayers’ dollars to promote a Labor Party policy which is not even guaranteed to come into law and has not got the support of the majority of the Senate since Family First is opposed to the mining tax in its current form. If the Labor government will not clean up their own act then it is up to Family First and others to make sure another cent is not spent on this spin.

I have just noticed that the new Prime Minister, Prime Minister Gillard, in her first press conference after becoming Prime Minister, has realised how blatantly appalling this advertising campaign has been and has said that they will stop spending the money. This is a good thing, but the fact of the matter is that it still remains in the appropriation bills, and the requests for amendments that Family First is putting forward would ensure that no taxpayer money can be spent on advertising this reckless superprofits mining tax. It is a pity that we have already had to waste millions of taxpayers’ dollars before the Labor Party could arrive at this conclusion themselves, and it is a shame that it took requested amendments such as the ones that I am putting forward to get the government to listen. In light of the government’s announcement, I will still be pressing ahead with my requests for amendments because they do exactly what the government has promised to do, and that is to stop using hard earned working families’ money to spend on advertising for the Labor Party’s re-election.

These requests for amendments are an insurance policy for the Australian taxpayers. I urge the rest of the senators to look at the requested amendments I have put forward as insurance to make sure that the government’s word is their word and that not another cent will be spent on the Labor Party’s policy which is part of, I think, their re-election campaign. My requests for amendments to the appropriation bills will put an end to any money being spent on this mining tax. I ask senators to support the requested amendments in my name.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (12.49 pm)—I rise to speak on Appropriation Bill (No. 1) 2010-2011, Appropriation Bill (No. 2) 2010-2011 and the Appropriation (Parliamentary Departments) Bill (No. 1) 2010-2011. Appropriation Bill (No. 1) 2010-2011 is for the purpose of appropriating about $72 billion for the ordinary annual services of government. Appropriation Bill (No. 2) 2010-2011 appropriates approximately $9.5 billion for the non-ordinary other annual services of government. The Appropriation (Parliamentary Departments) Bill (No. 1) 2010-2011 appropriates $222 million out of the Consolidated Revenue Fund for the expenditure in relation to the parliamentary departments.

This is the third budget that this government has delivered and they are zero from three: they have never delivered a surplus and they never will. Of the three budgets
delivered by the Rudd government—as it was—this is the most political, the least believable and the most damaging to Australia’s long-term future. This is a budget that trashes, through a combination of negligent mismanagement and unprecedented waste, the legacy of good financial management left by the coalition. This is a budget built on a foundation of accounting tricks and diversions. This is a budget built on a desperate tax grab—an attempt to hoodwink the public into believing that the Labor Party will actually deliver a surplus. The last coalition government delivered 10 surpluses in 12 years. The last coalition government left a legacy of sensible economic management—a $20 billion budget surplus and $60 million in the bank. The Labor government did not take long to trash this legacy. Their first budget delivered a $27 billion deficit, their second budget delivered a $57 billion deficit and for their final act they forecast a $40 billion deficit in 2010-11. These are three of the largest deficits in our history. They completed the trifecta and it only took them one term to do it. This financial year’s deficit is the largest, as a percentage of GDP, since before the Whitlam government.

And what have the Australian people got for all this spending? We can see the results around us. In our homes we have spent a billion dollars on insulation. The results have caused over 180 fires and four tragic deaths. We are now spending a billion dollars to fix the mess. In our schools we are spending $16.2 billion on the Building the Education Revolution. We should note here that the grand architect of that complete fiasco is now going to be the Prime Minister of Australia after a very nefarious backroom deal from the faceless people in Sussex Street and the Labor Party. This is where our nation has got to. We put aside the votes of the Australian people and we handed over to Senator Mark Arbib, to Eddie Obeid and to Joe Tri- podi, who are now apparently running the nation.

Recently I visited the Manilla Central School, where two demountables—dongas as we call them in Queensland—were there at a cost of $1.807 million. I imagine most Australians would expect a pretty fancy sort of house for that sort of money. In fact, Senator Williams said he could build three bedrooms, brick veneer and tiles for that sort of money. What are we talking about? What did we get? Pools? No; we got demountables—demountables bolted together, made in a factory and delivered to a schoolyard in northwest New South Wales. On our borders we are spending an extra billion in response to the Labor government’s—it is no longer the Rudd government—complete loss of control of the flow of asylum seekers. This government unwound the solutions the Howard government left them in August 2008, and since then over 130 boats have arrived carrying over 6,000 asylum seekers. This year alone 70 boats have arrived.

But it is what we cannot see that is perhaps the greatest legacy of waste left by this government. I do not see an inland rail network driving a corridor of commerce through regional towns, connecting Melbourne to the ports of Queensland. I do not see the duplication of the Pacific Highway, which Labor promised by 2016 but for which they now do not have the funds. I do not see the new water storages to underpin the future economic development of growing areas of Australia. I do not see the vital infrastructure. We did have $90 billion spent on stimulus, but only 14 per cent of the stimulus went to economic infrastructure. The Labor Party are the grand architects of kitsch trinkets to adorn certain sections of our nation, the bill to be left to our children and our grandchildren. They have no idea how to pay off the debt; they only know how to continually go
to the international credit card and hock Australia even further up.

We have pink batts. They put ceiling insulation in. We have dongas. We are heading towards $150 billion in gross debt, noting that Labor state governments are in excess of $160 billion in gross debt. These bills appropriate funds for the 2010-11 financial year, but the government wants us to focus on the promised land where in three years time we will apparently have a surplus because the Labor Party promises to fix its addiction to unsustainable spending. The impending surplus that they tell us about is about as believable as everything else the Labor Party says, and right now, if they open negotiations, we know that the surplus will not be there and that this miraculous $1 billion figure that has been delivered by the so-called economic cycle angel which will descend from heaven and make the deficit better is completely and utterly unbelievable. It is quite evident that we are now in a twilight zone where we are once more sucked into believing the Labor Party, who told us merely a couple of years ago that we today would be experiencing a $17 billion surplus. We now have a $57.1 billion deficit. We never had a deficit bigger in raw terms than that number.

The Labor Party promised to keep spending below two per cent in real terms. One way they achieve this is by a little accountancy trick. They keep moving $1.5 billion of spending from future years into this financial year. This is a ponzi scheme of a budget. They cannot keep this trick up in the future. A reckoning will eventually come for the Labor Party. We know what the Labor Party plan is for that reckoning. They will not cut spending. They will not suddenly become more disciplined. Instead they will raise taxes. In the budget overview the Labor Party produces a table trumpeting that they will make $30 billion in savings over the forward estimates. Over $16 billion of these savings—that is, over half—are higher taxes. The Labor Party are introducing a new tax on smoking to discourage smoking. That will raise about $5 billion. The Labor Party will introduce a new tax on mining to encourage mining. We are supposed to believe that this will raise $12 billion.

But it is not just tax. It is part of a nationalisation of the mining industry, bringing about immense sovereign risk to our nation, taking our nation to a peculiar corner which they have never been in before, putting the hearts and minds of people in regional Australia at complete unease because of what is happening to the structure of our economy. Where do these ideas come from? They came from the ‘kitchen cabinet’, the so-called gang of four, of which a member is going, by reason of backroom deals, to become the Prime Minister of our nation without ever going to an election. We are now basically going to have a 40 per cent ownership of the mining industry taking up 40 per cent of the revenues and accepting 40 per cent of the costs—or so we are led to believe. Who knows? Things change here overnight.

Do you think for one moment that if you now have a 58 per cent tax on mining companies you might have a slight problem with vertically integrated companies that work across nations’ boundaries? Do you think that a fully state owned enterprise from overseas is not going to move its profits, even though it might operate here, back to a more sensible and favourable tax regime? The RSPT is a bad tax. It is not elegant; it is just a blatant tax grab. It is premised on completely insubstantial foundations. There are statements that even if we raised the tax up to 60, 70 or 80 per cent it would make no difference to the desire of people to work in the mining industry and that profits will not move. Of course this is obviously and absurdly not the case. It is completely ridicu-
The government would have us believe that it is going to lead us to higher investment in the mining sector; however, the RSPT is creating many more problems. Xstrata has announced that two projects which would have employed over 3,000 workers in Queensland have been scrapped because they are no longer viable: the $6 billion Wandoan coal project and the $600 million Ernest Henry copper mine underground shaft project will not go ahead.

What the people of Australia do understand is that when these companies make profits they can afford to embark on costly exercises to create more mining wealth—wealth that Mr Rudd and now you, Ms Gillard, and your colleagues were lauding for helping Australia to weather the GFC. The Prime Minister knows that this is a bad tax. The Labor Party is desperately trying to sell this tax by spending $38 million on a blatant political advertising campaign.

This endeavour comes from a former Prime Minister—it changes so quickly round here—who at the last election said that political advertising was a ‘sick cancer within our system’ and ‘a cancer on democracy’, and I did not hear Ms Gillard contradict him on that. He went on to give an ‘absolute commitment’ to have the Auditor-General evaluate government advertising campaigns. Even today we heard Ms Gillard say that she will remove the campaign as long as the mining sector remove theirs. That is hardly an overwhelming endorsement of the philosophies and values that are now part of this new regime.

We should not be surprised that this government’s words do not match its actions. This is truly an Orwellian government. It is Building the Education Revolution by placing dongas at the back of school halls. It has a Nation Building Plan that allocates only 14 per cent of the stimulus spending on economic infrastructure. Where has the rest of it gone? And their Minister for Finance and Deregulation stated, ‘Government, after all, exists to regulate.’ I will take one quote from Orwell’s timeless essay *The Politics of the English Language*:

The great enemy of clear language is insincerity. When there is a gap between one’s real and one’s declared aims, one turns as it were instinctively to long words and exhausted idioms, like a cuttlefish spurning out ink.

The Labor Party dealt with this in their backroom deals by faceless people last night and this morning. Is there a better modern description of the walking PowerPoint slide that we had for a Prime Minister? Now we have the new office holder intending to, in some cathartic way, remove herself from decisions in which she was a partner in the disaster.

The coalition notes Senator Fielding’s proposed amendment to stop the government from spending this money on blatant political advertising. We certainly support the intent of this amendment, which is to make the government honour its election commitments. However, there is a very good historical reason why interference with appropriation bills is not condoned. There was an example in 1975 which is well known. There are many on the other side of the chamber who would understand that.

More importantly, if the government did want to advertise on public policy issues, other areas are certainly more deserving. Why isn’t the government warning the public on the risks of poorly installed insulation? Why isn’t the government informing the residents of the Murray-Darling Basin of the impending draft Basin Plan and the ways in which they can respond to it? Why isn’t the government informing the people of the Murray-Darling Basin that soon the sustainable diversion limits will nationalise the irri-
The government’s proposals to raise taxes are all just a direct consequence of the Labor Party’s addiction to spending and debt. Eventually the hangover comes and eventually the Australian people are presented with the bill for the Labor Party’s reckless and wasteful behaviour—or, as the finance minister put it, ‘The Labor Party’s failure to dot its i’s and cross its t’s’. That was an incredible statement when he was trying to explain how they got into this position with ceiling insulation.

Now they tell us that, as we go forward, we are to be impressed by the fact that we will be borrowing in excess of $700 million a week, putting upward pressures on interest rates and the cost of living for all Australians. That is supposed to be a good outcome. It cannot be a good outcome for the people of Western Sydney, it is not a good outcome for the people of regional Queensland and it is not a good outcome for business. Australia’s pressure on interest rates has come from Labor Party mismanagement, from a Labor Party that appears to have resigned this parliament to becoming a pandemonium palace.

The coalition delivered 10 surpluses in 12 years. An accountant judging this would say: ‘This is the sort of client that I want to run the books. That is the sort of client that has a real understanding of the worth of money.’ The Australian people are coming to terms with the fact that the Labor Party do not understand or value money.

This is a reckless government and quite obviously out of control. The government by their own actions have removed their leader. What an endorsement that is of the way they believe they are going! They eat their own. They know that they are a complete and utter botch job. There is not a hard decision in this budget to cut the reckless and wasteful government spending. In sum, this government are not fit to govern. The only way to turn around our great debt and deficit is to change the government, not its leader. These bills simply confirm what we all know. No matter how hard they try, this government do not know how to be responsible. They do not know how to act in such a way as to bring real change. They are ephemeral, they change leaders, there is pandemonium. They are a complete anachronism of what responsible government should be.

Senator ARBIB (New South Wales—Minister for Employment Participation and Minister Assisting the Prime Minister for Government Service Delivery) (1.05 pm)—I commend the bills to the Senate.

Question agreed to.

Bills read a second time.

In Committee

Appropriation Bill (No. 1) 2010-2011

Bill—by leave—taken as a whole.

Senator FIELDING (Victoria—Leader of the Family First Party) (1.05 pm)—by leave—I move amendments (1) and (2) on sheet 6128:

That the House of Representatives be requested to make the following amendments:

(1) Page 12 (after line 13), after clause 15, insert:

15A Tax reform communication

(1) No amount appropriated by this Act is to be spent on any advertising campaign or public information project in relation to proposed ‘resources super profit tax’ announced by the Treasurer on 2 May 2010.

(2) Schedule 1, page 152, Treasury portfolio—Department of the Treasury (Administered):

Reduce the vote by $30.61 million, the amount appropriated for tax reform communication.
Statement pursuant to the order of the Senate of 26 June 2000

These amendments are framed as requests because they are to a bill which appropriates money for the ordinary annual services of the government.

Statement by the Clerk of the Senate pursuant to the order of the Senate of 26 June 2000

As this is a bill appropriating money for the ordinary annual services of the government, the amendments are moved as requests. This is in accordance with the precedents of the Senate.

Whether all of the purposes of expenditure now covered by this bill are actually ordinary annual services is a matter that has been under examination by the Appropriations and Staffing Committee.

As I was outlining before in my speech in the second reading debate on the Appropriation (Parliamentary Departments) Bill (No. 1) 2010-2011 and related bills, the Labor government has set aside in these bills $30.61 million for communicating the resources super profits tax. I will read out a part of the requests for amendment. It says:

No amount appropriated by this Act is to be spent on any advertising campaign or public information project in relation to the proposed ‘resources super profits tax’ announced by the Treasurer on 2 May 2010.

So the heart of these requests for amendments is to make sure we hold the Labor government to account and to their word. The Prime Minister has come out today and said that they would stop spending recklessly on advertising for the resource super profits tax. It is nice to have that commitment, but this just puts it in writing to make sure that taxpayers’ money is not being used to advertise Labor Party policy — this tax is not even into law yet — and that taxpayers’ money is not part of their re-election campaign. Why should mums and dads foot the bill? This is a way of holding the government and the new Prime Minister to account to make sure that they cannot slip out of having said one day that they will stop it and then all of a sudden, in desperation, in a few weeks time start to draw on the money again to start spinning the resource super profits tax.

I listened carefully to the opposition’s argument, and Senator Joyce may want to stay and listen to this. He was saying that he basically supports the intent of what we are doing here. He may like to know that in the middle of the Keating years the opposition had a lot more guts and was able to stand up and pass a request for amendment to the appropriation bills regarding Carmen Lawrence’s legal fees, reducing the appropriations by that amount. So you can do this. It has been done. The opposition has been part of moving such a request for amendment to appropriations bills, and if the opposition were fair dinkum then they would also pass this request in this chamber today rather than stand there and say, ‘Look, we agree with the intent but technically we can’t really do it.’ It has been done before, in the middle of the Keating years. You cannot argue that it cannot be done; it can be done and it should be done. You say you think the Rudd government — or now the Gillard government — should not be spending taxpayers’ money on advertising the mining super profits tax, but you do not want to see it written into the appropriations bills that the $38 million cannot be spent.

I think we are all happy to acknowledge that the Prime Minister has made a commitment not to spend the money on the mining super profits tax advertising, but this is a way of making sure it cannot be spent. So I urge senators to support this request for amendments.

The TEMPORARY CHAIRMAN (Senator Barnett) — The question is that the requests moved by Senator Fielding be agreed to.
Question negatived.
Bill agreed to.
Bill reported without amendments or requests; report adopted.

Third Reading

Senator ARBIB (New South Wales—Minister for Employment Participation and Minister Assisting the Prime Minister for Government Service Delivery) (1.11 pm)—I move:
That these bills be now read a third time.
Question agreed to.
Bills read a third time.

FAMILY ASSISTANCE LEGISLATION AMENDMENT (CHILD CARE BUDGET MEASURES) BILL 2010

Second Reading

Debate resumed from 21 June, on motion by Senator Stephens:
That this bill be now read a second time.

Senator FIFIELD (Victoria) (1.12 pm)—I rise to speak on the Family Assistance Legislation Amendment (Child Care Budget Measures) Bill 2010. This bill comes at a difficult time for Australian families. They can only be feeling profoundly disappointed at the failures of this government to support them and their families, given promise after promise that was made before and since the last election. The general report card on the government is pretty poor. Before the last election, the commitment was to high-quality, affordable child care and universal access to early childhood education. The actual impact of the government’s policies has been to reduce the government’s financial assistance for child care and increase costs for both child care and early childhood education.

Let us have a look at some of the promises that have gone absent without leave—and many of these were canvassed at the recent Senate estimates. The commitment to 260 new childcare centres was quietly withdrawn in April this year—coincidentally, on the same day as the Melbourne Storm salary cap debacle erupted in the media—and it was buried on the second page of a ministerial press release with no indication in the heading of the press release as to what the most profound part of that press release was. We always look to the second page of the press release for the key announcement, don’t we, Mr Acting Deputy President? The upshot of that press release was that 222 childcare centres will now not be proceeding. After all of the excitable claims about ending the double drop-off, which we heard time and again before the last election, that was not to be. That is another promise not met, amid suggestions of supply issues, which is one thing if you live, as many constituents obviously do, in outer metropolitan areas but another thing altogether if you are fighting for an affordable space for your child in inner city Sydney or Melbourne.

Rural childcare centres that operate on a part-time basis are also under threat. Minister Ellis will only guarantees six months accreditation, which it virtually impossible to employ staff or to start new services. If you are a parent looking for childcare services, your choices will now also be reduced with the removal of the government’s start-up funding for family day care and remote area day care. Clearly, reduced numbers of small business people, particularly women, will be able to start this home based service without the grant; so families who want to opt for the alternative, and often cheaper, family day care will face further shortages of places from 1 July 2010. The government has also cut funding for occasional care. This is an essential service for parents wanting emergency child care or access to a playgroup. Even the after school community program will cease operation from the end of this...
year. All of these decisions have a cumulative effect on the choices and abilities of parents to find good reliable care for their children so women can maximise their participation in the workforce.

In the recent budget a raft of supposed savings were announced. These included a reduction in the childcare rebate cap by $278 per year for the next four years, which is contained in the bill before us at the moment. This comes at a time when the new quality agenda is also expected to push up daily fees and reduce the number of childcare places. This will significantly increase the cost of child care. Clearly, the new national quality agenda means that additional staff with higher qualifications will be required. Parents will face extra daily costs of between $13 and $22 for babies and toddlers in care.

In relation to the budget decision in this bill, the new capped limit is cut to $7,500, which is reached as soon as child care costs hit $15,000. This will not be indexed for years. Full-time care over 48 weeks per year at just under $70 a day would reach this limit. Parents of babies and toddlers who pay higher fees because of higher staff ratios will be hardest hit. Three days of care a week at $125 a day, which is not uncommon for baby and toddler care in high-demand city centres, would cost $18,000 a year. Parents would be $10½ thousand out of pocket.

I have already referred to estimates by Childcare Alliance Australia that fee increases of between $13 and $22 a day will be necessary from next year to cover the small staff ratios and higher staff qualifications required of centres to meet the national quality standard reforms. It is worth noting that, in a survey by the Daily Telegraph in Sydney in March, parents were found to be paying an average of $100 a day for toddler child care in Sydney’s CBD.

Labor is selling this rebate cut on the basis that it will only affect three per cent of working families receiving CCR and that these families are wealthy. This is not a realistic assessment. The reality is that parents all over the country are reassessing whether they can afford good quality child care or the number of days of care per week now used. There is a direct relationship between affordable child care and the number of hours that parents, especially women, can work. The finance minister’s claim that these reductions are ‘just a bit of a haircut’ shows how removed from reality the government is.

Parents and the childcare sector have every right to feel let down by this government. The government has attempted to justify the CCR reduction by claiming that the savings of $86.3 million over four years will instead assist in paying for the national quality reforms agenda. But, again, we know from the budget papers and Senate estimates that the government is spending some $100 million on administration and red tape and $120 million on advertising. This is not ‘a haircut’; it is an insult to Australia’s working families.

Senator Hanson-Young (South Australia) (1.19 pm)—I rise to speak on the Family Assistance Legislation Amendment (Child Care Budget Measures) Bill 2010 put forward, sadly, by the government on budget night. It is going to have a significant impact on families who access child care right around the country—and the pain will grow not just for the coming financial year but across the forward estimates.

It was interesting to sit here listening to the opposition’s spokesman because I agree with a number of his points. This is not a good piece of legislation; we should not be looking for budget savings in the really important essential service area of child care. We need to see more funding directed into
the area and a better way of ensuring that the government can get their quality outcomes addressed through how they actually pay for child care. Of course, the Greens have put on the record numerous times that the childcare rebate is not the best way of delivering good quality, affordable or accessible child care. But that is what we have got and that is what parents rely on week in week out to go some way towards meeting the very expensive cost of good quality child care.

It does cost money to pay qualified people for their wonderful skills in educating and caring for our youngest kids. It is an essential service for parents and it is an essential service for the country. We know that between the ages of zero and five is the most crucial time for educating and caring for children. The best investment we can make in their educational outcomes into the future is to get it right in that age group. The three core principles that should underpin any type of early education and care in this country are quality, affordability and accessibility. The government’s move to cut the childcare rebate, to freeze the indexation and to make it more difficult for families right around the country to afford good quality child care shows a total misunderstanding of the struggle that working families and parents have every week.

Every week they make choices to ensure that their children are looked after in good quality care and it is expensive. The government needs to accept that if we want good quality childcare, if we want a framework that insists on that right around the country, if we want qualified people looking after our most vulnerable kids at the time when we need to be investing in good quality care and education then we are going to have to pay for that. This cost should not just be slapped on the shoulders of parents; we need the government to help foot the bill to ensure that we are investing in these kids’ future.

The government should not be using childcare and early childhood education as the scapegoat for finding budget savings. On the point of budget savings, it may not seem an awful lot in the big scheme of things—$86.3 million over four years is all this measure would save the government—yet it would work out as hundreds if not thousands of dollars per child for families that this is going to affect. It may not be much for the government in the big scheme of things in the global budget, but it would have a very significant impact on families right around the country. As I said, as the quality framework continues to be implemented the cost of delivering good quality care is going to rise and unfortunately the government have not met this challenge with a way of supporting parents to meet those costs. Instead they have done the exact opposite and they are going to make it more difficult for them to accept it. While I said I agree with a number of the points that were raised by the opposition in relation to this bill, I am sad to see them support it, that they are simply going to wave it through. It is not good policy, it does not make financial sense and it is going to make the lives of families far more difficult.

The Greens will move an amendment to this piece of legislation which would make the childcare rebate accessible on a fortnightly basis. At the moment parents have to wait to access the rebates every quarter, so every three months. You pay your childcare fees weekly or fortnightly and you keep paying, keep paying and keep paying yet it is not until three months later that you get your rebate. That has a very significant impact on family budgets. I have written to the minister about this and spoken publicly about this. Let us try and ease that burden by at least helping with the budgeting situation by ensuring that that rebate is paid fortnightly. This was promised by the Rudd Labor government during the 2007 election, but the
government has not done so. It seems that they are not prepared to put more money in to ease the cost for families. As the cost of childcare is going to rise because of the quality framework and ensuring that we have good quality care then, at the very least, let us try and help families manage their budgets. Waiting for three months for their $6,000 or $7,000 rebate is not very helpful. That is the crux of it.

I do not understand why the government have targeted childcare as a place to try and find budget savings. It does not make sense. It is going to make family budgets more difficult and it is going to make it more difficult for the government to sell its message about the importance of a good quality framework that needs to be rolled out around the country. We need well-qualified people and good quality care for our kids. The government are going to have a big problem trying to sell the importance of those reforms if they are not prepared to fund them. They are reforms that the childcare sector, families and parents have been waiting for for a long time, yet it seems that this government will have an uphill battle on their hands in trying to sell the importance of it if they are not going to carry the costs to help parents afford good quality care. The move by the government to cut the childcare rebate, freeze the indexation, is going to make things far more difficult and flies in the face of the three core principles of quality, affordability and accessibility.

This is just another issue in a long line of broken promises by the government in this area. We saw the axing of the 260 childcare centres and the flimsy figures used to excuse that, saying that there was a 91 per cent-plus vacancy rate across the country. Parents were told they did not need to worry as they could get their kids into childcare centres. We know that is simply not true. If you are in a metropolitan area or you are in a rural or regional area that is simply not true. If you have a 12-month-old child chances are you will be on a waiting list for quite some time or you are going to have to go back to your employer and negotiate to work on a different day because there are no spots on the particular day that your shift has been offered. The government have not been genuine with the Australian community or families in relation to their commitment to childcare. They keep talking about it yet everything they do is making things more difficult for them.

Yes, we need good quality care. Yes, we need a framework that implements that. But the government must fund that properly and support parents to afford that. Cutting the childcare rebate and cutting the commitment to build new centres which would provide more affordable places is simply going to make things much harder. I hope that under the new leadership of the federal Labor Party Prime Minister Gillard will see sense, that making things more difficult for parents to afford good quality care and access places will be reviewed. I hope that the government sees sense on the amendment that we are putting forward, which is not going to cost the government any more money. Exactly the same amount of money will be given back in the rebate, but it will make it more affordable for parents because they will not have to wait to get their rebate every three months; they will only have to wait a fortnight—just like all other government and parenting payments. It simply makes sense. I would like to think that the opposition would support that amendment because it is a fundamentally important one. Government bureaucrats may not care much about this as they draft these pieces of legislation, but to families who have to carry the cost of weekly childcare fees it is important that they get the rebate in a fortnightly instalment as opposed to waiting for a quarterly rebate. This is going to have a very significant impact.
I thank my colleague Rachel Siewert for clearly putting forward the Greens position on this piece of legislation earlier in the week. She pointed out how important investment in early childhood education is for any government, regardless of who their leader is. Regardless of what side of the benches we sit on, we need to be investing in the early education and care of our kids. We need to ensure kids have access to education and care of the highest quality. We must make sure that people can access it and it is affordable. There is no use having the best quality care in the world if parents cannot afford it. We need to help them to carry that cost. Child care and early childhood education are not a luxury, they are an essential service that families right around the country rely on every day. We need to make sure not only that families can afford it but also that it is good quality. I will be moving an amendment in the committee stage.

Senator FIELDING (Victoria—Leader of the Family First Party) (1.31 pm)—You would have every right to question the government’s commitment to working families after looking at the Family Assistance Legislation Amendment (Child Care Budget Measures) Bill 2010. The government is trying to slash the childcare rebate by $278 per child per year. This is a blatant attack on working families by the government and it represents a real kick in the guts to Australian working families. It is a heartless decision that strikes at the heart of the family budget and puts even further pressure on families who are already struggling to pay the bills and make ends meet.

The government has ripped into one of the most important items for ordinary hardworking Australians and pretends it is nothing. The government has abandoned its pledge to help working families when it comes to accessible and affordable child care and has put mums and dads out of pocket by an extra $278 per child per year. But we should not be surprised, because this broken promise only adds to other broken promises by the government.

For a family with two children, this budget cut will cost more than $500—that is, a family budget will be hit with $500 extra in childcare expenses. Any family that pays more than $57.70 per day in childcare fees for five days a week will be worse off under this change. On top of this, the childcare rebate will no longer be indexed to the CPI, like it has been in the past. What this means is that, as childcare expenses go up and up each year, Australian families will be left more and more out of pocket. Even the Henry tax review was urging for greater support. It suggested giving low-income families a 90 per cent subsidy for child care. But the government has done the very opposite and hiked up the effective cost of child care for those that depend on it most.

This latest attack on working families comes only a few weeks after the government broke another election promise by scrapping its plan to build 260 childcare centres. These 260 new centres were needed because there are already many families who have trouble finding an affordable spot in child care for their kids. Clearly the government does not really care about the extra costs and looking after working families in the area of child care when it goes back on promises like this.

The government has said it is committed to helping working families, but how are families supposed to go to work if there are not enough affordable childcare centres to look after their kids and it is too expensive for them? We know where this promise went: it went to the Labor election promise graveyard. Before Mr Rudd was elected in 2007, he said in a campaign ad:

… I believe you make your own luck.
He wasn’t wrong there! You have no choice but to make your own luck under the Labor government, because it has broken its promises in regard to child care and has slapped working families in the face with higher costs.

On budget night, when these stingy cuts to the childcare rebate were announced, Family First was the only party to speak up. There was little or no objection from any other party about the cut to the childcare rebate. It was Family First that first raised the issue. There was such an overwhelming public outcry against the government’s cuts to the rebate that the coalition finally took notice and pretended to care. I use the word ‘pretended’ because the pretenders, the alternative government, said they would also oppose the cut to the childcare rebate. That promise had a shorter life than any promise by the Rudd government. That is what you get when you are dealing with the hollow words of the two major parties.

Family First is the only party that is genuine about helping families. Family First will not be voting for this bill because it is a cruel bill that punishes families who need to put their kids in child care and hits them hard in the hip pocket. If the government wants to cry poor about needing the extra savings in the budget, perhaps it could stop feathering its own nest. It just stinks to think that this is the second year in a row that former Prime Minister Rudd—and Prime Minister Gillard, I am sure, is probably not going to go back on it—has increased staffing levels by more than 60 in the Prime Minister’s own department. It is a real smack in the face for all Australian mums and dads who will now be faced with higher out-of-pocket childcare fees when they see Prime Ministers feathering their own nest. At a time when Australians are told to cut back and make do, the excesses of a Prime Minister increasing their own staff is obscene. We raised this after the previous budget and we have raised it after this budget. It is incredible to think that, in the last two budgets, the Prime Minister’s own staff has increased by nearly 60 each time. That is excessive. The government cries poor and says that it just does not have the money to maintain the childcare rebate at the same rate but has no problem splashing out $18 million of taxpayers’ money to boost the Prime Minister’s office budget. I find the government’s priorities warped. This is a government that has clearly lost sight of helping its working families. Family First will not be voting for the stingy cut to the rebate, and I am surprised the opposition has gone for it.

Senator ARBIB (New South Wales—Minister for Employment Participation and Minister Assisting the Prime Minister for Government Service Delivery) (1.39 pm)—I thank the senators for their comments. I also note the opposition’s support for the Family Assistance Legislation Amendment (Child Care Budget Measures) Bill 2010 and thank them for it. I will make a number of points in response to some of the concerns, particularly from Senator Hanson-Young and Senator Fielding. Our government has a clear record on early childhood education, on child care and on supporting Australian families. I do not think there is any doubt that we have prioritised affordable and high-quality child care for Australian families and their children and we remain committed to this. Evidence of this commitment is clear in our investment of $17.1 billion in early childhood education and child care over the next four years. That is $10 billion more than was provided in the last four years of the Howard government.

In July 2008 we delivered on our election commitment to increase the childcare rebate from 30 per cent to 50 per cent of parents’ out-of-pocket expenses, something that senators failed to mention today. This extra sup-
port goes directly to parents to help them with the cost of child care. We also met our election commitment to lift the maximum families could claim from $4,354, as it was under the previous government, to $7,500 per child per year, a substantial increase of $3,146 a year, or some 72 per cent. Last year 670,000 Australian families benefited from the significant reforms, enabling them to claim back half of their out-of-pocket childcare costs up to $15,000 a year for each child in care. Further, as a result of these changes, ABS statistics also show that childcare costs to parents fell by over 20 per cent. Under the previous government families were also forced to wait until the end of each year to access their childcare rebate payment, something that we all remember. This put pressure on family budgets throughout the year, something that the Rudd government acted on. We promised it; we changed it, going to quarterly payments giving parents assistance closer to the time they incurred their childcare costs.

In addition to the childcare rebate, we also provided $8.4 billion over four years for low- and middle-income earners through the childcare benefit. This means we cover more than half of childcare costs for these families. In total, we will provide $14.4 billion over four years for parents through childcare benefit and childcare rebate. This is $8 billion more than the Howard government provided in childcare fees assistance in their last years. This is a commitment to childcare quality, to reducing costs and to helping Australian families. That is what the Gillard government stands for, and it is something we are proud of.

Question agreed to.
Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator HANSON-YOUNG (South Australia) (1.42 pm)—I move Greens amendment (1) on sheet 6120:

(1) Page 3 (after line 27), at the end of the bill, add:

Schedule 2—Periodic payments of child care rebate

Part 1—Amendments

A New Tax System (Family Assistance) Act 1999

1 Subdivision A of Division 4A of Part 4 (heading)

Repeal the heading, substitute:

Subdivision A—Child care rebate for a CCR period

2 Bulk amendments

The provisions listed in the table are amended by omitting “quarter” (wherever occurring) and substituting “CCR period”.

1 Subsection 57EA(1)
2 Subparagraph 57EA(1)(a)(ii)
3 Section 84AA
4 Method statement in section 84AA (each of steps 1 to 5)
5 Section 84AC
6 Paragraph 84AC(a)

Note 1: The heading to section 57EA is altered by omitting “quarter” and substituting “CCR period”.

Note 2: The heading to section 84AA is altered by omitting “quarter” and substituting “CCR period”.

A New Tax System (Family Assistance) (Administration) Act 1999

3 Subsection 3(1) (after the definition of CCB %)

Insert:

CCR period has the meaning given by section 65EAD.

4 Subdivision AA of Division 4AA of Part 3 (heading)

Repeal the heading, substitute:
Subdivision AA—Periodic payments of child care rebate

5 At the end of Subdivision AA of Division 4AA of Part 3
Add:
65EAD Meaning of CCR period
(1) Subject to subsection (2), the CCR period for an individual in respect of a child is a fortnight.
(2) The Secretary may determine, on application by an individual in the prescribed form, that the CCR period for the individual in respect of a child is a quarter.
(3) A determination under subsection (2) remains in force until the Secretary determines otherwise.
6 Paragraph 66(2)(ab)
Omit “quarterly”, substitute “periodic”.
7 Bulk amendments
The provisions listed in the table are amended by omitting “quarter” (whenever occurring) and substituting “CCR period”.

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Note 1: The heading to section 65EAA is altered by omitting “quarterly” and substituting “periodic”.

Note 2: The heading to subsection 65EAA(1) is altered by omitting “quarterly” and substituting “periodic”.

Note 3: The heading to section 65EAB is altered by omitting “quarterly” and substituting “periodic”.

Note 4: The heading to section 65EAC is altered by omitting “quarter” and substituting “period”.

Part 2—Application and transitional

8 Application
The amendments made by this Schedule apply in relation to care provided by an approved child care service to a child on or after 1 July 2010.

9 Transitional
The regulations may provide that the provisions of the A New Tax System (Family Assistance) (Administration) Act 1999 and the A New Tax System (Family Assistance) Act 1999 apply in a modified form for the purpose of the transition from a regime of quarterly payments to a regime of periodic payments (fortnightly, by default) as provided for by the amendments in this Schedule.

I spoke about this amendment in my speech in the second reading debate. This amendment will effectively allow parents to access the rebate in fortnightly payments, as opposed to having to wait until the end of every quarter, which of course is every three months. It is a way of trying to help them manage the increasing costs of child care. Other parenting payments and income support that the government pays is generally paid fortnightly. Of course, parents who use childcare do not have to wait until the end of every quarter until their fees are due. The fees have to be paid on a weekly or fortnightly basis. This is a way of helping parents budget for the increasing costs of child
care. The government is not being asked to put more money into the childcare rebate. It is simply about the way it is administered.

Senator FIFIELD (Victoria) (1.44 pm)—The coalition supports the Greens' amendment to change to fortnightly payments. I note that the infrastructure should already be in place, given that Centrelink already makes fortnightly payments. The Labor Party themselves committed to change to fortnightly payments, I think on page 6 of the Labor Party policy document, after the childcare management system was in place. But, although that is in place, the government have not moved to do so.

Senator FIELDING (Victoria—Leader of the Family First Party) (1.44 pm)—Family First support this amendment. It makes sense. Accessing the rebate in fortnightly payments would be an advantage for working families.

Senator ARBIB (New South Wales—Minister for Employment Participation and Minister Assisting the Prime Minister for Government Service Delivery) (1.45 pm)—As I said earlier, under the previous government the childcare rebate was paid annually. This placed a massive burden on families because of the long time lag between when bills were incurred and when payments were received. On coming into office we promised to pay the childcare rebate quarterly, and we have delivered on that.

Looking ahead, we will continue to monitor the childcare rebate system and listen to parents about how best we can help them manage childcare costs. We remain committed to delivering flexible and timely payments to parents. Our goal has always been to move to fortnightly payment of the childcare rebate to assist working families to meet the cost of care for their children. However, the mechanisms for the payment of the childcare rebate are complex. A further increase in the timeliness of CCR payments needs to be done through changes in third-party software being used by individual childcare providers. In addition, it would require significant changes to Centrelink systems.

The government has a responsibility to assess all these factors and other priorities in child care. We remain committed to our goal of decreasing the time lag in childcare rebate payments to parents but we do not support this amendment.

Question agreed to.

Bill, as amended, agreed to.

Bill reported with an amendment; report adopted.

Third Reading

Senator ARBIB (New South Wales—Minister for Employment Participation and Minister Assisting the Prime Minister for Government Service Delivery) (1.48 pm)—At the request of the Minister of Defence (Senator Faulkner), I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

DEFENCE LEGISLATION AMENDMENT (SECURITY OF DEFENCE PREMISES) BILL 2010

First Reading

Senator ARBIB (New South Wales— Minister for Employment Participation and Minister Assisting the Prime Minister for Government Service Delivery) (1.48 pm)—At the request of the Minister for Defence (Senator Faulkner), I move:

That the following bill be introduced: A Bill for an Act to amend the Defence Act 1903, and for related purposes.

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

Question agreed to.

Bill read a first time.

**Second Reading**

Senator ARBIB (New South Wales—Minister for Employment Participation and Minister Assisting the Prime Minister for Government Service Delivery) (1.49 pm)—I table the explanatory memorandum relating to the bill and move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

I am pleased to introduce the Defence Legislation Amendment (Security of Defence Premises) Bill 2010 (the Bill).

The Bill will insert a new Part (Part VIA) into the Defence Act 1903 (the Act) to give effect to Australian Government initiatives to enhance the security of Defence bases, facilities, assets and personnel, within Australia, in response to the changing nature of security threats.

As you would be aware, in August 2009 a number of individuals were arrested for allegedly planning an armed attack against Holsworthy Army Base. This highlighted the reality that the threat of terrorism in Australia is real and current, and Defence facilities and personnel are potentially attractive targets for terrorist groups.

Defence maintains a framework of protective security measures to safeguard defence people and facilities. This consists of a range of physical and personnel security measures, coupled with intelligence, to provide a layered response to mitigate threats. But in view of the changing security environment, and specifically the increased risk of terrorism, the Prime Minister asked the Chief of the Defence Force to conduct a comprehensive review of base security. The Review of Defence Protective Security Arrangements subsequently recommended a number of policy and physical security initiatives to complement and strengthen existing security at Defence bases.

One of the recommendations of the Review was to bring forward a number of legislative amendments, which are contained within this Bill. The measures reflect the fundamental importance the Government places on the safety and security of Australian Defence Force members, Defence employees and the Australian public.

In broad terms, the Bill introduces measures in three key areas:

- Firstly, it strengthens the legal regime for ADF members who may be required to use reasonable and necessary force in the event of a terrorist attack on a Defence base.
- Secondly, it establishes a statutory regime of search and seizure powers in order to reduce the risk of unauthorised items entering Defence facilities, or restricted items being improperly removed.
- And finally, it updates the existing trespass offence and associated arrest power in the Act to clarify that Defence has adequate powers to deal with unauthorised entry to all Defence premises.

Turning now to the specifics of the amendments.

A key recommendation of the Review was to clarify the legal issues around ADF members acting in self defence in the event of a no-warning armed attack on a Defence base. Australian law recognises the right to defend yourself and others who are threatened. This currently provides a legal basis for members of the ADF to use reasonable and necessary force to defend themselves, or others, in the event of a terrorist attack on a base. This amendment, however, will provide certainty as to the scope of conduct that would be authorised for designated ADF members, rather than having to refer to the various Commonwealth, State and Territory legislative provisions.

The Bill will clarify the regime for authorised members of the ADF to use up to and including...
lethal force, where this is considered reasonable and necessary to protect life or prevent serious injury to themselves or others in the event of an actual or imminent attack on Defence premises or people on those premises. It is modelled on the existing section 51T of the Act which applies to the use of force by ADF members in assisting civilian authorities with domestic security incidents and violence under Part IIIAAA.

I would also emphasise that the Bill does not alter the primacy of civil law enforcement authorities in responding to security incidents at Defence premises. A full response to a terrorist incident clearly remains the responsibility of civil law enforcement authorities, and would be managed under the National Counter Terrorism Plan if the attack resulted from terrorist activities.

Rather, this measure ensures that appropriately trained ADF members, who have been authorised by the Minister, are able to act immediately to defend themselves and others, particularly in the event of an attack that is preceded by little or no warning. The measure will utilise the skills and training of the ADF to minimise loss of life and serious injury until such time as the police are able to assume full control of the situation.

Turning now to the second key area addressed by the measures in the Bill: the introduction of a search and seizure regime.

Large numbers of people regularly flow in and out of Defence premises on a daily basis, including Australian Public Service (APS) employees of the Department, ADF members, contractors to Defence and visitors. This amendment will enhance the existing range of security measures Defence has in place to safeguard dangerous, restricted or classified items on Defence bases, and to reduce the risk that they are improperly removed. It will also reduce the risk of unauthorised items, particularly those that might threaten the safety of people, being brought on to Defence facilities. The Della-Vedova case, involving the theft, possession and sale of Defence owned rocket launchers by a Defence employee, illustrates these risks.

The amendments will establish a statutory regime of search and seizure powers to be exercised by three identified classes of Defence security officials, who will perform security functions at Defence facilities. These Defence security officials, identified in Division 2 of the Bill, will include:

- Defence contracted security guards;
- security authorised members of the Defence Force; and
- Defence security screening APS employees.

All three classes of Defence security officials will be empowered under Division 3 of the new Part to:

- request evidence of a person’s identification and authority to be on defence premises;
- conduct a consensual search of a person, vehicle, vessel, aircraft or item on entry to or exit from a Defence facility; and
- in defined circumstances, refuse a person entry to or free exit from the facility, and potentially restrain and detain the person for the purposes of placing them in the custody of the police.

The circumstances where these latter powers might be invoked include when the security official reasonably believes that the individual is a trespasser, has or may commit a criminal offence on the premises, or constitutes a threat to the safety of people on the facility.

Security authorised ADF members or, where such members are not available, Defence security screening APS employees will be further empowered under Divisions 4 and 5 of the Part, to:

- require evidence of a person’s identification and authority to be on the premises;
- conduct a non-consensual search of a person, vehicle, vessel, aircraft or item on entry to or exit from a Defence facility;
- seize items that constitute a threat to safety or relate to the commission of a criminal offence on the premises; and
- in defined circumstances, remove people from Defence premises.

The powers of security authorised ADF members will extend to include, where reasonable and necessary, the authority to take any action required to make a seized item safe, or prevent its use.

The statutory regime incorporates a range of safeguards relating to the exercise of powers un-
under the new Part. These safeguards require that officials exercising these powers must:

- have been authorised by the Minister for Defence;
- have completed a minimum level of appropriate training as determined by the Minister for Defence or his delegate;
- carry an identity card in a form approved by the Secretary of Defence;
- surrender their identity card within 7 days of ceasing to be a security official;
- wherever practicable produce their identity card for inspection by a person, prior to exercising powers under this new Part;
- not stop or restrict any protest, dissent, assembly or industrial action;
- not subject a person to greater indignity than is reasonable and necessary;
- only use such force against a person or thing that is reasonable and necessary;
- only restrain and detain for the purposes of handing a person over to the police; and
- in respect of seized items, provide the person with a receipt if it is practicable to do so and, if there is a reasonable belief that the item relates to a criminal offence, give the item to the police.

Moreover, for the purposes of the consensual search regime contained in Division 3, the amendments will create offences for a Defence security official who conducts a search of a person, vehicle, vessel, aircraft or thing, without consent.

In practice, the exercise of these powers and the proposed use of the various classes of Defence security official will be dependent on the nature of the site and the assessed level of the security threat, typically determined on the basis of intelligence. So, for example, in practice:

- The non-consensual identification, search and seizure powers, contained in Divisions 4 and 5, will be exercised by security authorised members of the Defence Force or, where such members are not reasonably available, by Defence security screening APS employees during higher threat levels on all Defence premises and, at all times, at Defence’s more sensitive sites. Under these circumstances, the powers would be exercised on a more frequent basis to provide an increased level of security in line with the assessed risk.

Clearly though, one of the most fundamental means to improve security at Defence bases is to deter unauthorised access to these sites. Consequently, the third key area of the amendments modernises the trespass offence and related arrest powers in section 82 of the Defence Act and relocates these measures in the proposed new Part to ensure these are recognised as an integral part of the proposed security regime.

The amendments preserve the areas that are presently covered by the trespass offence in section 82, including Defence aircraft and buildings used for accommodating any part of the Defence Force. In addition, they clarify that Defence has the power to deal with trespassers on naval vessels.

Currently, the Act only imposes a monetary penalty of $40 for the offence of trespass. Clearly, this is grossly inadequate and does not act as an effective deterrent to potential trespassers, nor does it reflect the seriousness of the offence or its potential impact on national security. Consequently, in line with current Commonwealth criminal law policy, the amendments impose a new maximum penalty of $5,500 for the offence of trespassing on Defence premises or accommodation.

As you might appreciate, Defence is the largest Commonwealth landowner and one of the largest landowners in Australia. The Department manages an estate comprised of in excess of 3 million hectares of land, around 88 major bases or facilities, approximately 370 owned properties and a further 350 under lease. The sheer magnitude of these holdings poses a major challenge to detecting trespassers, particularly if detection was to rely exclusively on the use of manned patrols.
Consequently, to support the enforcement of the new trespass offence, Defence intends to increase the use of optical surveillance on Defence premises, including vessels and aircraft, to improve the Department’s capacity to detect and apprehend potential trespassers. This might include video surveillance, such as Closed Circuit Television (CCTV).

Moreover, as the purpose of any surveillance activity undertaken by Defence would be to identify and deal with potential security threats, the Commonwealth needs to be able to rely on any images captured to assist intelligence agencies, and as evidence to support any action by law enforcement agencies and Commonwealth, State and Territory public prosecution authorities.

Consequently, the amendments will insert new provisions that:

• authorise Defence to use optical surveillance devices for the purposes of monitoring the security of Defence premises and the safety of people on those premises; and
• authorise Defence to disclose information, including personal information, captured by those devices to intelligence agencies, law enforcement agencies and Commonwealth, State and Territory public prosecution authorities for the purposes of carrying out their statutory functions.

In summary, this Bill confers a range of powers on designated Defence security officials to allow the ADF and the Department to deter, detect and respond to incidents that threaten the security of Defence bases, facilities, assets and personnel within Australia. It acknowledges the contemporary security environment, including the threat posed by terrorism, and clarifies the authority of authorised ADF members to defend themselves or others from death or serious injury in the event of a terrorist attack on a Defence base. It provides a statutory regime of search and seizure powers to reduce the risk of dangerous items entering Defence premises, or weapons or classified material being improperly removed. And, it strengthens the Department’s ability to detect and deal with trespassers. The Bill reflects the Australian Government’s commitment to protect the thousands of men and women who dutifully work to safeguard our nation, and the many more who work diligently to support them in this role.

I commend this Bill to the Parliament.

Ordered that further consideration of the second reading of this bill be adjourned to the first day of the next period of sittings, commencing on 24 August 2010.

PETITIONS

The Clerk—Petitions have been lodged for presentation as follows:

Parliamentary Triangle
To the Honourable President and members of the Senate in Parliament assembled:

The petition of the undersigned shows:

This petition draws the attention of the Australian Senate to the issue of paid parking in the Parliamentary Triangle in Canberra and the lack of investment in public transport following several rises in parking fees in the ACT.

Your petitioners request that the Senate:

We therefore ask the Senate to reject any plans to introduce paid parking into the Parliamentary Triangle at this time.

by Senator Humphries (from 1,919 citizens)

Mandatory Income Management
To the members of the House of Representatives and the Senate,

We reject the government proposal for mandatory income management for disadvantaged Australians. We have seen that mandatory income management in the Northern Territory has not improved the lives of Indigenous Australians but instead has discriminated against Indigenous Australians by taking away their power to control their finances. We do not want this measure extending to other Australians.

We call on the members of the House of representatives and the Senate to reject the government’s proposals for mandatory income management.

by Senator Siewert (from 173 citizens)

Petitions received.
NOTICES

Presentation

Senator Colbeck to move on the next day of sitting:


BUSINESS

Rearrangement

Senator ARBIB (New South Wales—Minister for Employment Participation and Minister Assisting the Prime Minister for Government Service Delivery) (1.51 pm)—I move:

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

(1) general business notice of motion no. 851 relating to Government service delivery; and
(2) orders of the day relating to government documents.

Question agreed to.

COMMITTEES

Rural and Regional Affairs and Transport References Committee

Extension of Time

Senator PARRY (Tasmania) (1.52 pm)—by leave—At the request of Senator Nash, Chair of the Rural and Regional Affairs and Transport Committee, I move:

That the time for the presentation of the report of the Rural and Regional Affairs and Transport References Committee on the management of aircraft noise by Airservices Australia be extended to 2 July 2010.

Question agreed to.

CHOICE OF REPAIRER BILL 2010

First Reading

Senator FIELDING (Victoria—Leader of the Family First Party) (1.53 pm)—I move:

That the following bill be introduced: A Bill for an Act to enhance customer choice in the repair and maintenance of motor vehicles, and for related purposes.

Question agreed to.

Senator FIELDING (Victoria—Leader of the Family First Party) (1.54 pm)—I present the bill and move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator FIELDING (Victoria—Leader of the Family First Party) (1.54 pm)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

Australians like choice.

We like to be able to choose where we buy our groceries, where we fill up our petrol, what shops we buy our clothes from and what restaurants we eat at.

Choice means better competition, and that means better prices for families.

The Choice of Repairer Bill is about delivering on that principle of choice and ensuring there is real choice in the automotive aftermarket industry.

At the moment there isn’t real choice and ordinary families are paying more than they have to do to get their car serviced or repaired.

As technology progresses, cars are becoming more and more “computers on wheels”.

Servicing a car no longer involves simply lifting up the bonnet and having a poke about or looking under the bottom of the car to make sure all the parts are in order, it also involves using expensive computer software to read and diagnose vehicle faults.
Without effective access to technical information, multi-brand diagnostic tools and test equipment, car repairers are unable to properly service and repair vehicles. Essentially, they are putting independent repairers out of business.

Vehicle manufacturers are aware of this and are making it harder and harder for independent repairers to get access to this data and these diagnostic tools.

Instead, what they are doing is handing this information over exclusively to their own car dealerships, and squeezing out the independent repairers from competition.

This practice is killing off competition across Australia and making it more expensive for ordinary Australians to get their car serviced and repaired, because it is forcing people to go to the manufacturer’s car dealerships, where the prices are generally much higher.

**It’s basic economics.**

Kill off the competition so there is more demand than supply and you can charge higher prices than before.

Australians are losing their choice over where they take their car to be serviced and repaired and are paying for it through their hip pocket.

Most Australians already hate taking their car in for a service because it always ends up costing more money than what is expected.

Now this price is becoming even higher and eating more into the family budget because of the shrinking competition in this sector.

There are somewhere between 12,000 – 14,000 independent repairers operating across Australia and together they employ approximately 300,000 people nationwide.

This number used to be higher, but due to the enormous difficulties in running a workshop without access to this technical data, this number has been steadily decreasing.

Figures show that between 2003 and 2007, the number of independent general repairers fell by 11%.

Workshops are closing down because many of them have limited or zero access to technical information for late model repair and maintenance.

Family businesses are being killed off around the country, because the big vehicle manufacturers are forcing ordinary Australians to go to their own dealerships if they want their car serviced properly.

It's highway robbery at its worst and should not be allowed to continue.

The Choice of Repairer Bill will help fix this unlevel playing field by making sure that independent repairers continue to have access to important technical information and diagnostic tools which are necessary for servicing vehicles.

This bill is designed to protect choice and competition in the vehicle repair, servicing, replacement parts and accessories sector by forcing the car manufacturers to hand over this technical information to all repairers, not just their own dealerships.

Any car manufacturer that doesn’t play by these rules will be in breach of the Trade Practices Act, the Act designed to ensure there is free and fair competition in the marketplace.

This means that any car owner will be able to choose whichever repairer they like to service their vehicle and won’t have their hands tied behind their back because only a few workshops have the technical data to properly service their car.

It will cut the additional costs which consumers are being slugged with because of a lack of competition in the automotive aftermarket industry.

Australians have one of the highest vehicle ownership rates anywhere in the world and we need to make sure that owning and operating a car continues to be affordable for all Australians.

This bill is important in particular for hundreds of thousands of Australians living in rural and regional areas who don’t have a wide range of choice of repairers, and in some cases may only have the one car workshop in the town.

At the moment, some people in the country are being forced to drive to the car dealership which is hundreds of kilometres away, just to get their car serviced. When they have a perfectly good independent repairer in their own town, who would be able to service their car if they had all the technical data at their disposal.
It turns what should be a quick exercise of dropping off your car at the local mechanic, into a whole day affair. It’s outrageous. Australians deserve free and fair competition and the big vehicle manufacturers shouldn’t be allowed to rip off families with their excessive prices.

In other parts of the world, legislation has been passed putting a stop to this car service and repair rip-off and it’s time Australia followed their lead. We’ve seen this in Canada, parts of the United States as well as the across Europe, where laws have put in place to force the car manufacturers to hand over their technical information to independent repairers.

Ordinary Australian motorists deserve the same protections that are available in other parts of the world and this bill should be passed without delay.

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

Leave granted.

PARLIAMENTARY BUDGET OFFICE BILL 2010

First Reading

Senator BARNETT (Tasmania) (1.54 pm)—I move:

That the following bill be introduced: A Bill for an Act to establish the Parliamentary Budget Office, and for related purposes.

Question agreed to.

Senator BARNETT (Tasmania) (1.55 pm)—I present the bill and move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator BARNETT (Tasmania) (1.56 pm)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

I rise today to introduce into the parliament a Bill for an Act to establish a Parliamentary Budget Office (PBO) and for related purposes.

The need for the PBO arises from the reckless and wasteful spending we have seen and continue to see from the Rudd Labor Government. Labor’s debt and deficits, questionable budget accounting assumptions, and billions of dollars in Government financial waste demonstrate the need for independent scrutiny. Labor has wasted billions of dollars under the Building the Education Revolution (BER) and Home Insulation Programs alone, to the shock and dismay of many hard working Australians.

For this reason the Coalition is introducing a package of two initiatives, including this Bill to establish the PBO and also a bill to strengthen the requirement for value for money to be achieved in the spending of Government funds. These initiatives were announced by the Leader of the Opposition, The Hon Tony Abbott MP in Canberra on 22 June, 2010.

The object of the Parliamentary Budget Office Act 2010 (the ‘Act’) is to establish an independent statutory office of Parliamentary Budget Officer to enhance transparency and accountability by providing objective and impartial advice and analysis on the Commonwealth budget and budget cycle, including the financial and economic impact of major policy announcements.

The establishment of a PBO will improve the quality of government spending. Greater scrutiny and transparency of Commonwealth Budgets will deliver better fiscal outcomes and will be an impediment to future Labor governments engaging in further reckless spending.

The method of appointing the Parliamentary Budget Officer is a unique feature of the bill and breaks new ground in terms of independence. A committee of senior government officials will make recommendations to the Presiding Officers of the parliament and their Deputies who will in turn make the final appointment, for an initial term of 5 years which can be renewed or ex-
The panel of senior government officials will include at least 3 of the following: the Ombudsman, the Auditor-General, the Governor of the Reserve Bank of Australia and the Secretary of the Treasury.

The Parliamentary Budget Officer would then have security of tenure for that period to further ensure the independence of the office.

The Parliamentary Budget Officer is accountable to the Parliament, not the Executive, and will put the legislature on a more equal footing with the Executive with regard to budget information and analysis. A Parliamentary Budget Office will serve both the majority and the minority and, by resolution of the Parliament, be asked to report to a nominated parliamentary committee or committees. It is envisaged that the PBO may be asked to appear before one committee of the Senate and one committee of the House.

The Parliamentary Budget Office will operate under an Operational Plan submitted to the Parliament and updated on a rolling basis. The Operational Plan will deal with a range of matters relating to the activities of the PBO including establishment, staffing, resourcing, frequency of reporting, scope of activities and related matters. The first Operational Plan will apply until 30 June 2013, followed by successive 3 year plans.

The Office will have a small, but highly trained staff, whose calibre will reflect the Office’s status as an independent body. It would also have the capacity to engage external service providers. The PBO will negotiate staffing and resources with the Minister for Finance as do other independent Government bodies within the Australian system, such as the Audit Office or the Commonwealth Ombudsman. It is expected that the PBO would have a budget in the order of $2 million in its first year (2010/11) for the purposes of establishing the office.

The Parliamentary Budget Officer will also be given significant flexibility to act as he or she sees fit. The PBO may inform him/herself on any matter and in any way, may consult with anyone he or she thinks fit, may receive written or oral information or submissions, may establish working groups and task forces and may request information from government departments and agencies.

The Coalition’s intention to establish an independent Parliamentary Budget Office was originally announced by former Leader of the Opposition, The Hon Malcolm Turnbull MP in his budget reply of 2009, and I had commenced work on this initiative in the lead up to that address. Our initiative to also address value for money in public spending was later added to this, leading up to Mr Abbott’s announcements on June 22. In establishing this body, the Coalition is moving with a growing trend around the world to increase independent oversight of public finances. The Congressional Budget Office established in the United States in 1975, the Office of Budget Responsibility currently being established in the United Kingdom and the Parliamentary Budget Office established in Canada are notable examples. Having worked in Washington, D.C. myself, I have seen the Congressional Budget Office in operation, and am convinced that such a concept, albeit on a smaller scale, is an important step forward in this country.

As an independent officer of the parliament, properly resourced and with appropriate flexibility, the Parliamentary Budget Officer will contribute greatly to a better-informed debate about fiscal policy and the consequences of government decision making, and will therefore help to deliver better outcomes. It is the Coalition’s belief that this initiative will, over time, improve the quality of Government spending regardless of who holds the reins of power, thus ensuring that all Australians get better value for money and restoring public confidence in the budget and budget process.

No future government will be able to spend taxpayers’ money without greater fiscal and legal scrutiny. Governments will not always like additional scrutiny and accountability, but given the reckless, wasteful and irresponsible spending of the Rudd Labor Government over the past two and a half years, the Coalition believes this initiative is timely and urgently needed.

I commend the Bill to the Senate.

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

Leave granted.
FINANCIAL MANAGEMENT AND ACCOUNTABILITY AMENDMENT (VALUE FOR MONEY IN GOVERNMENT SPENDING) BILL 2010

First Reading

Senator BARNETT (Tasmania) (1.57 pm)—I move:

That the following bill be introduced: A Bill for an Act to amend the Financial Management and Accountability Act 1997 to ensure value for money in the use of Commonwealth resources, and for related purposes.

Question agreed to.

Senator BARNETT (Tasmania) (1.57 pm)—I present the bill and move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator BARNETT (Tasmania) (1.57 pm)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

I rise today to introduce into the parliament a Bill for an Act to amend the Financial Management and Accountability Act (1997) to ensure value for money in the use of Commonwealth resources, and for related purposes.

Australians have had enough of the Labor Government’s wasteful and reckless spending. Labor’s pink batts insulation fiasco and Building the Education Revolution (BER) programmes alone have already wasted billions of taxpayers’ dollars, to the shock and dismay of many hard working Australians. This Government has consistently failed to deliver on its promises, has consistently failed on program delivery, and has consistently failed to deliver value for money in the spending of taxpayers’ funds.

Value for money is a highly subjective term which is useful to bring flexibility in normal circumstances. However, this flexibility as administered by Labor is leading to waste, debt and higher taxes, upward pressure on interest rates and increased cost of living for all Australians. Under Labor, the current procurement regime does not offer sufficient protection for taxpayers money, though I note it worked well under the previous Coalition Government.

The responsible stewardship of public money is a duty central to good government and is at the heart of Liberal philosophy. Inherent to this principle is a parallel commitment to avoid the waste of public money.

When last in office, the Coalition implemented far reaching reforms to public spending and procurement, notably introducing the Financial Management and Accountability Act and the Commonwealth Procurement Guidelines. The rigor these changes brought and the principle of ‘value for money’ allowed wasteful spending to be contained, and was a key to the Coalition paying back Labor’s $96 billion debt.

The current Labor Government would also claim to be committed to the principles of sound economic management. ‘Kevin 07’ claimed to be an ‘economic conservative’ and kept saying ‘me too’. There was also the posturing and bravado of Lindsay Tanner’s ‘Razor Gangs’ – all trying to create a contrast with the Howard government which they attempted to label as reckless and wasteful.

However, the Rudd Labor Government has already racked up a record of wasteful spending in the order of $4 billion. Examples such as GROCERYchoice, laptops in schools, record spending on consultants and legal fees and wasted tax bonus payments have all contributed. Labor’s waste and mismanagement has seen public money thrown completely to the wind or programs costing far more than they should have.

In response to this the Coalition is introducing a package of two initiatives, including this Bill to strengthen the requirement that value for money be considered in the spending of Commonwealth resources and a Bill to establish a Parliamentary Budget Office similar to the Congressional Budget Office in the United States, but on a
smaller scale, to provide better oversight of government spending. These initiatives were announced by the Leader of the Opposition, The Hon Tony Abbott MP in Canberra on 22 June, 2010. If elected, the Coalition will also add achieving ‘value for money’ to the criteria against which senior officials’ performance is judged.

The spending of public monies is regulated by the Financial Management and Accountability Act (1997) and its regulations. Section 44(3) of the act requires Agency Chief Executives to promote ‘proper use’ of Commonwealth resources. ‘Proper use’ means ‘...efficient, effective and ethical use that is not inconsistent with the policies of the Commonwealth. The principal of value for money is not included directly in the legislation but rather is the core principle of procurement introduced in the Commonwealth Procurement Guidelines which are made under the regulations to the act. Therefore, achieving value for money is not currently a formally binding legislative obligation.

This Bill adds value for money to the definition in Section 44(3) of the Act. This addition will strengthen the obligation on governments to seek value for money when spending public funds and places a more explicit obligation on Agency Chief Executives to promote such spending within their Agencies.

It is the Coalition’s belief that this two part package will improve transparency and accountability in government spending and be an impediment to future Labor governments engaging in further reckless spending. This initiative will, over time, improve the quality of Government spending regardless of who holds the reins of power, thus ensuring that all Australians get better value for money and restoring public confidence in Government procurement and spending.

This Bill and the establishment of the Parliamentary Budget Office will ensure that no future government will be able to spend taxpayers’ money without greater fiscal and legal scrutiny. Governments will not always like additional scrutiny and accountability, but given the reckless, wasteful and irresponsible spending of the current Labor Government over the past two and a half years, the Coalition believes this initiative is timely and urgently needed.

I commend the Bill to the Senate.

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

Leave granted.

COMMITTEES
Finance and Public Administration
References Committee

Reference

Senator RYAN (Victoria) (1.58 pm)—I move:

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 BOB BROWN (Tasmania—Leader of the Australian Greens) (1.58 pm)—I seek leave to move an amendment to the motion as circulated in the chamber.

Leave granted.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (1.58 pm)—I move:

At the end of the motion, add:

(e) the potential implications of the cut of 12,000 Commonwealth jobs over 2 years, as announced as policy by the Leader of the Opposition in his budget reply speech.

Question agreed to.
The DEPUTY PRESIDENT—The question now is that Senator Ryan’s motion, as amended, be agreed to.

Senator RYAN (Victoria) (1.59 pm)—Mr Deputy President, did you declare the amendment to the motion carried?

The DEPUTY PRESIDENT—Yes, I did.

Senator RYAN—Mr Deputy President, I do not know how to appropriately express this, but perhaps the matter should be reconsidered. I do not think the amendment itself was carried.

Senator PARRY (Tasmania) (1.59 pm)—by leave—Mr Deputy President, could we commence that notice of motion again. There was a lot of noise in the chamber with senators entering. I think it would be fair to Senator Ryan and Senator Brown if the motion was put again.

The DEPUTY PRESIDENT—The question now is that Senator Brown’s amendment be agreed to.

A division having being called and the bells being rung—

The DEPUTY PRESIDENT—Mr President, on a point of order, as it is time for the start of question of time, could I suggest we defer debate and the vote on this resolution and consider it again following taking note at the end of question time? I suggest this as a way of assisting the chamber and making sure that people are clear what is happening.

Leave granted; debate adjourned.

MINISTERIAL ARRANGEMENTS

Senator CHRIS EVANS (Western Australia—Leader of the Government in the Senate) (2.01 pm)—This morning, the Hon. Julia Gillard MP was elected as leader of the parliamentary Labor Party. She was subsequently sworn in by the Governor-General as Prime Minister. The Hon. Wayne Swan MP has been elected as the deputy leader, and he will be the Deputy Prime Minister. I table for the information of the Senate a revised ministry list reflecting those events and I seek leave to have the document incorporated into Hansard.

Leave granted.

The document read as follows—

<table>
<thead>
<tr>
<th>Title</th>
<th>Minister</th>
<th>Other Chamber</th>
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<tbody>
<tr>
<td>Prime Minister</td>
<td>The Hon Julia Gillard MP</td>
<td>Senator the Hon Chris Evans</td>
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<tr>
<td>Cabinet Secretary</td>
<td>Senator the Hon Joe Ludwig</td>
<td>The Hon Lindsay Tanner MP</td>
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<tr>
<td>Minister Assisting the Prime Minister for Government Service Delivery</td>
<td>Senator the Hon Mark Arbib</td>
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<td>Parliamentary Secretary</td>
<td>The Hon Anthony Byrne MP</td>
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<tr>
<td>Minister for Education</td>
<td>The Hon Julia Gillard MP</td>
<td>Senator the Hon Kim Carr</td>
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<td>Minister for Employment and Workplace Relations</td>
<td>The Hon Julia Gillard MP</td>
<td>Senator the Hon Mark Arbib</td>
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<td>Minister for Social Inclusion</td>
<td>The Hon Julia Gillard MP</td>
<td>Senator the Hon Mark Arbib</td>
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<tr>
<td>Minister for Early Childhood Education, Childcare and Youth</td>
<td>The Hon Kate Ellis MP</td>
<td>Senator the Hon Mark Arbib</td>
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<tr>
<td>Minister for Employment Participation</td>
<td>Senator the Hon Mark Arbib</td>
<td>The Hon Julia Gillard MP</td>
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<tr>
<td>Parliamentary Secretary for Social Inclusion</td>
<td>Senator the Hon Ursula Stephens</td>
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<tr>
<td>Parliamentary Secretary for Employment</td>
<td>The Hon Jason Clare MP</td>
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<tr>
<td>Treasurer (Deputy Prime Minister)</td>
<td>The Hon Wayne Swan MP</td>
<td>Senator the Hon Nick Sherry</td>
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<td>Title</td>
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<tr>
<td>Minister for Population</td>
<td>The Hon Tony Burke MP</td>
<td>Senator the Hon Nick Sherry</td>
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<tr>
<td>Minister for Financial Services, Superannuation and Corporate Law</td>
<td>The Hon Chris Bowen MP</td>
<td>Senator the Hon Nick Sherry</td>
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<tr>
<td>Minister for Competition Policy and Consumer Affairs</td>
<td>The Hon Dr Craig Emerson MP</td>
<td>Senator the Hon Nick Sherry</td>
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<tr>
<td>Assistant Treasurer</td>
<td>Senator the Hon Nick Sherry</td>
<td>The Hon Wayne Swan MP</td>
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<tr>
<td>Minister for Immigration and Citizenship (Leader of the Government in the Senate)</td>
<td>Senator the Hon Chris Evans</td>
<td>The Hon Robert McClelland MP</td>
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<tr>
<td>Parliamentary Secretary for Multicultural Affairs and Settlement Services</td>
<td>The Hon Laurie Ferguson MP</td>
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<tr>
<td>Minister for Defence (Vice President of the Executive Council)</td>
<td>Senator the Hon John Faulkner</td>
<td>The Hon Greg Combet AM MP</td>
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<td>Minister for Defence Personnel</td>
<td>The Hon Alan Griffin MP</td>
<td>Senator the Hon John Faulkner</td>
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<td>Minister for Defence Materiel and Science</td>
<td>The Hon Greg Combet AM MP</td>
<td>Senator the Hon John Faulkner</td>
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<td>Parliamentary Secretary for Defence Support</td>
<td>The Hon Dr Mike Kelly AM MP</td>
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<tr>
<td>Minister for Trade</td>
<td>The Hon Simon Crean MP</td>
<td>Senator the Hon Kim Carr</td>
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<tr>
<td>Parliamentary Secretary for Trade</td>
<td>The Hon Anthony Byrne MP</td>
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<td>Minister for Foreign Affairs</td>
<td>The Hon Stephen Smith MP</td>
<td>Senator the Hon John Faulkner</td>
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<td>Parliamentary Secretary for International Development Assistance</td>
<td>The Hon Bob McMullan MP</td>
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<tr>
<td>Minister for Health and Ageing</td>
<td>The Hon Nicola Roxon MP</td>
<td>Senator the Hon Joe Ludwig</td>
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<td>Minister for Indigenous Health, Rural and Regional Health and Regional Services Delivery</td>
<td>The Hon Warren Snowdon MP</td>
<td>Senator the Hon Joe Ludwig</td>
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<tr>
<td>Minister for Ageing</td>
<td>The Hon Justine Elliot MP</td>
<td>Senator the Hon Joe Ludwig</td>
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<td>Music for Sport</td>
<td>The Hon Kate Ellis MP</td>
<td>Senator the Hon Mark Arbib</td>
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<td>Parliamentary Secretary for Health</td>
<td>The Hon Mark Butler MP</td>
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<tr>
<td>Minister for Families, Housing, Community Services and Indigenous Affairs</td>
<td>The Hon Jenny Macklin MP</td>
<td>Senator the Hon Chris Evans</td>
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<td>Minister for Housing</td>
<td>The Hon Tanya Plibersek MP</td>
<td>Senator the Hon Chris Evans</td>
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<td>Parliamentary Secretary for Disabilities and Children’s Services</td>
<td>The Hon Tanya Plibersek MP</td>
<td>Senator the Hon Penny Wong</td>
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<td>Parliamentary Secretary for Victorian Bushfire Reconstruction</td>
<td>The Hon Bill Shorten MP</td>
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<tr>
<td>Parliamentary Secretary for the Voluntary Sector</td>
<td>Senator the Hon Ursula Stephens</td>
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<tr>
<td>Minister for Finance and Deregulation</td>
<td>The Hon Lindsay Tanner MP</td>
<td>Senator the Hon Stephen Conroy</td>
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<tr>
<td>Special Minister of State</td>
<td>Senator the Hon Joe Ludwig</td>
<td>The Hon Lindsay Tanner MP</td>
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<tr>
<td>Minister Assisting the Finance Minister on Deregulation</td>
<td>The Hon Dr Craig Emerson MP</td>
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<tr>
<td>Minister for Infrastructure, Transport, Regional Development and Local Government (Leader of the House)</td>
<td>The Hon Anthony Albanese MP</td>
<td>Senator the Hon Stephen Conroy</td>
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<tr>
<td>Parliamentary Secretary for Infrastructure, Transport, Regional Development and Local Government</td>
<td>The Hon Maxine McKew MP</td>
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<td>Title</td>
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<tr>
<td>Parliamentary Secretary for Western and Northern Australia</td>
<td>The Hon Gary Gray AO MP</td>
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<tr>
<td>Minister for Broadband, Communications and the Digital Economy</td>
<td>Senator the Hon Stephen Conroy</td>
<td>The Hon Anthony Albanese MP</td>
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<tr>
<td>(Deputy Leader of the Government in the Senate)</td>
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<tr>
<td>Minister for Innovation, Industry, Science and Research</td>
<td>Senator the Hon Kim Carr</td>
<td>The Hon Dr Craig Emerson MP</td>
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<tr>
<td>Minister for Small Business, Independent Contractors and the Service</td>
<td>The Hon Dr Craig Emerson MP</td>
<td>The Hon Dr Craig Emerson MP (Research)</td>
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<td>Economy</td>
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<tr>
<td>Parliamentary Secretary for Innovation and Industry</td>
<td>The Hon Richard Marles MP</td>
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<tr>
<td>Minister for Climate Change, Energy Efficiency and Water</td>
<td>Senator the Hon Penny Wong</td>
<td>The Hon Greg Combet AM MP</td>
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<tr>
<td>Minister Assisting the Minister for Climate Change and Energy</td>
<td>The Hon Greg Combet AM MP</td>
<td>The Hon Peter Garrett AM MP</td>
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<td>Efficiency and Water</td>
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<td>(Water)</td>
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<tr>
<td>Minister for Environment Protection, Heritage, and the Arts</td>
<td>The Hon Peter Garrett AM MP</td>
<td>Senator the Hon Penny Wong</td>
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<td>Parliamentary Secretary for Water</td>
<td>The Hon Dr Mike Kelly AM MP</td>
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<td>Attorney-General</td>
<td>The Hon Robert McClelland MP</td>
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<td>Minister for Home Affairs</td>
<td>The Hon Brendan O’Connor MP</td>
<td>Senator the Hon Penny Wong</td>
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<td>Minister for Agriculture, Fisheries and Forestry</td>
<td>The Hon Tony Burke MP</td>
<td>Senator the Hon Nick Sherry</td>
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<tr>
<td>Minister for Resources and Energy</td>
<td>The Hon Martin Ferguson AM MP</td>
<td>Senator the Hon Kim Carr</td>
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<td>Minister for Tourism</td>
<td>The Hon Martin Ferguson AM MP</td>
<td>Senator the Hon Penny Wong</td>
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<tr>
<td>Minister for Human Services</td>
<td>The Hon Chris Bowen MP</td>
<td>Senator the Hon Joe Ludwig</td>
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</tbody>
</table>

Each box represents a portfolio. **Cabinet Ministers are shown in bold type.** As a general rule, there is one department in each portfolio. However, there is a Department of Veterans’ Affairs in the Defence portfolio. The title of a department does not necessarily reflect the title of a minister in all cases.

**QUESTIONS WITHOUT NOTICE**

**Budget**

**Senator ABETZ (2.02 pm)—**My question is to the Minister representing the current Prime Minister. Does the current Prime Minister stand by Senator Evans’s claim that the Labor government’s great big new tax on mining, as currently proposed, is a good thing which will encourage the mining sector to grow?

**Senator CHRIS EVANS—**I thank Senator Abetz for the question. As Senator Abetz and all other senators understand, the government has proposed a tax on super profits in the mining industry. That has been the subject of great public debate and is currently the subject of a consultative process with the mining industry regarding implementation of those new taxation arrangements. It is the case that the Labor government believe that we should get a fairer share
from our non-renewable resources, which of course can only be dug up once. We think it is appropriate that mining companies pay a greater share of tax on the profits they make from the use of those Australian resources. But it is also the case that the new Prime Minister, Julia Gillard, made it clear in her opening remarks at the press conference following her election that she was very keen to open the door to the mining industry and asked the mining companies to open their minds. She, if you like, laid down an olive branch in terms of the debate between the government and the industry. As a sign of goodwill, the government is taking action today to cease its information campaign as soon as possible. The Prime Minister, Ms Gillard, also asked that the mining companies cease their campaign, also as a sign of goodwill. I understand from news reports that I have recently seen that BHP have indicated that they will be suspending their ad campaign as an act of goodwill, so I think that is a positive development. I thank BHP for their indication, and I am sure the Prime Minister will engage constructively with the mining industry in these negotiations.

Senator ABETZ—Mr President, I ask a supplementary question. Does the current Prime Minister now agree that the $38 million taxpayer funded advertising campaign in support of the ill-conceived great big new tax on mining was a gross waste of money? If so, why did she, as part of the so-called gang of four, approve of this advertising in the first place?

Senator CHRISt EVANS—I think the opposition continue to show their irrelevance to public debate in this country. The Prime Minister—

Honourable senators interjecting—

The PRESIDENT—Senator Evans, resume your seat. When there is silence we will proceed.

Senator CHRISt EVANS—It was very clear in her first press conference following her election by the Labor Party caucus to high office that the Prime Minister is prepared to negotiate with the mining industry and to open a constructive dialogue with them. As I said, in effect, she offered an olive branch by saying the government was prepared to suspend its information campaign as soon as possible. It is interesting that BHP has already taken up that constructive offer and has responded constructively by suspending their campaign. So I think these are good signs that the offer by Prime Minister Gillard is being treated seriously by the companies. (Time expired)
Broadband

Senator CROSSIN (2.07 pm)—My question is to the Minister for Broadband, Communications and the Digital Economy—

Opposition senators interjecting—

The PRESIDENT—Senator Crossin, resume your seat. I need to hear the question. When there is silence, we will proceed.

Senator CROSSIN—I am disappointed the other side is not so happy today.

The PRESIDENT—Just the question.

Senator CROSSIN—My question is to the Minister for Broadband, Communications and the Digital Economy, Senator Conroy. With the announcement of NBN Co. and Telstra having entered into a heads of agreement for the rollout of the National Broadband Network—

Opposition senators interjecting—

The PRESIDENT—Senator Crossin, resume your seat. Now you may continue.

Senator CROSSIN—I will start again. With the announcement that the NBN Co. and Telstra have entered into a heads of agreement for the rollout of the National Broadband Network, can the minister explain why the rollout of affordable, high-speed broadband to every home, business, school and hospital in this country is so important to Australia’s economy?

Senator CONROY—I thank Senator Crossin for her ongoing interest in this area. The National Broadband Network will ensure that Australians, no matter where they live or work, will have access to affordable, high-speed broadband. The NBN is a critical nation-building project that will set our economy up for future growth and productivity. It will support massive opportunities to drive market efficiencies and create jobs. It will transform service delivery in the areas of health and education, and it will create small business opportunities around the country. It will connect our regional towns and communities to our cities and the wider world in real time, helping to overcome the tyranny of distance.

The rollout is already well underway. The first live services will start in Tasmania in just a few short weeks. The rollout of 6,000 kilometres of fibre-optic backbone links to 100 regional locations around Australia—including Darwin, Emerald, Longreach, Mount Isa, Geraldton, Victor Harbor, Broken Hill and south-west Gippsland—is progressing on track, with over 800 kilometres of fibre already laid.

NBN Co. has announced its first five release sites on mainland Australia, which will be rolled out in the second half of this year. The historic announcement of a heads of agreement between Telstra and the NBN Co., combined with policy reform—

(Time expired)

Senator CROSSIN—Mr President, I ask a supplementary question. This is excellent news for the people in Darwin and the seat of Solomon. How will universal and affordable high-speed broadband help small businesses around the country improve their competitiveness both nationally and on the global stage?

Senator CONROY—The NBN will underpin Australia’s digital economy. It is essential for Australia’s productivity, global competitiveness and improved social wellbeing. Always being on high-speed, ubiquitous broadband will allow Australian small businesses to become more efficient, to open up new markets for growth and also to protect their existing businesses from the increasing customer preference to do business online. The Australian Industry Group has recognised that where Australian businesses fail to provide an ability to buy online traditional retailers are disenfranchising Australian consumers, especially those in remote areas.
And all of this is threatened by the small-minded, backward-looking approach of those opposite, who have said they will shut down the NBN if elected— (Time expired)

Honourable senators interjecting—

The PRESIDENT—Order! Wait a minute, Senator Crossin. You will get the call when there is silence. When there is silence on both sides, we will proceed. I need silence on both sides so I can ask Senator Crossin to ask her further supplementary question.

Senator CROSSIN—Mr President, I ask a further supplementary question. Finally, how will the high-speed broadband open up new opportunities in the delivery of health services?

Senator CONROY—The NBN will open up a world of possibilities in the delivery of healthcare services. People will have the opportunity, particularly in regional and rural Australia, to receive the best specialist health care regardless of where they live. Doctors in rural and remote locations will be able to access the best training and the most up-to-date information. For in-home care it will enable patients to remain in their homes, improving their quality of life and freeing up hospital beds for the very ill. Importantly, internationally renowned software company iSOFT predicts the NBN could pay for itself twice over just from the e-health benefits.

But, as the Age pointed out earlier this week, a grasp of how the NBN might transform life, including health delivery, seems to have eluded Tony Abbott, who plans to shut down the NBN and has no alternative policy— (Time expired)

Asylum Seekers

Senator BRANDIS (2.14 pm)—My question is to the Minister for Immigration and Citizenship, Senator Evans. Is the minister aware of reports that the motor vessel Sun Sea carrying a number of potential unlawful entrants is en route to Australia? Given the suspected links between this vessel and an organised Tamil Tiger people-smuggling operation, can the minister assure the Australian people, particularly in view of those concerns, that the motor vessel Sun Sea will not be allowed to enter Australian waters?

Senator CHRIS EVANS—I thank Senator Brandis for the question. As I made clear to the opposition the other day when I had a similar question, I will not of course be discussing in the Senate any advice we get from intelligence or defence sources about potential people-smuggling or other ventures. So, when he asks me about an alleged venture on a particular boat that may or may not involve a people-smuggling operation and may or may not have connections with the Tamil Tigers, I clearly am not able to assist him in discussing any of those issues publicly. But what I can say is that if a vessel containing people seeking asylum or people who enter unlawfully does arrive that boat will be intercepted, the persons will be interviewed, those seeking asylum will be taken into detention—

Honourable senators interjecting—

The PRESIDENT—Senator Evans, resume your seat. Senator Fifield! Senator Cameron! When there is silence we will proceed. Senator Evans, continue.

Senator CHRIS EVANS—As I was saying, any persons detected entering Australian waters unlawfully will be detained. Those seeking asylum will be mandatorily detained and taken to Christmas Island. They will remain in mandatory detention until such time as they have completed health, identity and security checks and before their asylum claims are considered and determined. All persons will be interviewed by our security agencies and any suggestions of activity involving terrorist or criminal organisations will be investigated and examined. As I say,
no-one would be granted asylum or moved to the mainland if the security agencies had security concerns about those persons.

Senator BRANDIS—Mr President, I ask a supplementary question. Is the minister aware that another boat arrived at Flying Fish Cove near Christmas Island yesterday? Doesn’t the fact that boats carrying suspected illegal asylum seekers continuing to arrive on our shores demonstrate that Labor has lost control of our borders? Does the minister agree with the current Prime Minister, Ms Gillard, when as opposition spokesperson on immigration she said that another boat is another policy failure?

Senator CHRIS EVANS—I can confirm that we had a boat arrival yesterday at Christmas Island. As the senator would understand, Christmas Island is a very long way from the mainland of Australia, but we have had a number of boats seek to land there.

Senator Ian Macdonald—It is part of Australia, you know!

Senator CHRIS EVANS—It is very much part of Australia, Senator. I would remind him that under the previous government there were 31 undetected arrivals during their term of office, which also includes arrivals that pulled up at Cairns, Sydney, Broome and Port Kembla. There has been only one arrival on the mainland under this government, which was a Sri Lankan fishing vessel with people on board who were returned to Sri Lanka after having their asylum claims assessed. I remind the senator that under his government there was a large number of mainland arrivals as people sought asylum in this country. It is the case that we have had a number of boats arrive at Christmas Island. (Time expired)

Asylum Seekers

Senator HANSON-YOUNG (2.20 pm)—My question is to the Minister representing the Prime Minister, Senator Evans. Firstly, I congratulate the government on the appointment of the first female Prime Minister of Australia. I think it is a historic day.

Senator Ian Macdonald—When are the Greens going to appoint a female leader?

The PRESIDENT—Order! Just ask the question, Senator Hanson-Young. Ignore the interjections. When there is silence we will proceed.

Senator HANSON-YOUNG—Given that this is the last parliamentary sitting day before the three-month suspension of claims
for asylum by Sri Lankan nationals is up, I ask the Minister whether under this new leadership the government will lift the suspension on 9 July or seek to extend it.

Senator CHRIS EVANS—I thank Senator Hanson-Young for the question and I thank her for her congratulations to the new Prime Minister. I hope that Senator Brown is not worried by this upsurge in female participation and leadership in the parliament. Can I say in answer to the—

Senator Bob Brown—Mr President, I raise a point of order. Can I reassure the minister he has no worries—

The PRESIDENT—There is no point of order, Senator Bob Brown.

Senator Bob Brown—and from the party with a majority of women in this parliament—

The PRESIDENT—Senator, there is no point of order. Senator Evans, continue.

Senator CHRIS EVANS—I hope that was not a sign of sensitivity; I hope I have not hit a nerve, Senator Brown. I do appreciate the congratulations and I will pass them on to the Prime Minister.

The substance of the question is what the government will do in terms of its asylum pause on persons arriving from Sri Lanka as unauthorised boat arrivals. As I have indicated publicly, both then and subsequently, the three-month pause is due to be reviewed no later than 8 July. The cabinet will consider the effect of the pause and other advice relating to unauthorised boat arrivals from Sri Lanka and other advice about developments inside Sri Lanka, particularly in terms of the treatment of those of Tamil ethnicity and whether or not conditions are improving for those persons and whether that might be impacting on asylum claims from those Tamils who have been resident in Sri Lanka. That decision in terms of the suspension will be taken by the cabinet. As I say, the deadline for review is 8 July. The cabinet will make that decision. We will consider all that information in making that decision. So I just assure the senator that the review will occur as indicated at the time of the announcements.

Senator HANSON-YOUNG—Mr President, I ask a supplementary question. I thank the minister for his answer. Given the new Prime Minister has acknowledged that a number of election commitments have not been met, does the minister now accept that the suspension policy is a breach of the commitment to detention as a last resort?

Senator CHRIS EVANS—Simply, no. That is not the case at all. You ought to read the policy more carefully because you will note that the first point in our detention policy is a commitment to the mandatory detention of unauthorised boat arrivals. I know you do not support that policy, but that is the policy we took to the election. It is a policy we have continued to implement as a government. We mandatorily detain all unauthorised arrivals for the purposes of identity, security and health checks. We allow people to have their claims assessed against the refugee convention if they seek to make those claims. So those election commitments have been honoured and will continue to be honoured. As I said, I think you misread the commitments we made. We have made it very clear that we maintain a strong commitment to mandatory detention of unauthorised arrivals.

Senator HANSON-YOUNG—Mr President, I ask a further supplementary question. Given the new Prime Minister has acknowledged that a number of election commitments have not been met, does the minister now accept that the suspension policy is in breach of a promise to end indefinite detention and the detention of children?
Senator CHRIS EVANS—Again, no, Senator. I just do not think there is any logical connection between the statements you make. What we announced was that we would pause the consideration of asylum claims for three months and six months for Sri Lankan and Afghan arrivals respectively. They will still have their claims assessed against the refugee convention. What we know is that country information from both countries is changing. There are a number of reports due which will give us a better insight into changing conditions. What I can say is that, of those claims currently being considered, we have seen a large increase in rejections particularly of Afghans but also of Sri Lankans who have been found not to be refugees. They are subject to appeal decisions. We have got a formal review process. Children continue to be treated appropriately by this government and not put in detention centres. It is a policy decision that we took and that we have honoured.

Building the Education Revolution Program

Senator MASON (2.26 pm)—My question without notice is to Senator Carr, the Minister representing the Minister for Education. Given the head of the BER Implementation Taskforce, Mr Brad Orgill, has embarrassed Ms Gillard by recommending something she should have done a long time ago—that is, withhold the next $75 million instalment to the New South Wales government on account of a history of botched projects—will the minister also now accept that Ms Gillard’s implementation and oversight of this program have been a shambles and wasted billions of dollars of taxpayers’ money?

Honourable senators interjecting—

The PRESIDENT—Order! The time for debating this is at the end of question time.

Senator CARR—Senator Mason has been kind enough to ask me about why this is such a wonderful program and about the $63.7 billion that is being spent on school education from 2009 to 2012 compared to the $33.5 million that the previous government invested over a three-year period. So there has been a doubling in expenditure on Australian students, Australian schools, and you have the audacity to say that this is a waste of money. What we do know is that the Liberal Party is very anxious to assault opportunities for children and schools in Australia and is in the business of actually withdrawing support from Australian schools.

Senator Mason—Mr President, I raise a point of order. I rarely take points of order because I enjoy the theatre, but today the question was about the implementation of the BER, not about school funding.

Honourable senators interjecting—

The PRESIDENT—Order! On both sides, interjecting is disorderly.

Senator Ludwig—Mr President, on the point of order, the minister was being relevant. I can only assume that was the point of order being taken because unfortunately Senator Mason, although he loves theatre, seemed to be more interested in that than in question time. When raising a point of order, the issue should be raised as to what the point of order is—whether it is on relevance—and we should then go to the issue. In this instance, Senator Mason did not go to the issue. I humbly ask you to point out that it is not a point of order and should be ruled accordingly.

The PRESIDENT—Senator Carr, I draw your attention to the question. You have one minute and five seconds remaining to answer the question.

Senator CARR—What we are being asked to comment upon is the fact that this government has insisted upon value for
money in the BER program. This government expects education authorities and their building contractors to ensure that there is value for money for taxpayers and for school communities when delivering the BER program.

What has occurred is that a $75 million funding instalment for the Primary Schools for the 21st Century program has been withheld from the New South Wales government while claims of waste in state school projects are investigated. The Minister for Education and Training in New South Wales, Ms Verity Firth, has advised that part of the scheduled payments in July will be withheld. The government is aware that Minister Firth—

**Opposition senators interjecting**—

**Government senators interjecting**—

**The PRESIDENT**—Although there are only a few seconds remaining, it is very difficult to listen to the answer that is being given when people are constantly interjecting across the chamber. It is completely disorderly.

**Senator CARR**—Minister Firth has withheld moneys to a particular—(Time expired)

**Senator MASON**—Mr President, I ask a supplementary question. Is the minister aware that Mr Orgill also recommended that Ms Gillard stop dragging her feet and stop the Victorian state Labor government from stalling the provision of vital BER data to the Commonwealth? Can the minister therefore confirm that he and Ms Gillard have not even been able to obtain the cooperation of their own home state in the delivery and implementation of this program?

**Senator CARR**—Senator Mason would be aware that the government has insisted upon value for money in the operations of the BER program. The establishment of the BER Implementation Taskforce has been put in place precisely for this point. This is an additional measure to ensure value for money. Senator Mason would also be aware of the Liberal Party’s plans to take trade training centres away from 1,800 schools.

**Senator Brandis**—Mr President, on a point of order: the question was not about the Liberal Party’s plans; the question was about the failure of the Victorian government to deliver data to the Commonwealth. Nothing the minister has said so far—or seems to be about to say, since he is addressing the Liberal Party’s policy—is remotely relevant to that question.

**The PRESIDENT**—I am listening to the minister’s answer. The minister has 30 seconds remaining.

**Senator CARR**—I can understand why the Liberal Party is so embarrassed about their policies and their attempts to withdraw educational services from Australian schools, and why they are so embarrassed about the withdrawal of $400 million from the quality teaching program and their withdrawal of—

**Senator Abetz**—Mr President, I seek to remind you of the point of order raised by the Deputy Leader of the Opposition in the Senate, Senator Brandis. There is clearly no direct relevance in this answer to the question that was asked.

**Senator Ludwig**—Mr President, on the point of order, I submit that the Leader of the Opposition in the Senate did not in fact raise a point of order, but sought to remind you of the point of order that was raised by Senator Brandis. I humbly ask you to rule that there was no point of order raised by Senator Abetz. Senator Abetz seemed to have missed raising a point of order. In any event, the minister has been directly relevant in answering the question.

**The PRESIDENT**—I draw the minister’s attention to the fact that there are eight sec-
onds remaining to address the question that has been asked by Senator Mason.

Senator CARR—The government’s achievements in education are clear. The opposition’s program to take away computers in schools from Australian children is also clear. *(Time expired)*

Senator MASON—Mr President, I ask a further supplementary question. Can the minister explain to the Australian people how they can have any faith in Ms Gillard leading the nation after she presided over the biggest waste and mismanagement of taxpayers’ money since Federation, as well as a string of other disasters such as computers in schools and trade training centres?

Senator CARR—I can be absolutely confident that Prime Minister Gillard will pursue rigorously attempts to transform education in this country. With Ms Gillard as Minister for Education, we have seen the doubling of funding for schools in less than two years. Under Mr Abbott we will see the removal from 1,800 schools across Australia of the opportunity to access trade training centres and the removal of 120,000 computers from schools. The Liberal Party also wants to gouge $400 million out of the quality teaching program. I can be absolutely confident of what an Abbott government would do to destroy Australian education and destroy equality of opportunity for Australian children. I can be absolutely confident of Prime Minister Gillard’s commitment to quality education. *(Time expired)*

Taxation

Senator MARK BISHOP (2.37 pm)—My question is to the Assistant Treasurer, Senator Sherry. Minister, how is the government continuing to deliver on its pledge to reduce taxes for working families? Are there any—

Opposition senators interjecting—

The PRESIDENT—Order! Senator Bishop is entitled to be heard in silence. When there is silence in the chamber we will proceed. I suggest that those people wanting to have a discussion go outside.

Senator MARK BISHOP—I will start the question again. Minister, how is the government continuing to deliver on its pledge to reduce taxes for working families? Are there any imminent initiatives Australian families can expect for income tax relief and to ease cost-of-living pressures?

Senator SHERRY—Thank you, Senator Bishop, for that very important question. The government have cut income tax. We have cut income tax in all three of our budgets. The government know that many families are feeling the pinch, and that is despite Australia’s strong economic performance. That is why it is important to know that from next Thursday our third round of tax cuts will cut in to help with cost-of-living pressures. To give you an example, for a worker on an income of $50,000 a year, the tax cut starting on 1 July is worth—

Opposition senators interjecting—

Senator SHERRY—I would have thought those opposite would like to know about the tax cuts starting on 1 July. For a worker on $50,000 a year, there will be a tax cut, starting on 1 July, of $450 a year. These tax cuts will provide some extra help and make a difference to families on a tight budget. They mean that someone earning $50,000 is paying $1,750 less tax than they were when this Labor government came to office—that is, a reduction in tax of $1,750. It means that the worker on $50,000 a year has seen their tax bill cut by 20 per cent in three years under this Labor government.

To give a couple of other examples: a worker on $35,000 has received a cumulative tax cut of $1,500 a year and a worker on $40,000 has received a cumulative tax cut of
$1,800 a year. These are very, very significant income tax cuts that are being delivered by this Labor government. Our tax cuts put more incentive into the system—(Time expired)

Senator MARK BISHOP—Mr President, I ask a supplementary question. What other policies do the government have in place to add to the day-to-day benefits for ordinary Australians?

Senator SHERRY—As I was saying, the Gillard Labor government recognise that it has been important to assist low- and middle-income earners—and not just workers, who are earning an income, but age pensioners. We have delivered the most significant increase in the age pension in over 100 years.

Senator Abetz—And you are proud of that.

Senator SHERRY—Senator Abetz, I am proud of it, because you did not do one—

Opposition senators interjecting—

The PRESIDENT—Senator Sherry, resume your seat.

Senator Heffernan—You’ve sent them a bill of $9,000 each in public debt.

The PRESIDENT—Senator Heffernan! When we have silence we will proceed.

Senator SHERRY—Yes, I am proud of the fact that this Labor government have delivered income tax cuts, as I have outlined, and I am very, very proud that this Labor government have delivered an increase in the age pension over and above the normal indexation measures it provides, because we know that those opposite did not deliver 1c extra in the age pension when they were in government for almost 12 long years—not one cent, Senator Abetz. (Time expired)

Opposition senators interjecting—

The PRESIDENT—Senator Bishop, before I call you—

Senator Ronaldson—It’s another job interview—you and Kim with your job interviews.

The PRESIDENT—Senator Ronaldson!

Senator Cormann—Why did you get rid of your Prime Minister, if everything’s going so well?

The PRESIDENT—Senator Cormann! If senators wish to debate the issue, the time is at the end of question time, when there is plenty of time available to put your view.

Senator MARK BISHOP—Mr President, I ask a further supplementary question. Is the Assistant Treasurer aware of any risks to the achievements of the government and to the Australian people in negotiating successfully the worst of the global recession?

Senator Abetz—Tell us about negotiations with the mining industry.

Senator Cormann—If everything’s so good, why did you knife your Prime Minister?

The PRESIDENT—You are chewing up question time by your interjections.

Senator SHERRY—We do know that those opposite, the Liberal-National Party, opposed the stimulus package, which saved over 200,000 jobs in this economy. Those opposite were predicting there would be a million unemployed—

Opposition senators interjecting—

The PRESIDENT—Senator Sherry, just resume your seat. When there is silence we will proceed.

Senator SHERRY—We know that those opposite are a very, very significant risk to the Australian economy. They opposed the stimulus package. Their opposition to the stimulus package would have seen a million unemployed in this country and it would have seen Australia go into recession. We are very proud of our pension increases. We are
very proud of our income tax cuts. All those opposite can deliver is a promise to bring back Work Choices—to cut the pay and conditions of Australian workers. We know how enthusiastic and motivated you are to bring back Work Choices. It is in their DNA, Mr President.

Opposition senators interjecting—

The PRESIDENT—Senator Sherry, you comments should be addressed to the chair, and those on my left should cease interjecting. Senator Sherry, continue.

Senator SHERRY—Thank you, Mr President. Through you, Mr President, it is in their DNA over there. They want to bring back Work Choices. (Time expired)

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the chamber and the gallery of a parliamentary delegation from the National Assembly of Vietnam, led by His Excellency Mr Uong Chu Luu. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Biosecurity

Senator NASH (2.45 pm)—My question is to the Minister representing the Minister for Agriculture, Fisheries and Forestry, Senator Sherry. Is the minister aware of the discovery in the United States of the Chinese fruit fly, Drosophila suzukii, or spotted-wing drosophila? Is he also aware that the Chinese fruit fly is not being considered under the import risk analysis for Chinese apples?

Senator SHERRY—Thank you for your question. Despite the events of the last day, I have been focused on the activities of the Chinese fruit fly. I assume—

Opposition senators interjecting—

Senator SHERRY—I am trying to focus on Drosophila suzukii. This of course relates to the issue of the proposed importation of apples from China. Biosecurity Australia is currently in the process of finalising the import risk analysis for apples from China. The independent risk analysis appeals panel has received appeals and has advised the Director of Animal and Plant Quarantine of its decision to disallow the claims raised.

Opposition senators interjecting—

Senator SHERRY—Mr President, I wish they would take Australia’s biosecurity more seriously. I am well aware of the deeply held concerns of members of the National Party in particular. Members of the Liberal Party opposite me should not be laughing at the seriousness of this threat to Australia’s biosecurity.

There is a science based process underway. I am informed that Drosophila suzukii was not considered in the IRA for apples
from China. The reason it was not was that the current information indicates that this pest does not attack fresh apples. That is the latest information. So apples are safe. (Time expired)

Senator NASH—Mr President, I ask a supplementary question. Is the minister aware that the import risk analysis that he has just referred to, conducted by Biosecurity Australia into the importation of the apples from China, has failed to adequately examine the risks posed to the Australian apple industry by the Chinese fruit fly and has failed to conduct a comprehensive scientific analysis of the impact of the pest?

Senator SHERRY—I do not believe that Senator Nash was listening to my answer. I did report to the Senate that it was not considered in the IRA for apples from China, and I indicated that, on current information, this pest does not attack fresh apple fruit. That is why it was not considered, apparently.

Senator NASH—Mr President, I ask a further supplementary question. Given that the view of the apple industry that Biosecurity Australia’s assertion that it does not attack fresh apple fruit is wrong, and given that any increase in major quarantine incursions could devastate the apple industry’s biosecurity and future financial viability, why is the minister ignoring the apple industry and why has he not ensured that Biosecurity Australia stop the clock and do the further scientific investigation required to properly evaluate the risk posed by the Chinese fruit fly?

Senator SHERRY—Australia has an independent import risk analysis. We have long had that both under this government, under Minister Burke, and under the former government—a government of which you were a part. I am sure that the apple and pear growers and any other organisations that are concerned about the activities of the D. su-zukii—the fruit fly that we are talking about here—have and will put their concerns and arguments about the need to consider and take into account the activities of this particular fly. These interest groups claim there is a risk and that will be assessed under a process that has long existed. (Time expired)

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the chamber of the 27th Asia Pacific Economic Cooperation, APEC, delegation from the United States of America. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Wimmera-Mallee Pipeline

Senator FIELDING (2.52 pm)—My question is to the Minister for Climate Change, Energy Efficiency and Water, Senator Wong. Can the government explain why it has abandoned its election promise to give $124 million to fund the Wimmera-Mallee pipeline by failing to provide the last $25 million in cash that it promised? Does the Labor government seriously expect the voters in the Wimmera-Mallee region to ever trust Labor again after they have been slapped with higher council rates to make up for the shortfall of money that the Labor government has stingily failed to hand over?

Senator WONG—Thank you to the senator for the question. My recollection is that we made a commitment to matching funding and we delivered that. We made a $99 million commitment to fast-track the Wimmera-Mallee pipeline—I think we have provided $98 million. Obviously, the project is essentially complete.

Honourable senators interjecting—

The PRESIDENT—if senators wish to discuss other matters, I suggest they be dis-
cussed outside the chamber and not during question time.

Senator WONG—As I said, we made a commitment to matching funding; that is my recollection. If I am incorrect on that, I shall provide more information. My recollection is that we have in fact provided that matching funding and, hence, the commitment to $99 million, of which, as I said, $98 million has been paid. In relation to the election commitment, my recollection—this is some time ago, I have to admit—is that the government indicated that it would consider additional funding if required to complete the project on the basis of matching funding by the Victorian government. So, consistent with the election commitment, we have made that indication.

I am also advised, looking at the advice here, that additional funding was not required as pipeline construction was completed well under budget and more than sufficient funds remain for channel-decommissioning works. I am happy to listen to what you have to say on this issue. Certainly it is the same as the federal member for Mallee’s assertion, although obviously it is a different party but the same position being articulated. I think it is important to get on the record what has actually occurred. We made an election commitment to fund the pipeline; we have done so. (Time expired)

Senator FIELDING—Mr President, I ask a supplementary question. Given that there is a shortfall of $25 million and that the council rates have gone up to make up for the shortfall, can the government explain why it still has enough money to splash out on 60 extra staff for the Prime Minister’s office but does not have enough extra money to give to the Wimmera-Mallee people for the pipeline?

Senator WONG—I think I have outlined for you the position that we have articulated. We made a commitment and we delivered on that commitment. I have also indicated to you that my recollection is that we as the government indicated that we were prepared to consider additional funding if required to complete the project on the basis of matching funding by the Victorian government. I do not know if there has been any further offer in relation to this issue by the Victorian government since that indication was given. I will certainly check on that. We have provided, of the $99 million, I think some $98 million, which has been paid. My recollection is that the project has been completed and opened. I think Senator Collins attended for the Prime Minister and me because I was not able to attend the opening—and I thank her for that. (Time expired)

Building the Education Revolution Program

Senator FIFIELD (2.57 pm)—My question is to Senator Carr, the Minister representing the Minister for Education. Can the minister confirm that under Ms Gillard’s watch not one of the computers under the computers in schools program has yet been connected by the federal government to the fast up to 100 megabytes per second fibre broadband as promised at the time of the 2007 election?

Senator CARR—What I can assure Senator Fifield of is that the computers in schools program has been a very great success. I can also confirm that the coalition has signalled that it will end the digital education revolution, including the National Secondary Schools Computer Fund. In total, I can confirm that the coalition wishes to take $700 million from the digital education program, and $700 million would see a substantial reduction in the opportunities for students to enjoy the benefits of computers. We all know that computers are essential learning tools in the classroom. When I say we all know, all
except the Liberal Party knows how impor-

Senator Brandis—Mr President, I rise on a point of order on relevance. The question was directed to whether or not computers had been attached to the network. A commentary on the Liberal Party’s education policy, or assertions about it, cannot possibly be a relevant answer to that question.

The PRESIDENT—I draw the minister’s attention to the question. Senator Carr, you have 58 seconds remaining to answer the question.

Senator CARR—What I can tell the Senate is that the government have provided $1.4 billion for the program. Seven hundred thousand computers have been funded, 300,000 have been installed and we are well on the way to reaching our target of one computer for each student in years 9 to 12. We contrast that with the coalition’s attitude—

Senator Mason interjecting—

Senator Sherry interjecting—

The PRESIDENT—Senator Sherry and Senator Mason! Senator Carr, I draw your attention to the question. You have got 25 seconds remaining.

Senator CARR—What I can tell the Senate is that the government have provided $1.4 billion for the program. Seven hundred thousand computers have been funded, 300,000 have been installed and we are well on the way to reaching our target of one computer for each student in years 9 to 12. We contrast that with the coalition’s attitude—

Senator Mason interjecting—

Senator Sherry interjecting—

The PRESIDENT—Senator Sherry and Senator Mason! Senator Carr, I draw your attention to the question. You have got 25 seconds remaining.

Senator CARR—What I can assure the Senate is that Labor have provided more computers in two years than the Liberals did in the 12 years that they were in government. Now we have their plan exposed: $700 million will be cut from the program under a coalition government. That is their attitude. They are a bunch of troglodytes. (Time expired)

Senator FIFIELD—Mr President, I ask a supplementary question, which may provide the minister the opportunity to inadvertently stray near an answer. Since Ms Gillard has already broken one-half of this election promise, can the minister explain to almost half a million Australian students why, three years into the program, they still do not have their laptops? Can the minister guarantee that all the remaining computers will be delivered and connected before December 2011 as promised?

Senator CARR—What this government is doing is investing $2.4 billion over seven years in the Digital Education Revolution, and $2.3 billion for the National Secondary Schools Computer Fund. By contrast, the Liberal Party is talking about taking away $700 million. Under the previous government, we saw 3,000 flagpoles delivered and, under this government—

Senator Brandis—Mr President, on a point of order: the minister is in plain defiance of your ruling. The question was whether he could explain to half a million Australian students the failure to deliver laptops and whether he could give an assurance that the program will be delivered by December 2011. A commentary or a criticism of the Liberal Party’s policy has no bearing on the answer to either of those questions. This is one of several occasions in this question time when Minister Carr has been in open defiance of your ruling and your authority.

The PRESIDENT—Senator Carr, you have got 31 seconds remaining to address the question that has been asked.

Senator CARR—to the question that has been asked.

Senator FIFIELD—Mr President, on a point of order: for years I have listened to screaming trucks and screaming tractors, and now I sit here listening to a screaming Carr, as in Senator Carr. Could you please ask him to tone it down a bit?
The PRESIDENT—that is not a point of order. Senator Carr, I do draw your attention to the fact that there are 12 seconds remaining to answer the question that has been asked.

Senator CARR—Since Senator Williams has raised his intervention in the way that he has, I can draw attention to his miserable performance when it comes to the so-called $1 billion regional education fund, which he has revealed to one and all—(Time expired)

Senator FIFIELD—Mr President, I ask a further supplementary question. I am getting a bit nostalgic for a bit of programmatic specificity, I must confess. Can the minister confirm that Ms Gillard has been too busy spinning the shambles of her $16 billion BER program to pay attention to Labor’s computers in schools promise? Can the minister also confirm that, under Ms Gillard, this program has had a $1.2 billion blow-out, has delivered less than 50 per cent of promised laptops and no broadband connections as promised in 2007? How can Australians trust this Gillard government?

Senator CARR—The senator talks about trust. What we found with Senator Williams’ comments about the National Party’s so-called $1 billion fund was in reality merely a fund to use interest off that fund—

Opposition senators interjecting—

The PRESIDENT—Senator Carr, you should come to the question that has been asked.

Senator CARR—Mr President, this so-called fund was in fact financed by removing 120,000 computers in schools and $400 million—

Senator Brandis—Mr President, on a point of order going to relevance: this is the fifth time this question time that Senator Carr has openly defied your ruling and proceeded when you have called him to the question—as you did before. Mr President, you need to assert your authority over this minister, who is defying you.

The PRESIDENT—Senator Brandis, you know as well as I do that I cannot instruct a minister how to answer the question. I can draw the minister’s attention to the question. If there is something that needs to be debated post question time, you can debate it then.

Senator CARR—The Liberal Party’s programs are actually being funded by cutting computers in schools. That is the point. They are actually withdrawing support for computers in schools, because they are essentially knuckle-draggers when it comes to education.

Senator Abetz—Mr President, on a point of order: sessional orders require that the minister be directly relevant to the question that was asked. This is now the sixth time that somebody on the coalition side has been forced to get to their feet to remind you, Mr President, of that sessional order. I also invite you to consider the fact that, whilst you cannot direct a minister how to answer the question, if the minister continues to defy your request that he be relevant to the question asked you have the authority to require the minister to resume his seat. I invite you to do that.

The PRESIDENT—the minister has 20 seconds remaining to answer the question.

Senator CARR—This government take the digital education revolution very seriously, because we understand how important computers are in education. This is in sharp contrast to the incredibly backward attitude we hear from the Liberal Party and of course from the National Party. When it comes to the use of computers, they really are in the Stone Age. (Time expired)

Senator Chris Evans—Mr President, I ask that further questions be placed on the Notice Paper.
Senator BERNARDI (South Australia) (3.10 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 the Leader of the Opposition in the Senate (Senator Abetz) today relating to the proposed new tax on mining.

The gang of four has now become the gang of three, and the 2IC has been rewarded for her treachery and disloyalty and taken over from the worst Prime Minister in the history of this country. After accepting her 30 pieces of silver, she has once again betrayed her commitment and conviction about the previous policies of what has proved to be a hopeless and hapless government, of which she was the architect. One of the first things she has done is ditch the taxpayer funded advertising justifying their great big new tax on mining. I salute the fact that the advertising is not going ahead, because it was a waste of taxpayers’ money and it was an abuse of the privilege that this government received.

But what is astounding is that yesterday, the day before and the day before that, Ms Gillard, now Prime Minister Gillard—it fills me with fear—was justifying this expenditure. Thirty-eight million dollars was well-spent yesterday, apparently, but not today. This joins the long list of ditched and dumped disastrous policies and justifications this government are trying to hide under the political corpse of Kevin Rudd. But it will not work, because the structure of this government is essentially the same. The faceless, backroom boys are still pulling the strings of whatever puppet they have in charge. It will not work. The Australian people will see through it.

Kevin Rudd, for all his failings, was named ‘Canada’s mining man of the year’, thanks to his work to destroy Australia’s mining industry. But while he was getting that award, there was strong competition in the Labor Party for the award of ‘undermining man of the year’. Could it be the triple F of Feeney, Farrell and Faulkner or the ABC of undermining: Arbib, Burke or Conroy? All of them have butchered a Prime Minister in the greatest act of betrayal that the Labor Party has ever seen. The list of backroom people—

Senator Wong—Mr President, my point of order goes to relevance, as well as hypocrisy, given what those opposite did to Turnbull. But, most importantly, my point of order is relevance.

The DEPUTY PRESIDENT—Senator Wong, that is a debating point rather than a point of order.

Senator Wong—I should articulate my point of order a little more carefully. The point of order is relevance. This is ‘taking note of answers’. What Senator Bernardi is commenting on has absolutely nothing to do with any answers given in question time today.

The DEPUTY PRESIDENT—There is no point of order, Senator Wong. Having sat through question time, I can say that I think relevance has become somewhat debatable.

Senator Abetz—Mr Deputy President, on a point of order: the minister in making her point of order could not help herself and directly referred to Senator Bernardi’s alleged hypocrisy. That should be withdrawn because it was directed personally at him.

Senator Wong—You want me to withdraw? Surely after your hypocrisy with Turnbull, do you really want me to withdraw?
The DEPUTY PRESIDENT—Order! Senator Wong, if you used the word ‘hypocrisy’ and it was directed at a senator, then I must ask you to withdraw.

Senator Wong—I withdraw.

Senator BERNARDI—Thank you, Mr Deputy President. Clearly, Senator Wong, who was 100 per cent behind Kevin Rudd last night, is feeling a little challenged. But I would return to the backflip by Ms Gillard on the $38 million waste of taxpayers’ money. So proud were the government of their track record that they had to knife the architect and replace him with the 2IC.

I know there are those who clung loyally to the flag that supported such disastrous policies. I know that Senators Cameron and Wong came out supporting and justifying all of the policies of the Rudd government, but the problem is that it is not going to change now. They have changed the colour of the hair of the puppet at the top but the same backroom boys will be doing the job of ruining this country day by day. It is an absolutely undistinguished record. What they have done to the mining industry is to challenge it. They have justified their great big new tax on mining by saying that it is actually going to grow the mining industry. We now know that is absolute poppycock, and we know it because Ms Gillard can no longer justify the misinformation that was put out by this government, a government that was intent on spin and propaganda rather than on substance and the national interest.

It is galling to me that Senator Wong stands up and talks about relevance. Let me say this: Senator Wong unfortunately has been deemed irrelevant by this government because the portfolios that she has continued to hold have proved to be perhaps the most disastrous of a very bad and failed government. So while Ms Gillard will be saying that things are going to change and that they want to enter into a truce, such statements are motivated simply by electoral opportunism. They want to buy some peace so that they can stop the haemorrhaging and hide these disastrous and failed policies under the corpse of the former Prime Minister. He was a flawed Prime Minister, a failed Prime Minister, a disastrous Prime Minister. He was a Prime Minister who has really done no credit to Labor or to this country. But that is not the point. Ms Gillard was entrusted as the deputy leader and she has displayed no loyalty. This is the greatest act of betrayal.

Senator LUNDY (Australian Capital Territory) (3.17 pm)—It is my pleasure to follow Senator Bernardi in speaking on this take note motion. There is nothing more fascinating for the public of Australia, I am sure, than to listen to that speech. How is it that those opposite can stand up and reflect on Labor’s decisions in relation to leadership, having cleaned out two leaders of their own and having ditched a leader on the back of a principle in circumstances that defied their own claims that it was a policy area of no regard—that is, climate change? What we have is a new leader who will take this country forward with pride, dignity and vision.

How is it that those opposite can stand there with any credibility and say that this government has not achieved anything? Our achievements are so comprehensive compared with the 11 years of the coalition government’s absolute neglect of our education system—both secondary and tertiary. Education, research and development and the investment we need to make in enhancing what we build, design and export all suffered under the Howard government. We went backwards on so many national indicators including, very importantly, our connectivity.

We on this side of the chamber know that the economic infrastructure of the future is bandwidth, and yet we have those opposite
still saying that they will oppose the National Broadband Network in the face of an agreement by Telstra to participate in it. In the face of universal acclamation of the elegant structure of the telecommunications policy as we have put it forward, we have this lot opposing now saying they will withdraw the investment that Labor has made in the type of technology that will underpin our education system going forward. They will pull those computers out of schools. They will stop the funding flowing to the physical infrastructure of our education system to the detriment of every generation hence that leaves schools in Australia and enters our workforce.

Their is a backward thinking party. We know they were a backward thinking government because we experienced 12 years of that under Howard. Now they have the gall to stand up and ask us what we have done. We have done so much. We have built new libraries. We have built new physical infrastructure in schools that changes the day-to-day experience of kids. It inspires them to know that the government of this country values their education. And, trust me, the impact of that is critical. The message that young people received under the Howard government was that the government did not care. That government had no regard for their future—for where they were going to take those children down the track.

I do not have enough time to list the successes of this government, but let me turn briefly to the investment in health. We know the health costs were blowing out. We look at the numbers under the Howard government and we look at the disinvestment. We look at the $1 billion stripped out by the Howard government, and everybody knows that we were heading to a bad place with respect to health services. Only under the Rudd government, and now the Gillard government, has there been a program for health reform involving substantive investment. We have put in place a system that will bring about real change for this country. We are talking about the health of our citizens. Combined, these two issues—investment in education and health—represent two of the very core issues that Australians hold dear.

Under the Howard government, on all those indicators, we went backwards, and you cannot stand up across the opposite side of this chamber and hold up flagpoles and compare them to the sort of physical and organisational investment we are making in our education system. You cannot compare a $1 billion withdrawal of funding from our public health system to our multibillion dollar investment in the future of a national healthcare system coordinated through our states and the federal system to deliver universal health services to Australians. They cannot compare. They know it. They have nowhere to go, and Ms Gillard will make a fine Prime Minister for this country. (Time expired)

Senator McGauran (Victoria) (3.22 pm)—‘Ms Gillard will make a fine Prime Minister’ were the ending words of the previous speaker, who is probably the only senator—and, for that matter, member of parliament—to go on Sky TV before the ballot itself. Let that be noted by her detractors when the time comes for payback. And payback is already happening: you are going to have to look for a new finance minister by the looks of things down in the House at this moment. I am told that Mr Lindsay Tanner is resigning and will not be recontesting. That little honeymoon has not lasted long.

And nothing has changed at all. All through question time you did not take the opportunity to change the direction of the government. What is the point of changing a leader if you are not going to change your policy and direction? Like all of around this
place, I tuned in, glued to the press conference of the new Prime Minister, Julia Gillard, to whom I offer a parliamentary congratulations—no more, no less. It is a high office; I congratulate anyone who manages to scramble to that position, as they do.

**Senator Abetz**—Even with blood on their hands.

**Senator McGauran**—With blood on their hands, as Senator Abetz announces. All of us have been around politics long enough to know that, as we can see even with Mr Tanner, that does not hold for a united team. But far be it from me that I be distracted by the good interjections of Senator Abetz. I, like everyone, was glued to Sky’s televising of the press conference of the new Prime Minister. I was bewildered that this Prime Minister and party, who were up all night plotting and planning the new position of the Prime Minister, did not take the opportunity on day 1 to fix the problem. Why would you remove former Prime Minister Kevin Rudd if you are not going to change your policies or the direction of the party?

You have simply made a political manoeuvre as a reaction to the polls. There is no conviction of policy. You spent all of question time defending the old policies of border protection—which brings me to the point. While you were scrutinising leaders I would have thought you would have scrutinised your own leader here in the Senate. There is one who should have been dropped too. Maybe he will be yet in a reshuffle. If you want to drop leaders on the basis of polls, there probably has not been a leader who has plunged you deeper in polls than the leader in the Senate and his portfolio. No-one has mismanaged his people portfolio worse than Senator Evans. But why would I think you would be discerning at all? Why would you be discerning about who is leading your party and who is running your policies when you have just made Prime Minister the person who has managed the worst waste of taxpayers’ funds to the tune of billions and billions of dollars since Federation? That will be her badge of dishonour.

And don’t think it has been lost on the Australian people. The rhetoric that came out of that press conference! Not one policy was changed when you had the opportunity to do it on day 1. Just go back and look at the first press conference of our change of leadership. We did it for a purpose. The purpose was to drop the ETS. There was no purpose in putting Ms Gillard there unless you changed some of your policies, and one, of course, was the mining tax. The other was to toughen up your border security protection, but nothing came out of that press conference but more rhetoric.

**Senator Abetz**—It is just the same spin.

**Senator McGauran**—It is just the same old spin. I was quite bewildered. I was quite encouraged, to tell you the truth. I was expecting more, given that you were all up late last night and you would have thought to change the direction of the party, but all we got was another version of the working family. Over and over she repeated phrases: ‘hard-working Australians’, ‘my door is open’ and ‘my love of this country’. Not one policy was changed. If you think the Australian people are just going to accept a new version of spin, you are wrong. You have miscalculated. There has to be a change in fundamental direction of policy.

This is what we will go to the election with. We already have our bumper sticker: this is a Prime Minister who is no different from the previous one. You are still playing spin. You are still playing politics with it all.

**Senator Hurley** (South Australia) (3.27 pm)—This is all very illuminating. The opposition consider that policy consists of Mr Abbott saying that he would not do
something. That was Senator McGauran’s great change of direction when they changed leader. Senator Bernardi talks about the Labor Party changing leaders and omits mention of the treachery and betrayal that occurred in the case of Mr Brendan Nelson and Mr Malcolm Turnbull. They, at least, were leaders who were trying to take you down some positive path, who were trying to develop policy, and that clearly was not good enough for the Liberal Party. In the absence of Mr Howard, who was very good at developing pragmatic policies, at throwing money at things, at making empty symbols, they floundered around looking for a leader who could develop real policies and take the party in a new direction.

So they turned to Mr Brendan Nelson. But the polls dropped, so they got rid of Mr Brendan Nelson—an act of treachery and betrayal for someone just into opposition. That leader was just done away with. Then we had Mr Malcolm Turnbull, who, again, rather than consistently saying no to everything that came through the parliament, tried to do something constructive. He tried to acknowledge that there might be some shades in the black and white. But, no, Mr Turnbull was subjected to an act of treachery and betrayal in his party room and, on the eve of making a historic, world-leading agreement, was dumped by his party.

Now we have Mr Abbott, whose crowning achievement, according to Senator McGauran, is to say no to the Carbon Pollution Reduction Scheme. What else has he done? What policies has he produced since then? Negative ones. In this parliament the consistent action of the opposition is to negate any legislation, not let anything through and not talk about their own policies but adopt a negative, blocking tactic. There are no policies, there is no action—no change, in fact, from the Howard era. Mr Abbott runs on a negative scare campaign. We all know that can be very effective, and it did make it tough for the Labor Party. But this morning we had Julia Gillard taking up the leadership of the Labor Party, pledges to take the Labor Party in a new direction. She said that we had lost our way in the public debate, partly due to this negative campaign. She is going to take us in a new direction.

I greatly look forward to seeing the way that Julia Gillard will lead us forward. I have great faith in her intelligence and her ability to develop policy and see it through. Her faith in her country will translate to positive policy. Her love of her country will translate into policies that will take this country forward rather than being locked in the past, failed policies of the Howard era. I certainly have great faith in Ms Julia Gillard’s ability to do that. I look forward, most of all, to having a Prime Minister who looks to the future and who has the ability to take the people of Australia with her. I also look forward to working with the first female Prime Minister. It is a great thing, a great example for those of us in the party and, I am sure, all around the country that we have a female Prime Minister of great ability, great intelligence and great courage. We look forward to her taking us into the future.

Senator KROGER (Victoria) (3.32 pm)—This is indeed a remarkable day in this place and indeed in Australian history. Sitting back here, listening to Senator Hurley and Senator Lundy, I wonder what parallel universe they reside in. It is just absolutely gobsmacking listening to what those on the other side are suggesting. We have witnessed a leadership spill today like this nation has never seen before. We heard Senator Hurley praise the former leaders of the coalition for their great work. At least on this side we actually have a democratic process in which we deal with these things. We have witnessed a leadership spill today like this nation has never seen before. We heard Senator Hurley praise the former leaders of the coalition for their great work. At least on this side we actually have a democratic process in which we deal with these things. We have a democratic process in the Liberal Party and in the coalition under which our policies and our pro-
grams are determined in the party room—not by a kitchen cabinet of four, a rapidly reducing number. As Senator McGauran has just said, you have got one fewer now. Once there were four, then there were three and, within six hours, there are now only two. How many are going to be left? The Prime Minister will be there on her own!

We actually have a process whereby our leaders are not undermined by faceless factional warlords, good Senators Feeney and Farrell, who actually fix who is going to run their party and fix who is going to control the government. It is the unions and the factional warlords that are dictating the policies and the programs of this government. It is not any caucus but the factional warlords, and that is the tragedy for all Australians today. The tragedy is that they do not have a true government; they have factional warlords who are dictating the direction of this country. This day will no doubt go down in history as a very sad day for all Australians. Our new Prime Minister admitted in her press conference only today that she felt this government had failed the Australian people. She said only a couple of hours ago:

I know the Rudd government did not do all it said it would do and at times it went off track. Well, hello! Here is one of the kitchen cabinet of four who suddenly, because she is wearing the cloak of prime ministership, is now admitting that, yes, the Rudd government did get it wrong and it went off track. Why has she not conceded this until now, as the former Deputy Prime Minister and as one of the key four people who have determined the policies, procedures and programs of this government?

The list of the government’s broken election promises is as long as the queue of boat people lining up to get on boats in Indonesia and other waters. When you add up the sum of these broken promises and fiscally irresponsible policies, it adds up to one big black hole that needs to be funded. So how does this government deal with that black hole? Like all Labor governments, they do not look at reducing spending or at ways in which they can get value for money out of their programs. What they do is hike up taxes, and here the mining sector are in the eye of the storm. The target is the mining sector so that they can prop up this government and plug the huge gaping hole that is in their budget. A resource super profits tax is not going to fix the problems of this government. It is not going to fix the failed insulation program. It is not going to fix the failed BER—the billions of dollars that are going into the still-being-built Julia Gillard memorial halls. The RSPT will not fix the problems of this government. It is a deflection. The government are a disgrace and they should deal with the real issue, which is their policies. (Time expired)

Question agreed to.

PETITIONS

Military Superannuation

Senator FIELDING (Victoria—Leader of the Family First Party) (3.37 pm)—by leave—I present to the Senate a petition from 13,666 petitioners which is not in conformity with the standing orders as it is not in the correct form calling for an end to the current indexation arrangements for military superannuation pensions and to set up a better arrangement for them:

To the Honourable President and members of the Senate in Parliament assembled:

The petition of the undersigned calls on the Rudd Government, in the interest of fairness and proper recognition of the unique nature of military service, to:

1. Stop the discrimination against the ex-service community and put an end to the current indexation arrangements for military superannuation pensions which...
are hopelessly inadequate and condemn our military pensioners to fall further behind rising community income standards.

2. Link the Military Superannuation Pension to an indexation method that conforms with general community standards such as the same indexation arrangements used for the Aged and Service pensions.

3. Immediately update the Life Expectancy Tables for DFRDB commutation arrangements and rectify the injustices associated with the application of inappropriate life tables.

Senator SIEWERT (Western Australia) (3.38 pm)—by leave—I present to the Senate a petition which is not in conformity with the standing orders as it is not in the correct form with 353 signatures on the pay equity campaign for community service workers.

Petitions received.

COMMITTEES

Finance and Public Administration References Committee

Reference

The DEPUTY PRESIDENT—The Senate shall now proceed to a deferred division on Senator Bob Brown’s amendment to Senator Ryan’s motion and complete the business listed at items 5 to 7 on today’s Order of Business.

Question put:

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

The Senate divided. [3.43 pm]

(The President—Senator the Hon. JJ Hogg)

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

AYES
Arbib, M.V.
Bishop, T.M.
Brown, C.L.
Collins, J.
Farrell, D.E.
Feeney, D.
Forshaw, M.G.
Furner, M.L.
Hogg, J.J.
Ludlam, S.
Lundy, K.A.
McEwen, A.*
Milne, C.
O’Brien, K.W.K.
Pratt, L.C.
Siewert, R.
Sterle, G.
Wortley, D.

NOES
Abetz, E.
Back, C.J.
Bernardi, C.
Boyce, S.
Bushby, D.C.
Colbeck, R.
Cormann, M.H.P.
Ferguson, A.B.
Fifield, M.P.
Joyce, B.
Macdonald, I.
McGauran, J.J.J.
Nash, F.
Ronaldson, M.
Scullion, N.G.
Trood, R.B.
Xenophon, N.

* denotes teller

PARIS

Carr, K.J.
Conroy, S.M.
Hutchins, S.P.
Evans, C.V.

Johnston, D.
Payne, M.A.
Boswell, R.L.D.
F ierravanti-Wells, C.

Question negatived.

The PRESIDENT—The question now is that the motion moved by Senator Ryan be agreed to.

Question agreed to.

CHAMBER
Finance and Public Administration Legislation Committee

Reference

Senator WONG (South Australia—Minister for Climate Change, Energy Efficiency and Water) (3.46 pm)—I seek leave to table the companion guide to the Australian Privacy Principles and an exposure draft on the Australian Privacy Principles.

Leave granted.

Senator WONG—I move:

(1) That the following matter be referred to the Finance and Public Administration Legislation Committee for inquiry and report by 1 July 2011:

Exposure drafts of Australian privacy amendment legislation.

(2) That, in undertaking this inquiry the committee may consider the exposure draft of the Australian Privacy Principles and the draft companion guides on the Australian privacy reforms, and any other relevant documents tabled in the Senate or presented to the President by a senator when the Senate is not sitting.

Question agreed to.

Rural and Regional Affairs and Transport References Committee

Reference

Senator NASH (New South Wales) (3.47 pm)—I, and also on behalf of Senator Colbeck, move:

That the following matters be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 31 July 2010:

(a) the import risk analysis process for the proposed importation of Chinese apples into Australia; and

(b) the protocols relating to the Australia/United States of America cherry trade.

Question agreed to.

Environment, Communications and the Arts References Committee

Reference

Senator LUDLAM (Western Australia) (3.48 pm)—I move:

That the following matter be referred to the Environment, Communications and the Arts References Committee for inquiry and report by 20 October 2010:

The adequacy of protections for the privacy of Australians online, with regard to:

(a) privacy protections and data collection on social networking sites;

(b) data collection activities of private companies;

(c) data collection activities of government agencies; and

(d) other related issues.

Question agreed to.

SRI LANKA

Senator HANSON-YOUNG (South Australia) (3.49 pm)—I move:

That the Senate—

(a) notes:

(i) the recent report from the International Crisis Group on War Crimes in Sri Lanka, and

(ii) this report, recommends, among other things, for the United Nations (UN) to authorise an independent international inquiry into the alleged war crimes in Sri Lanka during the last year of the conflict;

(b) welcomes:

(i) the UN Secretary-General’s establishment of an Advisory Panel on Sri Lanka, and

(ii) the establishment in Sri Lanka of a Lessons Learned and Reconciliation Commission and urges the Sri Lankan Government to ensure the commission operates in an independent way;
(c) reaffirms the importance of credible investigations into all allegations of violations of human rights; and

(d) calls on the Australian Government to support an effective process of national reconciliation to allow Sri Lanka to move forward after years of conflict.

Question agreed to.

**CHINA AND TAIWAN**

Senator McEWEN (South Australia) (3.49 pm)—At the request of Senator Hutchins, I seek leave to amend general business notice of motion No. 848 by adding the following words at the end of paragraph (c):

, especially concerning international aviation and climate change.

Leave granted.

Senator McEWEN—I move the motion as amended:

That the Senate—

(a) welcomes the signing of various bilateral agreements between China and Taiwan, including on direct flights, maritime shipping, linking postal services, food security, financial services and cooperation in telecommunications agreed to since May 2008;

(b) recognises the continuing improvement in relations between China and Taiwan is conducive to the long-term rapprochement between these communities and will have a positive effect on the stability and security of the Asia-Pacific region; and

(c) encourages both sides of the Taiwan Strait to further enhance dialogue, practical cooperation and confidence-building, including a cooperative approach towards providing increased opportunities for Taiwanese participation in international forums and global policy dialogue, especially concerning international aviation and climate change.

Question agreed to.

**COMMITTEES**

**Community Affairs References Committee Reference**

Senator XENOPHON (South Australia) (3.50 pm)—I move:

That—

1. The following matter be referred to the Community Affairs References Committee for inquiry and report by 2 September 2010:

   The prevalence of interactive and online gambling in Australia and the adequacy of the Interactive Gambling Act 2001 to effectively deal with its social and economic impacts.

2. In undertaking the inquiry, the committee must consider:

   (a) the recent growth in interactive sports betting and the changes in online wagering due to new technologies;

   (b) the development of new technologies, including mobile phone and interactive television, that increase the risk and incidence of problem gambling;

   (c) the relative regulatory frameworks of online and non-online gambling;

   (d) inducements to bet on sporting events online;

   (e) the impact of betting exchanges, including the ability to bet on losing outcomes;

   (f) appropriate regulation, including codes of disclosure, for persons betting on events over which they have some participation or special knowledge, including match fixing of sporting events; and

   (g) any other related matters.

Question agreed to.

**GREEN LOANS PROGRAM**

Senator BIRMINGHAM (South Australia) (3.51 pm)—I move:

That the Senate notes the continuing failings of the Rudd Government in relation to its Green
Loans program (the program), despite the undertakings of the Minister for Climate Change, Energy Efficiency and Water (Senator Wong) of 10 March 2010 to the Senate, including:

(a) the training and accreditation of thousands more assessors than the Government first promised, had work for, or ever intended to contract;

(b) systemic failures to process bookings for home sustainability assessments, return assessments to householders in a timely way or pay assessors for work undertaken in a timely way;

(c) its cancellation of the loans component of the program, having provided only approximately 1 per cent of the 200 000 loans it promised at the 2007 election;

(d) its failure to finalise additional assessor contracts in a timely manner, leaving thousands of assessors in limbo and/or unemployed and without any offer of Government support;

(e) delays in its conduct of audits and reviews into the program, including reviews the Minister has indicated would inform the finalising of additional assessor contracts;

(f) its failure to commit to the public release of these audit and review findings;

(g) its failure to deliver a promised Green Rewards Card (the card) to householders and its expensive, bureaucratic alternative to the card;

(h) its failure to implement, following the discontinuation of loans, any mechanism for evaluating the worth of assessments conducted at taxpayer expense; and

(i) the Minister’s failure to acknowledge, let alone respond, to correspondence.

Question agreed to.

NATIONAL CONTAINER DEPOSIT SCHEME

Senator LUDLAM (Western Australia) (3.52 pm)—I move:

That the Senate notes that:

(a) Australians use more than 11 billion drink containers every year;

(b) through a container deposit scheme, South Australia has achieved a recovery rate of more than 80 per cent;

(c) the National Waste Report 2010 shows that Australians recycle only 40 per cent of our municipal solid waste;

(d) a national container deposit scheme would:

(i) create hundreds of green jobs,

(ii) decrease litter by 12 to 15 per cent,

(iii) increase recycling of drink containers from 50 to 80 per cent,

(iv) divert more than 512 000 tonnes from landfill,

(v) reduce national greenhouse gas emissions by nearly one million tonnes of CO2 each year, the equivalent of switching 135 000 homes to renewable energy, and

(vi) improve air quality to the equivalent of taking 56 000 cars off the road; and

(e) a national container deposit scheme be introduced without further delay.

I seek leave to make a short statement.

The DEPUTY PRESIDENT—Leave is granted for two minutes.

Senator LUDLAM—I am just testing the opposition; I ask them to give a clear indication.

Senator Parry—No.

Senator LUDLAM—that was a ‘no’ from Senator Parry. I would like to briefly describe for the chamber what it is that you are voting no for here. I also note that an order for production of documents lapsed this morning. With the support of the coalition, the Senate called upon the government to hand over some documentation that has been compiled at taxpayers’ expense: modelling done by PricewaterhouseCoopers on consumers’ willingness to pay and the subsequent peer review undertaken by ABARE into a national container deposit scheme. This is not rocket science; this is a 10c de-
posit for what would otherwise be a piece of litter.

My understanding is that the reports that have been sought and undertaken by the government are actually quite supportive of the economics of a national container deposit scheme. It has been operating in South Australia, as my colleagues well know, for decades now. There is no reason at all why we should not have such a scheme nationally. I would appreciate some sign from the Minister representing the Minister for Environment Protection, Heritage and the Arts as to why the government is defying a Senate order for production of documents on these studies. The studies were conducted at taxpayers’ expense and they should be put into the public domain. They were first rejected through a freedom of information request by the Total Environment Centre. In the letter of refusal, the Total Environment Centre was assured that these reports would be released after the meeting of the Environment Protection and Heritage Council standing committee. This was several weeks ago; it has not occurred. State, territory and federal environment ministers are meeting in Darwin next week to discuss this very matter, and they are doing it with the public completely in the dark as to what the government’s intentions are and what the evidence actually says.

This is a very clear request from the Senate to table those reports and to do it today. Five major studies have been undertaken into the bleeding obvious over the last decade, all of which show significant benefits from container deposit legislation. There has been enough research and there have been enough reports; it is time for action. On 5 July, environment ministers are meeting. The government should table these documents.

**Senator XENOPHON** (South Australia) (3.54 pm)—I seek leave to make a short statement.

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

**Senator XENOPHON**—I indicate that I strongly support Senator Ludlam’s motion. I note that the order for production of documents is not dissimilar to motions that the coalition has put up in terms of orders for production of documents to shed light on government policy. I would urge my Senate colleagues from the coalition to support this if the government is not minded to support it.

Question negatived.

**COMMITTEES**

**Environment, Communications and the Arts References Committee**

**Extension of Time**

**Senator PARRY** (Tasmania) (3.55 pm)—At the request of Senator Fisher, I move:

That the time for the presentation of the report of the Environment, Communications and the Arts References Committee on the Energy Efficient Homes Package be extended to 2 July 2010.

Question agreed to.

**Agricultural and Related Industries Committee**

**Extension of Time**

**Senator PARRY** (Tasmania) (3.55 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 food production in Australia be extended to 23 August 2010.

Question agreed to.

**MINIMUM PRICE FOR ALCOHOL**

**Senator SIEWERT** (Western Australia) (3.56 pm)—I move:

That the Senate—

(a) notes that the price of alcohol has proven to be a significant factor in tackling alco-
hol abuse, especially among disadvantaged drinkers;
(b) raises concern at the decision by Coles supermarkets to place on sale $4 bottles of wine in Alice Springs;
(c) calls on the Minister for Health and Ageing (Ms Roxon) to convene a meeting of the large supermarket chains and public health authorities to discuss responsible alcohol sales and promotions; and
(d) calls on the Rudd Government to introduce a minimum price for alcohol.

Question agreed to.

PRINCIPLE OF INFORMED CONSENT
Senator SIEWERT (Western Australia) (3.56 pm)—I move:
That the Senate—
(a) notes:
(i) the statement made by seven Coalition senators in their dissenting report in the Legal and Constitutional Affairs Legislation Committee’s report Wild Rivers (Environmental Management) Bill 2010 [No. 2] that “the principle of “free, prior and informed consent” is a fundamental human rights principal for Indigenous peoples’, and
(ii) that the principle of ‘free, prior and informed consent’ is reflected in Articles 19 and 32 of the United Nations Declaration on the Rights of Indigenous Peoples which was recently endorsed by the Federal Government but has yet to be implemented in Australian law;
(b) affirms the view that ‘free, prior and informed consent’ is a fundamental human rights principle for Indigenous peoples; and
(c) calls on all current and future Australian governments to ensure this principle is taken into account in developing, implementing and administering their laws and programs.

Senator McEWEN (South Australia) (3.57 pm)—I seek leave to make a short statement.

The DEPUTY PRESIDENT—Leave is granted for two minutes.

Senator McEWEN—The Australian government was very pleased to support the United Nations Declaration on the Rights of Indigenous Peoples. The declaration recognises the legitimate entitlement of Indigenous peoples to all human rights based on principles of equality, partnership, good faith and mutual benefit. We want all Australians to participate fully and freely in our democratic processes. The Australian government recognises how important it is for Indigenous Australians to have a strong voice. The Australian government has supported the establishment of the National Congress of Australia’s First Peoples to give Indigenous people a voice in national affairs. The government has also supported the establishment of the National Aboriginal and Torres Strait Islander Women’s Alliance to represent Indigenous women’s interests.

Question agreed to.

ADOPTION OF A ‘ROBIN HOOD’ TAX
Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.58 pm)—I move:
That the Senate—
(a) notes that:
(i) the massive trade in complex financial derivatives was a major cause of the recent financial crisis and that governments around the world are now seeking solutions to ensure that financial markets price risk appropriately and that unregulated financial trading is more visible to regulators,
(ii) the ‘Robin Hood’ tax (the tax), an idea that is gaining traction in many western countries with growing public support, imposes a small levy (0.05 per cent) on
banks, hedge funds, foreign exchange transactions, derivatives and share deals,

(iii) the tax is estimated to raise approximately $400 billion dollars a year globally and up to $18 billion in Australia, and

(iv) the tax advocates propose that 50 per cent of the revenue is spent by governments on the delivery of essential services and costs of bail-outs associated with the global financial crisis with the remaining 50 per cent to be spent on overseas development aid and climate change adaptation; and

(b) calls on the Government to support the adoption of this tax at the G20 meeting in Toronto, Canada, in June 2010.

Question put.
The Senate divided. [4.02 pm]
(The Deputy President—Senator the Hon. AB Ferguson)

Ayes............. 5
Noes............. 40
Majority........ 35

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

NOES
Abetz, E.  Adams, J. *
Back, C.J.  Bilyk, C.L.
Birmingham, S.  Bishop, T.M.
Brown, C.L.  Cameron, D.N.
Cash, M.C.  Cormann, M.H.P.
Eggleston, A.  Faulkner, J.P.
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.
Marshall, G.  Mason, B.J.
McEwen, A.  McLucas, J.E.
Moore, C.  Nash, F.
Parry, S.  Polley, H.
Pratt, L.C.  Ronaldson, M.
Ryan, S.M.  Stephens, U.
Sterle, G.  Troeth, I.M.
Trood, R.B.  Williams, J.R.
Wortley, D.  Xenophon, N.

* denotes teller

Question negatived.

NOTICES

Presentation

Senator MILNE (Tasmania) (4.05 pm)—by leave—Owing to the rearrangement of business today, I was not here when the notices of motion were called on. I give notice that, on the next day of sitting, I shall move:

That the Senate—

(a) notes that:

(i) triazines are banned throughout Europe because of their impact on public health and the environment, yet they are still allowed to be used in Australia,

(ii) as Leader of the Tasmanian Greens in the early 1990s, Senator Milne called for a ban on the use of triazines in Tasmania, following the contamination of Olivers Creek at Lorinna,

(iii) the Australian Pesticides and Veterinary Medicines Authority (the authority) took 11 years to review the use of atrazines and came up with recommendations that are simply insufficient, and

(iv) it is time that the Federal Government took a much keener interest in the contamination of river systems and the impact on human and animal health, with responsibility for this ranging across the environment, water, health and agriculture portfolios; and

(b) calls on the Government to ban the use of triazines until the authority can demonstrate that they are safe to use.
COMMITTEES

Publications Committee Report

Senator CAROL BROWN (Tasmania) (4.06 pm)—I present the 19th report of the Senate Standing Committee on Publications.

Ordered that the report be adopted.

Education, Employment and Workplace Relations References Committee Report

Senator CASH (Western Australia) (4.07 pm)—I present an interim report of the inquiry of the Education, Employment and Workplace Relations Reference Committee into the Primary Schools for the 21st Century program, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator CASH—I move:

That the Senate take note of the report.

I seek leave to have my tabling statement incorporated in Hansard.

Leave granted.

The statement read as follows—

Inquiry into Primary Schools for the 21st Century Program

I present the interim report of the Education, Employment and Workplace Relations References Committee on its inquiry into the Primary Schools for the 21st Century Program.

The committee has written this interim report to the Senate in order to highlight its serious concerns about the P21 program before the final tranche of Building the Education Revolution funding is released. The report contains a number of recommendations that the committee believes require urgent consideration and action.

Since the Senate referred this inquiry to the committee, it has received considerable evidence from a range of interested parties. Some of the evidence received raises serious concerns regarding the discrepancy between the largely positive outcomes achieved under the P21 program in the independent and Catholic sector and the poor value for money obtained in the government school sector.

Since the inception of the P21 program, there have been complaints from some government schools about overcharging, waste and mismanagement. The committee majority is not satisfied with the information available to it regarding the true costs of buildings and works carried out under P21 program. This has raised concerns as to whether value for money is being achieved by the P21 program, particularly in government schools.

The committee majority believes that the evidence provided to it demonstrates that the rapid rollout of the P21 program, combined with construction delays, inflexible bureaucracy and inadequate monitoring arrangements, a failure to properly identify the needs of individual schools and ensuring that the buildings constructed are fit for purpose, has resulted in significant waste and mismanagement of taxpayers’ money.

The report contains a number of recommendations that the committee majority believes require urgent consideration and action by government before the final tranche of funding is committed under the P21 program.

The committee will continue its inquiry into the P21 program. It has important work ahead in determining the actual costs of P21 program works, in particular in government schools, and in further scrutinising the P21 program review mechanisms, particularly the reports of the BER Implementation Taskforce.

Given that the primary objective of the BER was to apply timely stimulation to the economy in response to the global financial crisis by focusing on nation building and supporting economic growth and jobs, the government was under an obligation to ensure that adequate mechanisms were established to enable the number of jobs created by the P21 program to be calculated accurately, so that the success or otherwise of the program could be properly assessed, according to one of its two key indicators, by the parliament and the taxpayers.

The Committee Majority notes that it is an indictment on the government and DEEWR that the
evidence presented to the committee demonstrated that there is no effective mechanism to enable the accurate calculation of the key criteria of the P21 program as set out in the National Partnership Agreement on the National Building and Jobs Plan, being ‘support for economic growth and jobs’.

With in excess of $14 billion of Australian taxpayers’ money being spent on the P21 program, the committee majority believes that Australian taxpayers are entitled to more accountability from the government.

The committee was also disturbed to note the evidence given to it by the DEEWR that many P21 projects remain behind schedule and that have not been completed in accordance with the project completion dates. On that basis the committee majority finds that it is implausible for the government to justify its claims that the stimulus spending was timely.

The committee in its majority report also set out its concerns regarding the implementation of the P21 program.

The committee heard evidence that the guidelines were poorly designed and contributed to a lack of clarity; a lack of flexibility in targeting areas of need; and unnecessary duplication of existing facilities.

The majority report focused on the marked differences in processes and outcomes for government and non-government schools, including different approaches to tendering for projects. Key issues for schools in the government system are discussed, including a lack of communication with school communities about their projects and a lack of transparency regarding costings.

Case studies as well as systemic analysis included in the report illustrate that value for money has not been achieved under the P21 program in the government sector, because of a number of factors including problems with the states’ tendering processes, overcharging and inflated fees paid to managing contractors.

Evidence presented to the committee demonstrates that Catholic and independent schools have been able to achieve superior outcomes compared with schools in the government systems. This would seem to be counter-intuitive, as given the scale and the centralised management of projects in the government sector, it would be reasonable to expect economies of scale. The evidence suggests that better outcomes have been achieved in the non-government schools as a result of direct funding and local management of projects.

The committee received evidence which indicated significant success in the implementation of the P21 program for non-government schools.

The committee majority notes that the P21 program was run for non-government schools in the same way as the Howard government’s Investing in Our Schools Program, that is, by enabling and empowering schools to manage their own projects and expend their own funds.

Evidence provided to the committee illustrated that local management and direct funding of projects is the most effective way to deliver projects which take account of individual school and student needs.

The committee majority notes that the evidence from the non-government sector highlighted the successful outcomes that the absence of bureaucratic imposts and the ability to self manage projects had.

The committee majority therefore recommends that when the next round of P21 funding is made available the remaining P21 program funds be provided directly to those government schools choosing to manage their own projects to completion.

The committee notes extensive evidence presented to the committee as well as available in the public domain that inescapably points to a conclusion that the problems with achieving value for money are not restricted just to a number of specific cases but are instead systemic in nature, with the entire state school system in particular achieving outcomes substantially inferior in terms of value for money than the independent and Catholic school systems in the same states.

The government referred to several audit and review mechanisms in an attempt to assure the community that P21 projects obtain value for money. However, on the evidence provided the committee majority is concerned that the audit and review mechanisms have serious limitations.
In terms of the mechanisms for review of the program, the committee majority whilst acknowledging that much work has been undertaken to develop the partnership model, notes that responsibilities and accountabilities under the partnership model need greater clarification. The lines of accountability to the Federal Parliament under the model are not sufficiently clear. This lack of clarity has significant implications for the P21 program, and for other Commonwealth program: for example, the government’s new healthcare funding approach.

The committee majority recommends strengthening accountability mechanisms for oversight of state expenditure of Commonwealth money. This should include enhancing the powers of the Auditor-General to ‘follow the money trail’ to ensure value for money is achieved by the Commonwealth for state expenditure of Commonwealth monies.

The committee majority also concluded that the partnership model provides a means for avoiding appropriate scrutiny and accountability at the Commonwealth and state levels. The P21 program example has shown that the model fails to include appropriate oversight and assurance mechanisms at all levels, as evidenced by DEEWR’s inability to assure the parliament of value of money; the lack of an ANAO mandate to follow the money trail; lack of appropriate assurance that robust state-based review mechanisms are in place; and the committee’s inability to access the information it requires to properly evaluate spending under the program.

The committee also heard evidence of a lack of transparency with costings, including difficulty for schools in accessing costings and the questionable nature of the accuracy of these costings. Evidence was also received that access to costings for government school projects was significantly more difficult than for the non-government sector.

In the absence of detailed costings for individual projects, witnesses with knowledge of and experience in the construction industry pointed the committee to Rawlinsons Australian Construction Handbook. This was referred to as ‘the bible in Australia of construction costs’ and is ‘accepted in the courts of the land as being the authoritative text’.

The committee heard that Rawlinsons was used in the non-government sector to estimate costs. Rawlinsons sets out that a school building should cost approximately $1300 per square metre. However evidence given to the committee indicates that P21 buildings for government schools are apparently costing as much as $4500 per square metre and more.

To ensure that further taxpayer money is not subject to waste and mismanagement, the committee majority recommends that the release of any further BER funding be delayed until the BER Implementation Taskforce reports to the Minister in August 2010.

In order to fully examine the systemic failure of Commonwealth oversight mechanisms, the committee majority recommends that a judicial inquiry be established to inquire into whether the BER program has achieved value for money.

Importantly, by August 2010, the Commonwealth will have paid $11.8 billion to the education authorities. The committee notes that the Commonwealth is due to release the next tranche of BER funding on 1 July 2010. It would be unconscionable for the Commonwealth to release this money before the BER Implementation Taskforce reports its initial findings and recommendations to the Minister in August 2010 on the improvements needed to ensure value for money is being achieved by the P21 program.

The litany of complaints concerning waste and mismanagement and lack of access to costings confirms to the committee majority that further investigation of the P21 program and its consequent outcomes is required.

In due course, the committee’s inquiry website will list further details about the information that the committee seeks, a new closing date for submissions and hearing dates.

Senator MARSHALL (Victoria) (4.08 pm)—I understand there are some time pressures today. I rise as the Deputy Chair of the Education, Employment and Workplace Relations References Committee to speak about
its inquiry into the Primary Schools for the 21st Century program.

The government senators on this committee have provided a dissenting report to address the imbalances in the committee majority report and present the evidence showing the support for the P21 program. As noted in the dissenting report, it is disappointing to see the coalition refuse to acknowledge in any way the evidence showing the success of and support for the Primary Schools for the 21st Century program, known as P21. Coalition senators in their interim report have focused on a relatively small number of examples, which have received disproportionate attention, in an attempt to discredit this successful and welcome initiative. Submissions and evidence to the committee show a high level of support for the new facilities being provided under the program. In addition, the head of the Building the Education Revolution Implementation Taskforce recently told a New South Wales parliamentary inquiry about the success of the program. You will see none of that evidence in the committee majority report.

Let's start from the beginning with the facts. Building the Education Revolution, or BER, is the largest component of the government’s $42 billion Nation Building and Jobs Plan, announced on 3 February 2009. BER represents an investment of more than one per cent of GDP and is the biggest school capital infrastructure program in Australia’s history. The objectives of the program were agreed by ministers and are expressed in the COAG National Partnership Agreement on the Nation Building and Jobs Plan. This contains the program’s two main objectives. The first is to provide economic stimulus through the rapid construction and refurbishment of school infrastructure and the second is to build learning environments to help children, families and communities participate in activities that will support achievement, develop learning potential and bring communities together.

The evidence shows that the program has been successful in its primary aim of supporting the economy and jobs in local communities through the global financial crisis. As a stimulus measure there is no denying the program’s success. It had a real effect on local communities and employment well before any construction commenced. BER has materially supported the non-residential construction sector, and this was acknowledged by the Australian National Audit Office in their audit of the program. Companies in the construction sector, for example, could anticipate work and were therefore able to retain staff.

The committee was advised that jobs are being measured by Treasury at the level of the entire economic stimulus plan. DEEWR added that the collection of job data at the project level serves a different purpose and is useful for the schools and local communities to be able to quantify the effect of each project. It is worth noting that P21 has supported employment not only in the building and construction sector but in other employment sectors as well. Planners, quantity surveyors, architects, electrical engineers, hydraulic consultants and clerical staff are among the occupations supported. It is pleasing to note that not only jobs but skills and apprenticeships are being created. Again, you will see none of that in the committee majority’s report.

Government senators note that the number of complaints received about implementation of P21 projects amount to less than one per cent. Ninety-eight per cent of projects have now commenced and 68 per cent have commenced construction. Eight hundred and ninety-four projects have been completed and over 9,000 are underway. These projects are transforming schools. This is what you
will not hear about in the committee majority’s report. Coalition senators have ignored the principals, teachers and parents who are delighted with their P21 projects.

Let’s hear the evidence of this support. The committee heard that the program has brought forward capital works for some schools by 20 to 30 years. The Australian Primary Principals Association conducted a survey which found that the overwhelming majority of schools, 97 per cent, reported that their students would benefit from the program. The Australian National Audit Office conducted its own survey, which found that more than 95 per cent of school principals saw the program as providing ‘ongoing value to their school and school community’. The committee received positive submissions from schools and evidence showing support for the program.

Evidence provided to the committee showed that the P21 program has sufficient flexibility built in to recognise the diversity of school and student needs and sites. Guidelines were developed by the Department of Education, Employment and Workplace Relations to assist states, territories, block grant authorities and schools to submit project proposals. Given the scale of the program, it was anticipated that the guidelines would need to be amended as issues arose. The committee heard that the guidelines were easy to deal with and sufficiently flexible and that when issues arose they were dealt with sensibly and quickly. Government senators note that the ANAO made no recommendations to DEEWR regarding its administration of the program.

The dissenting report notes the differences between the government and non-government systems. Independent and Catholic schools are very experienced in organising capital works. They have existing processes and established relationships with architects and builders. It is clear that, despite the increased scale and complexity of the P21 program, these mechanisms worked well for the independent sector and the Catholic system.

The dissenting report also notes the extra challenges facing the government sector, where schools are managed in a system. In many cases the knowledge and skills to run large projects and the established relationships with builders and architects do not exist. Central management was therefore seen by some states to offer the best solution to achieving the challenging time frames for P21 projects, and the overwhelming evidence is that it has.

Turning to questions of value for money, the dissenting report emphasises that achievement of value for money in the government sector cannot be assessed by simply dividing the notional amount of money a school could receive by the size of a building to come up with the cost per square metre. Effectively, the decision was taken that, as government schools operate in a system, the total money available was pooled across the system and common contractual arrangements were entered into for buildings of a certain size. It is important to remember that there will be variations in construction costs depending on location and specific site requirements. In the government system, therefore, not every school was given the full notional amount in dollar terms. Where a project comes in under cost, it will subsidise those projects where additional factors mean that they are more expensive.

Importantly, and of course you will see no acknowledgement of this in the committee majority report, the committee received no evidence of any criminal or illegal behaviour. The committee heard that the National Partnership Agreement on the Nation Building and Jobs Plan makes explicit reference to
adopting the best value approach in contracting and tendering. In addition DEEWR told the committee that the bilateral agreements with each state and territory include the requirement that each education authority require compliance with relevant procurement rules which encompass the concept of value for money. DEEWR also told the committee that if there are any problems money can be withheld, suspended and repaid.

However, the government is nonetheless concerned to receive assurances that projects are achieving value for money and that any genuine issues are addressed. To this end, the government has established the BER Implementation Taskforce, headed by Mr Brad Orgill, to respond to allegations regarding value for money. Mr Orgill is due to report during August 2010 and again in November 2010. It has not been acknowledged in the committee majority’s report that there will be time to respond to any recommendations made by Mr Orgill. The next $2 billion payment will be made on 1 July 2010 and then further payments totalling $3.5 billion will not be released until November 2010 and then March 2011. The money will not be fully expended on 1 July but will be held by education authorities. If there are any problems, money can be recovered and payments can be suspended. Government senators note the significant disruption and confusion that would be caused by delaying all BER funding, as is being recommended by the coalition. Appropriate investigation of schools with value for money concerns is underway by the BER Implementation Taskforce and any recommendations in this area will be carefully considered.

In summary, mechanisms are in place to ensure that genuine issues are addressed. The imbalance in the committee majority’s report needs to be addressed with the facts. The government took action to protect the economy and jobs during the global financial crisis. In addition to that, the personal accounts provided to the committee and quoted in the dissenting report show that the P21 investment is transformational for schools. This program will leave a legacy of improved school infrastructure and facilities which will contribute to the quality of education provided in schools and lead to improved educational outcomes.

Senator MASON (Queensland) (4.18 pm)—Mr Acting Deputy President Trood, let me ask you a question. Who has been responsible for the greatest administrative failure, the greatest waste of money and the greatest administrative shambles since Federation? Let me give you a little clue. I might just tease the Senate for a second. It is a $16 billion question.

Senator Ronaldson—The Prime Minister.

Senator MASON—It is a $16 billion question, and you guessed it, Senator Ronaldson: it is the Prime Minister—brought to the Australian people by the union movement; part of that gang of four who ran the country who are responsible for our lows. Those with a historical bent like you, Acting Deputy President, realise that Ms Gillard is more the Madame Mao of the Gang of Four. Mr Garrett presides over the pink batt fiasco and wastes about $2 billion and now he spends most of his time shepherding koalas across the road. Ms Gillard presides over the shambles of the school hall program, and what happens to her? She becomes Prime Minister. Mr Garrett would no doubt feel upset that he did not waste a bit more money—because then the union movement might have thought that he qualified to become Prime Minister as well.

The Senate committee’s report details some themes out of about 10,000 school projects, and some very important themes have emerged. It has emerged that Catholic and
independent schools who managed their own school building projects are nearly universally happy with the outcomes. If school principals, P&Cs and local communities controlled the building projects, they were happy with the outcome. But, on the other hand, state schools—attended by about 70 per cent of students in Australia—are largely unhappy. These are the building projects administered by state Labor governments, and nearly 60 per cent—three in five—state primary school principals were not satisfied that there was value for money in their school projects. Nearly 60 per cent of school principals were not satisfied.

And why would they be satisfied? The building costs were typically double for government schools and often much, much more. Rawlinson, who produce the most respected benchmarks for the construction industry, described the cost of state school buildings as ‘insane’ and ‘anomalous’. Billions of dollars spent by Ms Gillard and those costs were ‘insane’ and ‘anomalous’. The current Prime Minister presided over a scheme where the expenditure was—as described by Rawlinson—‘insane’ and ‘anomalous’. Imagine this: state Labor governments ripping off state schools. Can you imagine it? A party supposedly indebted and committed to state schools and state Labor governments rip off state schools. And what was Ms Gillard doing while this was happening? She was sleepwalking; she did nothing. Supposedly, the Labor Party are friends of public education—and they did nothing.

What is even worse than that is that Ms Gillard and her department are spending $16 billion and yet, as the Auditor-General found in evidence, they have failed to put in place sufficient oversight mechanisms to properly ensure that state governments got value for money for school projects. That is the crux of the problem. They failed to put in place proper oversight and accountability mechanisms to ensure there was value for money. The Auditor-General was absolutely unequivocal. It was Ms Gillard’s responsibility and the Auditor-General said she did not do enough. She failed to administer the program efficiently and properly—that is what the Auditor-General found. Now, the union movement—her union bosses—have made Ms Gillard the Prime Minister. So, now, instead of a $16 billion fund that she is in charge of, she is in charge of a $1 trillion economy. Is that not wonderful? What are the prospects for the country now? Hold your breath and hold on to your purse.

This is the nub of it: in the entire time that this project has been going—more than 12 months now—over 10,000 projects have been approved and not on one occasion out of more than 10,000 did the department refuse to approve a project on the basis of value for money. That is absolutely appalling. Not once in 12 months in over 10,000 projects did the department—Ms Gillard’s department, she is responsible—refuse to accept a project on the basis of value for money. The department apparently could not say no; they were not up to it.

What did Ms Gillard do during this appalling waste? We know now that she was sharpening her knife to take out the embarrassing Mr Rudd—not that I blame her for that; however, let us not mix pleasure with business. But Ms Gillard was the minister responsible for a program that had been unequivocally criticised by the Auditor-General. It is now commonly viewed as the greatest fiasco in administration since Federation. It has cost something of the order of $5 billion more than it should have. Why? Because Ms Gillard did not put in place oversight mechanisms to make sure that state Labor governments spent the appropriate amount and got good value for money for their schools. That was an appalling oversight.
In addition to that, we know about Ms Gillard’s failure with laptop computers and trade training centres. Strangely, the press has never focused on this appalling administrative failure—the greatest waste of money since Federation presided over by our new Prime Minister. All I can say is that I fear for our country and I hope that Ms Gillard performs better as Prime Minister than she ever did as the Minister for Education.

Question agreed to.

PERSONAL EXPLANATIONS

Senator Faulkner (New South Wales—Minister for Defence) (4.26 pm)—I seek leave to make a personal explanation to place on record a matter relating to parliamentary entitlements.

Leave granted.

Senator Faulkner—I thank the Senate. I had intended to make a personal explanation a little earlier in the day but unfortunately I was called away to deal with a portfolio matter. I have shown this personal explanation, unexciting as it is, to senators around the table. I seek leave to have my personal explanation incorporated in Hansard.

Leave granted.

The document read as follows—

This explanation relates to an issue which arose when I was the Cabinet Secretary and Special Minister of State. My Ministerial responsibilities then included the Ministerial and Parliamentary Services Division (MAPS) of the Department of Finance and Deregulation which administers parliamentary entitlements, as well as the Office of the Auditor-General.

While Special Minister of State, I was advised by officers of MAPS that the Auditor-General was undertaking a performance audit of parliamentary entitlements, which included a review of printing entitlement usage.

As the Minister responsible for both the entitlements regime, and for the Office of the Auditor General, as well a parliamentarian subject to the entitlements regime, I took steps to try to avoid any conflict of interest or any perception of conflict.

I asked MAPS officers to ask the Auditor-General whether my own entitlement usage was in issue. Had it been, I would have sought to have another Minister deal with the audit.

I was subsequently told by those officers that the Auditor General had confirmed that no issues had been identified with respect to my entitlements use. I asked for and received that same assurance again some time later, as the audit progressed.

In June 2009 the Auditor General’s office advised me (needless to say with some apologies) that perhaps their previous advice had not been correct, and that they were examining material I had printed.

I was concerned that despite my best efforts to avoid any perception of conflict or personal interest, my own use of entitlements was now under scrutiny in an audit of an administrative area falling within my Ministerial responsibilities.

I believed this placed me in a difficult position, which I had specifically tried to avoid.

I therefore reimbursed MAPS the cost of printing the item at issue to avoid any conflict or perception of conflict, despite my view that the printing was clearly within entitlement.

I explained to MAPS at the time why I was making that payment, and also informed them that I believed the printing was within entitlement.

Following the completion of the audit, I asked MAPS for written advice on whether the item I printed was within entitlement. In April this year, I received a letter from MAPS advising that the document did in fact fall within the Parliamentary Entitlements Regulations.

Senators will know that I am not only a strong supporter of reforms to the entitlements regime to provide greater transparency and fairness, but also a strong supporter of the Auditor-General’s role providing independent oversight of government activities, including entitlement usage.

In the interests of full transparency I wanted to place the details of this matter before the Senate.
BUSINESS

Consideration of Legislation

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (4.27 pm)—I seek leave to move a motion relating to divisions being called after 4.30 pm today.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (4.22 pm)—Just before we pass on from that matter, I am a little concerned about that. I seek an assurance from the minister that all senators are aware of that and have agreed to that move by the government. I do not want to be party to senators who did not know that being caught out by the fact that they will be assuming that after 4.30 there can be no divisions.

Senator PARRY (Tasmania—Manager of Opposition Business in the Senate) (4.28 pm)—I was out of the chamber when the motion was referred to. I gather that it relates to divisions taking place after 4.30. I agree with Senator Brown. Senators are not aware that there will be divisions after 4.30. It should be a normal Thursday as far as divisions are concerned. We certainly oppose the motion.

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (4.28 pm)—by leave—I withdraw the motion.

The ACTING DEPUTY PRESIDENT (Senator Trood)—The motion is withdrawn at the consent of the minister.

BUDGET

Consideration by Estimates Committees

Senator O’BRIEN (Tasmania) (4.29 pm)—On behalf of the respective chairs, I present additional information received by committees relating to estimates hearings:

Budget estimates (Supplementary) 2009-10—
Environment, Communications and the Arts Legislation Committee—Additional information received between 24 February and 23 June 2010—Environment, Water, Heritage and the Arts portfolio.

Additional estimates 2009-10—
Community Affairs Legislation Committee—
Additional information—received between—
18 March and 2 June 2010—Health and Ageing portfolio.
13 May and 28 May 2010—Families, Housing, Community Services and Indigenous Affairs portfolio.

Economics Legislation Committee—
Additional information received between 13 May and 23 June 2010—Energy and Environment portfolio.

Education, Employment and Workplace Relations Legislation Committee—
Additional information received between 13 May and 24 June 2010—Education, Employment and Workplace Relations portfolio.

Environment, Communications and the Arts Legislation Committee—
Additional information received between 13 May and 23 June 2010—
Broadband, Communications and the Digital Economy portfolio.

Finance and Public Administration Legislation Committee—
Additional information received between 13 May and 23 June 2010—
Climate Change portfolio.

Human Services portfolio.

Foreign Affairs, Defence and Trade Legislation Committee—
Additional information received between 13 May and 24 June 2010—
Defence portfolio.

Foreign Affairs and Trade portfolio.

Rural and Regional Affairs and Transport Legislation Committee—Additional information received between 18 March and 23 June 2010—

CHAMBER
Agriculture, Fisheries and Forestry portfolio.
Infrastructure, Transport, Regional Development and Local Government portfolio.

Budget estimates 2010-11—
Community Affairs Legislation Committee—Additional information received between—
31 May and 23 June 2010—Families, Housing, Community Services and Indigenous Affairs portfolio.
2 June and 23 June 2010—Health and Ageing portfolio.
4 June and 23 June 2010—Indigenous issues across portfolios.

Finance and Public Administration Legislation Committee—Additional information received between 24 May and 23 June 2010—
Climate Change portfolio.
Finance and Deregulation portfolio.
Human Services portfolio.
Parliamentary departments.
Prime Minister and Cabinet portfolio.

Legal and Constitutional Affairs Legislation Committee—Additional information received between 17 June and 22 June 2010—
Immigration and Citizenship portfolio.

COMMITtees

Public Accounts and Audit Committee

Senator O’BRIEN (Tasmania) (4.29 pm)—At the request of Senator Lundy, on behalf of the Joint Committee of Public Accounts and Audit, I present the report of the committee, *Review of Auditor-General’s reports tabled between February 2009 and September 2009*, and I move:

That the Senate take note of the report.

Question agreed to.

I seek leave to incorporate a tabling statement in *Hansard*.

 Leave granted.

The statement read as follows—

JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT REPORT 417:
REVIEw OF AUDITOR-GENERAL’S REPORTS TABBLED BETWEEN
FEBRUARY 2009 AND SEPTEMBER 2009

TABLING STATEMENT

24 JUNE 2010

Mr President, on behalf of the Joint Committee of Public Accounts and Audit, I present the Committee’s Report 417: Review of Auditor-General’s Reports tabled between February 2009 and September 2009.

The Joint Committee of Public Accounts and Audit, as prescribed by the Public Accounts and Audit Committee Act 1951, examines all of the reports of the Auditor-General and reports the results of the Committee’s deliberations to the Parliament.

This report details the findings of the Committee’s examination of nine performance audits tabled in 2009. These nine reports were selected for further scrutiny from the seventeen audit reports presented to the Parliament between February and September 2009.

As usual, these reports cover a range of agencies and highlight a number of areas of concern including:

- the environmental impact of government procurement practice;
- the efficiency of government IT systems and data management; and
- ongoing issues within the aged care sector.

The Committee was impressed by the progress being made by a number of departments in achieving better practice in green office procurement and sustainable office management. However, we are concerned at the seeming lack of urgency and leadership at a sector-wide level and are making a number of recommendations to help correlate and disseminate best practice across government departments and agencies. In particular the Committee is recommending that the Department of Environment, Water, Heritage and the Arts take a leadership role in promoting environmental management systems and develop a best practice environmental management system template with minimum standards for reporting.
Examination of the Defence Materiel Organisation’s management of the M113 Armoured Personnel Carrier Upgrade Project again highlighted ongoing concerns over scope changes and lengthy delays to Defence projects. Despite being assured that appropriate processes are in place to keep decision makers informed of scope changes, the Committee is concerned at the apparent lack of administrative discipline in implementing these processes. Accordingly we have asked the DMO for details on how it is ensuring staff adhere to the existing processes. Although the M113 project is expected to meet a completion deadline of December 2010, it is still assessed as ‘high risk’, therefore the Committee has asked Defence and the DMO to report back to us on the progress of the project.

On a related matter, the Committee reviewed the planning and approval of Defence Major Capital Equipment Projects to determine whether the two-pass approval process is being implemented effectively. The audit report identified a number of anomalies between process and practice and the Committee made three recommendations aimed at ensuring the accuracy of documentation, records and submissions.

The Committee was satisfied from its inquiry into the quality and integrity of the Department of Veterans’ Affairs income support records that, although the system has experienced difficulties, there have been no instances of incorrect payments being made to DVA clients. However, we are concerned at the discrepancies and errors identified in the audit report and the lack of progress in implementing a comprehensive and accurate electronic database for the Department. There is potential for a detrimental flow-on effect with regard to client payments and service delivery. The Committee has asked the DVA to report back to us on the implementation of the new information technology system.

On examining the review of the management of the Movement Alert List by the Department of Immigration and Citizenship, the Committee was particularly concerned over the number of Australian citizens listed on the system. We are satisfied that the Department has substantially reduced this number since the audit but urge DIAC to revise its policy and guidelines regarding the recording of Australian citizens on the system, to ensure a consistent approach is taken in future. Of further concern to the Committee is the lack of performance data available making it difficult to assess MAL’s effectiveness. We have asked the Department to identify and report back to the Committee on specific instances where MAL has influenced decisions on visa and citizenship applications.

The Committee also examined DIAC’s management of the Settlement Grants Program. The Committee is concerned that the effectiveness of the SGP is not being satisfactorily monitored and evaluated to determine if it is meeting its objective to help new arrivals to settle into Australian society. We are not convinced that enough is being done to identify and respond to the needs of immigrants at a local level and support programs specifically tailored to those needs. We have therefore asked the Department to report back to the Committee detailing how the effectiveness of the Program is being measured with regard to data collection and community consultation.

In this batch of reports, we pursued an ongoing interest in the aged care sector by reviewing two audits: the planning and allocation of aged care places and capital grants and the protection of residential aged care accommodation bonds. The first audit assessed the effectiveness of the Department of Health and Ageing’s management of the planning and allocation of aged care places and capital grants, in accordance with the Aged Care Act 1997. The Committee is pleased to note that, overall, the planning and allocation of aged care places and capital grants by the Department is operating effectively.

The second audit was designed to assess the Department of Health and Ageing’s administration of prudential arrangements for the protection of residential aged care accommodation bonds. The Committee understands the importance of these bonds to the capital growth of aged care facilities and acknowledges that to date no aged care clients have suffered the loss of their bonds. However, we are concerned at the potential for loss to occur and would like to see the prudential regulation strengthened with more attention paid to risk management implementation and ongoing monitoring. To this end, we have asked the Department
to report back to the Committee on the implementa-
tion of the ANAO recommendations.

Finally, the Committee looked at the construction
of the Christmas Island Immigration Detention
Centre. While the Committee recognises that it is
difficult at this distance to apportion blame, we
are gravely concerned at the mismanagement of
Commonwealth funds for this project. The sub-
stantial discrepancy between the initial cost esti-
mate and final cost of the project and the apparent
failure to identify significant risk factors in the
project are of particular concern. The Committee
feels that more could have been done during the
planning stage to develop a realistic estimate of
the cost of the project and we are not satisfied
with the argument that the uniqueness of the pro-
ject led to such serious miscalculation of costs
and risks.

The Committee acknowledges that this project
was a catalyst for the implementation by Finance
of the two-stage Cabinet approval process and the
Gateway Review process. We have recommended
that the ANAO undertake an audit to determine
the effectiveness of the Implementation of both
these processes in mitigating risk for Common-
wealth construction projects.

We would like to acknowledge the valuable work
of the Auditor-General and the staff at the Austra-
lian National Audit Office. We look forward to
continuing reviews of the Auditor-General’s re-
ports.

Second Reading

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

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

Insurance is vital for Australia’s community to
function. People and organisations are able to
participate in social and economic activities that
they otherwise would not be able to engage in by
using insurance as a means to price and transfer
risks associated with those activities.

The law governing contracts of insurance has a
direct influence on the effectiveness and effi-
ciency of the insurance market. In Australia, the
primary source of laws regulating the rights and
obligations of insurers, insureds and relevant third
parties is the Insurance Contracts Act 1984 (the
Act).

The Insurance Contracts Amendment Bill 2010
(the Bill) has been developed over a long period.
In September 2003 a Review Panel was appointed
comprising Mr Alan Cameron AM and Ms Nancy
Milne to embark on a comprehensive review of
the Act.

The Review Panel’s final report was released in
2005. The report noted that the Act had generally
been operating satisfactorily to the benefit of in-
surers and insureds. However, the Review Panel
found that, given the passage of time, develop-
ments in the insurance market and judicial inter-
pretations since its enactment, there were some
changes that could be made to improve its opera-
tion. Further consultations on the details of the
amendments were recommended.

Subsequently, consultations on the details took
place and the Bill as introduced reflects many
refinements to the initial proposals that have been
made in response to stakeholder suggestions. In
some cases, proposals initially included in the
legislative package were ultimately withdrawn.
The Government appreciates the constructive and
thoughtful feedback that stakeholder representa-

INSURANCE CONTRACTS
AMENDMENT BILL 2010

First Reading

Bill received from the House of Represen-
tatives.

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

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

Question agreed to.

Bill read a first time.
itives from industry and consumer groups have provided during the consultative processes.

The Bill includes measures that will:

- remove impediments to the use of electronic communication for statutory notices and documents;
- ensure that failure to comply with the duty of utmost good faith is a breach of the Act;
- make the duty of disclosure easier for consumers to understand and comply with, especially at renewal of household/domestic insurance contracts;
- make the remedies in respect of life insurance contracts more flexible and suited to modern life insurance products;
- clarify the rights and obligations of persons named in contracts having the benefit of cover, but who are not parties themselves; and
- clarify what types of contracts are exempt from its operation.

Although many of the changes are in the nature of technical adjustments rather than significant changes to the framework, as a package they will operate to streamline and clarify requirements while maintaining appropriate consumer protections.

The amendments will make it easier for consumers to understand and comply with their duties, such as the duty of disclosure on renewal of a policy. This will help to avoid misunderstandings and disputes over any claims down the track.

The amendments will give the regulator, the Australian Securities and Investments Commission, greater powers to bring and carry on actions on behalf of consumers, and to take action under the licensing provisions of the Corporations Act in relation to breaches by an insurer of the duty of utmost good faith.

Full details are contained in the Explanatory Memorandum.

One issue that is not addressed in the Bill is the current carve-out under section 15 of the Act for insurance contracts from the operation of the unfair contracts terms provisions of certain other laws. The Government is aware of a range of views on the preferred course of action on this question. To provide an adequate opportunity to allow all relevant factors to be considered, I am releasing a discussion paper on the issue with proposed options for consultation with stakeholders.

In conclusion, this Bill provides for a package of improvements and efficiencies to how the Act operates, while maintaining the balance that the Act aims to strike between the interests of insurers, insureds and the wider public. A better functioning, more efficient insurance market ultimately benefits the entire Australian community.

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

AVIATION TRANSPORT SECURITY AMENDMENT REGULATIONS 2010 (No. 1)

Motion for Disallowance

Debate resumed from 22 June, on motion by Senator Xenophon:

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.

Senator Xenophon (South Australia) (4.31 pm)—In summing up this debate, I thank honourable senators for their contributions in relation to this, and I note that the coalition and the Australian Greens support the disallowance of these regulations. So clearly the numbers are with the disallowance. There are a couple of short points that I need to make. Firstly, I need to correct a statement that I made in the Senate during this debate when I said:

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.
Guy Maclean, from the Australian and International Pilots Association has made the point that that is not correct. The regulations do allow this to occur but only in reaction to the occurrence of a safety incident where the pilots are concerned that denying a pilot the jump seat removed the opportunity for a trained pilot to prevent an incident occurring in the first place. Furthermore, the pilots association made another point in relation to Senator Evans’s contribution on behalf of the government, when Senator Evans stated:

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.

The pilots association tells me that this is not correct. The regulations target only one person with criminal strict liability. The pilot in command, no matter where he is, what he is doing or who is flying the plane, is the one who is responsible, not the on-duty pilot, as the government has implied. There is only one pilot in command on a flight; this person never changes. That is something that I think needs to be pointed out.

The government has also made the point that if these regulations are disallowed there is nothing there. There is a void. That seems to be the argument. That is not the case. The situation is that we revert back to the initial regulations—the status quo that existed previously where there is no strict criminal liability but there are still safeguards in place in terms of cockpit security and where pilots are not being punished under a regime of strict liability, which is one that is unprecedented anywhere else, according to the Australian and International Pilots Association. I would urge the Senate to disallow these regulations so we can go back to a more sensible regime and encourage the government to negotiate this with airline pilots. I note the support of the coalition and the Australian Greens in relation to the disallowance of this motion, and I am grateful for that support.

The ACTING DEPUTY PRESIDENT (Senator Trood)—The question is that the motion in the name of Senator Xenophon be agreed to. Those in favour say aye; those against say no.

Government senator—No.

The ACTING DEPUTY PRESIDENT—I think the ayes have it.

Government senator—The noes have it.

The ACTING DEPUTY PRESIDENT—I remind honourable senators that if a division is called on a Thursday after 4.30 pm, the matter before the Senate shall be adjourned pursuant to standing order 57(3) until the next day of sitting at a time to be fixed by the Senate. Accordingly, the matter is adjourned.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (4.35 pm)—I move: That the vote be taken after the discovery of formal business on the next day of sitting.

Question agreed to.

Senator XENOPHON (South Australia) (4.35 pm)—I seek leave to make a short statement.

Leave granted.

Senator XENOPHON—I know what the rules are. I think it is unfortunate that regulations which airline pilots have said compromise airline safety will now continue to be in force until the next day of sitting. The government knows very well what the will of the Senate is in relation to this, and I am very disappointed.

Senator Ludwig—I tried.

Senator XENOPHON—Senator Ludwig said he tried, but he did not have to call a division in relation to this. The numbers were
very clear in relation to the will of the Senate. The government need to explain to airline pilots why they have had these very unfair and, many would say, unsafe regulations on cockpit security foisted on them.

Debate adjourned.

COMMITTEES
Community Affairs References Committee Report

Senator SIEWERT (Western Australia) (4.36 pm)—I present the report of the Community Affairs References Committee, The hidden toll: suicide in Australia, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator SIEWERT—by leave—I move:

That the Senate take note of the report.

Firstly, I would like to thank everybody who made submissions and gave evidence to the inquiry of the Senate Community Affairs References Committee into suicide in Australia. This was a deeply emotional and moving inquiry, and we very much appreciate the time and work people put into submissions and oral presentations. We heard many personal stories that were deeply moving. I would like to express thanks on behalf of the committee to all those people. I would also like to express thanks to the secretariat, who worked very hard on this committee and who also found it very moving and emotional.

This committee inquiry arose because, as the title of the report—The hidden toll: suicide in Australia—suggests, there is a hidden toll of suicide in this country. It was initiated because organisations such as Suicide Prevention Australia and Lifeline Australia were deeply concerned that statistics on suicide were not being accurately reported and that the statistics were much higher than was being reported. The Australian Bureau of Statistics, the ABS, was undertaking a review of statistics which came out during our inquiry. That review showed that the statistics are indeed substantially higher than is currently reported—in fact, the number is over 2,000. The figures, unfortunately, are nearly as high as our road toll. We know there is a lot of awareness around our road toll; there is not as much awareness around the issue of suicide. So, for a start, the committee recommends that we improve the accuracy of our reporting.

We think there is a need for standardisation of coronial investigation and findings of intent—it is different throughout the country. We need a single national suicide prevention strategy to clearly link all the efforts of government and community organisations. We listened very carefully to evidence from Patrick McGorry—among others—who told us that we need to have aspirational targets for suicide reduction. So we strongly recommend that the government adopts those aspirational targets. We make recommendations about the need for stigma reduction programs, because there is still a stigma around the issue of suicide which prevents people talking about it.

We talked about the issues around mental health and suicide. We received a lot of evidence around mental health. We heard about many positive programs. We recommend in the report that more money be allocated to mental health around Australia. We believe it is very important that successful programs currently operating around Australia continue to be funded and we recommend that funding for suicide prevention and for support of the bereaved is at least doubled. We have said ‘at least doubled’ because that was what was recommended by some witnesses—some recommended much higher. We think it should be at least doubled, and then current programs and strategies can be reviewed. We believe more resources are needed to address the issue of suicide.
It is also very important that more training is available for those working on the frontlines in our communities—ambulance officers, police officers, nurses, doctors—to help them address the issue of suicide. Two of the recommendations that I am particularly strong on is the need to put people who have expertise in mental health and suicide in every emergency department in this country, because—would you believe?—that does not happen. Everybody that comes out of emergency or a stay in hospital needs to have a case management plan and a support person. I also strongly support the recommendation for ‘graded accommodation’, or step-up and step-down facilities, for people who are recovering from a suicide attempt or those who have suicidal ideation. It is important that those facilities are provided.

I will stop there because I know others want to speak and we are tight for time. But I very strongly recommend this report to the government and ask them to very seriously consider the recommendations from this inquiry. There is a hidden toll in this country, and we need to do something about it.

Senator BOYCE (Queensland) (4.42 pm)—One of the great joys of being a member of the Senate Community Affairs References Committee is the amount of time we can devote to some of the most important issues that face Australia, and suicide prevention is by no means unusual in that sense. This has been an extraordinarily educative and at times harrowing process. Certainly it can only increase the enormous respect one has for people who live with bereavement as a result of suicide and for people who live with a mental illness that makes them consider suicide all the time.

I would like to concentrate on a couple of the recommendations. The first recommendation makes the point very strongly that the economic cost of suicide is minute compared to the social and emotional cost of suicide. But as a society we tend to notice the things that cost money. Current assessments from organisations like Lifeline and from people like Professor Patrick McGorry are that suicide costs the Australian economy at least $30 billion a year—which makes it well worth trying to reduce that rate just in economic terms. The flow-on social and economic benefits can only be wonderful for the country. We are suggesting that the Productivity Commission or an organisation such as that should look at the economic assessment of suicide and attempted suicide in Australia.

One thing I did not know until we did this inquiry was how large a problem suicide is in Australia. Professor Patrick McGorry, at a different launch this morning, made the point that it is the largest killer of people in the prime of their lives in Australia. In terms of lives lost every year in Australia, it is 40 per cent higher than the road toll. However, we obviously do much, much less about it than we do about the road toll.

As a former journalist, the other recommendation I would particularly like to focus on is recommendation 20, which is about how we go about reporting suicide and how we develop awareness of suicide. It has long been the view in Australia that reporting suicide has the potential to lead to copycat suicides, but the point is made that without strong public awareness campaigns and strong mainstream media reporting of the road toll very little would have happened to reduce the number of deaths on the roads. We have been highly successful in reducing the road toll with strong media awareness campaigns on the topic. It would be good to see the research done so that we can be confident that the guidelines that currently exist under Mindframe can be reviewed and adapted so that we do get public attention being paid to what is currently the greatest killer in Australia. On that same basis we
recommend that, at least biannually, the national figures on suicide should be published. Again, stigma has prevented this from being the case. It needs to be brought out into the open now.

One fact that I did find disturbing, and Senator Siewert mentioned that we really have some problems in recording suicide and even assessing what sometimes constitutes suicide, is that we basically do not recognise the fact that people under 15 commit suicide. Those figures are not even collected as part of the statistics. There needs to be public conversation about what is a terrible tragedy and we certainly need to do something about the issue. I would very much hope that this report is widely read and accepted and that it leads to real changes in the way we deal with the question of suicide prevention.

Senator ADAMS (Western Australia) (4.47 pm)—I rise to concur with my colleagues on the importance of this particular inquiry. It attracted 258 submissions, we held 12 public hearings throughout Australia, and we have come up with 42 recommendations. Each of those recommendations is very, very important, and I would like to speak about some of them.

There should be an increase in the funding and the number of projects for men. Unfortunately men, unlike women, are very loath to come forward and say they have a problem. Coming from a rural area, I know that there is a cohort of older farmers who really do have these problems, and in many rural areas there is no access to appropriate services and often no GP. Going to the local mental health service, which is often the only place for them to go to, is seen as a stigma. We do have Lifeline, and while we were in Hobart we were very fortunate to observe some of the volunteers working for that organisation. I think Lifeline should be commended on the work they do.

We feel that a separate strategy should be developed for Indigenous communities. In my own home state of Western Australia, not very far from where I live, we had 12 suicides of Indigenous young men over the course of four months. It was absolutely tragic. One suicide is tragic, but to have 12 in a community was very, very sad. It is great, though, to see the support that that community now has in the shape of the services that have been provided there and great also to see the way the community has pulled together to deal with the issue. I do hope they are able to go forward.

We feel that child suicides should be officially reported and that support group assistance should be developed for those who attempt suicide or self-harm. Often those who self-harm go to an emergency department but, because they have self-harmed, they are treated with complete disdain and are not given the service they should get. Quite a number of our witnesses gave us evidence to this effect.

Front-line emergency staff have been mentioned too, and I think they need terrific support. The town that had the 12 suicides was only small, and those emergency staff had to deal with one suicide after the other. On such occasions those people need so much support. Front-line emergency service people must be given debriefing and must be trained to deal with what they have to deal with.

In relation to mental health services, I feel that we need to put so much more into the area. Not every suicide is completed by someone who has a mental health problem, but most are. Somehow we have to pick up these people before they self-harm. Another recommendation is that additional suicide awareness and risk assessment training must be provided to the gatekeepers in regional, rural and remote areas. The cities do have
services but, coming from a rural area, as I have said, I know that services are very few and far between.

Another group of people, the LGBTI people, must be recognised in suicide prevention strategies and policies, and targeted programs need to be developed for them. They seem to be left out and they are often very badly affected. We also feel that a national suicide bereavement strategy should be developed. The person who has completed a suicide is not there to deal with the tragic consequences, and bereaved families really have not been given the assistance they probably deserve. Once again, I must say that in rural areas these services are not readily available. There are some very, very good organisations that are doing great work, but there are just too few of them.

We really feel that we should have backup and support for recently released prisoners because often they have had problems. They come out of the prison and then do not have any backup services. So, all in all, I would like to thank the secretariat. With 12 public hearings, they had had to work very hard, and I think that they have done a wonderful job to produce the report for the committee. I also thank all those witnesses who have come before us in public hearings. It is not easy to come and sit before a Senate committee and tell about your personal life. I really commend all those who did that, because they certainly helped to give us the evidence in this report to go forward and to ask the government to support this problem.

Senator MOORE (Queensland) (4.53 pm)—I want very briefly to add something to the comments that have been made by the other members of the committee. This inquiry on suicide cannot be something that is left to sit on shelves. We have over 40 recommendations, which can be a little bit confronting for people, but the message from all of us who took part in this inquiry was that these recommendations come from the heart. What we were expecting from them was a greater awareness and some real action to come from the process that we were lucky enough to share in.

As is usual with the Senate Community Affairs References Committee, the number of people who came to tell us their personal experiences and to share in an act of hope and positive solution making allows us to move forward so that there will be some concerted effort in this country around the very important issue of suicide. There is not time to talk too much about it now, and I am sure that many people will continue to talk about this inquiry and the opportunities we have in the future, but I very much wanted to commend again the people who came and shared with us. When you see the inquiry—and I really hope that many people will get the chance to read it—you will see the depth of compassion and knowledge that people have chosen to give to our committee and then expected us to do something with. It is not just storytelling; it is an expectation that, by doing this quite difficult action—coming and talking with our committee—there will be a resultant action taken by the government. As have many people, I commend the work of the secretariat. I think it is most important that we move forward and make a concerted effort in this country to face up to the issues that have affected so many people and so many families so that these issues are not hidden and avoided. We can work together to make a better response in this country. With that, I seek leave to continue my remarks.

Leave granted; debate adjourned.
AVIATION TRANSPORT SECURITY AMENDMENT REGULATIONS 2010 (No. 1)

Motion for Disallowance

Debate resumed.

Senator XENOPHON (South Australia) (4.55 pm)—I seek leave to have the question put again on the motion to disallow the Aviation Transport Security Amendment Regulations 2010 (No. 1), the vote on which was deferred earlier today.

Leave granted.

The ACTING DEPUTY PRESIDENT (Senator Trood)—The question is that the motion in the name of Senator Xenophon be agreed to.

Question agreed to.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (4.55 pm)—by leave—I indicate that the government opposed the disallowance motion. It notes that the opposition, Senator Xenophon and the Greens supported the disallowance motion, and on that basis we have obviously not been successful in continuing with the regulation.

COMMITTEES

Environment, Communications and the Arts References Committee

Report

Senator FISHER (South Australia) (4.56 pm)—I present the report of the Environment, Communications and the Arts References Committee on Australia Post’s treatment of injured and ill workers, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator FISHER—by leave—I move:

That the Senate take note of the report.

I chaired the latter part of this inquiry, which was driven in large part by senators Dana Wortley and Steve Fielding, and for that they deserve acknowledgment. Essentially, it arose out of the allegations by a number of workers at Australia Post about the manner in which Australia Post was allegedly treating workers when they got sick or became injured at work. I pay tribute to the quite significant numbers of workers who gave evidence to the committee, some in confidence, some in writing only, some by physical testimony. Not only did it take personal and emotional commitment and conviction from those workers but it essentially put their integrity at stake in many cases and took quite some personal courage.

Likewise, Australia Post, who would hardly have welcomed an inquiry of this nature, as far as the committee is concerned approached the inquiry in a constructive way. They were accepting of the fact of the inquiry. During the process of the inquiry—near the end of it, in fact—Australia Post and the union arrived at a new memorandum of understanding in respect of the use of facility nominated doctors, as Australia Post calls them, which was at the heart of the issues in dispute. They came up with a memorandum of understanding that put some boundaries and bases of understanding around the uses of facility nominated doctors for Australia Post workers. If that were all that came out of this inquiry, it alone is progress and therefore good.

However, we hope there will be more. The committee report makes a number of recommendations about systems and processes that Australia Post might consider implementing at the workplace to further define the use of facility nominated doctors and to further put some boundaries around the processes and systems that might be used in respect of facility nominated doctors. A more pertinent recommendation is that Australia Post consider ceasing using facility nomi-
nated doctors for workers compensation purposes.

That said, beyond the recommendations made about Australia Post considering mechanisms to increase worker buy-into and commitment to processes leading to their recovery from injury and rehabilitation at work, I speak on behalf of all committee members in saying that the committee hopes that the report is received with the constructive spirit which is intended and that the report contributes to continuing to improve workplace relations at Australia Post. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Publications Committee

Senator McEWEN (South Australia) (5.00 pm)—At the request of the chair of the Joint Standing Committee on Publications (Senator Carol Brown), I present the report of the Standing Committee on Publications on the electronic distribution of the Parliamentary Papers Series, together with submissions received by the committee.

Ordered that the report be printed.

Senator McEWEN—I seek leave to move a motion in relation to the report and to incorporate a tabling statement in Hansard.

Leave granted.

Senator McEWEN—I move:

That the Senate take note of the report.

The statement read as follows—

It gives me great pleasure to table the joint committee’s report of the inquiry into the development of an electronic parliamentary papers series.

The Parliamentary Papers Series (PPS) is a unique series which brings together information that documents many aspects of public policy formulation and the administration of government since Federation, including all the committee reports presented to this chamber and the House of Representatives. When it first began the series was widely distributed. The Clerk (in her Annotated Standing Orders) observes that an ongoing interest for the joint committee has been the “cost, distribution and efficiency” of the series and, as early as 1917, the committee recommended that members of parliament would receive papers only on request, and not automatically as they had previously. Since then the committee has made decisions which, while guaranteeing the sustainability of the series, have resulted in the series no longer meeting one of its main objectives: to be made available as widely as possible.

In 2006, still maintaining its interest in the “cost, distribution and efficiency” of the series, the committee held an inquiry into the distribution of the Parliamentary Papers Series. A principle recommendation from that report was for the chamber departments to “investigate and implement the development of an online digital repository for the Parliamentary Papers Series”. The initial efforts to progress this recommendation were not fruitful for a number of reasons. Primarily, a lack of technological capability and concerns for the potential capital and human resources that such a development could require stood as obstacles to the development of a repository. However, with the Commonwealth developing a strong web-based presence and the development of systems within Parliament House which could support an electronic series, the committee decided last month to re-visit its 2006 recommendations to endeavour to make an electronic series a reality.

The committee contacted various organisations by letter requesting submissions and I would like to thank those who responded for their contributions. As a result of their overwhelming support to develop an electronic PPS, the committee has made a number of recommendations in this report which will result in the parliamentary departments developing a digital repository for the PPS based in the Parliament. Further, the committee has recommended that the repository be implemented in time to coincide with the start of the 2011 PPS. I would like to stress at this point that there is no intention to stop the printed copy of the series. The committee acknowledges that the electronic access may result in a decreased demand for the printed series. However, the com-
mittee also acknowledges that the series needs to be maintained in perpetuity and that paper is the only medium in which this can be guaranteed.

I am personally very excited and proud to be the chair of this committee which, through the recommendations in this report, will enable anyone, at any time, anywhere, to access the PPS online. This will go a long way to making the series more relevant in today’s society which expects to access everything on the web and will ensure the continuing existence of the series into the future.

Finally, I would like to take this opportunity to personally thank Sue Blunden and Matt Keele, the secretariat which has diligently assisted me and the committee.

I commend the report to the chamber.

I seek leave to continue my remarks.

Leave granted; debate adjourned.

BANKRUPTCY LEGISLATION AMENDMENT LEGISLATION

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (5.01 pm)—I table a supplementary explanatory memorandum relating to the Bankruptcy Legislation Amendment Bill 2009.

COMMITTEES

Selection of Bills Committee Report

Senator McEWEN (South Australia) (5.01 pm)—by leave—At the request of the Chair of the Selection of Bills Committee (Senator O’Brien), I present the 10th report of the Selection of Bills Committee and I seek leave to have the report incorporated in Hansard.

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE REPORT NO. 10 OF 2010

1. The committee met in private session on Thursday, 24 June 2010 at 11.55 am.

2. The committee resolved to recommend—That—

(a) the provisions of the Airports Amendment Bill 2010 be referred immediately to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by 24 August 2010;

(b) the provisions of the Access to Justice (Family Court Restructure and Other Measures) Bill 2010 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 21 September 2010 (see appendix 1 for a statement of reasons for referral);

(c) the provisions of the Crimes Legislation Amendment Bill 2010 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 21 September 2010 (see appendix 2 for a statement of reasons for referral);

(d) the Defence Legislation Amendment (Security of Defence Premises) Bill 2010 be referred immediately to the Foreign Affairs, Defence and Trade Legislation Committee for inquiry and report by 24 August 2010 (see appendix 3 for a statement of reasons for referral);

(e) the provisions of the Military Court of Australia Bill 2010 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 21 September 2010 (see appendix 4 for a statement of reasons for referral);

(f) the Parliamentary Budget Office Bill 2010 be referred immediately to the Finance and Public Administration Legislation Committee for inquiry and report by 25 August 2010 (see appendix 5 for a statement of reasons for referral); and

(g) the provisions of the Telecommunications Interception and Intelligence Services Legislation Amendment Bill 2010 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 21 September 2010 (see appendix 6 for a statement of reasons for referral).

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

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

- Commonwealth Commissioner for Children and Young People Bill 2010
- Choice of Repairer Bill 2010
- Corporations Amendment (No. 1) Bill 2010
- Sex Discrimination Amendment Bill 2010
- Superannuation Legislation Amendment Bill 2010.

The government has not provided the Bill with enough time to examine it adequately before weighing up considerations before referring, therefore referral is necessary.

Possible submissions or evidence from:
Australian Law Council
Federation of Community Legal Services Liberty Victoria
Human Rights Law Resource Centre Ltd Public Interest Law Clearing House (VIC) Inc

Committee to which bill is to be referred:
Legal and Constitutional

Possible hearing date(s):
August

Possible reporting date:
21 September 2010

(signed)
Rachael Siewert
Whip/Selection of Bills Committee member

APPENDIX I

SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee

Name of bill:
Access to Justice (Family Court Restructure and Other Measures) Bill 2010

Reasons for referral/principal issues for consideration:
The bill introduces a range of new evidence gathering powers and data searching capacities for the AFP that require further examination to assess the adequacy of safeguards and privacy considerations.

Possible submissions or evidence from:
Australian Law Council
Federation of Community Legal Services Liberty Victoria
Human Rights Law Resource Centre Ltd Public Interest Law Clearing House (VIC) Inc

Committee to which bill is to be referred:
Legal and Constitutional

Possible hearing date(s):
August
Possible reporting date:
21 September 2010
(signed)
Rachael Siewert
Whip/Selection of Bills Committee member

APPENDIX 3
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Defence Legislation Amendment (Security of Defence Premises) Bill 2010 Reasons for referral/principal issues for consideration:
Scrutiny of Bills
Possible submissions or evidence from:
Mr Stephen Merchant, Deputy Secretary for Intelligence & Security Mr Frank Roberts, Chief Security Officer, Department of Defence Mr David Lloyd, Defence General Counsel
Committee to which bill is to be referred:
Foreign Affairs, Defence and Trade
Possible hearing date(s):
Possible reporting date:
24 August 2010
(signed)
Kerry O’Brien
Whip/Selection of Bills Committee member

APPENDIX 4
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Military Court of Australia Bill 2010
Reasons for referral/principal issues for consideration:
The government has not provided the Bill with enough time to examine it adequately before weighing up considerations before referral, therefore referral is necessary.
Possible submissions or evidence from:
Australian Law Council

Federation of Community Legal Services Liberty Victoria
Human Rights Law Resource Centre Ltd Public Interest Law Clearing House (VIC) Inc

Committee to which bill is to be referred:
Legal and Constitutional
Possible hearing date(s):
August
Possible reporting date:
21 September 2010
(signed)
Rachael Siewert
Whip/Selection of Bills Committee member

APPENDIX 5
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Parliamentary Budget Office Bill
Reasons for referral/principal issues for consideration:
To review merit of independent analysis and scrutiny of major Government budget statements with the PBO reporting to the Parliament rather than the executive. To note the growing trend for such an office around the world including in the US, Canada and the UK.
Possible submissions or evidence from:
Auditor General, Parliamentary Library, Institute of Public Affairs, Menzies Research Institute, Australia Institute, Taxpayers association and various organisations representing best practice public administration.
Committee to which bill is to be referred:
Finance and Public Administration
Possible hearing date(s):
tba
Possible reporting date:
25 August 2010
(signed)
Kerry O’Brien
Whip/Selection of Bills Committee member
APPENDIX 6
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Telecommunications Interception and Intelligence Services Legislation Amendment Bill 2010
Reasons for referral/principal issues for consideration:
Need to assess whether privacy considerations are adequately addressed.
The government has not provided the Bill with enough time to examine it adequately before weighing up considerations before referral, therefore referral is necessary
Possible submissions or evidence from:
Electronic Frontiers Australia Internet Industry Association Australian Law Council
Committee to which bill is to be referred: Environment Communication and the Arts
Possible hearing date(s):
August
Possible reporting date:
21 September 2010
(signed)
Rachael Siewert
Whip/Selection of Bills Committee member

Amendment to Selection of Bills Committee Draft Report No.10 of 2010 to be tabled on Thursday 24 June 2010
Australian Civilian Corps Bill 2010 (introduced in the House of Representatives 23 June 2010) refer to the Foreign Affairs, Defence and Trade Legislation Committee for inquiry and report by 24 August 2010
Aviation Crimes and Policing Legislation Amendment Bill 2010 (introduced in the House of Representatives 23 June 2010) refer to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 24 August 2010
Education Services for Overseas Students Legislation Amendment Bill 2010 (introduced in the House of Representatives 23 June 2010) refer to Education, Employment and Workplace Relations Legislation Committee for inquiry and report by 24 August 2010
Financial Framework Legislation Amendment Bill 2010 (introduced in the House of Representatives 23 June 2010) be deferred for consideration at its next meeting
National Health and Hospitals Network Bill 2010 (introduced in the House of Representatives 23 June 2010) refer to the Community Affairs Legislation Committee for inquiry and report by 24 August 2010

Senator McEWEN—I move:
That the report be adopted.

Senator PARRY (Tasmania) (5.02 pm)—I move an amendment to the motion as follows:
At the end of the motion, add: “and
(a) the provisions of bills be referred as follows:
(i) Australian Civilian Corps Bill 2010 to the Foreign Affairs, Defence and Trade Legislation Committee for inquiry and report by 24 August 2010,
(ii) Aviation Crimes and Policing Legislation Amendment Bill 2010 to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 24 August 2010,
(iii) Education Services for Overseas Students Legislation Amendment Bill 2010 to the Education, Employment and Workplace Relations Legislation Committee for inquiry and report by 24 August 2010,
(iv) Federal Financial Relations Amendment (National Health and Hospitals Network) Bill 2010 to the Economics Legislation Committee for inquiry and report by 24 August 2010, and
(v) National Health and Hospitals Network Bill 2010 to the Community Affairs Legislation Committee for inquiry and report by 24 August 2010

CHAMBER
Thursday, 24 June 2010

SENA TE 4401

GOVERNMENT SERVICE DELIVERY

Senator BARNETT (Tasmania) (5.03 pm)—At the request of Senator Parry, I move:

That the Senate notes:

(a) the ineptitude of the Rudd Labor Government to deliver promised services to the Australian people; and

(b) the mismanagement by the Rudd Labor Government in relation to:

(i) border protection,
(ii) migration,
(iii) Indigenous policy,
(iv) home insulation, and
(v) the Building Education Revolution.

I stand to speak to this motion and, in doing so, want to confirm on the record that the Labor government has failed to deliver. We have the same horse but a different jockey. We have, as Mr Abbott said at lunchtime, the same dud product but a different salesman. Ms Gillard was responsible for four programs in education and child care, and she has manifestly failed in each of them. She has failed to deliver, and I want to mention those four before I move to the area of Indigenous policy. Those four areas in particular relate to Building the Education Revolution.

Ms Gillard was responsible for the school hall rip-off—$16.2 billion was spent on schools, there was a $1.7 billion blow-out and at least $5 billion was wasted. That is $5 billion of taxpayers money that has been wasted through mismanagement, gouging and state government substitution. There was no requirement for value for money. That is a disgrace. Non-government schools, of course, were allowed to self-manage their projects, and they did well. They did get value for money, while government schools were ripped off.

Ms Gillard was also responsible for the computers in schools program, a $1.2 billion blow-out in which 300,000 laptops were delivered out of 970,000 promised. Goodness! She was also responsible for the abolition of the Australian Technical Colleges and the introduction of the trades training centres. There were 2,650 promised in every government secondary school. How many were delivered? Thirteen were delivered, and the program has blown out for longer than it took to prosecute World War II. That is just ridiculous; it is hopeless.

Ms Gillard was responsible for implementing the childcare policy ‘to end the dreaded double drop-off’. That was the policy of Labor in 2007; that was what they said they would deliver. They said that they would deliver 260 childcare centres. How many were delivered? There were 38 delivered, and the promise has now been junked by federal Labor.

Ms Gillard, who is now the Prime Minister, is responsible for those four programs. She has been and is responsible for education and child care, and she has manifestly failed to deliver. So why would you now make her Prime Minister, running this country? I am very concerned for and on behalf of the Australian public. I am very concerned because of the shocking waste and mismanagement that continues to persist throughout this Labor government. Yes, the horse is the same. The Labor government is the same, but we have a new jockey—that is, Ms Gillard. I welcome her to that position but I am very concerned for and on behalf of the Australian people.
This week, with respect to Indigenous policy, the now Gillard Labor government had an opportunity to follow through on passing Mr Abbott’s wild rivers bill. I am very proud to say, as Deputy Chair of the Senate Legal and Constitutional Affairs Legislation Committee, that this Senate supported our recommendation and passed the wild rivers bill earlier this week. That is great news, so I am now calling on Ms Gillard to immediately pass the Wild Rivers (Environmental Management) Bill 2010. There is still time. She can do it. That was passed in the Senate on Tuesday night, and it provided hope for Indigenous people in Far North Queensland. That is good news for those people in Far North Queensland.

The coalition’s report to the Senate—and I have it here in front of me—is dated June 2010. It is a very good report. Specifically the coalition senators’ report is excellent, because the report and its recommendations in that regard have been accepted by the Senate. Our report argued that there was a breach of statutory process by the Queensland government in 2009 and it confirms that they still have serious questions to answer in Queensland. I will come to that further in a minute.

The current Queensland Wild Rivers Act severely restricts the capacity of Indigenous communities in wild river areas to use, develop and control their land. If the bill is passed by the House of Representaties and supported by Labor it will ensure that Indigenous communities are properly consulted and given the opportunity to achieve a consensus before consenting to the making of any wild river declaration affecting their land. This will certainly increase opportunities for Indigenous people in Far North Queensland. It will give them opportunities to engage in the real economy and to address their related social issues, such as welfare dependence and unemployment, consistent with the objective of closing the gap. The bill, if it is supported by Labor, will provide opportunities for the Indigenous people in these communities to be economically and socially prosperous.

I just want to put on the record my thanks to the coalition senators who participated in this report—my colleagues Senator Russell Trood, Senator Stephen Parry, Senator Ian Macdonald, who has been very feisty in his vigorous support for people in Far North Queensland, and of course National Party Senator Ron Boswell. The bill was introduced in the Senate by Senator Nigel Scullion, and he should be congratulated for his efforts in steering the bill through the Senate so successfully.

Amazingly, I have learnt just today through a report in the Australian that the Queensland government have apparently advised that another seven river systems will be added to the wild rivers register.

Senator Boyce—Another seven. That is what they are trying to do.

Senator BARNETT—Another seven, Senator Boyce. This is a disaster. It is going to inject fear into the hearts and minds of people in Far North Queensland, particularly in Indigenous communities. It is very wrong, because the Queensland legislation does not just cover rivers. It covers river systems, catchment areas and basins, and they are being used to greatly increase the size of protected areas. The current situation is certainly worse than what many people ever accused Joh Bjelke-Petersen of creating. The facts stand there for everyone to see. It is not just about a river; it is much broader and the consequences are huge.

I note that some of the serious concerns expressed in the Senate report related to the breach of the statutory process by the Queensland government. That is set out in our report. The Queensland state election was held
on 21 March 2009, with the current minister, the Hon. Stephen Robertson MP, sworn in on 26 March 2009. On 2 April 2009 the governing council approved the 2009 declarations, and that approval was gazetted on 3 April 2009. There is now a High Court challenge to that declaration and to the declarations regarding the wild rivers in Queensland. I hope that it does not come to a hearing. I hope that this bill will be passed and that that litigation can be withdrawn. But it just confirms again that this is a very dicky situation for those in Far North Queensland and their economic opportunities in the wild river areas.

What did the Brisbane diocese of the Anglican Church say? We have quoted them in our report. They said:

... the Wild Rivers legislation in Queensland negatively impacts the wellbeing of the Indigenous population within the Cape York Peninsula area as it reduces the ability of Cape York Indigenous communities to engage with the real economy.

This is a church group in Queensland that have put forward their views, and I hope that the Labor Party and those in Queensland consider them seriously and lobby their federal members and senators to support the coalition’s bill.

What has happened in terms of attracting investments since these wild rivers declarations were made in Queensland? It has been demonstrated recently. Five days after the making of the Wenlock basin wild river declaration on 4 June, Cape Alumina Ltd announced that it had placed its $1.2 billion Pisolite Hills bauxite mine and port project in west Cape York Peninsula under review. That means it is on hold, stalled, with no further investment, jobs growth or opportunities for Indigenous communities on the Cape York Peninsula. A day later, Matilda Zircon announced that it was relinquishing its exploration tenements and applications in the Cape York Peninsula. This is bad news for Far North Queensland. We need to turn this around to provide opportunities for the future.

We have a section in our report on the development applications lodged to date. In recent correspondence Balkanu highlighted the adverse impact on Indigenous community vegetable gardens for people with residences included within the high preservation area either side of the declared river. They said that a community vegetable garden within a high preservation area is only permissible if it does not involve clearing of vegetation. It is difficult to imagine circumstances on Cape York where a community vegetable garden could be established without some clearing of vegetation. Indeed, that is a very persuasive argument. High preservation areas have in almost all declarations been declared to the maximum of one kilometre either side of a declared wild river and its major tributaries with no scientific justification. The best soils for community gardens are within this area.

Of course, the coalition senators expressed concern about this, about the intrusion into native title landowners’ ability to use their land in whatever manner they see fit and about community vegetable gardens, particularly in circumstances where the proposed use is intended to improve physical and social wellbeing. The regulatory complexity is set out in our report, too. Under the Queensland regime it is very bad indeed. The Cape York Land Council made submissions in which they had very persuasive arguments. The scheme injected high levels of uncertainty and complexity, and it was clearly shown that Indigenous native title landowners in wild river areas had not been provided with the knowledge and resources they need to navigate and work within the wild rivers regulatory scheme. We do not want that. We do not want uncertainty. We want to provide
economic and social opportunities for those in these areas. Two years ago, the Prime Minister at the time, Mr Rudd, in his apology to Australia's Indigenous people stated that for Australians:

… symbolism is important but, unless the great symbolism of reconciliation is accompanied by an even greater substance, it is little more than a clanging gong. It is not sentiment that makes history; it is our actions that make history.

I call on Ms Gillard, as the Prime Minister, to get behind this bill and show that action is more important than words—not just to be all talk and no action. Labor certainly has not backed its rhetoric with action and that promise, unfortunately, has not been delivered; it has not been honoured. This is an opportunity to back up that apology, which had bipartisan support from both sides of the parliament. This bill provides an opportunity to support the Closing the Gap initiative. As Tony Abbott said when he introduced the bill:

… on the same day that the Rudd government subscribed to the International Declaration on the Rights of Indigenous Peoples, the Bligh government in Queensland applied the wild rivers legislation to the significant rivers of Cape York—effectively blocking Aboriginal people from developing their land in the catchments of the Archer, Stewart and Lockhart rivers in Cape York.

That is well noted and, of course, it has extended further than that as a result of these definitional issues. We in the coalition are very concerned. We have raised concerns about the full or partial abrogation of native title rights. We have noted that these buffer zones effectively become lock-up areas. We call on Labor to back up the rhetoric. We call on Ms Gillard to act in support of those in Far North Queensland—those Indigenous communities who want to have a future—and support this bill.

Senator BOYCE (Queensland) (5.17 pm)—In rising today to speak on Senator Parry's motion on government service delivery, I wish to discuss the report Enabling Australia by the Joint Standing Committee on Migration of its inquiry into the migration treatment of disability. I thank both the Minister for Immigration and Citizenship, Senator Evans, and the Parliamentary Secretary for Disabilities, Bill Shorten, for assisting in developing the terms of reference and causing this inquiry to happen. The inquiry was developed initially in response to the well-publicised case of a Victorian doctor, Dr Moeller, and his family, which included his son with down syndrome. Because Dr Moeller's son had down syndrome the whole family was going to be prevented from becoming permanent residents of Australia. That case was resolved quite happily amid quite a lot of publicity. There are dozens and dozens of other cases like this every year in Australia which do not get the same publicity and are resolved sometimes far less happily.

The main report of this committee contains 18 recommendations. If all those recommendations go ahead, there will be some very real and positive changes in the migration treatment of disability. I commend them to the government. We received some surprises, some shocks, in doing this inquiry. On that basis, I draw people's attention to recommendation 15, which deals with creating a priority visa category for refugees who have sustained a disability or condition as a result of being a victim of torture and trauma. The committee was shocked to hear evidence that refugees from countries such as Rwanda and Sierra Leone were being refused visas to come to Australia because they were amputees. They are amputees because their government or other forces in their countries were amputating limbs as a way of exercising some control over the population. It struck everyone on the committee as horrific that people who had been so traumatised in their own countries were then doubly
traumatised by not being able to come to Australia. Amongst the very many excellent case studies in this report there is one about a Rwandan mother who was refused the opportunity to come to Brisbane to see her two daughters because she was an amputee and because of the other very serious disabling injuries that she had received through being shot by her own government during a civil war. It is wonderful that an inquiry like this can bring out such information.

If the 18 recommendations of the main report are adopted, there will be some real and positive changes to the migration treatment of disability. But I would suggest, and I have done in additional comments that I made with Senator Sarah Hanson-Young, that we can go a lot further. Our additional comments are entitled ‘Dismantling the deficit model’. Our main recommendation is that the government remove the exemption of the Migration Act 1958 from the Disability Discrimination Act 1992—in other words, stop having a disability criterion for people who are coming to Australia either as migrants or as refugees.

There have been two arguments in the past as to why you might have special criteria for people with disabilities to ensure that they do not affect Australia’s society. The first goes back to this historic view—it is really a relic of the past—that perceives disability as a disease, as something that you might catch, something that might be infectious or certainly something that the Australian population needs to be protected from. We have come a lot further in terms of how we understand disability and how we distinguish between the very reasonable and real need that we have to protect Australia from genuine public health risks and the need to ‘protect’ Australia from people with disabilities.

The other reason given for adopting special disability criteria is the view that people with disabilities would flood into Australia and use up all the services that are currently available. Certainly there can be no argument that there is restricted access to services for people with disabilities in our society now. It is restricted for Australians. But the suggestion that there would be this flood of people with disabilities coming here is quite bizarre and was certainly spoken against by numerous witnesses to the inquiry, including Dr Rhonda Galbally, who was instrumental in developing the government’s Shut out report. She said:

We have never seen a flood to Australia. We have seen genuine families applying to come here or people in refugee situations where they happen to have a family member with a disability who they declare … I think that it is like the mythology of the yellow hordes flooding down from China argument.

Dr Galbally also described the view that there would be no services left for genuine Australians if we allowed people with disabilities to come to Australia willy-nilly as a ‘furphy’. I can only support her in that view. I think we must recognise that, if we apply the Disability Discrimination Act to our Migration Act in the 21st century, we see there is overt discrimination. It is a relic of the old days.

I spoke earlier about some of the things that shocked me during this inquiry. It was at the Sydney hearing that both Mr Graeme Innes, the Disability Discrimination Commissioner, and Professor Ron McCallum, former dean of law at the University of Sydney and currently the Chair of the UN Convention on the Rights of Persons with Disabilities, made the point that, if they were not Australian born, they would not have been allowed to come to this country. To me that demonstrates how foolish it is for us to sit down and assess what a four-year-old Graeme Innes or a five-year-old Ron McCallum might be able to contribute to this
country by trying to apply some sort of actuarial tables on the social and economic benefits of people with disability. The answer is that we do not know what ability to contribute to our society people with a disability have. When people with disability come from circumstances where there are poorer education services, poorer community services and poorer therapy services, we particularly do not know what their capability is.

One of the case studies provided to the committee is that of a man who was the first-ever blind person registered as a teacher in South Australia who we initially tried to send away. He successfully appealed, but he and his family went through all that trauma and there was all that cost to the government before he succeeded in being allowed to stay. There are other examples of people with severe disabilities who have come here and then, because of the treatment available, gone on to make a real social and economic contribution to the country.

I would very much urge the government to accept that we have plenty of criteria to wrap around ensuring that migration to and refugee settlement in Australia are well controlled, well within our means and safe for Australia. There are plenty of other criteria available to use. We do not need to add disability criteria to that. It is no longer reasonable to assume that, because someone has a disability, they cannot contribute or that their family, in net terms, would be a burden to Australia. It is just not the case, and we should stop pretending it is. We should acknowledge that because of all the other criteria there is not going to be a flood of people with disabilities trying to come into Australia. People will have to meet all the other criteria, and that will be reasonable.

One other recommendation that is made in the additional comments, which is based on the first recommendation not being accepted, is that we should acknowledge that rejecting temporary visa holders as permanent visa holders solely on the basis of the birth of a child with a disability is discriminatory and we should develop protocols to address this. I am aware of couples who have come to Australia on temporary visas and conceived and given birth to a child with a disability in Australia and, on that basis alone, have been refused permanent resident visas. These are, on every other count, the Dr Moellers of the migration world—well-educated people with very senior positions who would, in anyone’s terms, be a great addition to the Australian community but who have had a child with a disability in Australia and have then been put in the position of not being able to continue to pursue their attempts to become Australian citizens.

I think all use of disability criteria against migrants and refugees is discrimination but I think this form, where a child who is conceived and born in Australia is the cause of a family being discriminated against, is a particularly offensive form of discrimination. I would urge the government to add that recommendation to the list of the other 18 in the event that they are not prepared to accept the idea that we should simply take the disability criteria completely out of our Migration Act.

In the spirit that this inquiry was conducted, in the spirit that the terms of reference were developed, as I said before, by Minister Evans and Parliamentary Secretary Shorten and in the very sensitive way that the whole inquiry was handled by all members of the committee, I would hope that we could move to remedy this situation and to stop discrimination against people with a disability who simply want to call Australia home.

Senator IAN MACDONALD (Queensland) (5.30 pm)—This momentous day in
the ongoing history of turmoil and destruction in the Labor Party, with yet another leader of the party, reminds me of the days not all that long ago when Mr Hawke and Mr Keating were at each other’s throats. Certainly today is a momentous day in that ongoing history of turmoil and backstabbing in the Labor Party.

I did want to make a contribution on the motion by Senator Parry noting the ineptitude of the Rudd Labor government to deliver promised services to the Australian people, but there are not enough hours in the day to do that. In moving the motion, Senator Parry wrongly called it the Rudd Labor government. He should have called it the Rudd-Gillard-Tanner-Swan Labor government, because we all remember that the gang of four made all the decisions—nobody else.

Mr Kelvin Thomson let the cat out of the bag today when he said that none of them had any idea of what was going on. He was going to vote for Julia because, he said, ‘We have been sent out there to sell policies that we’ve had no say in and don’t even support.’ So he was dead keen to get rid of the then jockey on top of the horse. But he did not quite understand that those decisions had not been made by Kevin Rudd; they had been made by four people, and Julia Gillard and Wayne Swan were two of them. In the course of the day, the gang of four has suddenly turned into the gang of two as Mr Tanner picks up his bags and goes home. But the ineptitude is still there.

I want to briefly come back to Senator Conroy’s NBN proposal. The motion before the Senate talks about the ineptitude of the Rudd Labor government. In question time yesterday, when I said that Senator Conroy had shown his incompetence, I was very correct. Those who remember question time yesterday might recall that I asked a question about Telstra’s HFC cable in Melbourne, Sydney and Brisbane, which currently serves over half of the Australian population.

I was making the point that, for a fraction of the $43 billion that Senator Conroy is wasting on the NBN, we could have upgraded Telstra’s HFC cables, built on to them, and provided a network better than or equally as good as the NBN. I also raised the point that by doing this deal—albeit a deal that is not binding—Telstra has to shut down its network, therefore taking away competition in the networks in the name of promoting competition. Can you believe that? You reduce the competition so that you increase the competition—it was clearly nonsensical. When Senator Conroy gave the answer, he stood up and said to me, ‘Let me explain to you the laws of physics.’ Then he went on with a diatribe. No sooner did I get back to my office than I had any number of people who really understand the internet, broadband and telecommunications emailing me to say, ‘Conroy has no idea what he is talking about.’

Senator Conroy, as you will recall, said HFC is like wireless in a pipe: the more people who switch on and use HFC at the same time the slower the dedicated speeds become. Then he went on as though he knew something about it. The people who understand these things will tell you that it is all matter of engineering. The same will happen with his fibre unless it is engineered properly, but it can be engineered and this is what engineers do. How they do it I do not have a clue, but engineers can deal with the fibre so that slowdown does not happen. Similarly, as I have been told by experts, HFC can be dealt with by engineers in a way that does not have the results that Senator Conroy was alleging.

Anyone listening to question time yesterday would have thought, ‘That Senator Conroy knows what he’s talking about, he really
Senator Parry’s bill. I know that, if all senators could have the opportunity of speaking on it and even voting on it, they would support Senator Parry’s motion, because I think it is quite clear from the actions of the Labor Party over the last few months, and particularly the last couple of days, that the government is simply inept and is unable to deliver the promised services that it committed to deliver to the Australian people.

Senator McEwen (South Australia) (5.38 pm)—I would very much like to contribute to the debate on Senator Parry’s motion on government service delivery but, given the time constraints facing us today, I will not. Suffice it to say that I disagree with most of what Senator Macdonald said. I do appreciate, however, that he said it in a relatively short period of time. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

BUSINESS
Rearrangement

Senator Stephens (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (5.39 pm)—by leave—I move:

That the government business order of the day relating to the Electoral and Referendum Amendment (Modernisation and Other Measures) Bill 2010 be called on immediately and have precedence until determined.

Question agreed to.

ELECTORAL AND REFERENDUM
AMENDMENT (MODERNISATION
AND OTHER MEASURES) BILL 2010
Second Reading

Debate resumed from 16 June, on motion by Senator Arbib:

That this bill be now read a second time.

Senator Ronaldson (Victoria) (5.39 pm)—As the 42nd Parliament lurches to an end, I suspect—

Senator Brandis—Slowly dying—not with a bang but with a whimper!
Senator RONALDSON—Slowly dying—that is probably a better way of putting it. The Electoral and Referendum Amendment (Modernisation and Other Measures) Bill 2010—everything bar the matter on which I intend to move amendments—was agreed through the Joint Standing Committee on Electoral Matters. We obviously support that as do, I presume, the minor parties and the government. We were disappointed that the postal vote application part of the bill under schedule 6 was inserted in what should have been a non-controversial bill. Given the hour, I will not make any further comments about that. I will make some very quick comments when we get to the committee stage.

Senator SIEWERT (Western Australia) (5.40 pm)—On behalf of Senator Xenophon, I seek leave to incorporate a speech on the second reading of the Electoral and Referendum Amendment (Modernisation and Other Measures) Bill 2010, for which I understand he has support from both the government and the opposition.

Leave granted.

Senator XENOPHON (South Australia) (5.41 pm)—The incorporated speech read as follows—

May I start by stating that I am extremely disappointed to hear that the Government has negotiated amendments to this Bill with the Opposition that will continue to allow political parties to distribute postal vote applications to constituents to which they can attach political advertising, and to allow political parties to receive postal votes to be forwarded to the Australian Electoral Commission.

I acknowledge the positive provisions of this Bill. Australians will be able to provisionally be enrolled from the age of 16 years; it will be easier for people to apply for a postal vote, it will introduce flexibility for ballot papers to printed at the local level and it will provide clarification around the rights around inspection of the Electoral Roll, to name a few.

These are good amendments.

These amendments will further refine our electoral process and will engage more young Australians in the voting process.

But the two most important amendments proposed in this Bill, I have been advised, will not proceed because the Government has agreed to the Opposition’s amendments which will maintain the status quo.

The Government had the right idea—and my support—to prohibit written material from being attached to a postal vote application.

But the Opposition wants to continue to be able to send Constituents its party-political advertising along with a postal vote application.

Now if that doesn’t interfere with the process, then I don’t know what.

I know some might say that when a voter walks into his or her local school to cast their vote on Election Day, that they are bombarded by people handing out pamphlets and letters and badges and the like.

The difference here is that they don’t get to the ballot box and as they’re reading how to complete the form, there’s a piece of paper instructing them how to vote.

Further, I want to express my disappointment that the Government is willing to back down from this amendment which would have improved Australia’s electoral system.

The second amendment I am disappointed will not succeed is the one which sought to require postal voters to send their votes back to the political party which enables them to count votes before forwarding them on to the Australian Electoral Commission.

Again, this is a good amendment but as I understand it, the Government has agreed to the Opposition’s Amendment to remove this provision from the Bill.

I want to make it clear that I do not support the Opposition’s Amendments to this Bill, but I acknowledge that the Government has conceded to these Amendments in order to have this Bill passed.
This is an opportunity lost.

I support the more-administrative provisions of this Bill, but the two key changes to do with materials attached to postal vote applications and the banning of voters returning postal votes to political parties were good changes that the Government had put forward and which would have greatly improved our electoral system and democracy.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (5.41 pm)—I thank senators for their support and cooperation on the Electoral and Referendum Amendment (Modernisation and Other Measures) Bill 2010 and I commend it to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator RONALDSON (Victoria) (5.42 pm)—I move opposition amendments (1) to (3) on sheet 6139, standing in my name:

(1) Schedule 6, item 2, page 38 (lines 9 and 10), item TO BE OPPOSED.
(2) Schedule 6, item 12, page 39 (lines 26 and 27), item TO BE OPPOSED.
(3) Schedule 6, Part 2, page 42 (lines 1 to 7), Part TO BE OPPOSED.

We oppose those aspects of the postal vote application, which are the controversial aspects of this bill. There has been no evidence at all that the way the postal votes are currently dealt with in any way detracts from appropriate governance. In no way does it provide either the coalition or anyone else with an advantage through misuse of the Electoral Act. We are opposed to this, and I am pleased that the government has accepted our amendments.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (5.43 pm)—I thank Senator Ronaldson for his contribution. The government accepts these amendments, and I commend them to the committee.

The TEMPORARY CHAIRMAN (Senator Moore)—The question is that items 2 and 12 and part 2 of schedule 6 stand as printed.

Question negatived.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (5.44 pm)—I move:

That this bill be now read a third time.

Bill read a third time.

BUSINESS

Rearrangement

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and Parliamentary Secretary for the Voluntary Sector) (5.45 pm)—by leave—I move:

That government business order of the day no. 4 (Healthcare Identifiers Bill 2010 and a related bill) be called on immediately and have precedence until determined.

Question agreed to.

HEALTHCARE IDENTIFIERS BILL 2010

HEALTHCARE IDENTIFIERS (CONSEQUENTIAL AMENDMENTS) BILL 2010

Second Reading

Debate resumed from 15 March, on motion by Senator Wong:

That these bills be now read a second time.
Senator FIERRAVANTI-WELLS (New South Wales) (5.45 pm)—I rise to speak on the Healthcare Identifiers Bill 2010 and the Healthcare Identifiers (Consequential Amendments) Bill 2010. After all the ups and downs, it is interesting to see this bill finally come up. I want to place on the record that Minister Roxon has made comments in the other place criticising the coalition for supposedly blocking this. Here we are, almost at the death knell, and because they could not get their act together and get their programming right we are now dealing with this in a hurried manner. It has been shuffled down the list repeatedly.

Indeed, that is also the case with the National Preventive Health Agency and the legislation dealing with that. I raise this because we have to put up with the comments from Minister Roxon. She cannot get her facts right and so she puts out these silly press releases that tell us that it is being blocked by the opposition. The preventive health agency bill is one that I inherited when I became shadow minister for ageing, looking after health and ageing in this place. It has been sitting on my shelf for the last six or seven months. Why? Because this government has not been able to get its act together. It was with Senator Cormann when he was looking after health in this place, so can I just tell the minister to either get a copy of the Senate procedures and understand them or go back to the people that put order and procedure into the Senate and complain to them. Do not come out and complain to the opposition if you are having a hissy fit because your bills are not getting through the Senate.

Having said that, I now turn to the healthcare identifiers legislation. This bill is another example of this, and because of the time constraints I will not go through the various things this bill actually does. I do want to say that it is very important. This is a bill that goes to e-health. We support e-health; indeed, it was an initiative started by the coalition. But it was very important that this bill be correct to ensure that the improvements in patient safety, medical care, privacy and coordination have a critical and solid foundation in relation to its future. It is important that we get this right.

In the lead-up to the last federal election we heard many promises from the former Prime Minister on health. For example, ‘We are going to plan to fix the hospitals.’ Indeed, one of the points we keep hearing about healthcare identifiers and e-health—and we heard it again last week in relation to the COAG inquiry—is that they are important. Yes, it is, but it is important that we do get it right. It is also interesting to see that there was a whole range of promises in relation to a whole lot of things on the grand hospital plan. Might I say that this was a plan approved by the gang of four, so again it was one of those rushed jobs where the formalities did not actually start until three weeks before COAG. Of course, the Prime Minister—the former Deputy Prime Minister—was right in there making those decisions.

I will not trawl through the various problems in relation to health, but I will say that in relation to e-health there were concerns about the original legislation. When we examine the history of this legislation we see a repeat of common features of the Rudd record on health: planning, rushed legislation and a lack of appropriate consultation with stakeholders. The lack of consultation, and putting out draft legislation where so much of the legislation was actually in regulations that were not put out, really caused a lot of angst for stakeholders. It was because of this angst that the coalition pushed for a Community Affairs inquiry. Regrettably, at the time of the hearing we still did not have the regulations. And as so much of the parameters of this was going to be in the regulations it was really unfortunate that they were not
out in the public arena. Now, here we are, and it is, as I said, the death knell.

Another concern that was raised following the lack of consultation time available to stakeholders was the fact that this system was due to commence on 1 July this year. It defies belief that the government has delayed—and this comment needs to be made—providing software manufacturers and developers with the specifications to enable them to design the appropriate IT framework or to integrate healthcare identifiers into existing packages.

Concerns were also raised about the breadth of this legislation. In particular, there was potential for privacy laws to be overridden if the action was in relation to disclosure under any other law. Given the reports in the press, particularly in the *Australian* on 2 March this year—and we trawled through this at the committee hearing—about concerns and allegations raised against Medicare Australia staff in relation to inappropriate viewing of confidential patient records without authority in the past financial year, it was really important that the parameters in relation to access to healthcare identifying information work were properly delineated.

There were additional concerns in the minority report and I contributed to that minority report. It must be stressed that, whilst we do not oppose this legislation, we thought it was important that stakeholders be given that further opportunity for consultation through the committee process. One of the concerns was this potential function creep and the use of healthcare identifiers being extended to other purposes. The final concern was the possibility that the scheme would not be ready for implementation on 1 July.

The coalition presented eight amendments to the government and in a press release on 21 June the responsible shadow minister, Dr Southcott, stated that there were discussions in relation to amendments put to the government. They covered four basic areas: to prescribe the requirements for assigning a healthcare identifier to a healthcare provider or recipient as a schedule in the bill; to confirm that the operator of the health identifying service can only be changed by legislation; to provide a guarantee of a right of appeal or review under section 9 of the proposed legislation; and to delete the provisions which allow the healthcare identifier to be released if permitted under another law. We believed that these amendments would significantly improve the legislation and urged the government to support them.

We are very pleased that Minister Roxon has significantly backed down from the original legislation. We believed that the Labor government needed to go much further to ensure important privacy protections and prevent function creep. Therefore, we are pleased that Minister Roxon has heeded our concerns and accepted six of our amendments—namely, those going to requiring legislation to change the service operator from Medicare, those requiring legislation to proscribe the data source, definitions for healthcare providers to be done by way of legislation and not regulation which is very important, and requirements for assigning identifiers to be done by legislation and again not by regulation.

Our two remaining amendments were in relation to limiting the disclosure of information and removing a person’s ability to disclose information under another law, a concern raised at the inquiry. Following discussions with stakeholders such as NETA and after exploring the issue with the government, there are legitimate concerns with the operation of the outstanding two amendments about the potential to overly restrict the use of health identifiers and potentially expose clinicians to offences for aspects of routine health care. As I said, very little time...
was afforded to stakeholders to submit their views on the draft legislation and not all these concerns were addressed. For legislation such as this, which is very important and deals with highly confidential healthcare information, it is vital that it is right.

I conclude by saying that the coalition will not oppose the legislation and we will not oppose the government’s amendments. We will also not be moving our amendments, given most of our concerns have been taken up by government amendments. I am not sure what the position is in relation to the Green amendments and Senator Siewert may clarify that. We saw some Greens amendments which allow individuals to opt out of the identifier scheme. The coalition will not support the Greens amendments which we believe are unnecessary at this stage. Critically, this will be dealt with in the next step which is the electronic health record. This will be an opt-in system in that you will have to provide explicit consent to have a personally controlled electronic health record.

Senator McEWEN (South Australia) (5.56 pm)—I seek leave to have Senator Xenophon’s speech incorporated in Hansard.

Leave granted.

Senator XENOPHON (South Australia) (5.56 pm)—The incorporated speech read as follows—

The Healthcare Identifiers Bill 2010 is the first Bill that will introduce an e-health system to Australia.

e-Health is, to use a cliché, the way of the future.

Similar systems are in place or being developed in Europe, Canada and the USA and I’ve been advised that the technology currently being used has been not only highly secure but incredibly useful and beneficial.

e-Health offers doctors and patients access to accurate, up-to-date medical records and health information.

It will make changing doctors or being referred to specialists easier, especially for patients with complex medical conditions.

And having been in that boat myself, I can see how it will be helpful.

The transfer of records, x-rays, test results … all the information we as patients forget or remember incorrectly, will be available to any doctor we see, anywhere in Australia, with the appropriate permissions, which can only benefit treatment of patients.

Such a system will also help to monitor ‘doctor shoppers’; patients who move from one doctor to another in order to collect multiple prescriptions, often in order to feed prescription drug habits.

However, while I do support the introduction of e-health, even at this very initial stage, I do have concerns regarding privacy.

I note that the Government has acknowledged these stakeholder concerns also, and I appreciate that.

It is vital that such a system does not compromise an individual’s privacy with regards not only to their health history but also any identifying information.

And as this scheme develops, I indicate now that I will be monitoring subsequent legislation very closely to ensure that the privacy of Australians remains in tact.

I understand that there have also been concerns expressed around ‘function creep’: that the Unique Healthcare Identifier number may gradually be expanded to include purposes and functions it was not originally intended to be used for.

The legislation as it currently stands only allocates the use of the Unique Healthcare Identifier to health, and it must stay this way.

I think it’s important at this stage that we recognise that this particular Bill does not establish the actual working system of electronic health records; it simply puts the framework for such a system to be established in place.

Therefore, there will be further stages where thorough review will be conducted and I look forward to debating the subsequent legislation concerning the implementation of this scheme,
and the associated issues that will be raised with it.

I support this Bill, and I support the establishment of e-Health in Australia.

I believe that, with the appropriate scrutiny and safeguards, that such a system will be a good thing for Australians, and a positive step in improving our healthcare system.

Senator SIEWERT (Western Australia) (5.56 pm)—This is just another example of the farce in this chamber this afternoon. We got a phone call asking if we would consider bringing the Healthcare Identifiers Bill 2010 and the Healthcare Identifiers (Consequential Amendments) Bill 2010 on and, in trying to facilitate the debate, I said: ‘Yes, I have amendments. I am happy to decide them on the voices and I won’t call a division. We will try and facilitate this getting through the chamber.’ About five minutes later we got another phone call saying, ‘No, it’s not coming on.’ I sent my staff home. Nobody had the courtesy to phone my office to tell me this bill was coming back on. In fact, I would not have known if I had not been in the chamber for the previous bill. Since when is that good government process? I could call a division right now on my amendment and you would not be able to finish this. It is only my good grace that prevents me from doing that.

Now I have that off my chest, I will address the bill. This is an important piece of legislation and it deserves to be treated better than this. This is setting up a system that is very important for the future of the health system in our country. It is quite controversial. This is the first bit of that legislation and e-health is very controversial. I realise that this is only an initial phase, but a lot of people see this as the thin end of the wedge, which is why we have been paying such close attention to this legislation. This bill sets up a national system for identifying healthcare consumers and sets out the purposes for which healthcare identifiers can be used. It establishes a national healthcare identifiers service to allow electronic communication between healthcare providers.

I know there remains a great deal of confusion as to whether this legislation is about electronic health records or creating the building blocks for the e-health system which is why people are anxious. This is why it is important for us to have a proper debate so that people actually understand the sequence, what the identifiers mean and what the electronic records mean. This deals with establishing the foundation of a future electronic health record. The Greens believe that universal data will contribute to reducing the incidence of misadventure, save costs and inform performance across our health system. In order to get to that point, we have to start somewhere. As such and with a number of caveats for the future development of electronic health records, the Greens will support this legislation.

However, it seems disingenuous to discuss the issue of healthcare identifiers without consideration of the wider issues of electronic health records, because this is the initial building block. The minister commented in her second reading speech:

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

The implementation of a healthcare identifiers system for patients and healthcare providers is an important step towards building an effective national e-health system.

The first time many Australians will be aware that they have been assigned the identification number is when they visit a doctor’s office or a Medicare office and a staff member asks them for their identifying information.
In the UK, University College London has just released a report that evaluates the early stages in the development and implementation of electronic health records in the UK national health system. The report, titled *The devil's in the detail*, highlights the differences between both sides in this debate. On the one hand, there is the view that centrally stored electronic summaries, accessible by patients and authorised staff, are a part of a broader common good. Advocates speak of choice, empowerment, quality, safety, efficiency and personalised care. The opposite view portrays policymakers as being seduced by a vision of technological utopia, professional leaders as being obsessed with standardisation, the public as being largely disengaged and the government as extending electronic surveillance into intimate parts of citizens' lives. The problem is that both versions can, unfortunately, be backed up by evidence to some extent.

A unique electronic patient identifier, in conjunction with an electronic health card, was first advocated by the House of Representatives Standing Committee on Family and Community Affairs in 1997. The National Electronic Health Records Taskforce recommended in its report in 2000 that a national health information network be developed. The report cited the benefits of national health identifiers and talked about increased community safety, informed consumers being able to make better choices, better healthcare providers providing better health care, provider access to healthcare information, fewer diagnostic tests, improved warning systems, better planning and coordinated healthcare provision.

The National E-Health Transition Authority was endorsed by health ministers and set to work on e-health priorities. One of these priorities was the development of the patient identifier system, which, when combined with a product and medical database and national healthcare provider index, was to form part of the shared e-health record. In June 2009 the government’s National Health and Hospitals Reform Commission endorsed the directions proposed in the e-health strategy on the understanding that personalised health records remain at all times owned and controlled by individuals, who must approve access to these records.

The Senate committee inquiry into healthcare identifiers found that, while most who submitted evidence were supportive of identifiers, concerns were expressed around three themes: protecting the privacy of healthcare consumers from unauthorised access to their medical records; function creep, whereby healthcare identifiers start to be used for purposes other than that for which they were originally intended; and the implementation of the legislation by 1 July this year. It was widely acknowledged by witnesses and submissions to the inquiry that there was a need for a single healthcare identifier as proposed in the bills. In the words of one witness:

This is a fundamental building block that we know has direct payback, immediate payback, in terms of patient safety and cost reduction.

The Consumers Health Forum provided in their testimony a sense of the efficiency gains that a single healthcare identifier can bring for health consumers. The Nursing Federation also expressed support for healthcare identifiers.

Few witnesses or submissions disputed the concepts of healthcare identifiers and e-health. They did not dispute that they were likely to improve delivery and administration of health care in Australia. So it is not that people do not support identifiers; what they have concerns about are privacy and other concerns that I have listed. However, there remains confusion about what this initial piece of legislation does. The issue was iden-
tified by the Consumers Health Forum, which noted:

Many privacy concerns that were raised with us are valid … but they relate mostly to e-health records as opposed to individual health identifiers …

This debate is important so that people understand that we are just talking about the identifiers at the moment. This legislation does not allow access to patients’ records. All that further information comes through the e-health process. These bills cover only the creation of a national system to accurately identify healthcare consumers and healthcare providers. They do not allow medical and clinical information to be attached to an individual healthcare identifier—although it is not correct to say that these are unrelated concepts; of course they are.

The Privacy Commissioner emphasised:

Different privacy issues will arise if healthcare identifiers are to be used for expanded purposes within the national health system and if clinical information is to be associated, or held, with a healthcare identifier. In particular we would be concerned if healthcare identifiers could be used for expanded purposes without further consultation and Parliamentary scrutiny being required.

The Privacy Foundation was strongly opposed to the bills and claimed that the benefits to patients that were likely to come from the introduction of healthcare identifiers were outweighed by risks to individual privacy. The Foundation asserted that the security of electronic information is difficult to guarantee and suggested that clinical staff may share secure information. These issues are all really felt by people and need to be addressed. If you talk to doctors, nurses and allied health workers, they are quite frank about the fact that they share logon details, passwords and patient records. I am not convinced that electronic health records are somehow less safe than what already exists. As was also pointed out during the Senate inquiry, there are currently privacy breaches in the clinical environment.

Some have argued that the risk to the privacy and security of information lies in the fact that health identifiers are being considered in isolation from future legislation. However, I am not convinced by that argument, which is why we are supporting the bills. We understand very clearly that separate legislation will be needed for e-health records. That is why, as I said, we are keen to make sure that we articulate that we have some concerns about e-health. I am not saying we oppose it; I am saying that there are issues that need to be fixed. We have spoken with the government about our concerns about privacy, which is one of the reasons I am putting up an amendment about opting out. This came up at the Senate inquiry, and the government said that it had looked into it and that it is too hard to opt out. However, they do it in the UK, which is why I will move an amendment. We understand that people do not have to use their identifier number, but people are concerned that there is a number against their name on the record. That still remains a concern for us—it is not the same as opting out—and that is why I will move the amendment. As people will be aware, I also have a second reading amendment, and if people read it they will see exactly the recommendations of the Senate committee report around the involvement of stakeholder groups as the system develops and as the implementation plan develops. It talks about publication of this plan before it is finalised and the development of a targeted education communication strategy.

We think this provides good safeguards around the identifier process and recommend it to the House. We will be watching the development of both this and the e-health process very carefully. We believe there are very strong reasons why we want to go to an e-health process, but there are concerns that
need to be addressed. In supporting this we are saying that, yes, we support this first step but we have some concerns. We want to work through the e-health process very carefully and understand people’s particular concerns about privacy. If people are concerned about the privacy of their electronic records, they may actually be deterred—for specific illnesses—from seeking health care, and that is a very strong concern for us. We need to make sure those provisos are there. I move:

At the end of the motion, add:

but the Senate calls on the Government to ensure:

(a) the involvement of key healthcare stakeholder groups, including state and territory governments, private and community health providers, and healthcare consumer groups, in the development of a Healthcare Identifiers Service implementation plan which covers the period from now to 30 June 2012;

(b) the publication of this plan for public comment prior to its finalisation; and

(c) the development and implementation of a targeted education and communication strategy which targets both healthcare providers and healthcare consumers, and which clearly lays out the facts behind healthcare identifiers and provides contacts for people to access further detailed information. This strategy should be implemented prior to the Healthcare Identifiers Service coming into effect and no later than 30 June 2012.

Senator BOYCE (Queensland) (6.09 pm)—I can do nothing but reiterate the comments of Senator Fierravanti-Wells and Senator Siewert about the bizarre and quixotic way the government has gone about attempting to bring this legislation in. After lunch today, this legislation was not on the list, yet Minister Roxon has been lecturing the coalition for months now about how we needed to get our act together to get this legislation through. In terms of getting one’s act together, I do not think I have seen anything more bizarre than today’s activities. The government did not have this on the list; now the government has it on the list. As I understand it, the identifier system that this legislation will support is supposed to start operating on 1 July. It cannot do that without this legislation. We are now informed that the House of Representatives, where the government has the majority, is about to stop sitting, or has stopped sitting, and therefore this legislation cannot go back to them to be passed in time for it to start on 1 July. I have subsequently been told by Senator Siewert that this legislation is now not supposed to start until 1 October. Can we get this right? I continue to be bemused by Minister Roxon’s pathetic efforts to get legislation through and her attempts to blame us for it. I would like to read to the Senate a line from an article by Karen Dearne in the Australian on 1 June. She said:

One month out from the start of the Rudd government’s mandatory Healthcare Identifiers regime, Medicare is yet to sign a contract for service delivery.

They had not signed up the service deliverer a month out from when they said the only thing stopping this from happening was the opposition’s opposition. What complete and utter garbage! In any other organisation the current health minister would be out of a job in 10 seconds. She is the implementer from hell. Given the record of this government, she will probably get a promotion. Implementation is certainly not high on their agenda, and the way that they have gone about this is even more hopeless.

Senator Fierravanti-Wells—Nurse Roxon might become Dr Roxon!

Senator BOYCE—That is true. I certainly think that this effort will probably earn Minister Roxon a very, very big promotion,
given that implementing successfully is a black mark against you in this government.

The coalition has long had a supportive attitude to e-health. Ten years ago we began the process of getting Australia an e-health program. The groups that will particularly benefit from this are people with chronic illness who need frequently to go to doctors and specialist for tests and who need frequently to tell their health professionals what has been done. In the end, this program is the first step towards a system which can be automatically brought up on their computer. We are currently in a situation where this cannot now proceed from 1 July. This is entirely in the hands of the government and Minister Roxon. Even if it were to proceed, there is absolutely no confidence anywhere that it is going to work. As I said, a month out, Medicare had not been signed up as the contract service provider.

During estimates, I asked questions on this area. In early June NEHTA, the National E-health Transition Authority, had finally managed to get itself sufficiently sorted out to invite medical software companies to tender and to get involved in the process of providing the software. On 6 June they had signed up three companies out of a potential 200. Had the trials happened? No. We kept being told that NEHTA had trialled the identifier systems with Medicare in a practice environment but there had been no real testing. Yet every medical software developer in the country has said, ‘You’ll need at least six months of live testing to have any confidence that what you are going to do will work.’

In the middle of this we already have concerns about Medicare wrongly sending out information, wrongly advising GPs of tests and getting the current Medicare numbers confused, let alone using a system that is meant to be more sophisticated than they currently have. I want to give you a sense of the size of this. I asked for an idea of what was going to be involved. The list goes like this: 100 million GP consultations, 100 million GP prescriptions, 200 million medications dispensed, 40 million GP pathology requests, 60 million pathology reports to GPs, 10 million GP imaging requests, 10 million imaging reports to GPs, eight million GP specialist referrals, and eight million specialist reports to GPs. That just begins to give you the scope of what this system is designed to deal with.

They cannot get themselves to stay long enough to get their own legislation through. They cannot get their medical software industry consulted in a timely fashion. Why would we believe that they could ever implement this system correctly? We agree with the Pharmacy Guild and the AMA that we should just get on with this. If there are problems with it, let’s fix them and just get on with passing this legislation and getting the system going. But how can we?

Senator MASON (Queensland) (6.17 pm)—This debate is perhaps more important than many honourable senators appreciate. It has long-term implications for our community. Senators more eloquent than I have pointed out the importance of e-health. It will assist in the diagnosis and treatment of illness and it will help patients in rural areas particularly, and it is true that services will be cheaper and, perhaps, more efficient. But there are implications for privacy, and they are fundamental concerns in any liberal democracy. The balance to be struck between the efficient delivery of government services and medical services on the one hand and the right of individuals to keep intimate information private on the other is a difficult one. One of the best examples of this the most intimate of all information: the health record. For example, we have a public figure, a politician, who suffers from depression. We now know that there will be hundreds of thou-
sands of people who will potentially have access to those records. If those records are not absolutely confidential it could, for example, not only destroy the parliamentarian’s career but also potentially influence national security.

These are weighty, difficult and important issues. Whenever a state or government seeks to number its citizens, it bears the heavy onus of showing why that is necessary. As Senator Siewert mentioned, the fear amongst some members of the community is that this bill could provide the architecture for a national surveillance system. All of us would agree that we should never meet the needs of government and administrative convenience and meekly surrender to perpetual surveillance. No government efficiency is ever worth some sort of Orwellian dystopia. Mr Rudd was never quite Big Brother and I am sure the new Prime Minister, Ms Gillard, is no big sister, but all democrats should share a scepticism of enhancing the capacity of the state to monitor and survey its citizens. All of us should share that scepticism, and government bears the heavy onus of showing why it is absolutely necessary.

The purpose of these bills is to establish an individual health identification number for every Australian. Whilst the coalition supports the uptake of important advances in the delivery of contemporary medicine such as e-health, the fundamental problem with these bills is that it is so hard to determine where we are going to go from here. The bills are essentially incomplete. They cover only a small but essential element of a much broader health identification and surveillance system, including future personal e-health records. They leave so much detail to be worked out later on by parliament and administratively, and that is the difficulty. It is very hard to know where the government will go next.

Any data-matching scheme, and these bills contemplate a data-matching scheme, must look at two essential elements. First, who has control over the access to the data, the information or the unique number? Second, what data is linked to that unique number, to that individual health identifier? Both those aspects must be controlled and very closely monitored by the Commonwealth parliament. We must never abdicate our responsibility to another parliament, to a minister or to administrators. That is why I strongly argue that any extension of the use of information or a unique number should be explicitly authorised by the Commonwealth parliament.

Function creep, as Senator Siewert mentioned, is the most significant issue not addressed by government and not sufficiently appreciated in this debate. Under these bills, health information may be disclosed for other purposes not detailed in the bill where that disclosure is authorised under another law. This means that it might be authorised by other Commonwealth, state or territory legislation or regulation. I believe that, where other agencies seek access to a unique identifying number or any information attached to it, access to such information should not be granted automatically by virtue of other Commonwealth legislation or, more importantly, by regulations or legislation passed by a territory or state parliament. This will ensure that the Commonwealth parliament retains direct oversight and responsibility for any extension of the entitlement to access information by government agencies.

The individual health identifier, that number, is a creature of the Commonwealth parliament. No other parliament should be entitled to legislate access for their own instrumentalities. For example, why should the Queensland parliament, the parliament of my home state, be able to legislate access for the Queensland Police Service? Why should
they be able to do that? In my view they should not. No-one should be able to legislate for access to this unique identifying number except the Commonwealth parliament. So should access to this unique number be at the mercy of state parliaments or even regulations made by state parliaments? No, it should not. I accept that this number might facilitate administration but this parliament and this parliament alone should decide who has access to this information—not a state and not a territory and not their parliaments. It is as simple as that.

The second issue, and there is progress on this, in any data-matching scheme is that the Commonwealth parliament should explicitly authorise what information or what data is linked to the individual’s unique number. The parliament should explicitly authorise the data that is linked to this number. It has critical implications for privacy. The responsibility for that can never go anywhere other than to the Commonwealth parliament—not to a minister by regulation and not to other parliaments. We have had progress on this issue and I hope that the government will move an amendment to address this issue. I understand they will and I look forward to it.

My friend Senator Fierravanti-Wells has spoken about the appointment of a service operator. To save time I will not go into that. I understand that is being addressed. Guaranteeing the right of appeal I understand is also being addressed and I will not address that either. I understand those issues have been catered for by the government.

The compulsory nature of the scheme means it is compulsory to have a number. Every Australian will have to have a number. I am not happy about that. Ideally, citizens should be able to opt out if they do not want it. But I understand that you will not need to provide a number to supply or to obtain medical services, so this is something that is at least better than it was. I thank the government at least for that.

I conclude with a few remarks which I make somewhat pointedly. With the passage of this bill we have the first essential element of a national identification scheme. For the first time since World War II we will have a unique identification number for every Australian, and we have never had that before. Neither the Medicare number nor the tax file number is universal and none of them is compulsory. My point is that this is a unique identifying number for every Australian. If it is the intention of the government to use these bills and this number as a legislative subterfuge for the introduction of a national ID card, they have got it wrong. I raise it for this reason. The previous government tried to use the argument that to facilitate the access to welfare with a smart card was a good idea.

Senator Ludwig—We cancelled that.

Senator MASON—Yes. In fact, I chaired the committee that, without dissent, recommended against the adoption of that scheme. You may remember that, Acting Deputy President Trood. Why? Because that would have led to a de facto national identification scheme and an ID card.

The critical issue for this parliament over the next few months when this debate is fully ventilated will be this: what form will the use of this number take? Will it be a number on a card with a photo? If it is, let me put this on the record. It will become a de facto national identification number. The critical part of this debate that has not been caught today is how the government is going to use this number and how individual Australians will carry it. This is a critical issue for the citizens of this country. If the government is trying to use this to camouflage a broader intention to bring in an ID card or some such thing, they should think again. If there is an attempt by any government to extend access to this
unique number beyond health professionals, or to expand the data to be collected beyond patient records and health matters, or to use the unique number as part of a de facto ID card, this debate will erupt. It will not be like a nice calm debate on the last Thursday before eight weeks without sittings; this debate will erupt. To any public servant, any doctor, any lobbyist or any politician who thinks that these bills are the first step towards greater surveillance of our citizens, I say they should think again. Like Big Brother, all of us will be watching.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (6.29 pm)—I thank senators for their contributions to the second reading debate on this the Healthcare Identifiers Bill 2010. I also categorically rule out the bill being used as a national ID card—

Senator Mason—It is de facto.

Senator LUDWIG—I am happy to add ‘or a de facto national ID card’. I am advised that it is even specific within the legislation itself.

Senator Mason—But that does not stop it from being used de facto.

Senator LUDWIG—I have categorically ruled it out, as I am advised. I also table a replacement explanatory memorandum relating to these bills.

Question negatived.

In Committee

Bills—by leave—taken together and as a whole.

HEALTHCARE IDENTIFIERS BILL 2010

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (6.31 pm)—by leave—I move government amendments (1), (2), (5) to (11) and (13), governments amendments (3), (12) and (14) to (16) on sheet BU255 together:

(1) Clause 5, page 2 (before line 19), before the definition of data source, insert:
contracted service provider, of a healthcare provider, means an entity that provides:
(a) information technology services relating to the communication of health information; or
(b) health information management services;
to the healthcare provider under a contract with the healthcare provider.

(2) Clause 5, page 4 (line 27), omit the definition of service operator, substitute:
service operator means the Chief Executive Officer of Medicare Australia.

(3) Clause 5, page 4 (after line 29), after the definition of State or Territory authority, insert:
under this Act includes under the regulations.

(5) Clause 17, page 12 (line 29), omit “section.”, substitute “section; or”.

(6) Clause 17, page 12 (after line 29), at the end of subclause (1), add:
(c) a contracted service provider (the authorised service provider) of an identified healthcare provider, if that identified healthcare provider has, by notice to the service operator, authorised the contracted service provider to act on behalf of that identified healthcare provider under this section.

(7) Clause 17, page 12 (line 30), omit “or authorised employee”, substitute “; authorised employee or authorised service provider”.

(8) Clause 17, page 13 (after line 6), at the end of note 1, add:
The authorisation extends to certain employees and contracted
service providers of the health-care provider: see section 36.

(9) Clause 17, page 13 (line 9), at the end of note 2, add “The authorisation extends to certain employees and contracted service providers of the healthcare provider: see section 36.”.

(10) Clause 31, page 21 (line 15), omit “section.”, substitute “section; or”.

(11) Clause 31, page 21 (after line 15), at the end of subclause (2), add:

(c) a contracted service provider of an identified healthcare provider, if that identified healthcare provider has, by notice to the service operator, authorised the contracted service provider to act on behalf of that identified healthcare provider under this section.

(12) Clause 35, page 23 (line 4), after “this Act”, insert “and the regulations”.

(13) Clause 36, page 24 (lines 3 to 7), omit the clause, substitute:

36 Extent of authorisation

An authorisation under this Act to an entity (the first entity) for a particular purpose is an authorisation to:

(a) an individual who:

(i) is an employee of the first entity; and

(ii) whose duties involve implementing that purpose; or

(b) a contracted service provider of the first entity, if:

(i) the first entity is a healthcare provider; and

(ii) the duties of the contracted service provider under a contract with the healthcare provider involve implementing that purpose by providing information technology services relating to the communication of health information, or health information management services, to the healthcare provider; or

(c) an individual who:

(i) is an employee of a contracted service provider to which paragraph (b) applies; and

(ii) whose duties involve implementing that purpose as mentioned in that paragraph.

(14) Clause 37, page 24 (line 18), after “this Act”, insert “or the regulations”.

(15) Clause 37, page 24 (line 22), after “this Act”, insert “or the regulations”.

(16) Clause 37, page 24 (line 26), after “this Act”, insert “and the regulations”.

I also move government amendments (1) and (11) and (2) to (10) on sheet BU269 together:

(1) Clause 5, page 2 (after line 23), after the definition of date of death accuracy indicator, insert:

Defence Department means the Department that:

(a) deals with matters arising under section 1 of the Defence Act 1903; and

(b) is administered by the Minister who administers that section.

(2) Clause 5, page 3 (lines 9 to 17), omit the definition of healthcare provider, substitute:

healthcare provider means:

(a) an individual healthcare provider; or

(b) a healthcare provider organisation.

(3) Clause 5, page 2 (line 17) to page 5 (line 6), insert:

Healthcare Provider Directory has the meaning given by subsection 31(1).

healthcare provider organisation means an entity, or a part of an entity, that has conducted, conducts, or will conduct, an enterprise that provides healthcare (including healthcare provided free of charge).

Example: A public hospital, or a corporation that runs a medical centre.
individual healthcare provider means an individual who:
(a) has provided, provides, or is to provide, healthcare; or
(b) is registered by a registration authority as a member of a particular health profession.

network organisation has the meaning given by subsection 9A(6).

organisation maintenance officer:
(a) for a seed organisation—has the meaning given by paragraph 9A(3)(c); and
(b) for a network organisation—has the meaning given by paragraph 9A(6)(b).

professional association means an organisation that:
(a) is a separate legal entity under a law of the Commonwealth or a State or Territory; and
(b) has the following characteristics:
(i) its members practise the same healthcare profession;
(ii) it has enough membership to be considered representative of the healthcare profession practised by its members;
(iii) it sets its own admission requirements, including acceptable qualifications;
(iv) it sets and publishes standards of practice and ethical conduct;
(v) it aims to maintain the standing of the healthcare profession practised by its members;
(vi) it has written rules, articles of association, by-laws or codes of conduct for its members;
(vii) it has the ability to impose sanctions on members who contravene the association’s written rules, articles of association, by-laws or codes of conduct;
(viii) it sets requirements to maintain its members’ professional skills and knowledge by continuing professional development; and
(c) has members who:
(i) may take part in decisions affecting their profession; and
(ii) have the right to vote at meetings of the association; and
(iii) have the right to be recognised as being members of the professional association.

responsible officer has the meaning given by paragraph 9A(3)(b).

retirement, for a healthcare provider organisation’s healthcare identifier, means a state imposed by the service operator on the healthcare identifier so that it may no longer be used by the healthcare provider organisation to identify the healthcare provider organisation.

seed organisation has the meaning given by subsections 9A(3) and (4).

sole practitioner means a person who is both an individual healthcare provider and a healthcare provider organisation.

(4) Clause 9, page 7 (lines 6 and 7), omit “included in a class prescribed by the regulations for the purpose of this paragraph”, substitute “to whom section 9A applies”.

(5) Clause 9, page 7 (lines 16 to 24), omit paragraphs (3)(a) and (b), substitute:
(a) an identifier that is assigned to an individual healthcare provider; and
(b) an identifier that is assigned to a healthcare provider organisation;

(6) Clause 9, page 7 (lines 26 to 28), omit all the words from and including “A healthcare provider” to and including “(for example, a sole practitioner)”, substitute “A sole practitioner”.

(7) Clause 9, page 8 (lines 3 to 6), omit subclause (5).
(8) Page 8 (after line 8), after clause 9, insert:

9A Classes of providers for the purposes of paragraph 9(1)(a)

Individual healthcare providers

(1) This section applies to an individual healthcare provider who is registered by a registration authority as a member of a health profession.

(2) This section also applies to an individual healthcare provider who is a member of a professional association that:

(a) relates to the healthcare that has been, is, or is to be, provided by the member; and

(b) has uniform national membership requirements, whether or not in legislation.

Healthcare provider organisations

(3) This section also applies to a healthcare provider organisation (a seed organisation) that has:

(a) an employee who:

(i) is an identified healthcare provider; and

(ii) provides healthcare as part of his or her duties; and

(b) only one employee (the responsible officer) to act on behalf of the seed organisation in its dealings with the service operator in relation to the following:

(i) nominating to the service operator at least one employee to be an organisation maintenance officer for the seed organisation;

(ii) nominating to the service operator any network organisation of the seed organisation for which the nominated organisation maintenance officer is to be responsible;

(iii) requesting the assignment or retirement of a healthcare identifier for the seed organisation;

(iv) requesting the merger or reconfiguration of a healthcare identifier for the seed organisation if the seed organisation was part of a merger or acquisition; and

Example: A request after merger activity between 2 healthcare provider organisations if one is a seed organisation, or the acquisition of one healthcare provider organisation by another if one is a seed organisation.

(c) an employee (an organisation maintenance officer) to act on behalf of the seed organisation in its dealings with the service operator, including:

(i) nominating to the service operator, if required, at least one additional employee to be an organisation maintenance officer for the seed organisation or any network organisation of the seed organisation; and

(ii) nominating to the service operator any network organisation of the seed organisation for which an additional organisation maintenance officer is to be responsible; and

(iii) requesting the assignment or retirement of a healthcare identifier for any network organisation of the seed organisation;

(iv) maintaining information that is held by the service operator about the seed organisation, and about any network organisation of the seed organisation for which the organisation maintenance officer is responsible; and

(v) for the seed organisation, or for any network organisation of the seed organisation for which the organisation maintenance officer is responsible, that has consented to its details being included in the Healthcare Provider Directory—providing current details to the
service operator about the organisation for inclusion in the Directory; and

(vi) providing any further information requested by the service operator about the seed organisation, or about any network organisation of the seed organisation for which the organisation maintenance officer is responsible; and

(vii) requesting the merger or reconfiguration of a healthcare identifier for any network organisation of the seed organisation, if the network organisation was part of a merger or acquisition.

Note: More than one employee may be an organisation maintenance officer. An employee may be any or all of the following: the responsible officer, an organisation maintenance officer and an authorised employee (see section 17).

(4) A sole practitioner is taken to be a healthcare provider organisation to which subsection (3) applies if he or she provides healthcare and performs the roles of responsible officer and organisation maintenance officer.

(5) For the purposes of paragraph (3)(b), a delegate of the responsible officer, who is another employee of the seed organisation, is taken to be the responsible officer.

(6) This section also applies to a healthcare provider organisation (a network organisation) that:

(a) is part of, or subordinate to, a seed organisation that:

(i) has been assigned a healthcare identifier that has not been retired; and

(ii) does not object to the network organisation being a network organisation of the seed organisation; and

(b) has a person (an organisation maintenance officer) who complies with subsection (7) to act on behalf of the network organisation in its dealings with the service operator, including:

(i) nominating to the service operator, if required, at least one additional employee to be an organisation maintenance officer for any network organisation of the seed organisation; and

(ii) nominating to the service operator any network organisation of the seed organisation for which an additional organisation maintenance officer is to be responsible; and

(iii) requesting the assignment or retirement of a healthcare identifier for any network organisation of the seed organisation; and

(iv) maintaining information that is held by the service operator about any network organisation of the seed organisation for which the organisation maintenance officer is responsible; and

(v) for any network organisation that the organisation maintenance officer is responsible for and that has consented to its details being included in the Healthcare Provider Directory—providing current details to the service operator about the organisation for inclusion in the Directory; and

(vi) providing any further information requested by the service operator about any network organisation of the seed organisation for which the organisation maintenance officer is responsible; and

(vii) requesting the merger or reconfiguration of a healthcare identifier for any network organisation of the seed organisation, if the
network organisation is part of a merger or acquisition.

Example: A request after merger activity between the network organisation and another healthcare provider organisation, or the acquisition of one healthcare provider organisation by another if one is the network organisation.

(7) For the purposes of paragraph (6)(b), the person must be an employee of:
(a) the network organisation (the first network organisation); or
(b) the seed organisation of the first network organisation; or
(c) another network organisation that is:
   (i) linked to the seed organisation of the first network organisation; and
   (ii) hierarchically superior to the first network organisation.

(9) Page 8, after proposed clause 9A, insert:

9B Information that may be requested before assigning healthcare identifiers

(1) The service operator may request an individual healthcare provider to provide the following information before assigning the healthcare provider a healthcare identifier:
   (a) identifying information of the healthcare provider;

   Note: Identifying information is defined in section 7.
   (b) information that shows that section 9A applies to the healthcare provider;
   (c) information identifying the healthcare provider’s responsible officer and organisation maintenance officer, including the person’s name, work address, work email address, work telephone number or work fax number.

(3) The healthcare provider must give the information in any form requested by the service operator.

Example: A healthcare provider may be asked for original documentation, or for the information to be given in writing or in a statutory declaration.

(4) If the service operator is not satisfied by the information given, it does not have to assign a healthcare identifier to the healthcare provider.

(10) Page 8, after proposed clause 9B, insert:

9C Review of decision not to assign a healthcare identifier

(1) This section applies to a decision by the service operator not to assign a healthcare identifier to a healthcare provider under paragraph 9(1)(a).

   Note: This section does not apply to a decision to assign a healthcare identifier to a healthcare recipient under paragraph 9(1)(b), or a decision by a national registration authority not to assign a healthcare identifier to an individual healthcare provider under subsection 9(2).

(2) The service operator must give written notice of the decision to a person whose interests are affected by the decision, including a statement:

   (a) that the person may apply to the service operator to reconsider the decision; and
(b) of the person’s rights to seek review under subsection (8) of a reconsidered decision.

(3) A failure of the service operator to comply with subsection (2) does not affect the validity of the decision.

(4) A person whose interests are affected by the decision may, by written notice to the service operator within 28 days after receiving notice of the decision, ask the service operator to reconsider the decision.

(5) A request under subsection (4) must mention the reasons for making the request.

(6) The service operator must:

(a) reconsider the decision within 28 days after receiving the request; and

(b) give to the person who requested the reconsideration written notice of the result of the reconsideration and of the grounds for the result.

(7) The notice must include a statement that the person may apply to the Administrative Appeals Tribunal for review of the reconsideration.

(8) A person may apply to the Administrative Appeals Tribunal for a review of a decision of the service operator made under subsection (6).

(11) Clause 12, page 9 (lines 23 and 24), omit paragraph (2)(c), substitute:

(c) the Defence Department.

Senator MASON (Queensland) (6.33 pm)—I have just one question. Can the government confirm that the withholding of an individual health identifier will not preclude someone from accessing health services? I understand that the answer is yes.

Senator Ludwig—Absolutely.

Question agreed to.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (6.33 pm)—The government opposes clause 6 in the following terms:

(4) Clause 6, page 5 (lines 7 to 12), to be opposed.

The TEMPORARY CHAIRMAN—The question now is that clause 6 stand as printed.

Question negatived.

Senator SIEWERT (Western Australia) (6.34 pm)—I will ask a question before I move my amendments. Minister Ludwig, you confirmed Senator Mason’s point that you can still receive services without using the number?

Senator Ludwig—Yes.

Senator SIEWERT—I wanted to confirm that because that is an issue that has been raised repeatedly with me—whether you would be able to access services while not using your number. I seek leave to move Greens amendments (1) and (2) on sheet 6156 together.

Leave granted.

Senator SIEWERT—by leave—I move:

(1) Clause 9, page 7 (line 4), omit “The”, substitute “Subject to section 9A, the”.

(2) Page 8 (after line 8), after clause 9, insert:

9A Individuals must be able to opt out

(1) A person may apply to the service operator to opt out of the Healthcare Identifier scheme.

(2) If a person applies to the service operator in the form prescribed for the purposes of subsection (1):

(a) the service operator is not authorised under section 9 to assign a number (a healthcare identifier) to identify the person as a healthcare recipient or for any other purpose connected with this Act or any other Act; and

(b) the service operator must ensure that any healthcare identifier previously assigned to identify the person under section 9:

(i) no longer be assigned to identify the person; and
(ii) no longer be used to identify the person as a healthcare recipient or for any other purpose connected with this Act or any other Act.

I will try to keep this brief. These are our opt-out amendments that I talked about in my speech on the second reading. As we understand it, everybody is allocated a number and people feel concerned that even if they choose not to use their number it is still a number in the system against their name, which they then link to the arguments about it being used later as some sort of overall identity number.

There are concerns around that and the preferred approach that has been put to us is that people get the ability to opt out. This does work in the UK. It has a much bigger population than we have and the approach seems to work okay. We thought it would be appropriate to make a similar provision in our legislation and this amendment is about enabling people to opt out. I understand that the opt-out provision is not used very often in the UK, so it is not as if we are going to get a massive number of people opting out, but it does provide that provision for people who do choose not to be part of that system.

Senator Ludwig (Queensland—Special Minister of State and Cabinet Secretary) (6.36 pm)—I am advised that it would increase the administrative burden to agree to the Australian Greens amendment for healthcare providers because they would need to maintain parallel systems depending on whether or not patients have individual health identifiers. Again, it would reduce the benefits of replacing the existing multiple and overlapping identity systems with a unified system which would reduce administrative costs and the potential for mistakes.

I understand where the Australian Greens are coming from. They are seeking to have a system which is workable but provides for an opt-out model. But it is important to remember that, while the bill provides health care for all Australians, it in no way compels Australians to use or have an electronic health record. If the unique healthcare identifier system is to be workable, it is essential that Australians can be assured that their identity cannot be confused with someone else’s. On that basis, although I do understand the Greens’ interest in this, we do not support the amendment. But I thought it was important to put that on the record for the Greens.

Senator Siewert (Western Australia) (6.37 pm)—I would like to follow this up. I do not actually understand the logic of the argument. We have just affirmed that people can choose not to use the identifier. So, particularly with regard to the last argument, that people need this for their identity and to stop mistakes—which is what I took from the minister’s last comments—I do not see why, if you can choose not to use your identifier, providers are not going to need to have a separate system anyway. I am not trying to prolong this, but I do actually want to understand how the system will be different if you choose not to use your identifier, because you can do that, and why—

Senator Ludwig—I can answer that.

Senator Siewert—Okay. Thanks.
the electronic health record. That is where the circumstance is like everyone currently having a Medicare number, but in this instance we will have a much clearer identity of each individual through the health identifier system.

One of the things that has been driving this, I am sure, are the privacy implications. They take that very seriously and that is why they have ensured that the unique health identifier number is there, the privacy is protected, but in addition you do not have to pick up the record as a consequence.

**Senator Siewert** (Western Australia) (6.39 pm)—There are two things there I want to follow up. One is that not everybody does have a Medicare number. I thought the point of having this system was because not everyone has a Medicare number—there are a number of people on the card. So it is a bit different, and that is one reason why I understood we needed to have this.

The point about the double number system—and, again, I am trying really hard not to be obtuse and to understand this—I do not get. I do not get why it is going to cause a problem if people absolutely do not have a number and if they choose not to use their number.

**Senator Ludwig** (Queensland—Special Minister of State and Cabinet Secretary) (6.40 pm)—I will go back to the two subsets. If you do not have a number then the provider will have to provide some other way to provide the service by providing their own number, a new number or some other number but not a health identifier number, which is separate from the record—which, I am advised, is what happens now. What that would then create is a subset of unique health identifiers, individuals without numbers and then individuals who have accessed health systems with a plethora of numbers. You would then not have a unique health identifier system in place. In terms of having the record, you would then, if you chose, not have an electronic health record. You have to separate the number from the record.

**Senator Siewert** (Western Australia) (6.41 pm)—I do understand the separation between the electronic records, but if I go to a clinic and choose not to use my health identifier number how am I going to be identified?

**Senator Ludwig** (Queensland—Special Minister of State and Cabinet Secretary) (6.41 pm)—What happens now is that when you go to a provider and choose to have a service provided to you, they will allocate a number to you as part of their own record-keeping system. What they will do in future, when this is passed, is allocate you the unique health identifier number as part of the service. You can then choose not to use the health electronic record, but the service provider has still allocated that unique health number.

**Senator Siewert** (Western Australia) (6.42 pm)—What you are saying is that if I go into a clinic and I choose not to use my number, it will still get allocated against me for their purposes but not used beyond that—is that correct?

**Senator Ludwig** (Queensland—Special Minister of State and Cabinet Secretary) (6.42 pm)—That is right. So if you went to a provider and you said, ‘I don’t want you to access and use my unique health identifier,’ they do not have to.

Question negatived.

**Senator Ludwig** (Queensland—Special Minister of State and Cabinet Secretary) (6.44 pm)—I table supplementary explanatory memorandums relating to the government amendments to be moved to these bills. The memorandums were circulated in the chamber on 21 and 24 June 2010.
HEALTHCARE IDENTIFIERS (CONSEQUENTIAL AMENDMENTS) BILL 2010

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (6.44 pm)—by leave—I move government amendments (1) and (2) on sheet BU264:
(1) Clause 2, page 2 (at the end of the table), add:
5. Schedule 3 The later of:
   (a) the commencement of section 3 of the Australian Information Commissioner Act 2010; and
   (b) immediately after the commencement of the Healthcare Identifiers Act 2010.

However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.

(2) Page 6 (after line 15), at the end of the Bill, add:
Schedule 3—Amendment of the Healthcare Identifiers Act 2010

1 Subsection 30(1)
Omit “Privacy Commissioner”, substitute “Information Commissioner”.

Note 1: The heading to section 29 is altered by omitting “Privacy Commissioner” and substituting “Information Commissioner”.

Note 2: The heading to section 30 is altered by omitting “Privacy Commissioner” and substituting “Information Commissioner”.

2 Subsection 30(1)
Omit “Privacy Commissioner’s”, substitute “Information Commissioner’s”.

3 Subsections 30(2) and (3)
Omit “Privacy Commissioner”, substitute “Information Commissioner”.

Question agreed to.

Bills reported with amendments; report adopted.

Third Reading

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (6.45 pm)—I move:
That these bills be now read a third time.
Question agreed to.

Bills read a third time.

BUSINESS

Rearrangement

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (6.46 pm)—I seek leave to move a motion to vary the routine of business for today.

Leave granted.

Senator LUDWIG—I thank the opposition for supporting the leave—

Senator Siewert—Ahem!

Senator LUDWIG—Sorry, Rachel. Sorry, Senator Siewert—you are quite right.

Senator Conroy—You are such a klutz!

Senator LUDWIG—I am such a klutz when it comes to that.

Senator Fierravanti-Wells—Can we quote that?

Senator LUDWIG—It is in Hansard. I move:

That consideration of government documents under standing order 57(1)(d)(xi) business and consideration of committee reports, government responses and Auditor-General’s reports under standing order 62(1) and (2) shall not be proceeded with.

Question agreed to.
FARM HOUSEHOLD SUPPORT AMENDMENT (ANCILLARY BENEFITS) BILL 2010

First Reading

Bill received from the House of Representatives.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (6.47 pm)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (6.47 pm)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—


The Government announced the trial in Perth on 5 May this year, along with the Western Australian Agriculture and Food Minister Terry Redman.

The trial turns the old system of drought support on its head.

It represents a new chapter in a long history of Australian governments grappling with the challenge of our harsh climate.

We want to remain world leaders in agricultural production and continue to grow productive farming industries.

But Australia is a dry continent and our farmers regularly face devastating natural disasters.

Exceptional Circumstances relief has evolved significantly as successive governments tried to find the best way to help build more resilient farming communities.

In the early 20th Century, many people saw irrigation as a silver bullet to inoculate farms against drought.

Commonwealth assistance evolved in a haphazard way, with states taking the lead on drought policy.

In the early 1970s, drought was recognised under joint Commonwealth / State Natural Disaster Relief Arrangements.

Within two decades, that approach was abandoned in favour of a stand-alone drought policy, separate to Natural Disaster Relief.

A few years later, in 1992, Labor delivered a formal National Drought Policy, to encourage self-reliance for primary producers and protect the nation’s farming sector from an unpredictable climate.

In 1994, Labor introduced drought income support payments and interest rate subsidies for farmers within areas defined as facing ‘Exceptional Circumstances’, or ‘EC’.

Criteria for EC included meteorological conditions, water supplies, farm income and the scale of the event.

Following a change of government, the Coalition introduced a new rural policy package which maintained interest rate subsidies and relief payments and established some new measures.

The National Rural Advisory Council was given a role in defining an Exceptional Circumstances event.

Other recent Coalition reforms include prima facie declarations to give farmers income relief while they wait for a formal EC decision and extending EC support to eligible small businesses.

These reforms over many years attracted bipartisan support, regardless of which political party was in government.

We have consistently seen a genuine approach by both sides to try to navigate difficult policy issues, without the politics.

Once more the cracks are showing in the system.
Exceptional Circumstances support is available for farms affected by drought events that must not have occurred more than once on average in every 20 to 25 years.

But with current climate projections, few people believe the next drought will be a one-in-20-to-25-year event.

Some farmers have reached the interest rate subsidy limit of $500,000.

Farmers in the most debt received the most assistance and we fail to recognise farmers who have made tough business decisions to stay out of debt. Assistance is based on arbitrary lines on a map, meaning one farmer may be eligible while the neighbour over the fence misses out.

And when times are good the Government disappears from view.

These are all significant flaws which show how the system is failing our farmers.

We must rebuild.

On this occasion, we are not sitting in the corner waiting until a crisis takes hold.

We want to move from crisis management and uncertainty to risk management.

We will trial a partnership with farmers to help them better prepare for future challenges and build more resilient farm businesses and rural and regional communities.

The old system contributes to mental health issues in these communities.

We want a new approach to addressing these mental health issues.

It’s important to again emphasise that this trial does not affect farmers currently receiving income support payments and interest rate subsidies under the old Exceptional Circumstances system.

The National Rural Advisory Council will continue its current role assessing new proposals for Exceptional Circumstances declarations from state governments and reassessing areas when current declarations come up for renewal.

The drought reform pilot will run for 12 months from 1 July 2010 to 30 June 2011.

It trials a new approach to drought support and maintains important crisis measures including:

- Farm Family Support to help farmers meet basic household expenses
- Support for farmers to develop or update a strategic plan for their farm business
- Grants of up to $60,000 for on-farm activities and infrastructure and Landcare work
- Grants to local government to make rural communities stronger areas in times of agricultural downturn
- Access to a coordinated social support network
- Farm exit support
- A new measure that puts current farmers in touch with former farmers to talk about opportunities outside of farming.

A key part of our new approach is to test the idea of supporting farmers to develop a strategic business plan, tailored to the needs of their individual businesses.

Following that, they have a choice.

They can choose to stay on the land with dignity, or leave with dignity.

Either way, we will provide further support to eligible farmers – through the on-farm investment grants, or exit grants.

This is a dramatic shift in thinking.

Of course, any policy overhaul of this scale presents some risks.

In particular, we need to carefully test the new system of providing support to farmers to develop farm business plans.

The goal is to land on a system that helps farm businesses to deliver tailored plans, built around their individual businesses.

The risk is that we create a whole new problem – a flood of rent-seeking consultants who complete fill-in-the-blank templates and pocket taxpayers’ dollars.

Courses and facilitators will be pre-approved by the Western Australian Government, with the courses to run for up to five days.

We must move ahead steadily to get it right.

We expect to see a few hundred farmers producing strategic plans during the 12 month trial and having these independently assessed.
We would then expect around 150 of those to apply for the business grants.

These estimates have taken into account previous demand for other farmer training programs in Western Australia.

The business grants include Farm Business Adaptation Grants of up to $40,000 for eligible activities that support farm businesses to manage and prepare for the impacts of drought, reduced water availability and a changing climate. These may include fencing, silos, on-farm processing systems, waste management systems or precision farming equipment. The on-farm investment grants also include up to $20,000 for eligible Landcare activities. This may include managing soil salinity, revegetation, re-fencing or improving wetland management.

Other parts of the trial involve more traditional methods of support. For example, any of the 6000 farmers in the trial region could seek counselling and a broad range of social support. And we will trial an on-line counselling service for young people. Farmers who meet a hardship test will be eligible for household support.

With this Farm Family Support measure, we want to make sure eligible farmers have access to the full range of so-called ‘ancillary’ benefits already available to other farmers receiving Exceptional Circumstances Relief Payments. These include a healthcare card for recipients and their families and, if their dependent children claim Youth Allowance, exempting them from various assets and income tests, which increases their chances of being eligible.

To ensure these benefits are available under the trial, this Bill amends the Farm Household Support Act 1992 to treat farmers receiving Farm Family Support as if they were receiving Exceptional Circumstances Relief Payments. The Rudd Government believes in the strength and innovation of our rural communities.

But these communities and farm businesses face unique challenges. They need support to meet those challenges and to take advantage of new economic and social opportunities into the future.

I particularly commend Western Australian Minister Terry Redman for his foresight in helping to drive this trial. As he pointed out at the trial launch in Perth, no parts of Western Australia are currently in Exceptional Circumstances, and...and I quote: “The right time to have discussions about this is when people are not under [drought-related] stress.”

I would also like to acknowledge the on-going role key farming groups will play in highlighting the strengths of the trial and any areas which need further work. As the National Farmers’ Federation President David Crombie said at the launch, and I quote: “The National Farmers’ Federation has been working for some time with the Federal Government and a range of other bodies in looking at drought reform. We believe the idea of a trial is a very sound one.”

The Western Australian Farmers’ Federation President Mike Norton also attended the launch. As he said, and I quote: “This plan starts to address some of those basic essentials that have been missing in a long-term strategic plan for agriculture.”

Finally I would like to add a thought from Tony Seabrook, Vice President of the Pastoralists and Graziers Association, who also attended that day...and I quote: “I think the most critical thing that has happened is the recognition that it’s not just drought that brings pressure to farming families, there are a whole lot of other issues that can be just as damaging – such as frost, terms of trade and a high dollar value.”

I hope the bipartisan approach to drought reform continues. There is too much at stake for politics to get in the way. This is a trial. We do not pretend to have all the details right from the start.
That’s why we will test this major new approach in Western Australia before we consider what system may work nationally. And we will monitor and review the uptake of each of the measures. The pilot region covers a broad range of farming systems and climatic conditions. It includes irrigated and dryland operations and covers parts of the wheat belt, rangelands and some horticulture industries. This will give us a good cross-section of results and feedback. Today is another milestone in the drought reform process. We will continue working to deliver a system that boosts farm productivity and protects farmers’ dignity – whether it is working the land with dignity or leaving the land with dignity.

Question agreed to. Bill read a second time.

Third Reading

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (6.48 pm)—I move:

That this bill be now read a third time.

Senator COLBECK (Tasmania) (6.48 pm)—The Farm Household Support Amendment (Ancillary Benefits) Bill 2010 inserts a new part 9D into the Farm Household Support Act 1992 to treat farmers receiving income support under a pilot of drought policy reform in Western Australia as if they were receiving exceptional circumstances relief payments for welfare related purposes. In other words, this bill had to pass tonight; otherwise, the government’s new drought relief trial in Western Australia could not have occurred. There is concern that those circumstances may arise, so it is important that this bill be passed this evening. I have to say that it is really very disappointing that we had to wait until almost the twelfth hour to get this passed, as it did not pass the House of Representatives until late this afternoon, even though the announcement was made some time ago.

The opposition are pleased to support this piece of legislation, because it is looking at the future of drought relief in the country. It is important that we take this process forward and have a look at new ways of providing support to the rural sector. It is important to note that the trial will not affect farmers currently receiving income support payments and interest rate subsidies under the old EC system and the National Rural Advisory Council will continue to consider proposals for exceptional circumstances declarations submitted by state government and to reassess current declarations coming up for renewal.

Senator SIEWERT (Western Australia) (6.50 pm)—I will keep my words brief. The Greens also support the Farm Household Support Amendment (Ancillary Benefits) Bill 2010. We think this is important. It is a new approach to how we handle issues related to drought and climate change. As I have noted in this chamber a number of times, in my home state of Western Australia we are already starting to feel the impacts of climate change in some of our farming areas. Our farmers in Western Australia are extremely adaptive. Coming from an agricultural background, I understand very clearly how hard they work and how they do adapt to changing circumstances and climate variability. However, you get to a point where it is extremely difficult to adapt. So I think this is a good, innovative trial. My concern is that it is not being funded for long enough. We will see how this goes, but I do want to put on the record that the Greens support this and are pleased to see such a new approach being trialled.

Senator PARRY (Tasmania) (6.51 pm)—I also rise to speak in the third reading debate on the Farm Household Support Amendment
(Ancillary Benefits) Bill 2010. I wish to place on the record—and the minister is here in the chamber to hear this—that the opposition has again been exceptionally cooperative with the legislative program for the day. This is the last piece of legislation that will be passing through the chamber today. I understand that about 25 pieces of legislation have been transacted after a lot of negotiation and consultation over many weeks. It would be appreciated if the government would be kind enough to acknowledge this and inform Minister Albanese once again that the Senate is not obstructionist; that the Senate is being exceptionally accommodating in relation to a very large proportion of the government’s agenda. With those words, I indicate our support of the third reading of this bill.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (6.52 pm)—On the third reading I extend my thanks to the opposition for supporting the legislative agenda we have had today. I know it has been long for everyone and I appreciate both the opposition and the Greens, and Senator Xenophon and Senator Fielding, for their effort and, of course, the government backbenchers who have been pretty good too. Thanks very much.

Question agreed to.

Bill read a third time.

TRADE PRACTICES AMENDMENT (AUSTRALIAN CONSUMER LAW) BILL (No. 2) 2010

TRADE PRACTICES AMENDMENT (INFRASTRUCTURE ACCESS) BILL 2009

Returned from the House of Representatives

Messages received from the House of Representatives returning the bills without amendments.

COMMITTEES

Reports: Government Responses

The ACTING DEPUTY PRESIDENT (Senator Trood) (6.53 pm)—On behalf of the President, and in accordance with the usual practice, I table a report of parliamentary committee reports to which the government has not responded within the prescribed time. The report has been circulated to honourable senators. With the concurrence of the Senate, the report will be incorporated in Hansard.

The report read as follows—

PRESIDENT'S REPORT TO THE SENATE ON GOVERNMENT RESPONSES OUTSTANDING TO PARLIAMENTARY COMMITTEE REPORTS AS AT 24 JUNE 2010

PREFACE

This document continues the practice of presenting to the Senate twice each year a list of government responses to Senate and joint committee reports as well as responses which remain outstanding.

The practice of presenting this list to the Senate is in accordance with the resolution of the Senate of 14 March 1973 and the undertaking by successive governments to respond to parliamentary committee reports in timely fashion. On 26 May 1978 the Minister for Administrative Services (Senator Withers) informed the Senate that within six months of the tabling of a committee report, the responsible minister would make a statement in
the Parliament outlining the action the government proposed to take in relation to the report. The period for responses was reduced from six months to three months in 1983 by the incoming government. The Leader of the Government in the Senate announced this change on 24 August 1983. The method of response continued to be by way of statement. Subsequently, on 16 October 1991 [tabled 5 Nov 1991] the government advised that responses to committee reports would be made by letter to a committee chair, with the letter being tabled in the Senate at the earliest opportunity. The government affirmed this commitment in June 1996 to respond to relevant parliamentary committee reports within three months of presentation. The current government indicated on 26 June and 4 December 2008 that it is committed to providing timely responses to parliamentary committee reports.  

This list does not usually include reports of the Parliamentary Standing Committee on Public Works or the following Senate Standing Committees: Appropriations and Staffing, Selection of Bills, Privileges, Procedure, Publications, Regulations and Ordinances, Senators’ Interests and Scrutiny of Bills. However, such reports will be included if they require a response. Government responses to reports of the Public Works Committee are normally reflected in motions in the House of Representatives for the approval of works after the relevant report has been presented and considered.

Reports of the Joint Committee of Public Accounts and Audit (JCPAA) primarily make administrative recommendations but may make policy recommendations. A government response is required in respect of such policy recommendations made by the committee. However, responses to administrative recommendations are made in the form of an executive minute provided to, and subsequently tabled by, the committee. Agencies responding to administrative recommendations are required to provide an executive minute within six months of the tabling of a report. The committee monitors the provision of such responses.

An entry on this list for a report of the JCPAA containing only administrative recommendations is annotated to indicate that the response is to be provided in the form of an executive minute. Consequently, any other government response is not required. However, any reports containing policy recommendations are included in this report as requiring a government response.

Committees report on bills and the provisions of bills. Only those reports in this category that make recommendations which cannot readily be addressed during the consideration of the bill, and therefore require a response, are listed. The list also does not include reports by committees on estimates or scrutiny of annual reports, unless recommendations are made that require a response.

A guide to the legend used in the ‘Date response presented/made to the Senate’ column

* See document tabled in the Senate on 23 June 2010, entitled Government Responses to Parliamentary Committee Reports—Response to the schedule tabled by the President of the Senate on 26 November 2009 for Government interim/final response.

** Report contains administrative recommendations – any response to those recommendations is to be provided direct to the JCPAA committee in the form of an executive minute.


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<td>No</td>
</tr>
<tr>
<td>Inquiry into the changing economic environment in the Indian Ocean Territories</td>
<td>11.5.10 (presented 1.4.10)</td>
<td>-</td>
<td>Time not expired</td>
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<tr>
<td>Report of the 2009 New Zealand parliamentary committee exchange, 24 to 27 August 2010</td>
<td>21.6.10</td>
<td>Not required</td>
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<tr>
<td>Public Accounts and Audit (Joint Statutory)</td>
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<tr>
<td>Report 412—Audit reports reviewed during the 41st Parliament</td>
<td>1.9.08</td>
<td>recommendations 11 and 12, 15.6.09, (tabled HoR 28.5.09) recommendation 18, 25.6.09</td>
<td>No</td>
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<tr>
<td>Report 413—The efficiency dividend and small agencies: Size does matter</td>
<td>4.12.08</td>
<td>4.2.10</td>
<td>No</td>
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<td>Report 414—Review of Auditor-General’s reports tabled between August 2007 and August 2008</td>
<td>24.6.09 (tabled HoR 22.6.09)</td>
<td>*(interim)</td>
<td>No</td>
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<td>Report 415—Review of Auditor-General’s reports tabled between September 2008 and January 2009</td>
<td>17.11.09 (tabled HoR 16.11.09)</td>
<td>*(interim)</td>
<td>No</td>
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<tr>
<td>Report 416—Review of the major projects report 2007-2008</td>
<td>17.11.09 (tabled HoR 16.11.09)</td>
<td>*(interim)</td>
<td>No</td>
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<tr>
<td>Committee and title of report</td>
<td>Date report tabled</td>
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<td>Response made within specified period (3 months)</td>
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<tr>
<td>Report 417—Review of Auditor-General’s reports tabled between February 2009 and September 2009</td>
<td>24.6.10 (tabled HoR 22.6.09)</td>
<td>-</td>
<td>Time not expired</td>
</tr>
<tr>
<td>Public Works (Joint Standing) Report 5/2009—Referrals made May to June 2009—Fitout and external works, ANZAC Park West, Parkes, ACT—Fitout of Tuggeranong Office Park, Greenway, ACT</td>
<td>15.9.09</td>
<td>*(interim)</td>
<td>No</td>
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<td>Regional and Remote Indigenous Communities (Senate Select) Second report 2009</td>
<td>11.8.09 (presented 25.6.09)</td>
<td>*(final)</td>
<td>No</td>
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<td>Third report 2009</td>
<td>26.11.09</td>
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<td>No</td>
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<td>Fourth report 2010</td>
<td>13.5.10</td>
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<td>Time not expired</td>
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<td>Rural and Regional Affairs and Transport References Iraqi wheat debt—repayments for wheat growers</td>
<td>16.6.05</td>
<td>*(interim)</td>
<td>No</td>
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<td>Implications for long-term sustainable management of the Murray Darling Basin system—Final report</td>
<td>11.8.09 (presented 25.6.09)</td>
<td>*(interim)</td>
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<td>Import risk analysis (IRA) for the importation of Cavendish bananas from the Philippines</td>
<td>11.8.09 (presented 25.6.09)</td>
<td>*(interim)</td>
<td>No</td>
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<td>Committee and title of report</td>
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<td>Meat marketing—Final report</td>
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<td>Investment of Commonwealth and State funds in public passenger transport infrastructure and services</td>
<td>20.8.09</td>
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<td>Management of the removal of the rebate for AQIS export certification functions</td>
<td>14.9.09</td>
<td>*(interim)</td>
<td>No</td>
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<tr>
<td>Social Security and Other Legislation Amendment (Income Support for Students) Bill 2009 [Provisions]</td>
<td>27.10.09</td>
<td>*(final)</td>
<td>No</td>
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<tr>
<td>Rural and regional access to secondary and tertiary education opportunities</td>
<td>2.2.10 (presented 18.12.09)</td>
<td>-</td>
<td>No</td>
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<tr>
<td>Natural resource management and conservation challenges</td>
<td>4.2.10</td>
<td>-</td>
<td>No</td>
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<td>The possible impacts and consequences for public health, trade and agriculture of the Government’s decision to relax import restrictions on beef —First report</td>
<td>18.3.10</td>
<td>-</td>
<td>No</td>
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<tr>
<td>The possible impacts and consequences for public health, trade and agriculture of the Government’s decision to relax import restrictions on beef —Final report</td>
<td>23.6.10</td>
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<td>Rural and Regional Affairs and Transport Standing</td>
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<td>Australia’s future oil supply and alternative transport fuels—Final report</td>
<td>7.2.07</td>
<td>*(interim)</td>
<td>No</td>
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<tr>
<td>Meat marketing—Interim report</td>
<td>4.9.08</td>
<td>*(interim)</td>
<td>No</td>
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<tr>
<td>Water management in the Coorong and Lower Lakes (including consideration of the Emergency Water (Murray-Darling Basin Rescue) Bill 2008)</td>
<td>13.10.08 (presented 10.10.08)</td>
<td>*(final)</td>
<td>No</td>
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<tr>
<td>Climate change and the Australian agricultural sector—Final report</td>
<td>4.12.08</td>
<td>*(interim)</td>
<td>No</td>
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<tr>
<td>State Government Financial Management (Senate Select) Report</td>
<td>18.9.08</td>
<td>*(interim)</td>
<td>No</td>
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<td>Treaties (Joint Standing) Report 91—Treaties tabled on 12 March 2008</td>
<td>26.6.08</td>
<td>2.2.10 (presented 17.12.09)</td>
<td>No</td>
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</table>
AUDITOR-GENERAL’S REPORTS

Report Nos 49 and 50 of 2009-10

The ACTING DEPUTY PRESIDENT (Senator Ryan)—In accordance with the provisions of the Auditor-General Act 1997, I present the following reports of the Auditor-General:

No. 49—Performance audit—Defence’s management of health services to Australian Defence Force personnel in Australia: Department of Defence.

No. 50—Financial statement audit—Interim phase of the audit of financial statements of major general Government sector agencies for the year ending 30 June 2010.
The Clerk—Documents are tabled in accordance with the list circulated to senators. Details of the documents appear at the end of today’s Hansard.

MINISTERIAL STATEMENTS

Financial Services

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (6.57 pm)—I present a ministerial statement relating to the future of financial advice.

DOCUMENTS

Tabling

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (6.58 pm)—I table the following three documents relating to the period 1 July to 31 December 2009 and a fourth document relating to the period 1 June to 31 December 2009:

- Parliamentarians’ expenditure on entitlements paid by the Department of Finance and Deregulation
- Former parliamentarians’ expenditure on entitlements paid by the Department of Finance and Deregulation
- Parliamentarians’ overseas study travel reports
- Schedule of special purpose flights paid by the Department of Defence

WASTE MANAGEMENT STUDY

Return to Order

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (6.58 pm)—I table a statement relating to the order for the production of documents concerning packaging and beverage container waste management.

COMMITTEES

Membership

The ACTING DEPUTY PRESIDENT (Senator Troad)—Order! The President has received letters from party leaders requesting changes in the membership of committees.

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (6.58 pm)—by leave—I move:

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

Economics Legislation Committee—

Appointed—Participating member: Senator Stephens

Environment, Communications and the Arts References Committee—

Appointed—

Substitute member: Senator Moore to replace Senator Wortley on 29 and 30 June 2010

Participating member: Senator Wortley

Legal and Constitutional Affairs References Committee—

Appointed—

Substitute member: Senator Siewert to replace Senator Ludlam for the committee’s inquiry into donor conception practices

Participating member: Senator Ludlam.

Question agreed to.

ADJOURNMENT

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (6.58 pm)—I move:

That the Senate, at its rising, adjourn till Tuesday, 24 August 2010, at 12.30 pm, or such other time as may be fixed by the President or, in the event of the President being unavailable, by the Deputy President, and that the time of meeting so determined shall be notified to each senator.

Question agreed to.
LEAVE OF ABSENCE

Senator LUDWIG (Queensland—Special Minister of State and Cabinet Secretary) (6.59 pm)—by leave—I move:

That leave of absence be granted to every member of the Senate from the end of the sitting today to the day on which the Senate next meets.

Question agreed to.

NOTICES

Presentation

Senator COLBECK (Tasmania) (7.00 pm)—by leave—I give notice that, on the next day of sitting, I shall move:

That the Disability Standards for Accessible Public Transport Amendment 2010 (No. 1), made under subsection 31(1) of the Disability Discrimination Act 1992, be disallowed.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Trood)—Order! There being no further consideration of committee reports, government responses and Auditor-General’s reports, I propose the question:

That the Senate do now adjourn.

Tasmania

Senator CAROL BROWN (Tasmania) (7.00 pm)—In this place last week, we heard some extraordinary remarks from Senator Bushby. It would seem that once again Senator Bushby has resorted to political grandstanding in a disappointing attempt to score cheap political points. Senator Bushby’s claim that Tasmania has suffered from neglect from the federal Labor government is beyond belief.

Let us start where all good public policy begins and that is with a strong economy. Only the Labor government advocated appropriate public policy to shield the Australian economy from the worst effects of the global recession. Need I remind Senator Bushby that he was part of an opposition that, in the face of the greatest financial crisis in 75 years, advocated a wait-and-see approach. That’s right: Senator Bushby and his colleagues wanted to sit on their hands and do nothing. By doing nothing, they would have plunged the Australian economy into recession, because that is exactly what a do-nothing approach would have achieved. Doing nothing would have abandoned workers at a time when they most needed support.

Let us contrast this with what we on this side of the chamber did. We acted quickly and decisively to implement a range of short-, medium- and long-term stimulus measures to protect the Australian economy from the worst effects of the global recession. The stimulus measures have helped support thousands of Australian jobs in these difficult economic times.

It was Labor that acted to protect the interests of Tasmanian workers, and the actions taken by the Labor government seem to have been vindicated, with the Australian economy being one of the best performing economies in the advanced world. We were one of only three advanced economies not to fall into recession as the global financial crisis struck around the world, sending the rest of the world into deep recession. Our unemployment remains relatively low, recently falling from seasonally adjusted 5.4 per cent in April to 5.2 per cent in May—more good news highlighting the strength of the Australian economy.

The Building the Education Revolution also supported local businesses and provided Australian schools with new and upgraded classrooms, libraries, and school halls. This was a $15 billion investment in Australian schools which delivered 24,000 projects in 9,500 schools around Australia. In Tasmania alone, under the Primary Schools for the 21st Century program, my home state received $360 million to fund 296 projects in 227 Tasmanian primary schools. It was, after all,
those opposite, under the leadership of Mr Abbott, who want to axe that program, which has enormous benefits for schools and school communities. I doubt that Senator Bushby would have been seen in our home state of Tasmania fronting up to local schools and telling them they could not have their new library, their new school hall or their new classrooms. But those opposite do not plan to stop there. We know that the Liberal Party and Mr Abbott now want to axe trade training centres. To axe training centres would be unacceptable. It would deprive young people of the opportunity to gain vital hands-on skills and would be a blow to their chances of securing full-time employment. But do not take my word for it. A letter to the editor of the Huon Valley News on 16 June, headed ‘Trades training centre’ stated in part:

For Federal Liberal candidate Jane Howlett to refer to the proposed $6.4m Huon Valley Trade Training Centre as, ‘attaching a relatively small technical section at the back of a secondary school’ it shows just how out of touch Tony Abbott’s party is.

It also shows how out of touch Jane Howlett is with her electorate and with the Huon Valley.

The purpose-built Huon Valley Trade Training Centre will provide training opportunities for years 9-12 students in a range of industries … It will be a state-of-the-art industry standard facility.

The biggest bonus for those students is that the training will be locally-based, and placements will be with local employers.

The retention hurdle of distance and city-based training will be removed.

Our young people will remain in our Valley and add value to our community.

The letter goes on to say:

Tasmania continues to face a skills shortage in industries vital to the state’s future.

Huon Valley students have traditionally faced educational challenges of retention and, more importantly, stickability at Years 11/12.

The Trade Training Centre is vital for addressing these issues as an innovative and locally based solution.

Any party which wants to abandon this program now is not only short-sighted, and out of touch, but is selling short the future of our young people.

That letter was from Mr Steve Harrison from Dover, the local community. Whilst that is disappointing, this decision by those opposite is not unexpected; after all, it was those opposite who presided over the greatest skills shortage in Australia’s history. Whilst those opposite are busy announcing funding cuts to education and health, the Labor government is getting on with its long-term reform agenda. In Tasmania, we are benefiting significantly from this reform agenda. The National Broadband Network, NBN, stands to give Tasmanian homes, schools and workplaces enormous benefits by rolling out fibre-to-the-node cutting-edge broadband technology. The NBN will connect 90 per cent of Australians to broadband with speeds of up to 100 megabits per second. In my home state of Tasmania, a number of rollouts have already been announced, and recently the government announced stage 3 of the NBN rollout in Tasmania. The $100 million Tasmanian stage 3 rollout will connect 90,000 premises in Hobart, Launceston, Devonport and Burnie. This is on top of the already announced stage 1 and 2 rollouts in Tasmania, where the residents of Smithton, Scottsdale, Midway Point, Sorell, Deloraine, George Town, St Helens, Triabunna, Kingston Beach and South Hobart will be the first in the state to benefit from increased broadband speeds with the fibre-to-premises rollout. And, I am pleased to say, the first towns stand to be switched on to the NBN very soon.

Needless to say, those opposite, after presiding over a decade of failed broadband plans, now want to axe the NBN. We know
that Senator Bushby’s state Liberal Party colleagues are supporting the NBN and the
federal Liberal Party candidate for the electorate of Franklin, Ms Jane Howlett, was
supporting the NBN only a matter of months ago as a state Liberal Party candidate, so
who knows where she stands on the NBN now? Ms Howlett has enough problems con-
vincing the Franklin electorate that she is a local and not a blow-in from Lyons. Her
problems are made worse by the fact that she sits on both sides of the fence when it comes
to the NBN.

Tasmania also stands to reap the rewards from the Labor government’s historic health
agreement with the state. In Tasmania, we stand to receive an additional $340 million of
funding from the historic agreement. This will provide an additional 500 elective sur-
gery procedures a year, around 126 GP training places over 10 years and capital injec-
tions to cut emergency department waiting times. Again, it is no surprise that the Liberal
Party opposes these key health reforms. This is what we would expect from an opposition
that has no alternative health policy and whose leader, Mr Abbott, was the former
health minister who ripped $1 billion from the health budget and capped GP training
places.

In fact, in the electorate of Franklin, where Senator Bushby’s office is located,
they stand to benefit greatly from the Labor government’s reform agenda, due to the hard
work of the federal Labor member for Franklin, Ms Julie Collins MP. Ms Collins has
worked tirelessly for the people of Franklin. The Labor government has invested $5.5
million to improve GP services, with the construction of the Clarence GP superclinic,
a $721,000 investment for rural and regional health initiatives across Franklin and a
$351,000 investment to train aged-care workers across Franklin.

But the funding for Franklin from the La-
bor government does not stop there. Ms Collins has helped secure more than $70 mil-
lion for Franklin’s schools under the Build-
ing the Education Revolution program. Some
of the projects are: $3 million to upgrade existing classrooms, teacher support spaces,
gymnasium and amenities at Huonville pri-
mary school; $1.2 million to construct a new
multipurpose hall at Montagu Bay Primary
School; and $2 million for Illawarra Primary
School to construct new classrooms. Senator
Bushby is happy to come into this place and
support the axing of the BER program, but is
Senator Bushby really going to turn up at
Huonville primary, at Illawarra primary and
at Montagu Bay primary and tell them they
cannot have their new classrooms and facili-
ties?

Senator Bushby reached new levels with
his claims regarding the Kingston bypass. Senator Bushby has always played politics
over the construction of the Kingston bypass. Senator Bushby has consistently criticised
this project. All he has done is mount a fear campaign in the local community, when he
should have been supporting local residents who have wanted this bypass built for de-
cades. Senator Bushby and his Liberal col-
leagues had 12 years to build the Kingston
bypass but they did nothing. It has taken
state and federal Labor governments to work
together to get this bypass underway. In just
2½ years Ms Collins has delivered signifi-
cant investment from the Labor government
for the electorate of Franklin. She is a terrific
local member who works tirelessly for the
people of Franklin. Mr President, Senator
Bushby’s political grandstanding and at-
ttempts to score cheap political points are
exactly what you would expect from an op-
position that lacks alternative policies and is
more interested in cutting health and educa-
tion funding.
Senator COLBECK (Tasmania) (7.10 pm)—We have just heard from Senator Carol Brown about what Labor say they will do for Tasmania. I note that the previous government gave the cheque for $30 million for the Kingston bypass. The current government took it back and gave them a cheque for $15 million, and they still have not started work on the project.

I am on my feet tonight to give another demonstration of what this government is doing to employment and manufacturing jobs in Tasmania through lack of consultation. We have seen on the north-west coast in the seat of Braddon over the last 12 months a significant loss of jobs in the manufacturing sector. We saw a very disappointing consequence of the effects of the global financial crisis when Caterpillar had to halve their workforce. In the last few months we have seen the closure of the Wesley Vale paper mill. In the next six or eight weeks we will see the closure of the Burnie paper mill. We saw the last roll of paper come off that mill last week. I give all credit to the workers at those two paper mills, because they squeezed every ounce of efficiency out of those mills while they were operating. They did a great job, and it is disappointing that the equipment there will be sold off overseas.

But tonight I want to talk about a circumstance that has arisen—again, because of the lack of consultation by this government—in relation to some disability regulations. Disappointingly, I had to move disallowance motions for these regulations today: the disability standards for accessible public transport and for access to public buildings. The effect of these regulations—and there was no consultation with those involved in the carpet manufacturing sector—is that the Tascot carpet mill at East Devonport, the only Australian carpet manufacturer left in Australia, could lose its place in the industry. It could close, with the loss of 200 jobs. That is what this government is doing for manufacturing jobs in my home state of Tasmania.

It is quite disappointing to have to go to the extent of moving a disallowance motion on some disability access regulations because broadly speaking the opposition supports them. But that is the effect if you put a completely ridiculous specification for carpet pile height of six millimetres into regulations without any consultation with the industry. This business has been operating in Tasmania since 1961 and makes some fantastic quality carpets—in fact, most of the carpets in this building were made at Tascot in East Devonport in Tasmania. This company will be put out of business because this arbitrary six millimetre pile height has been included in these disability access standards.

It is quite confounding to everybody where the six millimetres has come from and why it has been inserted. If you look at the United States standard, the act over there specifies a maximum pile thickness of 13 millimetres. In the UK, there is a maximum pile thickness of 11 millimetres, and in the EU there is a standard that does not specify any thickness of carpet. Yet, for some reason, this government—again, as I said, without consultation; they might have changed the leader but nothing has changed—have come up with a pile thickness of six millimetres, which basically puts the only carpet manufacturer left in the country out of business. Tascot employs 200 people and has annual sales of $20 million, and 20 per cent of this is generated from exports. So the government can talk all they like about what they are doing for jobs and manufacturing in this country, but this is what is really happening.

A prime example of the type of project Tascot has undertaken is this particular site of Parliament House. The pile depth of car-
pet in Parliament House is 7.5 millimetres. So this building here, under the new public access standard, will not even meet the proposed standard depth of six millimetres. Changi International Airport, the Westin Hotel in Melbourne and the airports in Darwin, Alice Springs and Hobart all have carpets that have been manufactured by Tascot, and as far as I can see none of them will comply with the new standard of six millimetres.

It is not as if the carpet industry could not have provided some information that would have assisted the government in presenting the new standard. I understand this is the case from discussions my office has had with the candidate for Braddon, Garry Carpenter, who has been talking with the industry. Garry is obviously very distressed that, within a week of him being preselected, 200 jobs in Braddon are being threatened by a ridiculous government decision. So, when I discussed this with Garry today, he was very keen to make sure that some positive action was taken. As a result we have had to take the disappointing action of putting in a disallowance motion. To see that sort of thing occurring through the actions of this government is really ridiculous.

In fact, my understanding is that the disability sector really did not have any concerns about pile depth. It was not something that they had been considering a problem. From the information that Garry Carpenter and I have been able to get this afternoon, the peak disability association understands our concerns. They informed us, when the disability access legislation was issued in March, that their member organisations had not reported any carpet problems. So it looks like the government is acting completely and utterly on its own in this circumstance. We do not know where the advice has come from. Garry Carpenter, the candidate for Braddon—perhaps soon to be the member for Braddon—has not been able to find out where the specifications come from. It also appears that the disability associations do not know where the standards have come from.

As I have said, these standards are not matched anywhere in the world. Adelaide Entertainment Centre, for example, has a carpet pile height of nine millimetres. Darwin international and Alice Springs airports have seven millimetres. Burswood Entertainment Complex is 10.5 millimetres, the Sydney Convention and Exhibition Centre in Darling Harbour is eight millimetres, Star City Casino is 7.2 millimetres, Sydney airport is 7.2 millimetres, the Westin Hotel in Sydney is 6.8 millimetres, Sydney Opera House is 6.4 millimetres, the Four Seasons Hotel in Sydney is 6.9 millimetres and the Sheraton on the Park is 8.6 millimetres. So the hospitality industry also potentially has a major problem from these regulations which, as I have said, were brought about without any consultation.

It is still the same ship. There may have been a mutiny in the engine room—perhaps it is the New South Wales division of the engine room and the engineers may have spiked the captain and put the first mate on the bridge in charge—but it is still the same ship and has still got the same toxic cargo of policies and the same toxic method of operation. They do not talk to anybody. They do not consult with anybody, and they bring about ridiculous situations that could cost 200 manufacturing jobs in Devonport. Had they consulted, even with the disability associations and the Carpet Institute, they could have had an answer—because the Carpet Institute does have an answer. But no, the government know it all. They do it all on their own and then they put us in a situation where we have to come in here and move a disallowance to some disability access regulations to try and fix the problem that the government have created because they cannot consult. Nothing has changed and it is a
real disappointment that yet again we have had a bad government decision brought about through lack of consultation.

**Prime Minister**

Senator FARRELL (South Australia) (7.20 pm)—I want to talk briefly this evening about the historic events of this morning and the election of a new Prime Minister, Julia Gillard. There are many well-known things about the new Prime Minister, but one of the important things about her election is her connection with the great state of South Australia. Prime Minister Gillard is not the first Prime Minister with a South Australian connection. I am sure that you know this, Mr President, but Bob Hawke was born in Bordertown—although he spent much of his early life, as a result of his father’s religious orders, in Western Australia and then moved to Victoria. Similarly, our new Prime Minister has a very strong connection with South Australia. She went to Unley High School, a very famous and well-regarded public school in the southern suburbs of Adelaide.

**Senator Parry interjecting—**

Senator FARRELL—Alfred James Fu
erals, yes. I know them. They are on Unley Road. The reason I know they are on Unley Road is because I used them when my father passed away. I thought they gave very good service. I know you have some connections with the funeral industry there. I do not know if you have kept—

Senator Parry—Check Hansard.

Senator FARRELL—I will check Hansard now that you have invited me to do that. If you still have any connections there with them in particular, I would be very happy if you passed on my thoughts, because they were very thoughtful and considerate in what are very difficult circumstances for any family.

But as I said, our new Prime Minister went to Unley High School. She was a very good student there and graduated with flying colours, just as she has done for the rest of her career. It is interesting to note—Mr President, I think you will be interested in this—that she is not the only member of the lower house who went to Unley High. Amanda Rishworth, the member for Kingston and a very good member in the southern suburbs of Adelaide, also went to Unley High. So I think we are very privileged in this parliament to be able to say we have two South Australians in the lower house who went to Unley High.

Of course, like so many successful high school students, our new Prime Minister went on to study at Adelaide University, that great institution. There she studied law. If you look around all of the universities around Australia and around the world, one of the great universities, particularly in the study of law, is Adelaide University. I have had some personal experience there and found it to be a great institution. I think a lot of the characteristics and qualities that we now see in our new Prime Minister she built up and achieved first because of her studies at Unley high, that great public school, and then when she went on to study law at Adelaide University. It is a matter of great pride to all of the South Australian members of parliament—the senators as well as the members of the lower house—that we have this very strong connection with the new Prime Minister. One of the very good things that comes out of that connection is that, because she studied in Adelaide, she grew up in Adelaide and she went to university there, she has a greater empathy for the issues and the problems of the people in—if you want to look at it in electoral terms—seats like Boothby, Kingston, Hindmarsh and Adelaide. All of these seats are in the general
vicinity of where she lived, worked and studied.

Of course, one of the things we know about the new Prime Minister is that she has a very close relationship with her parents. Both her mum and dad are still alive; she is very fortunate to have that situation. She goes to Adelaide, and I am sure she catches up with them whenever she goes there. As a little aside that you might be interested in, Mr President, at the 2007 federal election, where Labor won and won three marginal seats in South Australia—Kingston, Wakefield and Makin—my second daughter, Theresa, had the very great honour and privilege of taking the new Prime Minister’s father to the polling booth. He wanted to go down and vote for our candidate in that seat, Nicole Cornes, so my daughter volunteered to pick him up from his home in the southern suburbs—I think it is Westbourne Park. She took him down to the polling booth. He could not do anything but talk about his daughter. She was not the Deputy Prime Minister, but of course that is what she became in that election.

From the point of view of all South Australians, we feel very proud that we now have a Prime Minister with such a close connection with our state. I think the benefit for the people of South Australia is that, because she has such empathy for South Australia—because she has such knowledge of the problems and issues in South Australia—it will augur very well for the state as we lead into the election and as we go beyond that, when she gets an endorsement of her own, which I am sure you are very confident about, Mr President. I am sure you believe that that is going to occur in the relatively near future.

I think that all South Australians would want to congratulate our new Prime Minister on this occasion. We look forward to seeing that continuing relationship between her and the state of South Australia. I think it is going to be one of those relationships which will be good from her point of her view, because she has the perspective of living in Victoria but having that connection with South Australia. As she goes around the country and, more particularly, comes to South Australia, as I am sure she will continue to do, that is going to be very good for our state. I am sure she will in her new government reflect on the things that she has learnt in South Australia and on some of the problems that we have in our state, particularly water. Water is a very great issue in South Australia, of course, and I am sure that is going to be one of her great priorities in her new role as Prime Minister.

Prime Minister

Senator McGauran (Victoria) (7.30 pm)—That was embarrassing. As the underlings come into the chamber to ingratiate themselves with the new Prime Minister, there is a claim that the new Prime Minister is from South Australia. I thought she was from Victoria. She is sounding like Phar Lap! Her skeleton is in South Australia, her skin is in Victoria, but I can tell you where her heart is: it is in New South Wales, and it is owned by the New South Wales right. That is our new Prime Minister. It is shameless. That was a shameless speech and it has been shameless since last night.

We had to endure it last night on Sky television, riveting as it was! The factional warlords—the Mr Bill Shortens and the Senator Feeneys of this world—were falling over each other last night to be the one to be seen to be stabbing the knife in the heart of the former Prime Minister. They all wanted it out there. They were texting to Sky television at a rapid pace—twice that the Liberals ever did during their leadership challenge, I can assure you—saying, ‘I’m the one who is stabbing him. I’m part of Bill Shorten’s fac-
tion’ and, ‘No, I’m from Senator Feeney’s faction; I’m the one stabbing him.’ It was humiliating to see them falling over each other, one by one, to be seen to be stabbing the former Prime Minister and seeing him off.

I will tell you why it was embarrassing, let alone being utterly disrespectful to the office of the Prime Minister. That is no way to treat a Prime Minister, even Mr Kevin Rudd. This is the mob—all of the underlings and the frontbench—who spent 2½ years of Mr Rudd’s prime ministership cowering to him. And within 24 hours they were falling over each to knife him. And within fewer than 24 hours they are all walking in and attempting to ingratiate themselves with the new Prime Minister. What a weak bunch. For 2½ years you allowed the government to introduce absurd policies like the pink batts and the mining tax. You never knew about them until you read about them. You spent 2½ years cowering to the gang of four and now you are cowering to the new Prime Minister.

I will tell you who takes the prize: Senator Lundy. She is the only one who would dare go on Sky television during this momentous occasion and ingratiate herself to the new Prime Minister. When it was all said and done, when the factions had done their job and done their business, Senator Lundy said, ‘Now is the time for me to move; now is the time for me to ingratiate myself with the new Prime Minister.’ She went on Sky television—and it was literally dripping. She is hanging out for a resurgence of her career, for a promotion, as they all are.

The person who really gets under my skin is the head of the AWU, Paul Howes, who was on television tonight. I know it would get under your skin, Mr President, only too well. I have been here a long time with you and I know that type of person gets under your skin for sure. Do you know what Mr Paul Howes said on television tonight, and do you think the Australian people do not notice these things? He said, ‘There’s only one reason why we dumped the Prime Minister.’ This was on national television, on popular news service Channel 7. It was not stuck away on *Lateline* on the ABC at 10.30 pm. This was right upfront in prime time. He said, ‘We dumped him because we did our internal polling and it showed he couldn’t win.’

It was just sheer politics. It was nothing to do with the bad policy, and the union Mr Howes represents, which is the mining union, he could not care less about. It meant nothing to him that that mining tax was going to lose jobs for his workers. Only a couple of weeks ago, he was down at the Press Club defending it and defending the former Prime Minister. He was all over Kevin Rudd and all over the mining tax and how good it was. He was defending it with all of the absurd arguments that the government are still defending it with. Mr Paul Howes has political ambition dripping all over him, and he did the swap late last night also. He wants to come into parliament; there is absolutely no doubt about that. He has a neon light on him, saying, ‘I’m ambitious; don’t trust me’. The whole lot of them were disgraceful last night.

Tonight we have had Senator Farrell. I know him very well and he is quite a decent contributor to this parliament, so I do not know why he reduced himself tonight in the adjournment debate. I guess they are all doing that. You may have her skeleton, Senator Farrell, in South Australia; we may have her skin in Victoria, but the New South Wales right has her heart. We have one here in the chamber actually, looking all starry-eyed at me as if I am not telling the truth and the facts. Senator Stephens used to be president of the party in New South Wales, and she knows only too well that last night, when the votes of the New South Wales unions and
members of parliament switched, that it was ‘Good night, Nurse’ for the former Prime Minister.

This is the bewilderment of politics, and books will be written about it, but you have to ask yourself a question, and I wonder if you were asking yourself last night. The former Prime Minister just eight months ago was the most popular Prime Minister in Australia ever, more popular than Bob Hawke himself. That was as amazing to us as it was amazing to you, as we all knew him, but there was a reason for it. It was because the Australian people trusted him. They trusted that the policies that he and the rest of the government were spinning were the right ones.

The Australian people did not fall out of love with Kevin Rudd—or his personality, as Paul Howes will have it. They fell out of love with the spin on bad policy. They fell out of love with bad policy and they could not stomach the Prime Minister and the rest of the government continually spinning bad policy. Eight months ago, when they thought the policy may have been right, before it was proven wrong by a tougher and stronger opposition leader, the people gave him the benefit of the doubt and they liked Kevin Rudd. It was the policy. It was the policy, Stupid!

Yet the great disappointment was this new Prime Minister. I watched the first media conference. I was bewildered and surprised but, to my delight, she did not take the opportunity in her first media conference, where she had all the authority and chance to do so, to set the direction of the government. She stuck to the old policies. All she could come up with was rhetoric—‘My door is open in regard to the mining tax.’ She repeated the phrase ‘hardworking Australians’ over and over again. It is just another version of Mr Rudd’s ‘working families’. It was all rhetoric. It was well done. It was very disciplined. It was very good. But do you really think the Australian people are going to fall for it?

I congratulate her for being the first female Prime Minister in Australia. I think the Australian people will like that too. But they want the policies changed. If Kevin Rudd had done the right thing with the policies, he would still be Prime Minister today and he would still have a 70 per cent popularity rating. They fell out with the policies and they got sick of the way the government were trying to spin bad policies.

We have a new Prime Minister who has changed nothing on her first day. She will string the media along. They will be in love with many aspects of this political operator. She will spin them on, and the Labor government will spin that there are policy changes in the wind. But there are not. If you do not do it on the first day, at your first press conference or your first appearance in the parliament, you are not going to. Certainly they are not going to be of any not substance and certainly not what the Australian people are looking for. It was a lost opportunity. It was much to my bewilderment and, I must say, much to my delight. I thought: ‘Is that it? Is that what they spent all last night doing? Did they not calculate what was really needed to lift themselves in the polls, if that is all that drives them, let alone what was needed for good governance and good government?’ The Australian people will reject them again unless they start doing something about their policies. They should dump the mining tax and toughen border security.

But why would I expect them to be discerning about whom they would make the new Prime Minister? The badge of dishonour of this Prime Minister cannot be taken off her. It has been firmly placed on her lapel—
that is, she as a minister oversaw the most rorted, wasteful scheme in Australian political history, with losses of billions and billions of dollars of taxpayers’ money. That is the Prime Minister they have put in place, and that is the Prime Minister who will not change the current policies at all. She will spin them and she will mould them a little bit, but she is not going to change them. Do not think for a second the Australian people will fall for it. *(Time expired)*

**Senate adjourned at 7.40 pm**

**DOCUMENTS**

Tabling

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]

Aged Care Act—Aged Care (Amount of Flexible Care Subsidy – Innovative Care Services) Determination 2010 (No. 1) [F2010L01650]*.

Aged Care (Residential Care Subsidy – Amount of Enteral Feeding Supplement) Determination 2010 (No. 1) [F2010L01293]*.

Flexible Care Subsidy Amendment Principles 2010 (No. 1) [F2010L01652]*.

Quality of Care Amendment Principles 2010 (No. 1) [F2010L01651]*.

Residential Care Subsidy Amendment Principles 2010 (No. 1) [F2010L01655]*.

Appropriation Act (No. 1) 2009-2010—Advance to the Finance Minister—No. 5 of 2009-2010 [F2010L01677]*.

Australian Communications and Media Authority Act—Radiocommunications (Interpretation) Amendment Determination 2010 (No. 2) [F2010L01707]*.

Australian Nuclear Science and Technology Act—Statement under section 7—Disclosure of the Australian Nuclear Science and Technology Organisation’s interests in company.

Australian Prudential Regulation Authority Act—

Australian Prudential Regulation Authority (Confidentiality) Determination No. 13 of 2010—Information provided by locally-incorporated banks and foreign ADIs under Reporting Standard ARS 320.0 [F2010L01774]*.

Australian Prudential Regulation Authority Instrument Fixing Charges No. 4 of 2010—Models-based capital adequacy requirements for ADIs for the 2009-10 financial year [F2010L01709]*.

Commonwealth Authorities and Companies Act—Notice under section 45—Global Carbon Capture and Storage Institute Ltd.

Corporations Act—ASIC Class Order [CO 10/464] [F2010L01687]*.

Environment Protection and Biodiversity Conservation Act—Amendment of list of CITES species, dated 18 June 2010 [F2010L01735]*.

Financial Management and Accountability Act—FMA Act Determination 2010/11—Section 32 (Transfer of Functions from DEWHA to DCCEE) [F2010L01688]*.

Fisheries Management Act—Fisheries Management (Southern Squid Jig Fishery Management Plan 2005) Temporary Order 2010 [F2010L01722]*.

Health Insurance Act—Health Insurance (Leukoscan) Determination 2010 [F2010L01653]*.

Migration Act—Migration Regulations—Instruments IMMI—

10/027—Skilled occupations for skills assessments [F2010L01326]*.

10/037—Specification of income threshold and annual earnings [F2010L01486]*.

National Health Act—Instrument No. PB 66 of 2010—National Health (Indigenous
Chronic Disease – PBS Co-payment Measure) Special Arrangements Instrument 2010 [F2010L01724]*.

Private Health Insurance Act—

Private Health Insurance (Data Provision) Rules 2010 [F2010L01753]*.

Private Health Insurance (Health Insurance Business) Rules 2010 [F2010L01740]*.

Radiocommunications (Transmitter Licence Tax) Act—Radiocommunications (Transmitter Licence Tax) Amendment Determination 2010 (No. 4) [F2010L01706]*.

Veterans’ Entitlements Act—

Amendment of Statements of Principles concerning—

Fibrosing Interstitial Lung Disease No. 59 of 2010 [F2010L01672]*.

Fibrosing Interstitial Lung Disease No. 60 of 2010 [F2010L01673]*.

Statements of Principles concerning—

Dupuytren’s Disease No. 58 of 2010 [F2010L01671]*.

Internal Derangement of the Knee No. 51 of 2010 [F2010L01664]*.

Internal Derangement of the Knee No. 52 of 2010 [F2010L01665]*.

Vascular Dementia No. 61 of 2010 [F2010L01674]*.

Vascular Dementia No. 62 of 2010 [F2010L01675]*.

* Explanatory statement tabled with legislative instrument.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Hawker Britton
(Question Nos 2605 and 2634)

Senator Cormann asked the Minister for Defence, upon notice, on 8 February 2010:

(1) On how many occasions has the current and/or former Minister and associated parliamentary secretaries in the current parliament, and any departmental officials: (a) met directly with representatives of Hawker Britton; and/or (b) attended meetings that were also attended by representatives of Hawker Britton.

(2) For each abovementioned meeting: (a) what was the date; (b) what was the topic of discussion; and (c) which Hawker Britton representatives were present.

Senator Faulkner—The answer to the honourable senator’s question is as follows:

With regard to Ministers and Parliamentary Secretaries

(1) I cannot comment on the meetings of the former Minister for Defence and associated former Parliamentary Secretaries. I can comment only on my time as Minister for Defence.

(a) None.

(b) One.

(2) (a) 1 June 2010. (b) Party meeting. No Defence portfolio matters were discussed. (c) Bruce Hawker

With regard to Minister Combet in his former capacity as Minister for Defence Personnel, Materiel and Science, and in his current capacity as Minister for Defence Materiel and Science:

(1) (a) and (b) None.

(2) (a), (b) and (c) Please refer to (1) (a) and (b).

With regard to Minister Griffin, in his capacity as Minister for Defence Personnel:

(1) (a) and (b) None.

(2) (a), (b) and (c) Please refer to (1) (a) and (b).

With regard to Parliamentary Secretary Kelly, in his capacity as Parliamentary Secretary for Defence Support:

(1) (a) None. (b) 2

(2) (a) Both 17 March 2010. (b) Due to Commercial in Confidence, it is not appropriate to disclose this information. (c) Due to privacy considerations this information will not be disclosed.

With regard to the Department of Defence

(1) (a) and (b), (2) (a), (b) and (c) Responding to this question would require Departmental officials to review calendar and diary entries since December 2007 for meetings that may have involved or been attended by Hawker Britton. This would require the manual examination of a large number of diary and meeting records, which is an unreasonable diversion of government resources.
QUESTIONS ON NOTICE

Resources and Energy: Hospitality
(Question No. 2787)

Senator Milne asked the Minister representing the Minister for Resources and Energy, upon notice, on 20 April 2010:

With reference to the Global Carbon Capture and Storage Institute (the institute):

(1) (a) What organisations are currently members of the institute; and (b) what fees do they pay.

(2) For the past 12 months, what was the institute’s expenditure for the following: (a) travel by staff and visitors; (b) accommodation for staff that were travelling and accommodation for visitors; (c) alcohol; (d) food; (e) social events; and (f) all other functions, including: (i) the nature of the function and costs, and (ii) the food and alcohol costs.

(3) What are the names and areas of expertise of all scientists on staff.

Senator Carr—The Minister for Resources and Energy has provided the following answer to the honorable senator’s question:

(1) (a) The Institute currently has 226 members, which includes Foundation Members and members who have taken up membership, or converted their foundation membership, since the establishment of the Institute as a private company (“legal members”). While, there is no application fee to join the Global CCS Institute, there is a small contingent liability fee associated with Membership. To be admitted as a Member, applicants have to commit to paying AUD$10 in the event that the Global CCS Institute is wound up and does not have adequate funds to discharge its liabilities. This fee can be met through: the member guaranteeing that they will pay AUD$10 if the Global CCS Institute is wound up and has insufficient funds; or the member agreeing to pay the amount of AUD$10 when they have been approved for membership, on the basis it will be held in trust by the Global CCS Institute until such time as the Global CCS Institute is wound up.

A full list of the members, as at 1 June 2010, follows:
The Commonwealth of Australia
The Emirate of Abu Dhabi - MASDAR
The Government of Canada
The Government of the Peoples Republic of China
The Republic of Bulgaria
European Commission
The Government of Egypt (Ministry of Petroleum)
The Government of the French Republic
The Federal Republic of Germany
The Government of India
The Government of Indonesia
The Government of Italy
The Government of Japan
The Government of the Republic of Korea
The Government of Malaysia
The Government of Mexico
The Government of Netherlands
The Government of New Zealand
The Government of Norway
The Government of Papua New Guinea
The Russian Federation
The Government of South Africa
The Government of Sweden
The Republic of Trinidad and Tobago
The Government of United Kingdom
The Government of the United States of America
The Government of Alberta
The State Government of New South Wales
The State Government of Queensland
The State Government of South Australia
The State Government of Victoria
The State Government of Western Australia
Asian Development Bank
Japan Bank for International Cooperation (JBIC)
Accenture LLP
AECOM Australia Pty Ltd
AGR Field Operations
Aker Clean Carbon
Aker Solutions
Alcoa of Australia Ltd
Alstom Power Ltd
Altona Energy
AMEC Plc
American Electric Power Service Corporation
Anglo American Services (UK) Limited
Anglo American Metallurgical Coal Pty Ltd
Anthony Veder Group NV
A.P. Moller – Maersk A/S
ARC Resources Ltd
Arcelor Mittal Research Maizieres SA
Arch Coal Inc
ARUP Pty Ltd
ASME-Australia
Aurecon Australia Pty Ltd
Aviva Corp.
Questions on Notice

Babcock & Wilcox Company
Baker and McKenzie
Bechtel Power Corporation
BG Energy Holdings Limited
BHP Billiton
Blue Strategies LLC
Bluewave Resources
Bloomberg New Energy Finance
Booz & Co.
Boston Consulting Group
BP Australia Limited
Calera Corporation
Calix Limited
CCGVeritas
CCSTLM
Chartis International
CH2M HILL Energy & Chemicals
Chevron Australia Pty Ltd
China Huaneng Group
Chiyoda Corporation
Clean Energy Systems Inc
ConocoPhillips
CO2 Solutions Inc.
Det Norske Veritas
Deutsche Bank Asset Management
Doosan Babcock Energy Limited
Duke Energy
Dow Chemical Company
Ecofys Netherlands BV
E. ON AG
Emerson Process Management Flow B.V.
Enbridge, Inc
ENEL S.p.A.
Enhance Energy Inc
Entech Strategies LLC
Entergy Services Corporation
Enviro-Energy International Holdings Limited
Ernst & Young
QUESTIONS ON NOTICE

Exxon Mobil Australia Pty Ltd
FLH Law
Fortum Oyj
General Electric International Inc
Golder Associates Pty Ltd
Greenhouse Gas Storage Solutions (GGSS)
Halliburton
Hatch Associates Pty Ltd
Hess Corporation
Hitachi Limited
Honeywell Ltd
Howden Group Limited
HTC Purenergy Inc
Hydrogen Energy California
IHI Corporation
Infrastructure Partnerships Australia
INPEX Corporation
Integrated CO2 Network (ICO2N)
INTERKONSULT Ltd
Jacobs Consulting
JGC Corporation
JP Morgan Chase & Co
Kawasaki Heavy Industries
Korean Electric Power Corporation (KEPCO)
KPMG
L.E.K. Consulting
Liberty Resources
Macquarie Capital Group
Maersk Olie og Gas
Mitsubishi Corporation
Mitsui & Co Ltd
Nippon Steel Engineering Co. Ltd
Norton Rose
Parsons Brinckerhoff Australia Pty Ltd
Peabody Pacific Pty Ltd
Perdaman Chemicals and Fertilisers
Praxair Inc
PricewaterhouseCoopers
Powerspan Corp
Pöyry Energy Consulting
Process Group Pty Ltd
Quality Energetics
Ramgen Power Systems, LLC
Reed Smith LLP
ResourcesLaw International Associates Pty Ltd
Reykjavik Energy
Rhead Group
Rio Tinto Ltd
Rolls-Royce
RWE Power AG
Samsung Techwin Co. Ltd
Santos Limited
Scottish Power
Senergy Alternate Energy Ltd
Services Petroliers Schlumberger
Shell Company of Australia Ltd
Siemens Australia Ltd
Sojitz Corporation
Solid Energy New Zealand Limited
Southern States Energy Board
StatoilHydro ASA
Strike Oil Limited
Sumitomo Corporation
Taisei Corporation
Tarong Energy
Technovation Partners Co. Ltd
Tenaska Inc
3D-GEO Pty Ltd
Toshiba Corporation
Total S.A.
Toyo Engineering Corporation
TRUenergy Development Pty Ltd
TÜV SÜD Industrie Service GmbH
Uhde Shedden (Australia) Pty Ltd
Vattenfall AB
Vattenfall Europe

QUESTIONS ON NOTICE
WDS Limited
Woodside Energy Ltd
Worley Parsons Services Pty Ltd
Xstrata Coal Pty Ltd
ZEEP Australia Pty Ltd
ZeroGen
Alberta Research Council Inc
Australian Coal Association
Australian National Low Emissions Council R&D
Bellona
Brazilian Coal Association
British Geological Survey
Canadian Clean Power Coalition
Carbon Capture and Storage Association (UK)
Carbon Capture and Storage Research Consortium of Nova Scotia
Carbon Dioxide Reduction and Sequestration R&D Center (Korea)
CCS Alliance
Clean Air Taskforce
Coal Utilization Research Council
Cooperative Research Centre for Greenhouse Gas Technologies (CO2CRC)
Commonwealth Scientific and Industrial Research Organisation (CSIRO)
demosEUROPA – Centre for European Strategy
Electric Power Research Institute (EPRI)
Energy Research Centre of the Netherlands (ECN)
Fundación Ciudad de la Energía (CIUDEN)
Główny Instytut Górnictwa
IEA Greenhouse Gas R&D Programme
Industrial Technology Research Institute (ITRI)
Institute for Studies and Power Engineering for Romania
International Aluminium Institute (IAI)
Japan CCS Company Ltd
Japan Coal Energy Center (JCOAL)
Japan Oil, Gas and Metals National Corporation (JOGMEC)
Korean Institute for Advanced Engineering
Lawrence Livermore National Laboratory
National Institute of Marine Geology and Geocoeology (GeoECOMar)
Petroleum Technology Research Centre Inc
Petrophysical Institute Foundation (IPF)
(2) For the past 12 months, what was the institute’s expenditure for the following: (a) travel by staff and visitors; (b) accommodation for staff that were travelling and accommodation for visitors; (c) alcohol; (d) food; (e) social events; and (f) all other functions, including: (i) the nature of the function and costs, and (ii) the food and alcohol costs.

The Institute is a private company established under the Corporations Act 2001, with a Board of Directors responsible for governance as prescribed under Corporations Law. As the Commonwealth is a member of the Institute, the Institute has obligations to provide financial reports to the Commonwealth, both under the Funding Agreement and under the Corporations Act 2001. The level of detail sought is not required to be routinely reported to the Commonwealth.

The Funding Agreement with the Commonwealth requires the Institute to provide reporting at a project budget level bi-annually with Progress Reports. Additionally, four months after the end of each financial year the Institute is required to provide an annual financial report to the Commonwealth, prepared by an approved Auditor, which among other items provides the following specific assurances:

- specific comment on the adequacy of the financial controls being maintained by the Institute;
- an itemised list of fees paid to officers of the Institute;
- a certificate that all funds were spent for the purpose of the project and in accordance with the Agreement and that the Institute has complied with the Agreement;
- a certificate that salaries and allowances paid to persons involved in delivering the Institute’s work program are in accordance with any applicable award or agreement in force under any relevant law on industrial or workplace relations;
• a statement of the measures taken by the Institute against fraud;
• a statement of financial control measures taken by the Institute.

(3) What are the names and areas of expertise of all scientists on staff.

The primary objectives of the Institute are to “accelerate the global adoption of CCS through … working in concert with the network of existing bodies … actively supporting large scale demonstration projects through facilitation of issues, discussions with key stakeholders … be an active clearinghouse and standard setter for CCS information”. The Institute is employing a range of skilled staff, seconding staff from member organisations and governments and contracting other expertise, to meet this broad objective which is not necessarily best driven by scientists. The level of detail sought is not required to be routinely reported to the Commonwealth, however, the Institute has advised that it currently employs 11 people (26 percent of staff) with science based qualifications and other staff with a range of relevant qualifications for example in engineering.

Resources and Energy: Coal Shipping
(Question No. 2828)

Senator Bob Brown asked the Minister representing the Minister for Resources and Energy, upon notice, on 21 May 2010:

(a) What volumes of coal do ships leaving Queensland ports typically carry; and
(b) What is the current per tonne value of Queensland coal.

Senator Carr—The Minister for Resources and Energy has provided the following answer to the honorable senator’s question:

(a) The volume of coal carried by ships leaving Queensland ports vary depending on the vessel:
   - between 50 000 and 65 000 tonnes for Handymax vessels;
   - between 65 000 and 100 000 tonnes for Panamax vessels; and
   - over 100 000 tonnes for Cape size vessels.

(b) As at 21 May 2010, the per tonne of value of Queensland hard coking coal was AUD242.72 and Queensland thermal coal was AUD118.93, based on estimates prepared by the Department of Resources, Energy and Tourism.