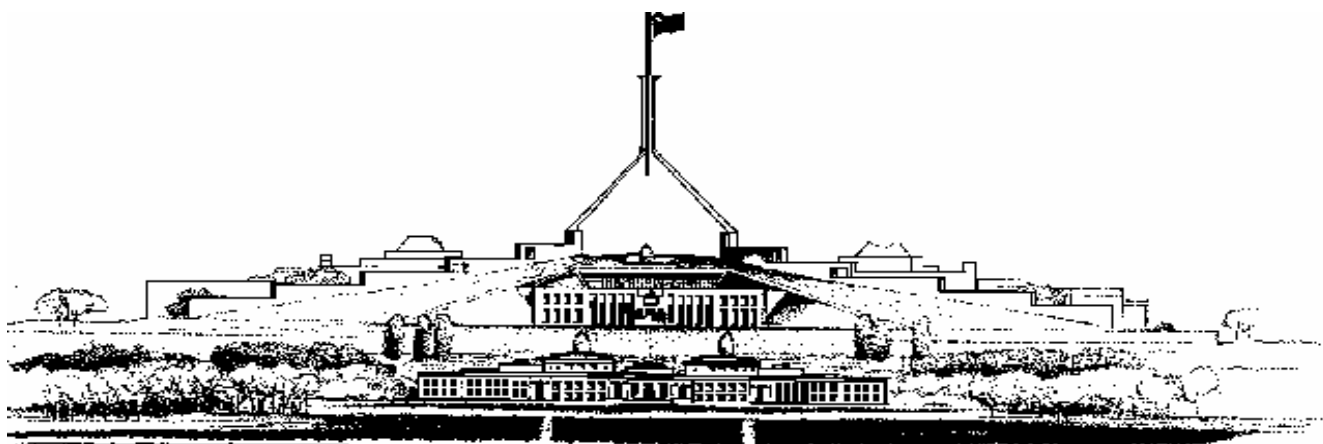




COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



Senate

Official Hansard

No. 13, 2008

Wednesday, 26 November 2008

FORTY-SECOND PARLIAMENT
FIRST SESSION—THIRD PERIOD

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SITTING DAYS—2008

Month	Date
February	12, 13, 14
March	11, 12, 13, 17, 18, 19, 20
May	13, 14, 15
June	16, 17, 18, 19, 23, 24, 25, 26
August	26, 27, 28
September	1, 2, 3, 4, 15, 16, 17, 18, 22, 23, 24, 25
October	13, 14, 15, 16
November	10, 11, 12, 13, 24, 25, 26, 27
December	1, 2, 3, 4

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**FORTY-SECOND PARLIAMENT
FIRST SESSION—THIRD PERIOD**

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The Nationals Whip—Senator John Reginald Williams

Australian Greens Whip—Senator Rachel Mary Siewert

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Senator	State or Territory	Term expires	Party
Abetz, Hon. Eric	TAS	30.6.2011	LP
Adams, Judith Anne	WA	30.6.2011	LP
Arbib, Mark Victor	NSW	30.6.2014	ALP
Barnett, Guy	TAS	30.6.2011	LP
Bernardi, Cory	SA	30.6.2014	LP
Bilyk, Catryna Louise	TAS	30.6.2014	ALP
Birmingham, Simon John	SA	30.6.2014	LP
Bishop, Thomas Mark	WA	30.6.2014	ALP
Boswell, Hon. Ronald Leslie Doyle	QLD	30.6.2014	NATS
Boyce, Suzanne Kay	QLD	30.6.2014	LP
Brandis, Hon. George Henry, SC	QLD	30.6.2011	LP
Brown, Carol Louise	TAS	30.6.2014	ALP
Brown, Robert James	TAS	30.6.2014	AG
Bushby, David Christopher	TAS	30.6.2014	LP
Cameron, Douglas Niven	NSW	30.6.2014	ALP
Carr, Hon. Kim John	VIC	30.6.2011	ALP
Cash, Michaelia Clare	WA	30.6.2014	LP
Colbeck, Hon. Richard Mansell	TAS	30.6.2014	LP
Collins, Jacinta Mary Ann	VIC	30.6.2014	ALP
Conroy, Hon. Stephen Michael	VIC	30.6.2011	ALP
Coonan, Hon. Helen Lloyd	NSW	30.6.2014	LP
Cormann, Mathias Hubert Paul ⁽²⁾	WA	30.6.2011	LP
Crossin, Patricia Margaret ⁽³⁾	NT		ALP
Eggleston, Alan	WA	30.6.2014	LP
Ellison, Hon. Christopher Martin	WA	30.6.2011	LP
Evans, Hon. Christopher Vaughan	WA	30.6.2011	ALP
Farrell, Donald Edward	SA	30.6.2014	ALP
Faulkner, Hon. John Philip	NSW	30.6.2011	ALP
Feeney, David Ian	VIC	30.6.2014	ALP
Ferguson, Hon. Alan Baird	SA	30.6.2011	LP
Fielding, Steve	VIC	30.6.2011	FF
Fierravanti-Wells, Concetta Anna	NSW	30.6.2011	LP
Fifield, Mitchell Peter	VIC	30.6.2014	LP
Fisher, Mary Jo ⁽¹⁾	SA	30.6.2011	LP
Forshaw, Michael George	NSW	30.6.2011	ALP
Furner, Mark Lionel	QLD	30.6.2014	ALP
Hanson-Young, Sarah Coral	SA	30.6.2014	AG
Heffernan, Hon. William Daniel	NSW	30.6.2011	LP
Hogg, Hon. John Joseph	QLD	30.6.2014	ALP
Humphries, Gary John Joseph ⁽³⁾	ACT		LP
Hurley, Annette Kay	SA	30.6.2011	ALP
Hutchins, Stephen Patrick	NSW	30.6.2011	ALP

Senator	State or Territory	Term expires	Party
Johnston, Hon. David Albert Lloyd	WA	30.6.2014	LP
Joyce, Barnaby Thomas Gerard	QLD	30.6.2011	NATS
Kroger, Helen	VIC	30.6.2014	LP
Ludlam, Scott	WA	30.6.2014	AG
Ludwig, Hon. Joseph William	QLD	30.6.2011	ALP
Lundy, Kate Alexandra ⁽³⁾	ACT		ALP
Macdonald, Hon. Ian Douglas	QLD	30.6.2014	LP
McEwen, Anne	SA	30.6.2011	ALP
McGauran, Julian John James	VIC	30.6.2011	LP
McLucas, Hon. Jan Elizabeth	QLD	30.6.2011	ALP
Marshall, Gavin Mark	VIC	30.6.2014	ALP
Mason, Hon. Brett John	QLD	30.6.2011	LP
Milne, Christine Anne	TAS	30.6.2011	AG
Minchin, Hon. Nicholas Hugh	SA	30.6.2011	LP
Moore, Claire Mary	QLD	30.6.2014	ALP
Nash, Fiona Joy	NSW	30.6.2011	NATS
O'Brien, Kerry Williams Kelso	TAS	30.6.2011	ALP
Parry, Stephen Shane	TAS	30.6.2011	LP
Payne, Marise Ann	NSW	30.6.2014	LP
Polley, Helen Beatrice	TAS	30.6.2011	ALP
Pratt, Louise Clare	WA	30.6.2014	ALP
Ronaldson, Hon. Michael	VIC	30.6.2011	LP
Ryan, Scott Michael	VIC	30.6.2014	LP
Scullion, Hon. Nigel Gregory ⁽³⁾	NT		CLP
Sherry, Hon. Nicholas John	TAS	30.6.2014	ALP
Siewert, Rachel Mary	WA	30.6.2011	AG
Stephens, Hon. Ursula Mary	NSW	30.6.2014	ALP
Sterle, Glenn	WA	30.6.2011	ALP
Troeth, Hon. Judith Mary	VIC	30.6.2011	LP
Trood, Russell Brunell	QLD	30.6.2011	LP
Williams, John Reginald	NSW	30.6.2014	NATS
Wong, Hon. Penelope Ying Yen	SA	30.6.2014	ALP
Wortley, Dana Johanna	SA	30.6.2011	ALP
Xenophon, Nicholas	SA	30.6.2014	IND

(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) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.

PARTY ABBREVIATIONS

AG—Australian Greens; ALP—Australian Labor Party; CLP—Country Liberal Party;

FF—Family First Party; LP—Liberal Party of Australia; NATS—The Nationals

Heads of Parliamentary Departments

Clerk of the Senate—H Evans

Clerk of the House of Representatives—I C Harris

Secretary, Department of Parliamentary Services—A Thompson

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

[The above ministers constitute the cabinet]

RUDD MINISTRY—*continued*

Minister for Home Affairs	Hon. Bob Debus MP
Assistant Treasurer and Minister for Competition Policy and Consumer Affairs	Hon. Chris Bowen MP
Minister for Veterans' Affairs	Hon. Alan Griffin MP
Minister for Housing and Minister for the Status of Women	Hon. Tanya Plibersek MP
Minister for Employment Participation	Hon. Brendan O'Connor MP
Minister for Defence Science and Personnel	Hon. Warren Snowdon MP
Minister for Small Business, Independent Contractors and the Service Economy and Minister Assisting the Finance Minister on Deregulation	Hon. Dr Craig Emerson MP
Minister for Superannuation and Corporate Law	Senator Hon. Nick Sherry
Minister for Ageing	Hon. Justine Elliot MP
Minister for Youth and Minister for Sport	Hon. Kate Ellis MP
Parliamentary Secretary for Early Childhood Education and Childcare	Hon. Maxine McKew MP
Parliamentary Secretary for Defence Procurement	Hon. Greg Combet AM, MP
Parliamentary Secretary for Defence Support	Hon. Dr Mike Kelly AM, MP
Parliamentary Secretary for Regional Development and Northern Australia	Hon. Gary Gray AO, MP
Parliamentary Secretary for Disabilities and Children's Services	Hon. Bill Shorten MP
Parliamentary Secretary for International Development Assistance	Hon. Bob McMullan MP
Parliamentary Secretary for Pacific Island Affairs	Hon. Duncan Kerr MP
Parliamentary Secretary to the Prime Minister	Hon. Anthony Byrne MP
Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion	Senator Hon. Ursula Stephens
Parliamentary Secretary to the Minister for Trade	Hon. John Murphy MP
Parliamentary Secretary to the Minister for Health and Ageing	Senator Hon. Jan McLucas
Parliamentary Secretary for Multicultural Affairs and Settlement Services	Hon. Laurie Ferguson MP

SHADOW MINISTRY

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Shadow Treasurer and Deputy Leader of the Opposition	The Hon Julie Bishop MP
Shadow Minister for Trade, Transport, Regional Development and Local Government and Leader of The Nationals	The Hon Warren Truss MP
Shadow Minister for Broadband, Communications and the Digital Economy and Leader of the Opposition in the Senate	Senator the Hon Nick Minchin
Shadow Minister for Innovation, Industry, Science and Research and Deputy Leader of the Opposition in the Senate	Senator the Hon Eric Abetz
Shadow Minister for Infrastructure and COAG and Shadow Minister Assisting the Leader on Emissions Trading Design	The Hon Andrew Robb AO, MP
Shadow Minister for Foreign Affairs and Manager of Opposition Business in the Senate	Senator the Hon Helen Coonan
Shadow Minister for Finance, Competition Policy and Deregulation and Manager of Opposition Business in the House	The Hon Joe Hockey MP
Shadow Minister for Energy and Resources	The Hon Ian Macfarlane MP
Shadow Minister for Families, Housing, Community Services and Indigenous Affairs	The Hon Tony Abbott MP
Shadow Special Minister of State and Shadow Cabinet Secretary	Senator the Hon Michael Ronaldson
Shadow Minister for Human Services and Deputy Leader of The Nationals	Senator the Hon Nigel Scullion
Shadow Minister for Climate Change, Environment and Water	The Hon Greg Hunt MP
Shadow Minister for Health and Ageing	The Hon Peter Dutton MP
Shadow Minister for Defence	Senator the Hon David Johnston
Shadow Minister for Education, Apprenticeships and Training	The Hon Christopher Pyne MP
Shadow Attorney-General	Senator the Hon George Brandis SC
Shadow Minister for Agriculture, Fisheries and Forestry	The Hon John Cobb MP
Shadow Minister for Employment and Workplace Relations	Mr Michael Keenan MP
Shadow Minister for Immigration and Citizenship	The Hon Dr Sharman Stone
Shadow Minister for Small Business, Independent Contractors, Tourism and the Arts	Mr Steven Ciobo

[The above constitute the shadow cabinet]

SHADOW MINISTRY—*continued*

Shadow Minister for Financial Services, Superannuation and Corporate Law	The Hon Chris Pearce MP
Shadow Assistant Treasurer	The Hon Tony Smith MP
Shadow Minister for Sustainable Development and Cities	The Hon Bruce Billson MP
Shadow Minister for Competition Policy and Consumer Affairs and Deputy Manager of Opposition Business in the House	Mr Luke Hartsuyker MP
Shadow Minister for Housing and Local Government	Mr Scott Morrison
Shadow Minister for Ageing	Mrs Margaret May MP
Shadow Minister for Defence Science and Personnel and Assisting Shadow Minister for Defence	The Hon Bob Baldwin MP
Shadow Minister for Veterans' Affairs	Mrs Louise Markus MP
Shadow Minister for Early Childhood Education, Child-care, Status of Women and Youth	Mrs Sophie Mirabella MP
Shadow Minister for Justice and Customs	The Hon Sussan Ley MP
Shadow Minister for Employment Participation, Training and Sport	Dr Andrew Southcott MP
Shadow Parliamentary Secretary for Northern Australia	Senator the Hon Ian Macdonald
Shadow Parliamentary Secretary for Roads and Transport	Mr Don Randall MP
Shadow Parliamentary Secretary for Regional Development	Mr John Forrest MP
Shadow Parliamentary Secretary for International Development Assistance and Shadow Parliamentary Secretary for Indigenous Affairs	Senator Marise Payne
Shadow Parliamentary Secretary for Energy and Resources	Mr Barry Haase MP
Shadow Parliamentary Secretary for Disabilities, Carers and the Voluntary Sector	Senator Cory Bernardi
Shadow Parliamentary Secretary for Water Resources and Conservation	Senator Fiona Nash
Shadow Parliamentary Secretary for Health Administration	Senator Mathias Cormann
Shadow Parliamentary Secretary for Defence	The Hon Peter Lindsay MP
Shadow Parliamentary Secretary for Education	Senator the Hon Brett Mason
Shadow Parliamentary Secretary for Justice and Public Security	Mr Jason Wood MP
Shadow Parliamentary Secretary for Agriculture, Fisheries and Forestry	Senator the Hon Richard Colbeck
Shadow Parliamentary Secretary for Immigration and Citizenship and Shadow Parliamentary Secretary Assisting the Leader in the Senate	Senator Concetta Fierravanti-Wells

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Wednesday, 26 November 2008

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

**FREEDOM OF INFORMATION
(REMOVAL OF CONCLUSIVE
CERTIFICATES AND OTHER
MEASURES) BILL 2008**

First Reading

Senator FAULKNER (New South Wales—Special Minister of State and Cabinet Secretary) (9.31 am)—I move:

That the following bill be introduced: A Bill for an Act to amend the law relating to access to information, and for related purposes.

Question agreed to.

Senator FAULKNER (New South Wales—Special Minister of State and Cabinet Secretary) (9.31 am)—I present the bill and move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator FAULKNER (New South Wales—Special Minister of State and Cabinet Secretary) (9.32 am)—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—

The purpose of the Freedom of Information (Removal of Conclusive Certificates and Other Measures) Bill 2008 is to amend the Freedom of Information Act 1982 (FOI Act) and the Archives Act 1983 to remove the power to issue conclusive certificates.

The bill implements an election commitment to abolish conclusive certificates, and marks the first step in the Government's plan to undertake the most significant overhaul of the FOI Act since its inception in 1982.

The Government proposes to release a draft bill for public comment as early as practicable in 2009 addressing its remaining FOI election commitments, as outlined in the policy statement, Government information: Restoring trust and integrity.

Proposals in that bill will in part be drawn from key recommendations of the joint Australian Law Reform Commission and Administrative Review Council 1996 Open government report. While more than a decade has been lost on FOI reform under the Howard Government, the Rudd Government is moving ahead on these issues, to ensure that we have a more open, transparent and accountable government.

The broader package of reform measures will focus on fostering a pro-disclosure culture across Government, and will include the establishment of an FOI Commissioner who will be an independent statutory officer and champion for FOI.

Conclusive certificates

The repeal of the power to issue conclusive certificates is an important step in achieving greater accountability in government decision making on access requests under the FOI Act and Archives Act.

Conclusive certificates act as a bar to someone seeking access to a document under FOI. The effect of a Minister placing a conclusive certificate on a document is to limit the capacity for the Administrative Appeals Tribunal (the AAT) to review the exemption claim underlying the certificate. Under the current Act, where a conclusive certificate applies, the AAT's jurisdiction is limited to determining if reasonable grounds exist for the exemption claim. But even if the AAT were to find that no reasonable grounds exist for the exemption claim, a Minister may continue to refuse to allow access to the document.

Those limitations on external review should not be preserved. The external administrative review system was still relatively young at the time of the commencement of the FOI Act. Now, after

more than a quarter of a century, the proven strength of that system greatly diminishes the need for executive control over an independent review process for document access. More importantly, I believe public confidence is increased in government decisions if they are open to being fully tested by an independent review process. For this reason, the Government believes that all exemption decisions under the FOI Act and Archives Act should be subject to full external merits review.

Abolishing the power to issue conclusive certificates does not mean information that should be protected against disclosure will be released. Where an exemption claim properly applies to a document, that exemption will continue to provide protection against its disclosure. Should an exemption claim be the subject of a review application to the AAT, parties will still be able to appeal from an AAT decision to the Federal Court on a question of law. That is the position that applies now for exemption claims that are not supported by a conclusive certificate.

Existing conclusive certificates

The bill provides for existing conclusive certificates to be revoked if and when a new request for access to documents covered by a certificate is received. In effect, revocation will be deemed to have taken effect at the time any new request is received. A decision will then be made under the established processes on whether or not an exemption should be claimed for any document formerly covered by a certificate.

Additional measures

The bill also contains some consequential amendments to the FOI Act and Archives Act that arise as a result of the repeal of conclusive certificates. It also introduces some measures that affect procedures in the AAT. Some of these measures are directed to ensuring particularly sensitive information is not unnecessarily disclosed, and apply to documents whose release could damage national security, defence or international relations, or would disclose confidential foreign government information or cabinet information.

To assist the AAT in reviewing an exemption claim to protect from disclosure national security documents and other sensitive information, the

AAT will be required to call the Inspector-General of Intelligence and Security to provide expert evidence if it is not satisfied as to the merit of an exemption claim of this type.

I believe that the measures in the bill provide a fair balance between not unduly affecting procedural rights of applicants and ensuring appropriate safeguards for sensitive information.

The bill also addresses an anomaly affecting rights of access to documents relating to intelligence matters where they are held by a Minister rather than an agency. Under the current Act, a document held by an agency is excluded from the FOI Act if it has originated with, or has been received from, an intelligence agency or the Inspector-General of Intelligence and Security, but the same document would not be excluded if it happens to be held instead by a Minister. The bill remedies this anomaly.

The measures in this bill deliver on the Government's election commitment to abolish conclusive certificates. They also establish a fair balance between ensuring appropriate safeguards are in place in the review process with respect to sensitive information, while at the same time ensuring full independent merits review of agencies' decisions on FOI.

This bill is a first step in FOI reform, but an important step in the Government's broader commitment to making Government open, accountable and transparent.

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.

BUSINESS

Rearrangement

Senator WONG (South Australia—Minister for Climate Change and Water) (9.32 am)—I move:

That government business notice of motion no. 2 standing in the name of the Minister for Human Services (Senator Ludwig) for today, relating to the consideration of legislation, be postponed till a later hour.

Senator Bob Brown—I have an interest in this motion, and I would like an indication as to at what later hour we might be dealing with the matter.

Senator WONG—I am advised, Senator Brown, that it will be shortly after the Selection of Bills Committee meet, and they are meeting at 10.30 am.

Senator Bob Brown—I thank the minister.

Question agreed to.

WATER AMENDMENT BILL 2008

In Committee

Consideration resumed from 25 November.

The TEMPORARY CHAIRMAN (Senator Ellison)—The question is that the bill, as amended, be agreed to.

Senator NASH (New South Wales) (9.34 am)—The opposition opposes item 78 in schedule 2 in the following terms:

- (1) Schedule 2, item 78, page 302 (lines 18 to 25), item **to be opposed**.

This deals with the new knowledge component. The minister would be very aware that, under the National Water Initiative, three reasons were advanced for why a reduction in water access would be available. They were: climate change, new knowledge and change of policy. The first, as the minister would know, is non-compensable. Regarding the second, irrigators would suffer up to a three per cent reduction in access, if there were any reduction in water access, as a result of the new knowledge component. The third, change of policy, was entirely to be borne by state and Commonwealth governments. However, the arrangements were changed. The Commonwealth government have since indicated that they will bear 100 per cent of the reduction.

Where this is of interest to the coalition is that, prior to the bill being introduced, dis-

cussions were to have taken place between industry and government around the definitions of climate change and new knowledge. What we are seeking to do in opposing this item is to delete the paragraph that relates to this area, given that a great deal of concern has been raised by industry about those definitions of climate change and new knowledge. We certainly believe that the parameters have been too tightly set around excluding climate change from being classified as new knowledge. As I said, we seek to delete that paragraph in the bill to return some degree of certainty to the industry in terms of the compensation that will be available.

People in the industry were very much of the view that, moving forward through this process, there would be consultation with them around those definitions. The concern from industry is—and quite rightly so—that if climate change were to be excluded from being assessed under the new knowledge component then all of the compensation would disappear and irrigators would be in a situation where a reduction in water allocation would be noncompensable.

Senator WONG (South Australia—Minister for Climate Change and Water) (9.36 am)—Just to confirm: the government does not support this amendment. I am aware of the issues that have been raised by some New South Wales irrigators, in particular. The government has included in the bill a risk assignment framework which appears at schedule 3A. The proposed section 75(1A) in the bill simply clarifies the current operation of the Water Act and clarifies that reductions arising from the new knowledge and government policy categories of risk do not overlap with the third category of risk set out in the NWI, which encompasses reductions arising from seasonal long-term changes in climate and periodic natural events such as bushfires and droughts.

The amendment the government is proposing in the bill ensures that the bill reflects the three categories of risk set out in the relevant clauses of the National Water Initiative, which are 48 to 50. The Water Act originally intended to do this, and does so by reference to the NWI. On review, the government considered that this issue would benefit from clarification. I would emphasise, though—and I have had a range of discussions with stakeholders on this issue—that the authority will be able to consider risk assignment. The amendment does not change the basis of that consideration, and obviously the government will be looking to that consideration, as will users in the basin for the purposes of their views on the risk assignment allocation.

Senator NASH (New South Wales) (9.38 am)—Further to the point the minister made about the amendments not changing the basis of the consideration, the minister may well then be accepting of the amendment going forward, because the amendment that we are putting forward to delete the provision in the bill clearly removes the uncertainty that currently exists around the definition of those particular categories of climate change and new knowledge. The minister would be very well aware that, as I said previously, discussions were to take place before a final decision was arrived at on how those two components would be treated. Indeed, by having this paragraph in the bill, it takes away any ability for that consultation with industry in determining those definitions and the very important impact of the compensatory ability surrounding the differing definitions that might be put forward. So I think that, in the interests of certainty and allowing the industry to be consulted on the definitions around those terms and the resulting compensatory activities, indeed the amendment should go forward and the provision be deleted from the bill.

Senator WONG (South Australia—Minister for Climate Change and Water) (9.40 am)—Can I say again to Senator Nash, and I understand the opposition do not agree: this is the clause which we believe clarifies the risk assignment framework. I also note that the categorisation of changes relevant to risk assignment is a matter that the authority will participate in and it will apply the categories of risk assignment that are framed under the act and the NWI. We believe that this muddies the waters, quite clearly, and we do not believe the amendment will be helpful in the circumstances, particularly given that there is a view that this clarification in the act is needed.

Senator SIEWERT (Western Australia) (9.41 am)—I must admit I am struggling to understand where the Commonwealth is coming from on this issue. Having said that, I am also a little bit concerned about the coalition's amendment. I have paid close attention to what the irrigators council have been saying. They are worried about this amendment because it means that climate change will not be considered new knowledge. They want climate change as new knowledge. My concern is that climate change is a reality, and it is going to have a real impact. I am trying to weigh up the fact that we need to make sure we give effect to and do not override the commitments that were made in clause 46 of the National Water Initiative, but I do not want to go so far as to say, 'This clause kicks in; climate change becomes new knowledge.' I want to maintain that balance between climate change and new knowledge. As I understand it, the irrigators' concern is where the boundary between climate change and new knowledge kicks in. I want to understand if this impacts on that significantly. With all due respect to the minister, I do not think she has adequately explained how this clause will work and where it kicks in. I apologise if I am being slow—it is first thing

in the morning after a late night—but I do seek further clarification about why this is needed before the Greens can decide which way we are going to vote.

Senator NASH (New South Wales) (9.43 am)—Further to Senator Siewert's concerns, perhaps I can assist, given that it is a coalition amendment. I think the phrase that Senator Siewert used about the boundary is quite a good one. I think there is a recognition from industry at the moment that there are those definitions to be decided around climate change and new knowledge, and currently the boundary is a little blurred. I think the best way to describe their concerns with the bill and this provision being in the bill is: that boundary is very clearly placed by government as to where it should be—that they will be separate—and it does not leave room for that discussion in trying to ascertain exactly where it should be.

Senator WONG (South Australia—Minister for Climate Change and Water) (9.44 am)—As I understand the advice to me, under the risk assignment agreements, with anything in excess of three per cent of a component of reduction that is considered to be new knowledge, the Commonwealth bears the risk. In relation to climate change, all users bear the risk. Our concern about Senator Nash's amendment is that, potentially, it risks leading to a situation where climate change could be regarded as new knowledge. We do not believe that is appropriate. There will be a discussion about what aspects of any reduction are due to new knowledge or climate change. We need to have that discussion under a clear legislative framework, and in the context of the authority being able to give a very clear indication of where it believes various reductions should appropriately be assigned.

Our concern with Senator Nash's amendment is that it has the potential to muddy the

distinction between new knowledge and climate change. The Commonwealth's view is that this amendment bill in fact clarifies that they are distinct issues, recognising and not prejudicing the fact that there is still going to have to be consideration by the authority and therefore by governments and users about what components are carried by which entities, users or the Commonwealth, in the context of any reduction.

And I would make the point that, in fact, the Commonwealth has gone further than the previous Commonwealth government in that, as part of the IGA negotiations, my recollection is that we took on the 100 per cent above a first three per cent of new knowledge risk.

Senator SIEWERT (Western Australia) (9.46 am)—I thank the minister very much for her clarification and signal that the Greens will not be supporting this amendment.

The TEMPORARY CHAIRMAN (Senator Ellison)—The question is that Schedule 2, item 78 stand as printed.

Question agreed to.

Senator SIEWERT (Western Australia) (9.46 am)—I move Greens amendment (13) on sheet 5629:

(13) Schedule 2, page 304 (after line 14), after item 90, insert:

90A At the end of Part 2

Add:

Division 5—Investments

86AA Investment decisions

- (1) The Minister, in making investment decisions related to the Murray-Darling Basin, including but not limited to investments relating to modernising on-farm and off-farm irrigation infrastructure, major engineering works and the purchase of water allocations, must:
 - (a) ensure consistency of the investment with the Basin Plan; and

- (b) ensure consistency of the investment with the National Water Initiative commitments, giving effect to the principles of full-cost recovery, user pays and pricing transparency; and
 - (c) provide transparency and accountability in the expenditure of funds; and
 - (d) monitor and measure the effectiveness of the investment in meeting the objectives of the Basin Plan; and
 - (e) assess the cost effectiveness of the proposal.
- (2) To ensure that where any water entitlement savings are to be shared between the environment and an existing entitlement holder, the Minister must:
- (a) have the extent of the savings confirmed by an independent auditor;
 - (b) reduce the existing licence holder's access entitlement by at least 50% of the savings that are expected to occur after the investment is made.

This amendment relates to investment decisions and is trying to ensure public return on investments in water savings. This is a comprehensive set of amendments that seek to ensure that, where water entitlement savings are to be shared between the environment and an existing water entitlement holder, the minister must have the extent of the savings confirmed by an independent auditor and reduce the existing licence holder's access entitlement by at least 50 per cent of the savings that are expected to occur after the investment is made.

The overall intent of this amendment is to ensure that the investments that we are making are actually delivered in terms of real savings. We are also trying to ensure that, where the minister makes investment decisions relating to the Murray-Darling Basin—including but not limited to investments relating to the modernisation on-farm or off-

farm of irrigation infrastructure, major engineering works and the purchase of water allocations—there is a consistency of investment with the Basin Plan, that those decisions are consistent with the National Water Initiative, that we provide for transparency and accountability in the investment of funds, and that we are monitoring and measuring the effectiveness of the investment and making sure that we are meeting the objectives of the Basin Plan.

In other words: we have a Basin Plan, we are investing very heavily in that Basin Plan—\$12.9 billion—and we are seeking to ensure that those investment decisions are transparent but give effect to the Basin Plan. So we believe that this adds an extra degree of vigour to the act to ensure that we are delivering real outcomes.

Senator NASH (New South Wales) (9.49 am)—I recognise the very good intent of this amendment from the Greens, and there have been a number of discussions around investment in water efficiency and infrastructure—indeed, the coalition has been very strong in leading the way in saying that this is actually the way forward to ensuring that we have water savings in the basin, rather than just a simple buyback approach. Certainly there is a place for buyback, but we believe that efficiency in infrastructure is the way forward to making sustainability gains into the future. The coalition is just a little concerned that this particular amendment is rather too prescriptive, and we are worried about perhaps leaving some room to allow a little flexibility. On the basis that it is rather too prescriptive, I indicate that we will not be supporting the amendment.

Senator XENOPHON (South Australia) (9.50 am)—I indicate my support for this amendment. I do not believe it is too prescriptive. I believe that it does have a degree of rigour on transparency and accountability

in what is being proposed. Billions of dollars are being spent in relation to these investment decisions, and requiring something such as certifying that the extent of the savings has been confirmed by an independent auditor has to be a good thing.

Senator WONG (South Australia—Minister for Climate Change and Water) (9.50 am)—I will make a couple of points. The first is that the government is very clear on and very conscious of the importance of ensuring that taxpayers get value for money in terms of the return of water to the river. For example, there have been occasions where the government has been asked, including by some senators in this chamber, to purchase water at double the market price and, in terms of value for money for the taxpayer, we have made clear that there are difficulties associated with offering that sort of premium. We are also very aware in the context of irrigation and infrastructure projects that we do need to ensure reasonable value for money for taxpayers.

I would make the point that this could have a range of consequences, in different regions in the basin, which senators who are supporting this may not be aware of. For example, irrigation districts which have already achieved significant savings and have become efficient over time for a whole range of economic reasons and have been driven to install more efficient investments, more efficient irrigation systems and practices would find it more difficult than the most inefficient irrigators to achieve the 50 per cent requirement in 86AA(2)(b) of the amendment.

Senator Xenophon would know that that is a view put by some South Australian irrigators—that they have already achieved significant savings and that they are highly efficient and therefore for them to have any funding for infrastructure projects in their region, subject to the amendment that the

senator is supporting, would become more difficult than arguably in irrigation areas where you still see open channels and the like where there may arguably be more readily available savings.

We clearly understand the importance of the policy objective for this infrastructure investment. It is about ensuring a viable, productive future for irrigation communities and irrigation industries in the context of declining water availability. The whole purpose is to enable an adjustment to climate change and to enable these communities and industries to become more efficient, which, by definition, means you have to look to water efficiencies.

In terms of accountability around that, the government will continue to ensure that due diligence is applied both to state priority projects through the bilateral agreements with the states and to any other investments under this infrastructure aspect of the government's programs, because we recognise it is in the best interests of all that efficiencies are gained. However, the amendment, in our view, is overly prescriptive. Whilst we recognise the views put by the crossbenchers on this issue, the government are not minded to support the amendment.

Senator SIEWERT (Western Australia) (9.54 am)—I appreciate the government's intent in obviously trying to maximise the value of their investment. One would expect that to be the outcome. We are trying to ensure that that is in fact given a legislative base. Section 86AA(2)(b) is clear: where there are any water entitlements savings they are to be shared. So, where there has already been an agreement, that investment will result in a share between the environment and the existing titleholder. That in fact requires that the existing licence holder's access entitlement is reduced by 50 per cent. Does that mean that the government will be investing

in some infrastructure where they will not be ensuring that the return of the savings will not be reduced by 50 per cent? That is what we are asking. We want to ensure that, where there is investment and an agreement is reached in terms of how much of the savings will be returned, that is actually what happens. It is about ensuring that, where an agreement is reached, it is given a legislative base.

Senator WONG (South Australia—Minister for Climate Change and Water) (9.55 am)—Just to respond to the assertion that the government would be proposing to invest where there are no savings, that is clearly not the intention of the \$5.9 billion. Obviously you seek to optimise savings and optimise the share between productive users and the environment, but those matters may depend on the project. There will clearly be a different availability of savings and therefore a different proportion of shares for the environment which may be able to be achieved in different parts of the basin. What I can say to you is that the objective, consistent with the guidelines and consistent with our negotiations with the states under the bilateral agreements for the states' priority projects, is to achieve water savings. Precisely how those are allocated and what the quantum is are issues that need to be considered in the context of particular projects. What I can say is that we have been very clear about the policy objective of this money and we have been upfront and transparent about that. Consistent with Senator Nash's view, we do not believe this amendment is necessary.

Question negatived.

Senator SIEWERT (Western Australia) (9.57 am)—I move Greens amendment (14) on sheet 5629:

(14) Schedule 2, page 304 (after line 16), after item 91, insert:

91A Part 5 (heading)

Repeal the heading, substitute:

Part 5—Murray-Darling Basin Water Rights Information Service and Register

91B At the end of Part 5

Add:

103A Progressively established Basin Water Register

- (1) The Authority may establish a Guaranteed Water Rights Register in a manner that is consistent with the Basin Plan.
- (2) The Authority may establish a process enabling the voluntary transfer of registrable water rights issued by States to the Register established under subsection (1).

This amendment relates to the establishment of a basin water register, and it empowers the authority to progressively establish an entitlement register that is of guaranteed integrity and that facilitates both the low-cost registration of interests and the efficient transfers of registrable rights from one entity to another, which is in line with the National Water Initiative. Again, this is an issue that was raised when the Water Act was first introduced, and it was raised during the inquiry. The Greens believe that this is a good way to ensure good water management. Professor Mike Young first suggested it would be a way forward in modernising our water management in the basin. We think it is a pretty compelling argument. To quote Mike Young, he said:

What I am envisaging is that there will be a step on from where we are now, and I hope there is. There must be for the sake of Australia. To me that means that we need to have an authority that is enabled to grow, expand and be proactive. That is why I suggest they should be responsible for pursuing the objects of the act and, in stepping forward, starting to build really good entitlement registers that are much more secure and that give everybody confidence, progressively working through the many issues.

We believe the register will build on the basis of producing a more secure and robust water market, and we think this provides a good base for doing that. We have suggested this as a way forward to ensuring that people have confidence in the water market. It gives the authority a role in ensuring that that happens. It gives the authority a role in establishing and running that register. We think this is a way forward in good water management. If we are serious about changing the way we manage water in the basin and serious about giving the authority the authority to set its mark in terms of that good management then this is the base on which to build that and it should be done in a progressive manner. We commend the amendment to the Senate.

Senator NASH (New South Wales) (10.00 am)—The coalition certainly recognises the intent with which this amendment is moved by the Greens. Having considered this, though, we are not convinced that this is the best way forward to reach the desired outcome being put forward by the Greens. We will not be supporting the amendment.

Senator WONG (South Australia—Minister for Climate Change and Water) (10.00 am)—I want to make a couple of points to Senator Siewert—and it is a position that I think Senator Xenophon also articulated in his speech in the second reading debate. Essentially, there is a view that there should be an increase not only in Commonwealth power but also in bureaucracy in the management of the basin. Can I say that that is not the model the government have undertaken. We have undertaken a model of cooperation and collaboration. People might have different views about the benefit of that, but by taking this approach we have achieved an agreement that has never been achieved before.

We also recognise that, whatever criticisms senators or individuals may make of the states' management, an enormous amount of expertise and information still resides in the states. Frankly, I would suggest to senators who want urgent action that rebuilding that at a Commonwealth level is certainly not the way to achieve something urgently. Whatever your views about the states, the fact is that they have a history of management and water information in this area, and we do need to utilise that collaboratively and cooperatively.

Senator Siewert is correct in her views about the importance of a register in terms of the market. We have been very clear, as the government, that we do see a more efficient and transparent water market as being an important means by which adjustment can occur. We think it is an important thing for irrigation communities because it does enable irrigators to make their choices about the way forward for them. It also enables water to go to where it is most highly valued. I have irrigators putting views to me about some significant problems still in parts of the market, particularly the delays around interstate transfers and similar sorts of complaints. These are matters which we are keen to address. There are a range of water market reforms contained in the act and the bill. We had a discussion yesterday about the ACCC's involvement. We also believe that having a better and more comprehensive register within the basin is absolutely a policy objective. It is absolutely something we want to do. It is a question of how you do it. I would suggest that, apart from there being some constitutional doubts, on my advice, about this amendment, simply passing the amendment will not get the work done.

What are the government doing on this? What we are currently doing is discussing with the states and progressing through the COAG processes with the objective of de-

veloping a national register for water entitlements. These discussions are ongoing and they are progressing. We think there is a shared view that we do need a much more transparent water registration system. It is certainly the Commonwealth government's view that we do and that that is key to a more efficient water market, which is of benefit for the reasons I have outlined. So I would say to Senator Siewert and Senator Xenophon that, yes, a register is a fundamental part of the water market improvements that need to be made, but a legislative amendment is not going to achieve that. What we need to do is build that with the state governments, who are currently vested with the authority to grant entitlements to take water and currently register those entitlements.

Question negatived.

Senator SIEWERT (Western Australia) (10.05 am)—I move Greens amendment (15) on sheet 5629:

(15) Schedule 2, page 305 (after line 16), after item 93, insert:

93A Paragraph 110(1)(a)

Before "using", insert "acquiring, holding or".

This amendment relates to the section of the bill that deals with the application of state laws to the Commonwealth Environmental Water Holder. The first part of that section talks about 'any requirement of a law of a basin state that presents a person from using, on land that the person does not own, water available under a water access right'. To clarify and tighten up this provision, we seek to change 'using' to 'acquiring, holding or using'. We believe that tightens it up to ensure that the Commonwealth Environmental Water Holder can acquire and hold on to the water. This amendment tightens up that section to ensure that the Commonwealth water holder can actually do what the act intends it to do.

Senator NASH (New South Wales) (10.07 am)—Again, whilst we recognise the intent here we think that there is the potential for some unintended consequences to arise out of this amendment. We will not be supporting it.

Senator WONG (South Australia—Minister for Climate Change and Water) (10.07 am)—I think there is a very intended consequence, and that is to avoid any existing restrictions—and I use the term non-pejoratively—on trade applying to the Commonwealth. I am sure, Senator Siewert, that you are aware that this would be opposed by the states, and that it would establish, essentially, certain special treatment for the Commonwealth Environmental Water Holder. It is important to recall that the Commonwealth Environmental Water Holder does not have a different class of entitlement to other users. We are actually stepping into the shoes of any other entitlement holder. So what we would essentially be saying is that as an entitlement holder we would have different rules applying to us. From a regulatory perspective, that might be regarded by many as problematic.

I have been very clear about the government's view. We think there are benefits for the basin communities in a water market that is working as openly, efficiency and transparently as possible. We also recognise the significant community views of certain irrigation communities and regional communities—for example, in Victoria in relation to the four per cent cap. So we recognise that what will need to continue to occur is dialogue, both with community representatives and state governments, on these issues. We do not believe, in the context of this bill, that imposing this sort of requirement is going to lead to the sort of overall outcome that is required given that this bill is the subject of cooperative arrangements and that, as the senator and the committee would know, this

measure would be opposed certainly by one, if not all, of the states.

Question negatived.

Senator SIEWERT (Western Australia) (10.09 am)—I move Greens amendment (16) on sheet 5629:

Schedule 2, page 306 (after line 1), after item 97, insert:

97A Subsection 140(1)

Repeal the subsection (not including the heading), substitute:

- (1) If a person has engaged, is engaging or is proposing to engage in conduct consisting of an act or omission that constituted, constitutes or would constitute a contravention to which this Part applies, an application to a Court for an injunction may be sought by:
 - (a) the appropriate enforcement agency; or
 - (b) an interested person (other than an unincorporated organisation); or
 - (c) a person acting on behalf of an unincorporated organisation that is an interested person.

97B At the end of section 140

Add:

- (7) For the purposes of an application for an injunction relating to conduct or proposed conduct, an individual is an *interested person* if the individual is an Australian citizen or is ordinarily resident in Australia or an external Territory, and:
 - (a) the individual's interests have been, are or would be affected by the conduct or proposed conduct; or
 - (b) the individual engaged in a series of activities for protection or conservation of, or research into, water resources or dependent ecosystems, at any time in the 2 years immediately before:
 - (i) the conduct; or

- (ii) in the case of proposed conduct—making the application for the injunction.

- (8) For the purposes of an application for an injunction relating to conduct or proposed conduct, an organisation (whether incorporated or not) is an *interested person* if it is incorporated (or was otherwise established) in Australia or an external Territory and one or more of the following conditions are met:

- (a) the organisation's interests have been, are or would be affected by the conduct or proposed conduct;
- (b) if the application relates to conduct—at any time during the 2 years immediately before the conduct:
 - (i) the organisation's objects or purposes included the protection or conservation of, or research into, water resources or dependent ecosystems; and
 - (ii) the organisation has been engaged in a series of activities related to the protection or conservation of, or research into, water resources or dependent ecosystems; and
- (c) if the application relates to proposed conduct—at any time during the 2 years immediately before the making of the application:
 - (i) the organisation's objects or purposes included the protection or conservation of, or research into, water resources or dependent ecosystems; and
 - (ii) the organisation has been engaged in a series of activities related to the protection or conservation of, or research into, water resources or dependent ecosystems.

This amendment relates to the application of injunctions. It is about seeking to incorporate public standing provisions into the act.

Again, it is an issue that I very strongly acknowledge we have sought to raise before. This has been an issue for the community, and particularly for environment groups, for quite some time, and we believe that it is an important provision in legislation such as this. Environment organisations have had longstanding arguments for public standing provisions in many areas of legislation and, of course, there are such provisions in the Environment Protection and Biodiversity Conservation Act.

We have held the position for some time—and this, I must also say, moves into the area of my subsequent amendment, amendment (17)—that it is important that community organisations and the public have the opportunity to take action under specific areas of legislation. It has been a longstanding argument that the Greens have put forward—and this is what amendments (16) and (17) are specifically about—that if, for example, government is not, heaven forbid, doing the right thing or does not take action, there are provisions in the legislation for the community to be able to do that. Other legislation does include public standing provisions for the community to be able to take action, and such provisions have been used very effectively on a number of occasions and have produced positive outcomes for the environment. Environment organisations in particular, as I have said, have been very supportive of this approach for a very long time. We believe it is appropriate in such forward-looking legislation as this that such provisions are included in this act.

Senator WONG (South Australia—Minister for Climate Change and Water) (10.12 am)—We are not supportive of this amendment. The assertion was made that the government might not be doing the right thing. The minister and the government are not the enforcers of the Basin Plan. It is the authority—an independent authority—which

has the power under the bill, and the act, to enforce. It is an authority that is going to be publicly accountable for its actions. The assumption behind the amendment is that there may be potential omission, error or failure to act by the independent body that we are, in fact, establishing. We would suggest the amendment is unnecessary, particularly given the powers which the government is proposing to enable the authority to have.

Senator NASH (New South Wales) (10.13 am)—We will not be supporting the amendment. The amendment does not improve the intent of what is trying to be achieved here.

Senator SIEWERT (Western Australia) (10.14 am)—I perhaps need to remind the coalition that it is not just environment groups that may seek to exercise these provisions but other organisations. Indeed, farming organisations may choose to use these provisions. I used the environment organisations as an example because they are the organisations that have tended to access similar provisions in other legislation but, of course, because it relates to public standing provisions it is open to anybody to use those provisions.

Question negatived.

Senator SIEWERT (Western Australia) (10.15 am)—I move Greens amendment (17) on sheet 5629:

(17) Schedule 2, page 306 (after line 1), after item 97, insert:

97C At the end of Part 8

Add:

Division 10—Review of administrative decisions

170A Extended standing for judicial review

- (1) This section extends (and does not limit) the meaning of the term *person aggrieved* in the *Administrative Decisions (Judicial Review) Act 1977* for

the purposes of the application of that Act in relation to:

- (a) a decision made under this Act or the regulations; or
 - (b) a failure to make a decision under this Act or the regulations; or
 - (c) conduct engaged in for the purpose of making a decision under this Act or the regulations.
- (2) An individual is taken to be a person aggrieved by the decision, failure or conduct if:
- (a) the individual is an Australian citizen ordinarily resident in Australia or an external Territory; and
 - (b) at any time in the 2 years immediately before the decision, failure or conduct, the individual has engaged in a series of activities in Australia or an external Territory for protection or conservation of, or research into, water resources or dependent ecosystems.
- (3) An organisation or association (whether incorporated or not) is taken to be a person aggrieved by the decision, failure or conduct if:
- (a) the organisation or association is incorporated, or was otherwise established, in Australia or an external Territory; and
 - (b) at any time in the 2 years immediately before the decision, failure or conduct, the organisation or association has engaged in a series of activities in Australia or an external Territory for protection or conservation of, or research into, water resources or dependent ecosystems; and
 - (c) at the time of the decision, failure or conduct, the objects or purposes of the organisation or association included protection or conservation of, or research into, water resources or dependent ecosystems.

- (4) A term (except *person aggrieved*) used in this section and in the *Administrative Decisions (Judicial Review) Act 1977* has the same meaning in this section as it has in that Act.

170B Applications on behalf of unincorporated organisations

Applications for a review of decisions under the *Administrative Decisions (Judicial Review) Act 1977* may be made by a person acting on behalf of an unincorporated organisation that is a person aggrieved for the purposes of that Act by:

- (a) a decision made under this Act or the regulations; or
- (b) a failure to make a decision under this Act or the regulations; or
- (c) conduct engaged in for the purpose of making a decision under this Act or the regulations.

These are related to issues that I went through for amendment (16), so I am not going to go through the same arguments again. I simply move the amendment.

Senator NASH (New South Wales) (10.15 am)—Per the previous amendment, our position stays the same: we will not be supporting the amendment.

Senator WONG (South Australia—Minister for Climate Change and Water) (10.15 am)—The government opposes the amendment. First, the Basin Plan is a legislative instrument. The amendment will therefore not assist in the goal which apparently is being sought. Irrespective of those legal issues, we do not believe it is desirable that the Basin Plan—I think, despite our policy differences in this place, most senators agree that it is a good idea to get that done—which will provide for the first time a scientific basis for the consideration of extraction levels as well as the certainty of water entitlements, potentially be held up in the courts. Frankly, such an approach would be contrary to the

very clear message that the government has been getting from stakeholders in the water debate. I emphasise that we do believe that consultation is critical. The act contains a comprehensive framework to ensure that interested parties are consulted closely over the development of the Basin Plan. We believe that the regime that is set out in the bill will provide public involvement and consultation. We do not believe there is any added public policy benefit from this amendment.

Question negatived.

Senator SIEWERT (Western Australia) (10.17 am)—by leave—I move Greens amendments (18) to (20) on sheet 5629 together:

(18) Schedule 2, page 306 (after line 1), after item 97, insert:

97D Before paragraph 172(1)(a)

Insert:

(aa) to pursue and, where appropriate, encourage other agencies to pursue the objects of the Act as set out in section 3;

(19) Schedule 2, page 306 (after line 1), after item 97, insert:

97E Paragraph 172(1)(b)

After “quantity”, insert “and the threat to the long term health”.

(20) Schedule 2, page 306 (after line 19), after item 100, insert:

100A At the end of paragraph 172(1)(h)

Add “with specific attention to river, wetland and estuary health”.

Last night, we had some discussion about the authority to ensure responsibility for river health. These amendments are designed specifically to ensure that the authority clearly functions for pursuing the objects of the acts. This issue was raised again during the committee inquiry a couple of weeks ago. It was pointed out that it would be preferable that we clearly amend the act to make sure that

the authority’s functions are to pursue the objects of the act.

Amendment (18) specifically deals with inserting a clause that says, ‘to pursue and, where appropriate, encourage other agencies to pursue the objects of the act’. That would be made one of the authority’s functions so that the authority encourages other agencies to pursue the objects of the act as well. It makes river health the explicit responsibility of the Murray-Darling Basin Authority. There are also threats to long-term health, and that is an explicit responsibility. That is amendment (19). Amendment (20) is also about explicit responsibility for river health and adds the words, ‘with specific attention to river, wetland and estuary health’. Those amendments are about ensuring that the authority is very clear that part of its responsibilities is to ensure the health of the river system.

Senator NASH (New South Wales) (10.19 am)—This amendment is in conflict with the following amendment from Senator Xenophon. The coalition will not be supporting this motion. Looking at both of these amendments, our view was that the following amendment uses the words ‘make recommendations’, which we found to be more fitting with the intent of the motion—which I will get to in the next amendment. We will not be supporting the Greens amendment here.

Senator WONG (South Australia—Minister for Climate Change and Water) (10.20 am)—Regarding the three amendments, none of which the government is proposing to support, the first relates to the encouragement of other agencies. I assume that the policy objective behind this is to try to ensure that there is a whole-of-government approach. I suggest again to Senator Siewert that this sort of legislative direction is neither necessary to achieve it nor going to ensure

that it occurs. Obviously there is a political accountability issue here. It could also create some complexities. For example, if you have particular statutory agencies such as the ACCC or the National Water Commission, which might have their own set of obligations or objects which are applicable to them under other pieces of legislation, to then have to have some legislative form of requirement, via the authority, to also pursue the objects of this act seems to us to be a rather complex way to try to achieve the policy outcome.

We recognise the benefit of giving the authority responsibility for meeting the objects of the act within the scope of the functions, and we do not believe this amendment really deals with the broader policy issue I assume is behind it: making sure that government seeks to improve through other activities the overall health of the basin. Obviously, in terms of compliance with the law, government, whether it is state or federal, must obey the law, and the Basin Plan will be a legislative instrument. In relation to amendments (19) and (20), we do not support these. I think we previously had a discussion on them. I suggest that the issues of wetlands and water dependent ecosystems are already dealt with in the current functions of the authority enumerated in section 172.

Question negatived.

Senator NASH (New South Wales) (10.23 am)—I, and also on behalf of Senator Xenophon, move Senator Xenophon's amendment (2) on sheet 5649:

- (2) Schedule 2, page 306 (after line 1), after item 97, insert:

97D Before paragraph 172(1)(a)

Insert:

- (aa) to pursue and, where appropriate, make recommendations to other agencies to pursue the objects of the Act as set out in section 3;

Unfortunately, Senator Xenophon had to leave the chamber for a few moments and I am happy to move the amendment for him. The coalition have indicated that we are supportive of Senator Xenophon's amendment in this instance. If I could again just make the point that we were attracted to the phrase 'make recommendations' in the amendment. We believe that was a rather tighter construct than the previous amendment (18) by the Greens. It sought to deal more tightly with the intent of the amendment.

Senator SIEWERT (Western Australia) (10.23 am)—While we would have obviously preferred a stronger amendment, which is why we moved amendment (18) in the first place, this obviously goes some way towards achieving our objectives, so we support this amendment.

Senator WONG (South Australia—Minister for Climate Change and Water) (10.24 am)—For the reasons I think we previously discussed, we do not support amendment (2) on sheet 5649. My comments in relation to Senator Siewert's amendment are apposite here.

Question agreed to.

Senator NASH (New South Wales) (10.26 am)—I move opposition amendment (2) on sheet 5640:

- (2) Schedule 2, page 318 (after line 32), after item 162, insert:

162B At the end of Part 12

Add:

258 Community Impact Statements

- (1) For each region in the Basin in which the Commonwealth purchases or intends to purchase any privately-held water entitlement, the Minister must publish a Community Impact Statement specifying:
- (a) social and cultural impacts;
 - (b) economic impacts;

- (c) environmental impacts;
 - (d) the criteria used by the Commonwealth in deciding to purchase that water entitlement;
 - (e) any conditions upon which the purchase was made;
 - (f) other water entitlements the Commonwealth is considering purchasing in the region.
- (2) A report published under subsection (1) must specify the modelling and evidence upon which the impacts referred to in paragraphs (1)(a), (b) and (c) were determined.
- (3) The Community Impact Statement must be used in determining the allocation of funds under any structural adjustment package determined under section 259.

This very clearly goes to the issue of being able to ascertain, measure and understand the potential impact on communities as a result of water being removed from those communities. We certainly do not believe that to date the government has focused anywhere near clearly enough on ensuring that the socioeconomic impact statements of particular communities and of particular regions are taken into account when we are looking at the issue of reducing water allocation to communities, to farmers and to irrigators.

We would like to see the introduction of this amendment bring about the provision for community impact statements. There would be a requirement under the legislation, for each region in the basin in which the Commonwealth purchases or intends to purchase any privately held water entitlement, that the minister must publish a community impact statement specifying social and cultural impacts; economic impacts, obviously; environmental impacts; and the criteria and any conditions upon which the purchase was or is to be made.

We believe these measures will ensure that there is a very clear recognition and understanding by government of the impact their actions will have in removing water from communities. I know that the minister has referred in the past to the impact being previous overallocation and climate change, and that may well have a place. But the minister's words at that time were to the exclusion really of the importance of the impact of the current buyback. It may well be that in that context the minister was alluding to the fact that there really is not any water yet going back to the system—there is very little water to be allocated against the entitlement that is being bought back. Perhaps, to be fair to the minister, that was the intent of what she said at the time.

Through this amendment we are trying to ensure that there is focus by the government on the importance of the impact on our communities of taking water from those communities. We are not entirely sure that the minister is perhaps as cognisant of this as she should be, having travelled through the Murray-Darling Basin recently and had a significant amount of feedback from those communities that they did not believe the minister was aware as she should be of the potential impact on those communities from this buyback process. This amendment moves to clearly put in place a requirement that community impact statements will be done so that there is a very clear understanding of any of those potential impacts upon our rural and regional communities.

Senator WONG (South Australia—Minister for Climate Change and Water) (10.29 am)—I want to start by responding not to the personal issues—and I am disappointed that that is the way Senator Nash chose to have this debate—but to Senator Nash's statement about 'removing water from communities'. She is having a go at the government for 'removing water from com-

munities'. What we quite clearly see underlying that turn of phrase is the opposition Senator Nash is putting up to water purchases. In my engagement with communities, stakeholders, irrigators and other users, I have found that people understand very clearly that the largest impact that these communities are grappling with is not from water purchases but from the lack of availability of water. It is a fact, for example, that communities such as Deniliquin have had in the last three seasons, unless there has been a change most recently, zero, zero and two per cent general security allocation. That is not from water purchases; that is the cumulative effect of climate change, of drought and of overallocation.

The senator and some members of the opposition—and I will come to that shortly—seem to be suggesting that the impact on these communities is because the government is purchasing water. The fact is that the impact that most of these communities are struggling with is the impact of lack of water availability. The senator also said—and I may be paraphrasing her incorrectly—that climate change may be an issue. The briefing that we were given a couple of weeks ago at the Murray-Darling Basin Ministerial Council, which I chaired, tracked inflows against long-term averages and showed the step down that we have seen over the last 10 years. It then showed where we had tracked during 2006-07 and where we are currently tracking. These are extraordinarily low inflows. In the two years prior to our election we had the lowest inflows in the nation's history—certainly since we have been taking records on the River Murray. Forty three per cent is the nearest low. That is the sort of step down that we have seen.

There are some on the other side who may take the view that this is not climate change, that this is a temporary drought. Well, I hope that they are right, but I have to say that the

evidence appears to be to the contrary. It might be that in 10 or 20 years we can look back and say, 'This much was a permanent step down as a result of climate change; this much was drought and overallocation.' But we in government have to deal with a very harsh reality, which is being dealt with every day by irrigators, their families and their communities—that is, that in too much of the southern basin we see historically low levels of allocation because we see historically low inflows.

What do we do about that? This is something that I feel quite passionately about. This is one area where I think that if previous governments had actually been brave enough to make some hard decisions, to tell people what was really happening, then this government would not be left to pick up the pieces. But we are picking up the pieces because those on that side were not prepared to tell people how it was. They were not prepared to say, 'We really have to make an adjustment and this what we have to do about it and, yes, we are prepared to work with you.'

I absolutely accept how difficult this is for many of these communities. One of the privileges of this job is having the opportunity to meet with a range of individuals from different parts of the basin. There are a lot of people who are not only struggling but are showing a lot of grit and determination in very difficult circumstances. What I have said to them pretty consistently is that we will try and call this problem as we see it, because for too long water has been the subject of too much politics and, frankly, too many politicians telling people what they want to hear. The responsible thing to do is to deal with the facts and to try and put in place programs which enable that adjustment, which we believe as a government has to occur for the benefit of those who are currently struggling with a lack of water availability. Those on the other side have a com-

pletely inconsistent position on this. They occasionally criticise us for purchasing and then they occasionally tell us that we should purchase more. I will come to some of those inconsistencies shortly.

This amendment would require a community impact statement for every region on every occasion that the Commonwealth purchased or intended to purchase water. We currently have tenders open in both the northern and southern basins. Does that mean, in relation to every single willing offer that is made—because we are not forcing people to sell to us—that we would have to publish a community impact statement? That simply is unworkable.

Those of us on this side of the chamber continue to hear different positions that different people in the Liberal Party put depending on where they are in the Murray-Darling Basin and who they are talking to. Initially, Mr Hunt said in April 2008, 'We are pleased they're involved in the buyback.' Senator Birmingham, in estimates in February, said that he supported a 1,500-gigalitre buyback commitment. However, Mr Cobb has indicated that he opposed it and is critical of it. Mr Pyne said that we should be spending more money—\$1 billion. Dr Stone, the member for Murray, said that, essentially, we can conduct a buyback but only in New South Wales because that is where it is over-allocated, and Dr Nelson at some point in fact flirted with the idea of compulsory acquisition. This is the rainbow of positions from the other side.

There have certainly been criticisms of the purchase program that have been put to me by irrigators in my discussions with them. I will tell you what we did as a result. I understand that it is important to try and ensure that communities have the information they need, particularly at a time when things are so difficult. We all understand that it is easy

to play politics and to play on people's fears and concerns at difficult times. We, as a government, understand that we are not going to get responsible policy-making on this front from the opposition. We will get this rainbow of positions. We are faced with that. We are faced with communities who are worried about their futures and are concerned about the fact that they have seen such low allocations over too many seasons.

What did we do with our first \$50 billion purchase? We established a stakeholder consultative committee with irrigators and users on it. We commissioned a report, the Hyder review into that first purchase, and we are implementing changes as a result of its recommendations. I am upfront about these recommendations—they called for better communication about the purchase program and more publicly available information about it. So we are taking steps to respond to those recommendations because we always want to improve the way in which this purchase program is being implemented. Of course, it is the first time the Commonwealth has done this. Those opposite never did.

I also want to get the amount of water into perspective. I was asked on Adelaide Talkback, last week I think, how much water we had bought. I provided those figures—I think it was approximately 23 gigalitres of entitlement through the first tender round, leaving aside the Tarraleah purchase, which, by the way, Mr Hunt originally supported and then he opposed. That is actually how much water has been sold to us. Again, that is voluntary. I understand that people made those decisions in difficult circumstances. There are difficult circumstances in too many regions in Australia at the moment because of the lack of water availability due to climate change and the drought. But these are willing sellers. Just under 23 gigalitres of entitlement was the most recent figure that has been purchased. My recollection of reading the re-

view is that there was demonstrated economic benefit to those communities where that water purchase occurred—it enabled those who wanted to exit to do so, it enabled those who wanted to sell part of their entitlement to reinvest to do so, and it enabled water to be allocated to where it was most highly valued. This is in the economic interest of those communities.

I encourage Senator Nash, because I think she seeks to represent her communities, and I encourage people here to help manage this adjustment process responsibly. We will continue to improve the way in which we run the purchase program. We have had stakeholder input into and feedback on our first purchase, which is informing how we are currently undertaking this purchase, and we will do so again. We have also had the Hyder review of our initial purchase program, and we are taking into account its recommendations and its views in the context of the current tender process. We have also commissioned advice from ABARE, the Australian Bureau of Agricultural and Resource Economics, on the impacts of water buybacks, and the government will consider this information.

These are issues we are very conscious of. We want to do this properly and engage with stakeholders. We will not play the political game played in here by some of those opposite, who, frankly, would do better, if they wanted to responsibly engage with these policy issues, to at least come to some coherent position regarding purchases. The same sort of political divide is being played out on the opposition benches that prevented the Howard government from addressing these issues for 12 years. We are seeing the worst form of politics. We have South Australian senators going down to the Lower Lakes and Coorong and telling them that we need more water and that the government should purchase more. We have senators and members from the Liberal and National parties in New

South Wales and Victoria saying that we should not purchase or being critical of our purchases. At some point, communities are going to wake up to the fact that those opposite are telling people different things depending on where they are because they think different people want to hear different things. That is not political leadership.

Senator NASH (New South Wales) (10.42 am)—I must say it is very disappointing to hear the minister making the remark that this side of the chamber is playing politics when she is indulging in it herself. I think that is very unfortunate. I must not have made myself clear in my initial remarks. I think the minister referred to me as having a go at the government for removing water from communities. Of course, I did not say that at all. Perhaps the minister was just paraphrasing what I was saying, but that was certainly not what I said.

The minister also mentioned that the lack of availability of water was the real reason for impact on communities at the moment. I found that quite amusing. As a farmer from the Central West in New South Wales, I am very well aware that it is the lack of rain that is making it extremely difficult for communities right across the country at the moment. I know a lot of farmers and a lot of irrigators all over the place. They actually cope brilliantly with adversity and they cope brilliantly with drought. They understand that drought is a natural occurrence. Where they do have some questions and difficulties relates back to what I said earlier; we need to ensure that the impact that government decisions are having on our rural and regional communities is measured because that is indeed a government decision. In spite of the difficulties, farmers are well able to cope with things that occur naturally. When things occur as a result of ministerial or government decision, they want to be absolutely sure that the decisions that the minister and the gov-

ernment are taking have been thoroughly assessed and thoroughly measured, that there are criteria in place and that, indeed, all the impacts have been assessed by the government because it is a government decision. It is not a natural occurrence which is out of their hands.

Perhaps I can just clarify for the minister some points around the community impact statements. The amendment itself uses the words:

(2) A report published under subsection (1) must specify the modelling and evidence upon which the impacts referred to in paragraphs (1)(a), (b) and (c) were determined.

Of course we do not expect a fully written statement to be supplied as a preface to each particular purchase. What we are saying is that there should be balance—that the government and the minister should look at the overall potential reduction of water in communities and at the flow-on effects and follow up with a very clear statement so that people know that that consideration has taken place.

The minister said that there are, indeed, some positives for those who want to exit the industry. I do have some concern, as the minister referred to, that some of the sellers—who are of course willing sellers; I note that it is a non-compulsory buyback—are distressed sellers. That of course can often narrow people's options as to what they can and cannot do in any particular situation.

Just before I finish I would also clarify that the minister referred, and quite rightly, to the 23 gegalitres of entitlement that the government has purchased. Just to clarify: the minister said water has been sold to us, but it is not water that has been sold to us; it is actually entitlement. It will become—

Senator Wong—What's your policy? See, here we go—it's the same thing.

Senator NASH—Perhaps, Minister, when you have finished I might continue. I want to make it very clear that that water will not be available to the allocation to place against the entitlement until the water is there. Perhaps we are being semantic about this, but I would not like the Australian people to be of the view, when the minister talks about 23 gegalitres of water returned to the system, that it is actual water. It potentially will be, if the allocation is there against the entitlement. I completely concur with that. But at this stage it is not water.

Senator FISHER (South Australia) (10.46 am)—I rise to support Senator Nash's comments and, clearly, the opposition's amendment. We need more water in the system. We are going through a process of getting more water back into the system. As we do that we also need a process to distribute the water. All we are after—and it is what the Australian public deserves—is proof positive that Kevin Rudd and the minister are delivering on their promise to the electorate of evidence based policy, in particular in respect of bringing water back into the system. Of course the coalition supports water buybacks. That was Malcolm Turnbull's policy. Of course the coalition supports the purchase of property with water rights attached to bring water back into the system. But the point is that not only the coalition but also the Australian electorate deserve to see that the government has done the work to ensure that the right water is being purchased, that the right properties with water rights attached are being purchased and that an evidence based plan has assessed the consequences of both those things happening.

There is not enough water for the users who want it at the moment. That means, as the minister has acknowledged, that there are some really hard choices to be made. We are asking the government to make the hard decisions and show the Australian electorate—

as the events unfold and after the event is just fine—that it has done the work to assess that this particular action should be taken, acknowledging the painful consequences. In terms of the community impact statements contained in this amendment, what we are talking about is proof positive, when certain communities have to bear pain—and they will; we accept that—that the government has done the responsible and evidence based assessment to show that, unfortunately, there will have to be some pain experienced by the community.

The minister has said that the government has a plan to manage a purchase program. The Australian electorate deserves to see, as we go through that program, that the government is doing the evidence based assessment at every step of the way. The minister has suggested that this particular amendment is unworkable, for some reason, including commercial-in-confidence. This amendment contemplates, after the event, evidence from the government—

Senator Wong—I didn't say that. At least be accurate, Senator Fisher.

Senator FISHER—If I have misunderstood and misrepresented the minister's contention I am sorry. I am sure the minister will correct subsequently and I look forward to hearing that correction. What this amendment seeks is an indication for the Australian electorate, in particular the communities concerned, after the event that the government has done the evidence based assessment of the impact on particular communities. This amendment ought to be passed.

Senator WONG (South Australia—Minister for Climate Change and Water) (10.50 am)—I have just a couple of points. We see again, from Senator Nash's contribution, that the opposition cannot decide whether they are pro or anti water purchase. I

suppose Senator Nash, from New South Wales—

Senator Nash—You weren't listening.

Senator WONG—Hang on! Senator Nash has had a go about the fact that we bought entitlement, not water. I think she knows enough about irrigation to know that that is what you buy. I am sure that a government that was seen by any irrigator to be giving itself a different type of entitlement—that is, one that was more reliable, particularly in the context of reduced water availability, which I will come to in a moment—would be roundly and rightly criticised. We buy entitlement; we buy what other water users buy and we stand in the shoes of other water users. The difference between us and those on the other side is that for the first time the government is doing it for the health of the rivers. We understand the benefits to all communities of ensuring that we have functioning and healthy rivers. That is what has been lacking over the years.

I am not sure what Senator Nash was speaking about in terms of lack of rain. The point I was making about availability is that—and this is where climate change appears to be having an impact, on the evidence that we see from scientists—not only have we seen reduced rainfall in parts of Australia but also we are seeing reduced water availability, reduced inflow. People tell me different things in different areas about why run-off is less, why the ground is drier and why the temperature is higher. We are certainly seeing different patterns emerging in different catchments of the basin, which is compounding the difficulties for many communities and really emphasises why we need to make the adjustment that has to be made.

I also make this point: I said last night in terms of the Sugarloaf Pipeline amendment—which was then the subject of a bit of political game playing from the other side—

that the bill that Malcolm Turnbull introduced did not have any proposition about stopping that pipeline or other pipelines despite the fact that that announcement came before Mr Turnbull introduced the bill as minister. So in the last year, having crossed over to the opposition benches, they now want to play politics with that.

A second point I would make is that when the now opposition was government they wanted to purchase water. The Howard plan trumpeted on, I think, Australia Day of 2007 that they had \$3.1 billion for water purchase. They never actually did anything with it, Senator Siewert. We know that and I hope people occasionally remember that. They never actually bought anything or invested in any infrastructure or provided any assistance but they did have \$3.1 billion for water purchase. I do not recall Mr Howard or Mr Turnbull demanding community impact statements in the legislation. This is their legislation. They were going to purchase water but it is only now that Liberal senators come in here and demand for a purchase program community impact statements that they never demanded of their own government.

I am very aware, as the responsible minister, of the importance of engaging with communities through this process. I am also very aware of some of the concerns raised by some members of the public and by some communities. And I am also very aware of some of the recommendations which have been made by our stakeholder consultation and by the review. What I can say is that we will continue to improve this purchase program. We will ensure that the results of the current tender round are also assessed and considered so that we can look at how we can improve this purchase program.

I also want to emphasise—and this might be in the context of the next amendment to

be moved by the opposition—that we are investing \$5.8 billion in irrigation infrastructure for these communities. That is substantially more than we are proposing to purchase in terms of the amount of money. So it is very clear that the government does regard investment in these communities as a key and important aspect of adjustment to climate change, and knows that it is important to deal with the current circumstances of drought and the legacy of mismanagement of overallocation that has been inherited.

Senator SIEWERT (Western Australia) (10.56 am)—The Greens support the intent of the coalition with this amendment. We do—and I think we articulated it very clearly in our committee minority report on this bill—have deep concerns about the impact of all the changes that are occurring in the basin, not just the purchase of water but also where we are going to be investing the \$5.8 billion in infrastructure and also in any other structural readjustment.

We very strongly believe, as we articulated in that report, that we need a vision for where we are going with the basin. We need to make sure that we have a coordinated approach across the purchase of water, the infrastructure investment and any restructuring that occurs. We want the community intimately involved and, in fact, making those decisions. They need information to do that and they need to be given support by the government to facilitate that.

Our concern with this amendment is that we do not think it is well crafted or finetuned enough to actually produce the outcomes that we think the coalition are looking for. We cannot support it because it is only focused on the purchase of privately held water entitlements. We think that that is not the only thing that is impacting on these communities. It is unfair to say that it is just that particular element of the Murray-Darling crisis we are

facing which will adversely impact on communities. There are a whole range of things impacting on these communities, not the least of which is the fact that we need to reduce water use by 42 to 53 per cent. Also, as the CSIRO sustainable yield report indicated yesterday, we are going to get a substantial decrease in run-off. So our communities in the Murray-Darling Basin are facing crisis as it is and are also facing the need for readjustment.

While we do understand where the coalition is trying to come from, unfortunately the Greens cannot support the amendment because we think it is a blunt instrument. While respecting where the coalition is coming from in requiring that impacts on communities be reviewed and dealt with, we do not think this is the way that that is going to happen. However, having said that, we are strongly encouraging government to engage the community. We have made a series of recommendations in our minority report to seriously engage the community and start helping them to make decisions about the future of their area.

Unfortunately, the amendment is not clear enough in terms of how this should be implemented. It talks about each region in the government's purchasing; is it before or after? What is the decision-making role and, once the impact statement has been done, how is that actually put into effect? Do they intend stopping all the water purchases, for example?

We think a better way to go is for the government to adopt a process that engages the community upfront with the overall structure of the basin, with the overall future of the basin, and then in each particular region, each particular irrigation area, they should plan before investment infrastructure is carried out. This is so that we do not get what the ACF calls the 'Swiss cheese' approach,

which is where only some entitlements are purchased. I will have to put on the record, though, that, where the government have the opportunity to go in and purchase water, we are not saying do not do that. We think it is important that, where the opportunity arises, the government need to be able to step in and buy that water. So that is what we are also concerned about—that this amendment might rule out the ability to go in and acquire water where the opportunity arises.

Having said that, and acknowledging that we need to allow room for that to happen, we do think there is a role for a much more coordinated and strategic approach to the way we are rolling out the \$12.9 billion. We made that very clear in our minority report. We have set out a set of principles by which we think the government should be setting out that process and engaging the community now. There are examples of that. There is the TRAMS example, which the ACF mentioned extensively in its submission to the recent Senate inquiry. We think that is a good example of where you can engage the community in a coordinated approach. So, unfortunately, we cannot support this amendment, but we do understand the intent.

Question negatived.

Senator SIEWERT (Western Australia) (11.01 am)—by leave—I move Greens amendments (21) and (22) on sheet 5629 together:

(21) Schedule 2, page 308 (after line 5), after item 106, insert:

106A Subsection 175(1)

After "directions", insert " , which must be consistent with the objects of this Act,".

(22) Schedule 2, page 308 (after line 5), after item 106, insert:

106B Before paragraph 175(2)(a)

Insert:

- (aa) those aspects of the Basin Plan excluded from Ministerial direction under subsection 44(5);

These amendments relate to ministerial directions. The first one relates to adding a clause which says that any ministerial directions must be consistent with the object of the Water Act 2007. I need to say upfront that this act is here for the long term. Governments come and go. I am not casting, or attempting to cast, any aspersions on the current minister. However, I do think there is a need to provide protections in the act to ensure that any ministerial directions and the discretion that is exercised by the minister to use those ministerial directions are in fact consistent with the object of the act. I feel that is fairly simple and straightforward.

Amendment (22) relates to exclusions from ministerial directions—that is, to articulate what areas of the Basin Plan are excluded from ministerial direction. The amendment deals with those aspects of the Basin Plan excluded from ministerial direction under section 44(5). That relates to, for example, the mandatory content of the Basin Plan, shares in reductions in the plan and changes in reliability. This goes back to the Commonwealth risk and the new knowledge issue that we were talking about earlier. The minister may say that that is implicit in the act. What we are seeking to do is to make this explicit in the act so that it is very clear where the limitations to the ministerial direction are in fact in place.

Senator NASH (New South Wales) (11.04 am)—I indicate, on behalf of the coalition, that we will be supporting these two amendments. We think that they probably add a level of amenity to the bill and we will be supporting them.

Senator WONG (South Australia—Minister for Climate Change and Water) (11.04 am)—We do not regard these

amendments as necessary, although my attitude differs slightly between amendment (21) and (22) and I invite the chamber to consider that. In relation to amendment (21), my advice is that we do not consider it to be necessary. There is a general principle that if a minister exercises powers under an act it would need to be in accordance with the purpose and object of the act. But the government are not of the view that this is so pressing that we would be standing firm in opposition to it.

Amendment (22) deals with the issue that we dealt with last night, Senator Siewert, in amendments to section 44. What I said to you at that time was that the existing act—that is, Mr Turnbull's act, so I am surprised that the opposition want to amend this again—already makes clear what the minister cannot make a direction on. Section 44(5) goes through the things the minister must not make a direction on, so we consider this amendment to be duplicative and unnecessary.

Our view is that, whilst we think it is unnecessary, the government do not oppose amendment (21) if the Senate wishes to insert it. We do think amendment (22) is unnecessary for the reasons I articulated last night, and we would oppose that.

The TEMPORARY CHAIRMAN (**Senator Carol Brown**)—The question is that Australian Greens amendments (21) and (22)—

Senator Wong—Can you put them separately if they are not going to change it. I am just indicating our position.

Senator NASH (New South Wales) (11.06 am)—I would like to indicate that the coalition's position will remain as stated earlier.

The TEMPORARY CHAIRMAN—I will put the amendments separately. The

question is that Australian Greens amendment (21) be agreed to.

Question agreed to.

The TEMPORARY CHAIRMAN—The question now is that Australian Greens amendment (22) be agreed to.

Question agreed to.

Senator SIEWERT (Western Australia) (11.07 am)—I move Greens amendment (23) on sheet 5629:

(23) Schedule 2, page 308 (after line 5), after item 106, insert:

106C Subsection 178(6)

Omit “must”, substitute “may”.

This amendment relates to the composition of the authority and it changes one word—that is, it omits ‘must’ and substitutes ‘may’. This relates to whether the authority can have more than one full-time member if it needs to.

As we have been talking about last night and today, it is very important that the authority is set up and gets on with its job. It is facing a very difficult task, and we think the authority may need the opportunity to have more than one full-time member. We are not saying that it shall have more than one full-time member. We are changing the word ‘must’ to ‘may’ to allow for the possibility that, if it is needed, the authority can in fact have two—or more, for that matter—full-time members to enable it to get on with the task.

We are setting the authority an extremely hard task. There is no doubt about that. There is no shirking from the fact that they are going to have a difficult task. We should be able to facilitate their role as much as possible. That is why we are merely seeking to change ‘must’ to ‘may’, so that there is the ability for them to put on more full-time members if they in fact see the need.

I will acknowledge straight away—and the coalition may need to bear this in mind—this is an amendment to Mr Turnbull’s bill. However, you have seen the light on a number of issues, and I encourage you to see the light on this amendment. Given the nature of the activities the authority have to carry out, I think we should give them the ability, if they need to, to be able to have more than one full-time member.

Senator NASH (New South Wales) (11.09 am)—The opposition has given this some consideration and is happy to give it a bit further consideration. Perhaps the minister could outline for the Senate the government’s position on this and also clarification on the ‘must’ clause.

Senator WONG (South Australia—Minister for Climate Change and Water) (11.09 am)—I am sure your leader could probably tell you, Senator Nash, about why he put that in. But I can tell you why we would like it to be retained as it currently is.

Senator Fisher interjecting—

Senator WONG—This is Mr Turnbull’s act, Senator Fisher. Let us remember that the authority is not just the chair and part-time members. I am sure Senator Siewert is aware of that. This is quite a large organisation. We are talking in the hundreds, Senator Siewert, because of the work that needs to be undertaken. So let us understand: you essentially have another government agency which is responsible for the very significant task of preparing the Basin Plan. I think it is important to recognise the different roles and responsibilities between the authority members and the chair. We do think the chief executive is a full-time job. We do believe these other positions are part-time positions.

I would also make the point that there are arrangements, if not in the act then in the IGA, about part-time membership agreements between states and the Common-

wealth about who appoints which. There might be a view from the states if, for example, the Commonwealth in its discretion—if that is what is being proposed here—appointed some of those appointments as full time and some as part time. We might then have to have a negotiation about which appointments should be part time and which should be full time. Our preference is for the model that the IGA sets out—so the act as amended by the bill—which is for a part-time chair, a full-time chief executive, who has already been appointed, and part-time authority members which are appointed via this agreed arrangement with the states in terms of who is appointed. My suggestion to the opposition is that they consider those different roles and responsibilities as well as the agreement that we have reached with the states about the balance of how those appointments would be progressed. For those reasons, we do not support the amendment.

Senator NASH (New South Wales) (11.12 am)—Certainly, on consideration, I do not think that the amendment precludes the arrangements from staying as they are, and we will be supportive of the amendment.

Question put:

That the amendment (**Senator Siewert's**) be agreed to.

The committee divided. [11.17 am]

(The Chairman—Senator the Hon. AB Ferguson)

Ayes.....	40
Noes.....	<u>28</u>
Majority.....	<u>12</u>

AYES

Barnett, G.	Bernardi, C.
Birmingham, S.	Boswell, R.L.D.
Boyce, S.	Brandis, G.H.
Brown, B.J.	Bushby, D.C.
Cash, M.C.	Colbeck, R.
Coonan, H.L.	Cormann, M.H.P.

Eggleston, A.	Ferguson, A.B.
Fielding, S.	Fierravanti-Wells, C.
Fifield, M.P.	Fisher, M.J.
Hanson-Young, S.C.	Humphries, G.
Johnston, D.	Joyce, B.
Kroger, H.	Ludlam, S.
Macdonald, I.	Mason, B.J.
McGauran, J.J.J.	Milne, C.
Minchin, N.H.	Nash, F.
Parry, S. *	Payne, M.A.
Ronaldson, M.	Ryan, S.M.
Scullion, N.G.	Siewert, R.
Troeth, J.M.	Trood, R.B.
Williams, J.R.	Xenophon, N.

NOES

Arbib, M.V.	Bilyk, C.L.
Brown, C.L.	Cameron, D.N.
Carr, K.J.	Collins, J.
Conroy, S.M.	Crossin, P.M.
Farrell, D.E. *	Faulkner, J.P.
Feeney, D.	Forshaw, M.G.
Furner, M.L.	Hogg, J.J.
Hurley, A.	Hutchins, S.P.
Ludwig, J.W.	Lundy, K.A.
Marshall, G.	McEwen, A.
McLucas, J.E.	Moore, C.
Pratt, L.C.	Sherry, N.J.
Stephens, U.	Sterle, G.
Wong, P.	Wortley, D.

PAIRS

Abetz, E.	Bishop, T.M.
Adams, J.	O'Brien, K.W.K.
Ellison, C.M.	Polley, H.
Heffernan, W.	Evans, C.V.

* denotes teller

Question agreed to.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.20 am)—I move Greens amendment (1) on sheet 5663:

(1) Schedule 2, page 318 (after line 8), after item 161, insert:

161A After section 255

Insert:

255A Mitigation of unintended diversions

- (1) Prior to exploration licences being granted for subsidence mining operations on floodplains that have underlying groundwater systems forming part of the Murray-Darling system inflows, an independent expert study must be undertaken to determine the impacts of the proposed mining operations on the connectivity of groundwater systems, surface water and ground water flows and water quality.
- (2) Where a substantial risk is identified exploration licences must not be granted.

This is an amendment which I would really label the 'Tony Windsor amendment', because the honourable member for New England is largely responsible for the fact that my attention was drawn to the disagreement between farmers in the Namoi Valley and the huge coal exploration company BHP Billiton about the potential for damage to be done to the water catchment of one of the most productive food lands in Australia, certainly in the Murray-Darling Basin, and in the world.

Last month Mr Windsor and I visited Tim Duddy and the other farmers and saw firsthand the concern that they have about the prospect of mining under these crop lands, disrupting the all-important water flow systems. We must remember that the water flowing underground in catchments is very directly connected with the water on the ground and that the whole aquatic system is crucial to the productivity of farmlands not just in the Namoi Valley but in the whole of the Murray-Darling and, indeed, everywhere in the world.

The problem here is that the mining operation is being conducted without there being an adequate and independent study of the potential impact as it cuts right across the aquifers underground, the impact of concern being that on the region directly affected and on the whole of the catchment downstream.

It is a very crucial matter. We know from practices elsewhere in the world that undermining regions has led not only to collapses in the ground above but to mighty disruption, even disappearance of rivers, because of the interruption of aquatic systems.

A proposal has been put to the state government of New South Wales and to the federal government—and I promote this now—that before BHP Billiton goes ahead with this mineral exploration there be an independent study undertaken of the potential impact. That has not happened, because mining is the responsibility of the state authority, but we are dealing here with the water catchment itself. It is fundamental to know that, if mining disrupts the aquifers, it will disrupt the productivity of the basin. If you are going to have legislation which gives authority to the Murray-Darling Basin Commission to determine how best to manage the water then that must include authority to protect water flowing underground, including the whole of the basin underground. You cannot manage that responsibility unless you know what the impact will be. This amendment simply requires due diligence: a proper study before damage occurs. Let me read out the amendment:

- (1) Schedule 2, page 318 (after line 8), after item 161, insert:

161A After section 255

Insert:

255A Mitigation of unintended diversions

- (1) Prior to exploration licences being granted for subsidence mining operations on floodplains that have underlying groundwater systems forming part of the Murray-Darling system inflows, an independent expert study must be undertaken to determine the impacts of the proposed mining operations on the connectivity of groundwater systems,

surface water and ground water flows and water quality.

- (2) Where a substantial risk is identified exploration licences must not be granted.

It is pure common sense. The amendment states that if there is going to be a mining operation which affects the water catchment then have an independent study done. If a substantial risk is identified then do not allow that mining operation to proceed. Of course, if a substantial risk is not identified, if it is found to be safe, then the mineral exploration will proceed. This is not rocket science; it is just plain, good old country common sense. I recommend the amendment to the committee.

Senator WILLIAMS (New South Wales) (11.26 am)—I rise in support of this amendment, especially in relation to the black soil farming country in the Gunnedah area—Breeza Plains, Liverpool Plains—which Senator Bob Brown has referred to. It is probably some of the most magnificent farming land not only in Australia but in the world. I have been saying for some 12 or 18 months that to sacrifice a thousand years of farming for 30 years of mining does not make sense. We need to have a proper independent inquiry into underground aquifers in these areas and many other areas in the Murray-Darling Basin if this is to be an issue in the future. It is vital that the truth be brought out about these prime agricultural areas. It is vital that this study be undertaken, hence I offer my support for this amendment. The National Party has worked on this area over the last 12 months. My state colleagues Andrew Fraser, Rick Colless and Andrew Stoner have had a close look at the issue. We need to ensure that the long-term viability of this agricultural land is not put under threat at any stage and the best way to do that, as I have said, is to have an independent assessment of the underground water aquifers and

the impact that mining may well have on this agricultural land. I support this amendment.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (11.28 am)—Mr Duddy is obviously from the Carroona Coal Action Group. I know that Senator Bob Brown visited the area. This amendment is very pertinent to the issues that are happening there. I hope the message is conveyed to the people of the Carroona area that we will support them on this matter, create the numbers so that this amendment will succeed. And we have kept our part of the deal. It also especially pertains to people in the Haystack Plains area, and I know Senator Boswell will have a little bit to say on that. Like Senator Williams, we in this nation clearly have to make the decision whether we are going to treasure prime agricultural land, which is what we as a nation need if we are to maintain our food sovereignty. The more we impinge on that, the more we are setting ourselves up in the future for a huge fall, when we will have to rely on other countries to feed us, which will leave us in a very tenuous position. As Senator Williams rightly said, there is no point in compromising the prosperity of the future and our capacity to feed ourselves for the sake of a 30-year window in mining.

However, in this instance, most of that is covered by state legislation. But where we do have the capacity to have at least some say in what is going on is in this amendment as moved. We recognise that the support of the National Party was sought for this. The National Party, as part of the coalition, has made an effort to work with the Greens to obtain the crucial numbers. This was always going to need more than one person to vote for it to ever get anywhere. I hope the wonderful people of Carroona and Breeza Plains and the Haystack Plains realise that, for something to succeed, you need at least 39 senators to vote for it and you need more

than half of the lower house to vote for it. I hope that is recognised and taken back to the people of the Liverpool Plains, and I hope we get a chance to read about it in the *North-ern Daily Leader*.

Senator BOSWELL (Queensland) (11.31 am)—I find it very unusual that we seem to be getting closer and closer to the Greens. We have not seen eye to eye with the Greens on this for the last seven or eight years. We seem to be aligning some of our decisions with them. I have said this before: I suppose that a stopped clock is right twice a day. I find myself in agreement with this amendment. As Senator Barnaby Joyce has pointed out, you can have all the best ideas in the world, and you can have right on your side, but if you do not have the numbers it does not mean one iota. Today we have delivered for the people of the Liverpool Plains and the even more fertile valley of the Breeza Plains. I know there has been a great deal of concern about this in those two areas. Today we have delivered the numbers in the Senate to carry this amendment, and that will give them some sort of satisfaction. I again point out to those people that Independents can do nothing. It is only when you get the full horsepower of the coalition and the Independents or the Greens that you can deliver anything. I would like the people out there to remember that. Anyone can huff and puff, but it is only the numbers that will deliver on these issues.

Senator NASH (New South Wales) (11.33 am)—I concur with my colleagues and indicate the broad coalition support for this amendment. The remarks made by my colleagues go right to the heart of this issue. It is about a study to be undertaken on due diligence. Senator Bob Brown said that it is simply good country common sense, which I think encapsulates the intent of the amendment completely. What we are seeing here is a very sensible, measured approach to ensuring that the operations of mining in rural ar-

reas do not impact in an untoward fashion on the water system. It is interesting to see that the mover of this amendment in the House was not able to get Labor's support in the House. Perhaps in the Senate the minister might be rather more agreeable to what is a very sensible, very pragmatic and very good amendment.

Senator WONG (South Australia—Minister for Climate Change and Water) (11.34 am)—I understand where the Greens are coming from. I also understand that the National Party does not want to be outmanoeuvred by Mr Windsor—and that is fine. But I would ask if the Liberal Party, particularly the senators from the mining states, have considered this amendment. Far be it from me to put the view of the resources sector, but this requires that, prior to any exploration licences being handed out, the state authorities, who regulate mining, undertake the sort of study that is proposed. I do not know where Senator Johnston is. I think he represents the opposition on resources. I have not heard that view from the Liberal Party representative in this debate. That is an issue for the opposition.

Can I say that, as a broad principle, the government is supportive of addressing the impact of activities such as mining on water resources. That is why the act enables a pathway to allow that to occur. I would ask senators to consider the existing legislation at section 22(7). We know that the Basin Plan will place sustainable limits on the diversion of both surface and ground water, which is long overdue. The Water Act, in its current form, already provides for the Basin Plan to deal with the assessment of interception activities such as subsidence mining. Section 22(3)(d) of the act says that the Basin Plan will set out requirements in relation to how water resource plans must regulate interception activities that have a significant impact on basin water resources. Section

22(7) of the act says that, in doing so—and this is the important provision—they:

- (a) may require that interception activities—

and for this purpose, Senator Brown, you could interpolate ‘mining’—

with, or with the potential to have, significant impacts on the water resources of the water resource plan area are assessed to determine whether they are consistent with the water resource plan before they are approved under:

- (i) any other laws of a Basin State; or
- (ii) a particular law of a Basin State; and
- (b) may require that water access rights be held for specified kinds of interception activities.

The government is mindful of these issues. I am also aware of Mr Windsor’s interest in these issues. The government’s framework here enables these issues to be addressed by ensuring that, if there is an interception activity with the potential to have significant impacts on water resources, it will be assessed and also, through the adoption of the Basin Plan, that water access rights can be required to be held for specified kinds of interception activities. This is an area where, as I have said publicly, more work needs to be done in terms of requiring, where appropriate, water access rights for specified kinds of interception activities. Not enough has been done on this in the past.

One of the key issues that I have consistently said the Basin Plan will need to consider under the terms of the act, and because it is good policy, is the interaction between groundwater and surface water. What I am saying to the Senate is that the legislation that the Howard government put forward on this did in fact enable the Basin Plan to address these issues. I should also let the Senate know that we have funded a \$2 million project to be undertaken by the National Water Commission to develop planning guidelines and tools for managing the cumulative

impact of mining on water resources. So this is an issue the government is aware of. We do not consider that this amendment is workable in the circumstances. For the reasons I have outlined, we think the pathway that is proposed in the legislation is better.

A range of amendments have been passed. I am not sure what the opposition intends to do when the bill is returned from the House, but I ask the Senate to consider section 22(10), which was an important aspect of the agreements with the states—that is, the agreement to refer powers in relation to water but not in relation to other natural resource management issues. There is a specific preclusion, essentially, of the Basin Plan addressing land use planning, the management of natural resources and the control of pollution. These are important issues for the state. These are issues that, I am sorry to say, were in Mr Turnbull’s legislation, and they are perceived by the states as being of significance. So if the coalition propose to support this amendment, I would say to them: you should be aware that some of the states would have some real concerns about this amendment. There is also a very clear ability in the Basin Plan to address precisely the policy issue that Senator Brown raised. We do regard this as a policy issue which needs addressing, and there is a pathway through the legislation in the Basin Plan which enables that to occur.

Senator XENOPHON (South Australia) (11.41 am)—I indicate my support for this amendment. The minister acknowledges that there are provisions in the act that deal with the whole issue of groundwater, but they do not require that an expert study be undertaken. The amendment goes a step further, and I think that is a good thing in terms of accountability. I note what the minister says in relation to section 22(10). Subsection (a) refers to ‘land use or planning in relation to land use’ and subsection (b) to ‘the manage-

ment of natural resources (other than water resources)'. But, insofar as an exploration licence which relates to land use would impact on water resources, I query whether the minister acknowledges that there is some work to do on section 22(10) in relation to this whole issue. Senator Brown's amendment makes it explicit that there ought to be an independent expert study of the impact it would have on groundwater.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.42 am)—I thank the senators who have contributed to discussion on this motion and I particularly commend the opposition and Senator Xenophon for recognising the importance of this amendment to the rural community. Minister Wong has said: 'Well, you can rely on other parts of the act with words like 'can' or 'may', and somebody will decide somewhere down the line'—against the might of a corporation like BHP Billiton—'whether or not a study should proceed. Then there is the previous commitment to exclude land use planning and resource management. Therefore, this amendment should not stand.' Well, you cannot have it both ways. This amendment says there must be a study—it is very clear about that—particularly to look at the impact on water. This legislation is about a holistic view of the water catchment of the Murray-Darling Basin, and you cannot have that holistic view if some other operator can come in and have a major impact on that water resource through another activity. This amendment makes it quite explicit for people in the basin that that must be a study. It is not just the Namoi catchment; other parts of the basin are threatened by exactly the same process of mining coming in and cutting across the water resource in a way which could be detrimental—as one of our colleagues from the National Party has pointed out—for potentially 1,000 years, forever, to

the crop-producing potential of that region. It is just plain common sense.

What Senator Wong has not done is outline a reason against the need for a study. She said, 'We'll leave it to somebody else to do that study.' I have always been one for being clear in legislation and saying, 'The parliament is saying a study ought to be done in these circumstances and it ought to be independent.' If the study shows that there is not going to be an impact on water then the activity can proceed. If the study shows that there is a substantial risk then the farmland should be protected against that impact. So there it is.

I might add that there is an extremely good proposal for the Liverpool Plains to have an independent study done. It has been supported by the Liverpool Plains Land Management Committee, the New South Wales Farmers Association, Namoi Water, Gunnedah Shire, Liverpool Plains Shire, Narrabri Shire and the Namoi Catchment Management Authority. This would involve top expertise from the University of New South Wales, the University of New England and the University of Queensland, and then Dr John Williams, the New South Wales natural resources commissioner, having a look at the very matter that is at stake here, which is the proposed mining under the Liverpool Plains. Where is that study? Why is it not happening, if this can be left to some other device? It ought to be happening. It is what is called a stitch in time. I commend the opposition and Senator Xenophon for supporting this amendment. It is a very important addition to this legislation, and we as parliamentarians should be making sure that we are as clear as this amendment is about our intention to ensure that the water catchment in its totality is protected.

Senator WONG (South Australia—Minister for Climate Change and Water)

(11.47 am)—Just to respond briefly to some of what I think were not particularly reasonable assertions by Senator Brown, he seems to be suggesting that the provisions in the act, because they use words such as ‘may’, is parliament ducking responsibility. Senator Brown, this is a plan developed by the independent authority that your party supports. You support an independent authority. And what I am saying is that the government is committed, that it does believe we should address the impact of activities such as mining on water resources and that the act enables the authority to make an assessment independent of government about how that should occur. So I appreciate it, Senator Brown, if you do not agree with that pathway, but I think it is unfair to characterise this as somehow ducking the issue. What we are saying is that we are setting up a policy process here, an independent authority, to look at this issue as with other issues. If the authority believes either that a study is required or that a licence is required, that can be included in the basin plan for the reasons I set out. So I did want to make clear the basis on which the government was of the view that this was not a necessary amendment. If the parliament thinks it is the body that by legislation should put all the bits of the basin plan together, I suggest that is not actually in the best interests of the basin, broadly. I accept that Senator Brown has a view about why this needs to be put in in this form. I simply say that the reason I made reference to the authority is that that is the independent body that is putting together the basin plan in the context of the legislation.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.48 am)—I appreciate what the minister is saying, but this does not in any way compromise the independence of the authority; it simply requires that a study be done if there is potential damage to the aquatic systems any-

where in the catchment by a mining operation—find out about it first before it is allowed to proceed. I might ask the minister: does she think that an independent assessment of the BHP Billiton proposal at the Breezer Plains ought to be undertaken before that project goes ahead?

Senator WONG (South Australia—Minister for Climate Change and Water) (11.49 am)—I am not going to, in the context of this debate, make pronouncements on one or any particular projects. Those are issues that I will consider the detail of. I will also consider what the appropriate Commonwealth role is. I do not know if you heard before that I have also approved funding of \$2 million for the National Water Commission to develop guidelines and tools for managing the cumulative impact of mining on water resources. The reason for that is that, as the senator would be aware, the Commonwealth is not generally the granter of mining licences; these are state functions. So the reason the project is being funded is to enable relevant state authorities to better understand how to manage those impacts.

I also make the point that it is very unclear in this amendment who grants the licence. An exploration licence, as I have previously said, is not generally a Commonwealth licence. I am not a resources minister—I do not have department officials here on that point—but generally, as I understand it, they would be licences provided by relevant state authorities. So what we are inserting into federal legislation, and the coalition is supporting this, is a requirement on state mining regulatory authorities about what they do in relation to exploration licences. It is not clear to me from the amendment, with a substantial risk being identified, who makes the decision about that. Is that the independent expert study? Is that the Murray-Darling Basin Authority? Or is it the unnamed, unenumerated state authority who issues the

exploration licence? Nor am I clear how the Commonwealth could in fact require a state mining agency to undertake this assessment and the risk assessment that is contemplated in proposed subsection (2), under the terms of the water bill.

I make all of those points because I want to be very clear that the policy intent of ensuring we better assess and manage the impact of activities such as mining on water is a sound one. The issue is how we do that in the circumstances where clearly there are examples where people assert that has not occurred. We do that in the context of the Murray-Darling Basin through a basin plan and an independent authority that can consider these issues and can determine whether, in appropriate circumstances, a water entitlement is required for such activities.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.52 am)—The minister, firstly, says that this is too specific and there are already provisions for this matter to be looked at if the authority wants to. Now she is arguing that it is too vague and non-specific. She cannot have it both ways. What the amendment clearly sets out to do is to make sure that information is independently gathered about the impact of mining on the catchment before that mining proceeds. It is pure logic and common sense and we should be clear about it in the legislation.

I have not heard anything from the minister that would give me confidence that the government supports such a study being done as to the Liverpool Plains or anywhere else. We have a great mining industry in Australia that brings enormous wealth to this country and employs lots of people. It is a very important part of our economic wellbeing, but so is the food-producing and fibre-producing resource of the land. In fact, in terms of employment, it is a much greater

generator of wellbeing in this country. And sometimes these two things clash. This amendment is saying that if the two things do clash let's ensure that the information is available for the authority to decide whether it is prudent to proceed, and you must not proceed if there is a substantial risk identified.

It is a reasonable amendment. It is what we are here as legislators to sort out and not leave to somebody else. But we are not dictating what an outcome will be; we are simply saying, 'Let's get the information, make sure it is independent and let's make sure a good decision is made.'

Question agreed to.

Senator NASH (New South Wales) (11.55 am)—I move opposition amendment (3) on sheet 5640:

(3) Schedule 2, page 318 (after line 32), after item 162, insert:

162C At the end of Part 12

Add:

259 Structural adjustment package

- (1) The Minister must, by legislative instrument, determine a scheme in the nature of a structural adjustment package to allocate appropriate funding to communities affected by the purchase by the Commonwealth of any privately-held water entitlements.
- (2) A scheme determined under subsection (1) must provide for structural adjustment assistance to be allocated to communities to assist them to adjust to:
 - (a) reduced water availability;
 - (b) reduced economic activity associated with the closure of farming or other enterprises;
 - (c) changes in land use.
- (3) In determining the amount of funding to be allocated to any community under the scheme, regard must be had to the Community Impact Statement in rela-

tion to the affected community published under section 258.

I am pleased to move this coalition amendment around structural adjustment for communities affected by the removal of water as a result of any purchase by the Commonwealth of privately held water entitlements. What we have seen from this government is a lack of focus on ensuring that where communities are going to have to adjust and where there is going to be change in the future as a result of removing water out of those communities—a reduction in water, reduced economic activity and changes in land use—there has to be recognition that those communities may well need structural assistance in some form or another and a structural adjustment package should be in place.

On this side of the chamber we want to see the government ensuring that that assistance is provided where it is necessary. We have not taken much of a level of comfort to date from the priority that the government has placed on structural adjustment packages and what is actually necessary for those communities. With this amendment we are placing within the bill itself a requirement that structural adjustment take place. Many in this chamber would know that when we were previously in government there was a very significant focus on the need to assist communities where necessary.

I know the department have indicated previously to senators their belief that structural adjustment is indeed captured through the current buyback process. We certainly believe that there is a need to take a more holistic approach towards structural adjustment. Assistance must be made available to those communities where necessary by the government.

Senator WONG (South Australia—Minister for Climate Change and Water)

(11.57 am)—We have been in this debate for a long time so I will try to be succinct. The first point is that when the Howard government announced their \$10 billion plan they did not allocate money for structural adjustment. The second point is that we do believe that the taxpayer, through this program, should assist in restructuring the basin.

We believe that the best way to assist communities with this challenge, and I do not deny the scale of it, is to invest for the future—to ensure that irrigation communities get the benefit of some \$5.8 billion of investment funding for investing in more efficient water use and in infrastructure that enables irrigators to do more with less. Not only have we committed the \$5.8 billion in our first budget but, through the COAG process, a total of just under \$4 billion has been committed towards basin water infrastructure projects. This is an unprecedented commitment to the basin by a federal government. Of course, nothing like this was ever delivered by Mr Turnbull, as minister.

After 12 years of failure, inaction and delay by the previous government, we are acting on the Murray-Darling issue. We recognise that it is a huge task, not just for government but for the communities, for the reasons I have just outlined to the chamber. I have also explained that we are continuing to consider and monitor the rollout of the purchase program, but it is the case that currently the primary economic and social impact that we see in communities in the Murray-Darling area is not a result of the purchase program. It is a result of the fact that these communities are struggling with a long-term reduction in allocation. Senator Nash might not agree with that, but if you go to these communities you know that. Senator Nash also ignores the fact that when we purchase water that money does go back to communities. It goes to those irrigators who choose to sell to us. Some of them do choose

to exit, I accept that. But some of those irrigators also choose to utilise those funds for other investments and make other choices with those funds. So we do think that this is the best way to secure the future of these communities in the face of what is an enormous challenge, and I do not pretend that this is not a huge task. I acknowledge that we have a long way to go, but what we are doing is making progress. We will continue to ensure that we obtain information about the impact of these reforms across the basin. As I said, the government has asked the Australian Bureau of Agricultural and Resource Economics to consider these issues so we can monitor their impact on these communities.

It is the case that the government, in the context of the intergovernmental agreement, has agreed to consider assisting states and there are provisions for further assistance if it is demonstrated that communities are severely and adversely affected by basin water reforms. So of course these are issues that we will consider. But I very much believe that the best way forward here is to ensure we spend a very substantial amount of money in the basin to drive the efficiencies, because that economic base is the best way of ensuring those regional communities continue to thrive.

I will address Senator Xenophon's amendment after he has moved it; it is, I think, an amendment to this amendment. But, for the reasons that I have outlined, we do not support this amendment. What we see, again, is the opposition putting up something that they were not prepared to do in government. They were not prepared to put this in their legislation and they were not prepared to make a transparent funding decision as to proposed structural adjustments.

My final point is this: I do not know if the opposition have a policy on how they would

cost this and which part of the current \$12.9 billion Water for the Future plan they say should be directed to this. Perhaps Senator Nash would say that we should spend less on water purchases. That of course would be contrary to what they tell the South Australians. Perhaps Senator Nash would say that we should spend less on infrastructure. I would have thought irrigation communities would not want that decision to be made. So there are consequences to the approach that Senator Nash is proposing—consequences that they did not face up to in government that they now want to put through a parliamentary process. In short, we believe the best way of dealing with the challenge that we face is a very substantial investment in more efficient water use and infrastructure, enabling irrigators to do more with less so that we can continue to secure the economic base of these communities in the face of climate change, drought and overallocation. We have put out a range of programs to that effect. In addition, we will continue with the water purchase for the reasons we have outlined and we will absolutely continue to monitor the impact of water reform and water purchase programs on regional communities.

Senator SIEWERT (Western Australia) (12.03 pm)—The Greens believe that we need a third component to our approach of restructuring the Murray-Darling Basin besides the \$5.8 billion buyback of water and the investment in infrastructure, because, let us face it, that is what has to happen. I will go into the reasons why I believe that in a minute. There also needs to be a component of structural adjustment. However, to just tie it—and I have indicated this to the coalition—to the purchase of water is a serious mistake. When you are look at the impacts that the basin is experiencing and the degree of change that is going to be necessary, it is entirely appropriate to look at how we can

help facilitate the decision making from a community perspective and how we can help the decision making about where we should be investing and how we can help to assist the restructuring in a strategic and coordinated approach. Because this amendment is only looking at one element, we cannot support it.

The impacts that the basin is facing are significant, as is what we are going to have to do in terms of reducing its consumptive water use by around 50 per cent. There is a significant reduction in run-off being generated by climate variability and climate change. These are all significant impacts. So it is not fair or appropriate to just tag any impacts that are occurring on the community to water purchases when there are really big things coming at these communities like climate change and the need for overall adjustment.

Again, this amendment is an instance where we support the intent. We do agree that there should be resources for restructuring, because that is a real and honest acknowledgment that we cannot continue business as usual in the basin. We simply cannot. We cannot do the same with less water. Even if we were not overallocated now, which we are, in the face of climate change we are facing a very significant issue and a very strong need to decrease our water use. We would prefer to see a much more strategic and coordinated program and planning process occur across the whole of the basin. I articulated the process that we think should be undertaken to provide resources and community support for community planning in my speech in the second reading debate. We believe this is absolutely essential to enable communities to produce plans to integrate the infrastructure investment, water sales and structural adjustment, to provide incentives for them to do that and to help create community plans that actually take a strategic

approach to the way that they manage their region.

I will add one thing that has not come up in the dialogue before. We strongly support the need for adjustment and the need to provide resources, but I have expressed in this place innumerable times my extreme disappointment with the way the government has refocused Caring for Our Country and taken the emphasis away from supporting regional natural resource management organisations. That, unfortunately, is undermining the very thing that we have been talking about here—taking a structured and strategic approach to catchment planning and to community planning to deal with these very significant issues.

I heard the minister say, ‘Where do you get the money from?’ The fact is that we are talking about the future of the Murray-Darling Basin. We need to invest in readjustment as well and to acknowledge, as I said, in an open and upfront manner that we are expecting these communities to adjust to massive change. To pussyfoot around that issue is not being honest. We cannot just make a few minor adjustments and expect that we are going to solve this crisis. We are not. In light of that, to say that it is just the purchase of water that is causing the impact is unrealistic. But we do agree that we need a structured approach. We support the intent but I cannot support the amendment, because it will skew the decision making to make us think that it is only this part of the package and only this part of the crisis that we are facing that we need to deal with. That is simply not correct. It is not true and it is not facing reality. As I said, we support the intent. We very strongly support the need for structural readjustment, but let’s do it for the big picture, not just for one particular component.

Senator XENOPHON (South Australia) (12.09 pm)—I support this amendment. I agree with Senator Siewert that we cannot have business as usual and that it is reasonable to consider other matters in relation to structural adjustment. But I see this as a template for change. I see this as a template for moving forward. There is no reason why the concept of the structural adjustment package in the form set out by the coalition cannot be expanded further to look at the other issues that Senator Siewert has raised. I do not want to throw the baby out with the bathwater, so to speak. I think it is important that this be supported as a means of entrenching the concept of the structural adjustment package.

I want to move the amendment in my name in an amended form. Where 'industries' appears after 'irrigation', I wish to move that 'districts' be substituted for 'industries'. That was a typo, in a sense, on my part. I apologise to the Senate for that. My amendment requires the minister, in considering the content of any structural adjustment package, to take into account the history of relative water efficiencies in irrigation districts and the means by which they have been achieved. This relates to the many discussions I have had with irrigators in the Riverland in South Australia. The most recent was a discussion I had at the beginning of last week with a leading citrus grower who made the point that, in the context of any adjustment package, you need to consider those districts that have done the hard yards over many years. I know that Senator Wong has referred to that. If there is going to be a structural adjustment package, the history of water-saving measures by those districts that have done the hard yards over many years ought to be taken into account. I move my amendment, as amended, to Senator Nash's amendment:

At the end of proposed section 259, add:

- (4) The Minister, in considering the content of any structural adjustment package, must take into account the history of relative water efficiencies in irrigation districts and the means by which they have been achieved.

Senator NASH (New South Wales) (12.11 pm)—I certainly concur with Senator Xenophon in that there are a number of irrigators in irrigation communities that have done an enormous amount of work to adjust and become more efficient. Certainly, right throughout New South Wales, the state where I live, there are a significant number of irrigation districts that have done a huge amount of work. I indicate our support for this amendment on that basis. I think it is important to note that the amendment is talking about the need for the minister, in considering the content of any package, to take into account a broad overall view of the history of efficiencies in irrigation districts. We believe this is worthy and we will be supporting the amendment.

The TEMPORARY CHAIRMAN (Senator Ellison)—The question is that Senator Xenophon's amendment to Senator Nash's proposed amendment be agreed to.

Question negatived.

Senator WONG (South Australia—Minister for Climate Change and Water) (12.13 pm)—by leave—I just want to indicate our opposition to this. I think Senator Xenophon knows that we do not believe, for the reasons I outlined last night, that the history of who is better is the way the government should be assessing the contributions to particular districts or regions. I have had a lot of people come before me and say that they are the most efficient irrigation district in Australia. I do not engage in that discussion, because I do not think that is helpful. The reason the government did not support that is that it simply buys into that kind of discussion.

The TEMPORARY CHAIRMAN (Senator Ellison)—The question is Senator Nash's amendment be agreed to.

Question negatived.

Senator NASH (New South Wales) (12.14 pm)—I move opposition amendment (4) on sheet 5640:

(4) Schedule 2, page 318 (after line 32), after item 162, insert:

162D At the end of Part 12

Add:

260 Water saving infrastructure program

- (1) The Minister must, by legislative instrument, determine a scheme to achieve water efficiency measures through Commonwealth investment in water saving infrastructure.
- (2) A scheme determined under subsection (1) must set clear targets for water to be saved from on-farm and off-farm infrastructure projects.
- (3) A report is to be prepared as at 1 July 2009, and for each subsequent six-month period, containing a schedule for each project being undertaken or planned and, for each project:
 - (a) the expected water savings;
 - (b) the share of savings to be dedicated to environmental, irrigation or other purposes;
 - (c) the licence associated with those savings.

In this amendment we are calling for the minister, by legislative instrument, to determine a scheme to achieve water efficiency measures through Commonwealth investment in water-saving infrastructure. Our intention with this amendment is to make sure that there are very, very clear water-saving targets set for on-farm and off-farm infrastructure projects. The importance that the coalition attaches to ensuring that we have a very structured and rigorous approach to wa-

ter saving and water efficiency will be no surprise to this chamber, as I have talked about it on very many occasions. In spite of the words the minister has been trying to place in my mouth, we do agree that there is a place for buyback. But we want to see a much more rigorous and structured approach to ensuring that water savings throughout the basin are attained and that water efficiencies to achieve those savings are achieved wherever possible.

Recently, as the chamber would be well aware, on a tour through the Murray-Darling Basin a number of irrigators and communities put forward very strongly the identified amount of savings that they believed they could procure with some assistance from the federal government. With this amendment, we would like to make sure that there is reporting and that there is a much more structured and clear approach to the water-saving infrastructure program to achieve some clarity and direction for this very issue.

Senator BIRMINGHAM (South Australia) (12.17 pm)—I will just supplement Senator Nash's support for this from the coalition's perspective. This is an important amendment because it is about transparency, accountability and timeliness. It does not seek to be overtly prescriptive on the government. What it seeks to ensure, though, is that the government, as they commit Commonwealth funds to supporting these important infrastructure projects, reveal the details of those projects and the savings they are seeking to acquire. It seeks to ensure that they keep the parliament and the public updated, on a six-monthly basis, as to the progress of and changes in those projects and that, in doing so, they can be held to account for the progress of those projects and, ideally, the water that is saved. It is an important measure of transparency. It is also, as I indicated, about timeliness. The first report would be due by the middle of next year,

which would ensure that the many different water-saving infrastructure projects that exist throughout the basin community can be fully assessed and detailed by the government in that time line so that we all understand precisely where we are going from there. With that, I would commend the amendment to the committee and encourage the government to consider it as a measure not that seeks to tie their hands but that seeks simply to ensure the type of transparency, accountability and timeliness that we believe is necessary to deliver appropriate water-saving infrastructure.

Senator WONG (South Australia—Minister for Climate Change and Water) (12.18 pm)—As always, Senator Birmingham has a particular spin on something. This is not just a transparency measure; it is a legislative instrument, which can be disallowed in this chamber and which seeks, ahead of time, to set targets on a decentralised basis. Frankly, it demonstrates a misunderstanding of the nature of the irrigation investments that the government is currently working on.

First, there are the state priority projects, the detailed proposals for which are at various stages of being developed and submitted to the government for due diligence assessment—and I have been very clear publicly that they will be subject to a proper due diligence process. My expectation is that these proposals would include details of achievable on-farm and off-farm water efficiency savings that can be realised from the projects and the time lines over which these savings would be achieved.

One size will not fit all. A project in the Riverland is necessarily going to be different to projects in some of the Victorian regions or projects in some parts of New South Wales. The sort of central-planning approach that the coalition is suggesting really does not understand the realities of the ways in

which these projects are being brought forward. It is reasonable for projects, in any arrangement for funding, to have clear requirements. It is our expectation, if projects satisfactorily pass the due diligence assessment stage, that obviously the Commonwealth would enter into contracts with project proponents and that those contractual arrangements would include issues such as water recovery targets; conditions on the distribution of water efficiency savings between environment, irrigation and other purposes; as well as time frames. That is a responsible approach. The amendment essentially seeks that the Commonwealth mandate targets and time lines ahead of receiving all project proposals from the basin states and from private irrigation corporations. We do not believe that is an appropriate approach.

Senator SIEWERT (Western Australia) (12.21 pm)—The Greens can see the direction from which the coalition is coming on this issue, and it is a similar direction to that from which the Greens are coming, which is that we need—and I would probably couch this as a question to the coalition—to establish a plan by which the Commonwealth is investing in the water-saving infrastructure program. As I articulated earlier, the Greens believe that we need a coordinated approach to that.

However, I have also listened to the minister's comments about this potentially taking away their ability to make some decisions further down the track, in terms of some of the projects that are coming up. She said this might actually stop some of their future decision making. I am wondering if my assessment of this amendment is correct—that it is about establishing a plan for how we will go about putting in place this infrastructure program. Also, Senator Nash, I would like your opinion on the minister's comments just then about how it might tie their hands on some of their investments.

Senator NASH (New South Wales) (12.22 pm)—It is a plan. The intent of the amendment was to ensure that there is a focus on making sure there is adherence to getting those efficiency gains. We believed the best way to make sure there was this focus was through an amendment such as this. You know as well as anyone else, Senator Siewert, of so many of the areas where the gains are to be made. The point of all of this is to ensure that we have that balance in those savings, to make sure that, while some will stay on farm, a large percentage will go back to the environment. We figure that putting a plan in place to do this is going to make more efficacious the government's ability to get that water back to the system.

I refer to my initial comments. We are just not given a real level of comfort at the moment as to where the government is headed in terms of getting the water. So we would see it, certainly, as a plan to be put in place to get that to happen. On the minister's comments: the minister put that view that it will tie their hands. I think they would be able to determine well enough an assessment, at least some way into the future, in such a way that it does not tie their hands.

Senator WONG (South Australia—Minister for Climate Change and Water) (12.24 pm)—As I said, there is this gap between what the coalition say on their feet and what the amendment says. This is a legislative instrument that requires us, prior to our receiving projects, to set out predetermined amounts, predetermined targets. I have not had an irrigator community put what you are putting to me, Senator Nash—

Senator Nash interjecting—

Senator WONG—No; it is true. The point that the coalition appears to be missing is that this is not a central planning process. These are projects, whether they are private irrigator or state priority projects—which

may be state government and private irrigator—whether they are on or off farm, that are driven by those project proponents and assessed against guidelines. I absolutely agree that we need appropriate transparency. I have gone through an appropriate due diligence to ensure the savings because, as I previously said, one of the rationales for the taxpayer funding this is that this is actually about contributing to an adjustment in the basin. So of course, therefore, you will need water savings.

My point is I do not believe this is the best way to do it. I do not believe the amendment matches what the coalition senators are saying. Rather than the parliament or the minister through regulation determining who should bring forward projects, we should remember that there has to be an economic imperative around this. There have to be private irrigators who think they can make this work. They want money from the government for this sort of investment, this sort of restructuring, because they think they can make it work. It has to be driven from their end rather than from senators telling people what to do.

Question negatived.

Senator NASH (New South Wales) (12.26 pm)—I move opposition amendment (5) on sheet 5640:

(5) Schedule 2, page 318 (after line 32), after item 162, insert:

162E At the end of Part 12

Add:

261 Water market transparency

- (1) The Minister must, by legislative instrument, determine a scheme to ensure transparent operation of the water market in respect of the purchase of water entitlements by the Commonwealth.
- (2) The scheme must ensure that there is disclosure of information in relation to price, volume, security, location, terms

and conditions attached to the purchase of entitlements; whether the purchase of water entitlements was contingent upon the purchase of real property rights and, if so: the criteria by which it was determined to proceed with the purchase; and the evidentiary basis for any subsequent changes to the use of property so acquired.

- (3) The scheme must also provide for a real-time or live exchange disclosing irrigation region, latest sale and value, bid and offer and price by megalitre.

This amendment relates to water market transparency. One of the issues that have been raised with the coalition by communities and irrigators themselves is the issue of getting transparency within the water market, within the buyback process that the government is undertaking. I know that the minister has given her views to Senate estimates committees, as has the department, around the issue of water market transparency, and they believe that it is indeed transparent in its current form.

A lot of the view from the irrigators' community is that it is not transparent enough. They feel, and we concur, that in each region, in each area, irrigators have a right to know amount, price, volume and timing. I think it is vitally important that, when the government is entering into the market through buyback processes, as they are doing, irrigators have the right to understand exactly how that process is working.

I know the minister will say that it is entirely transparent and it is entirely fine, but that is not the view of the irrigators out in the community. They are very concerned that there should be a much greater degree of transparency. We must be looking at it to ensure there is disclosure of information in relation to price, volume, security, location, terms and conditions—a number of those

things that currently are not being provided by the government.

Senator WONG (South Australia—Minister for Climate Change and Water) (12.28 pm)—I have made it clear to various stakeholders, various irrigators, that this \$50 million was the first tender process and that I wanted to ensure that we continue to improve in terms of management of that process. That is why we commissioned the review. That is why we established a stakeholder committee to give us feedback. Surprisingly, Senator Nash, I agree with you. I think it is a well-managed program, but I think governments can continue to improve the information that communities have, and we will do that.

I will pause here and say that one of the asks of some members of the community—though not all of them—has been that the government tell them what a fair price is. I have been clear with them that that is not for the government to do. Obviously, we can publish information about price in the market but, ultimately, that is a decision that an irrigator needs to make. It would not be appropriate at all for government, as a potential buyer, to be advising the potential seller what a fair price is.

What we have done is sought to purchase water at prevailing market prices. An obvious reason for this is to provide value for money to the taxpayer, but it also ensures that both the buyer and seller consider the agreed price to be fair and reasonable. The department is directing prospective sellers to publicly available sources of market information. We are assessing sell offers against prevailing market prices so that the impact on the water market is minimised, and the assessment process takes into account the average yield of each entitlement. That is an important point because, whilst there has only been the first completed round in the

current tender, obviously the government is potentially a very large player, over time, in the water market. So we do need to continue to consider our impact on the water market.

Information on our purchases in 2007-08 is available on my department's website and it is regularly updated. Information on prices paid is being posted on state registers as soon as trades are finalised, as is the case for other water trades. I have referred also to the independent review assessment and stakeholder consultation which occurred post the first purchase program. I would like to make the point that the independent assessment did endorse the approach taken by the government, concluding that the first purchase round was efficiently run, that water purchase decisions were appropriate and that it delivered value for money. That assessment was released in October and it is also available on the website.

In terms of community consultation, the committee I established provided direct input into this assessment and also endorsed the first phase of the purchasing. I acknowledge that they had certain views, and made certain recommendations, about the issue, and we are taking these on board and considering them. Eight regional workshops were held to obtain feedback from the wider community. One of the things that the department have changed as a result of this purchase is that we are publishing a summary of water entitlement prices reported on state registers so that sellers have improved access to market information. So we are committed to ensuring appropriate transparency, and we are doing that through the mechanisms I described. However, our view is that those mechanisms are the best way to deal with these issues. Again, what the coalition is seeking to require is a legislative instrument to ensure transparent operation of the water market. Some of the issues in subsection (2) are cov-

ered by the information available on the web, to which I have referred.

Senator NASH (New South Wales) (12.33 pm)—I would like to make a couple of further comments in relation to this. I think it is quite important that we do focus on the community's view that there should be more transparency. I know I am reiterating what I said earlier, but I think that it is important for the committee to note that this is a very, very serious issue for irrigators. They are very keen to see a greater level of transparency and to have more fairness and equity within the arrangements.

Senator SIEWERT (Western Australia) (12.34 pm)—I move as an amendment to opposition amendment (5):

Omit subsections 261(2) and 261(3).

By omitting subclauses (2) and (3) just the first subclause will remain, and that is:

The Minister must, by legislative instrument, determine a scheme to ensure transparent operation of the water market in respect of the purchase of water entitlements by the Commonwealth.

I agree with the coalition that there is a wish in the community for transparency. However, I think subclauses (2) and (3) bind the Commonwealth too closely and are too prescriptive. There are some issues there that may serve to adversely affect the ability of the Commonwealth to purchase water. I do have concerns that the opposition amendment may affect the Commonwealth's ability to acquire water, but I and the Greens agree with the issue around transparency. So what I am proposing is that we amend the amendment so that there is a requirement to determine a scheme to ensure transparent operation. That is done by legislative instrument, which is a regulation that the Senate does get to comment on. Hopefully, that will help to ensure that it gets a review as well and that it achieves the objective of transparency but it does not adversely impact on the Common-

wealth's need to be able to operate in the market.

Senator WONG (South Australia—Minister for Climate Change and Water) (12.36 pm)—We do think it is better, Senator Siewert, but what I would say—and I did not go into this—is that, of course, there are also provisions in the act which deal with water market reform, ACCC involvement in water market rules, water charge rules, and—from memory—the authority in terms of water-trading rules. So there are a range of water market reform measures which deal, in part, with some of the issues here. My concern is that if we start requiring that the minister, instead of all these various statutory bodies, determines a scheme, it actually cuts across some of that reform work. Senator Siewert's amendment does deal with the issues that she raised, and we appreciate that, but I have to say, more broadly, that we do not think this is the way to go forward. We do recognise our obligations to work to improve transparency. I have outlined a range of mechanisms by which we are seeking to do that.

The TEMPORARY CHAIRMAN (**Senator Parry**)—The question is that amendment by Senator Siewert to omit proposed sections 261(2) and 261(3) from opposition amendment No. 5 on sheet 5640 be agreed to.

Question agreed to.

The TEMPORARY CHAIRMAN—The question now is that opposition amendment (5), as amended, on sheet 5640 be agreed to.

Question agreed to.

Senator NASH (New South Wales) (12.37 pm)—I move opposition amendment (6) on sheet 5640:

- (6) Schedule 2, page 318 (after line 32), after item 162, insert:

162F At the end of Part 12

Add:

262 Inquiry into bulk water arrangements

- (1) The Minister must cause an inquiry to be held into the effects of Commonwealth water purchases from bulk water arrangements.
- (2) The inquiry must consider what steps the Minister should take to prevent third party effects within bulk water arrangements on remaining parties.
- (3) The inquiry must report by 1 July 2009 and the Minister must cause a copy of the report to be tabled in each House of the Parliament within 5 sitting days of receiving the report.
- (4) The Minister must have regard to the recommendations of the report of the inquiry in proceeding with subsequent purchases of water from bulk water arrangements.

This amendment relates to bulk water arrangements. Briefly, the concern that has been raised with us is that if the environment becomes a user of water similar to irrigators it should be paying the same fixed and variable costs that irrigators currently pay. There is a very clear message coming through: if, for the purposes of public good or for environmental good, that water were to come out of an irrigation district, the fixed costs and charges that would remain would be dispersed through a smaller number of people. That is a real concern as to what we all agree will be a public good. It is about the negative effect that would then remain within that irrigation district. So there needs to be, in terms of a way to describe it, a community service obligation, if you like, to cover the costs so as to avoid forgone revenue for those bulk water providers in those areas. It is a sensible amendment. The amendment itself is probably a little bit wordy, but it is a very sensible amendment to make sure that there is a provision in place. We are talking about an inquiry into this to determine if it is indeed the case that these problems arise, to

deal with the situation, to report and to then put forward an appropriate process to deal with the arrangements.

Senator WONG (South Australia—Minister for Climate Change and Water) (12.39 pm)—Mr Temporary Chairman, I will be very quick as I am sure all of us would not mind eating something. We do not support this amendment. I want to remind senators that some of the issues that Senator Nash raises and also some of the issues that have been raised with me are issues such as transformation, exit fees et cetera. In fact, they are issues that the ACCC is dealing with and conducting a public inquiry into. So what you are asking government to do in effect, Senator Nash, is to cover the same area through the inquiry proposed in the amendment as we would say is already being covered by the inquiry underway as a result of the ACCC's power under the existing act, which will be expanded under the bill. So we think this is being dealt with.

Senator SIEWERT (Western Australia) (12.40 pm)—If I could, I would ask the minister a question on how extensive that inquiry is and whether it is actually taking into account the impacts on third parties of bulk water arrangements.

Senator WONG (South Australia—Minister for Climate Change and Water) (12.40 pm)—My recollection is that the ACCC have invited public submissions in relation to both of the aspects that they are working on. I know they have consulted with irrigators, because when irrigators have raised this issue with me I have asked, 'Have you met with the ACCC and have you talked to them?' and they have said, 'Yes.' Some of them have said, 'We're not sure they understood what we were saying.' I have said, 'Well, maybe you should make sure they do.' So there is, I think, what looks like a quite good consultation process—an iterative one.

Again, on these issues there are different views about what is the best way forward in terms of which fees should or should not be paid or should be retained and, if so, what quantum of them. We do think that the best way is to allow this ACCC process to proceed. My recollection is that the ACCC will make draft rules which will then be provided to the government for determination. If there is further information as to this area, which is a bit complex in terms of the different processes, I will be happy to arrange for the relevant officials to give you a briefing.

Senator SIEWERT (Western Australia) (12.42 pm)—Thank you, Minister; I would appreciate that. Obviously it is not going to impact on the decision that we are making here today. I have a couple of concerns. One is the extent of the review that is currently being carried out. While the ACCC may be receiving submissions from communities and affected irrigators, for example, whether the terms of reference of the inquiry provide the ACCC with the ability to actually make recommendations as to those is an issue. I am seeing nodding heads—so it is?

The TEMPORARY CHAIRMAN (**Senator Parry**)—We cannot record nodding heads in *Hansard*.

Senator WONG (South Australia—Minister for Climate Change and Water) (12.43 pm)—Sorry, Senator Siewert. I do not actually have here either officers from the ACCC—obviously so because it is a statutory agency—or from the department on that specific program. My recollection is that they are consulting currently, they will make a recommendation to the government in relation to—from memory—two aspects of the water market rules and the government will make a determination. In fact, third parties are one of the issues to be determined.

I have some notes here. I am advised that the ACCC is also considering water-charging

rules which cover termination fees payable on the sale of water. These fees will be able to be charged in ways to ensure that there is no lasting cost imposed on an irrigation corporation. Take, for example, the consultation with me. The corporation will say, 'We want a higher exit fee because we have to continue to pay certain costs'—the issue that Senator Nash raised. The irrigator who is selling wants a lower exit fee, for obvious reasons. These are issues that the ACCC is considering, and there is a process under the act for the consideration and determination of those. We consider that to be a more sensible process. It is a process that is currently ongoing, currently underway, and it would not be sensible to impose another inquiry on top of that.

Senator NASH (New South Wales) (12.45 pm)—This might assist Senator Siewert. I know there was a level of disquiet, if you like, around the ACCC process with irrigators. I look forward to the minister coming back with information about the effect on those third parties. Part of the reason for this to come into being was perhaps a level of discomfort with the ACCC and other processes, and this was a more appropriate way to approach it.

Progress reported.

MATTERS OF PUBLIC INTEREST

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

Automotive Industry

Senator HURLEY (South Australia) (12.45 pm)—The automotive and component manufacturing industry is important for my home state of South Australia and Australia as a whole, providing highly skilled, well-paid jobs for thousands of Australians and their families. Australia is one of only about 15 nations in the world today that can create a car from ground up, starting from the de-

sign right through to the showroom floor. Locally, the industry contributes over two per cent to gross state product and around 0.6 per cent to gross domestic product. As of August this year, it employs around 12,000 people in South Australia and 60,000 nationally. South Australia makes up 19 per cent of the national total employed in the industry, with one in five jobs located in South Australia.

Automotive exports from South Australia were valued at \$1.2 billion in the year to February 2008, while nationally the figure was \$4.7 billion in 2007, making automotive one of Australia's top 10 export industries, ahead of wine, wheat and wool. Meanwhile, automotive manufacturing was responsible for 6.5 per cent of total research and development expenditure by Australian business. As a proportion of industry value-added, this was nine times higher than for the economy and three times higher than for manufacturing as a whole. There are also around 40 component manufacturers in South Australia, mostly multinational firms; 55 equipment service providers; six special body manufacturers; and 20 after-market manufacturers. The viability of small component suppliers across the country depends on having a robust vehicle-manufacturing sector in Australia.

The vehicle manufacturing and component sector in South Australia does more than just provide a livelihood for South Australians and their families. In South Australia's northern suburbs, the General Motors plant is an economic backbone for the broader community, with families in some cases having been employed for three generations in the plant. It provides social networks through sporting clubs and various community associations, and it provides for the economic viability of scores of small family businesses in the area.

The automotive sector drives demand, sustains capabilities and stimulates innovation across the manufacturing sector. More broadly, it fuels the entire economy, using \$8 billion worth of service sector inputs in the 2004-05 year alone. However, employment in the auto industry has declined substantially since 2002, when the last automotive review was conducted, with around 26,000 jobs lost nationally, including, unfortunately, 6,000 from South Australia.

It is worth noting that in January 2007 a high-level automotive group, including Mitsubishi CEO Robert McEniry and GM Holden Manufacturing Operations Executive Director Rod Keane, warned in a report that the industry would continue to trend downwards if it did not become more innovative in the global market. That report called for greater federal funding to develop more fuel efficient vehicles, a rebuilding of the knowledge base, improved productivity and improved viability of component suppliers. This issue, therefore, has been looming for a while now, and I am very pleased that the Rudd Labor government has now addressed it and is committed to securing these high-skilled, well-paid jobs into the future.

More than 12,000 South Australian workers and their families will benefit through the New Car Plan for a Greener Future, which will provide \$6.2 billion in assistance over 13 years. Our \$6.2 billion car plan has already assisted the Australian car industry, in spite of the global financial crisis, with Ford announcing they will keep open the Geelong engine plant slated for closure in 2010. Ford will receive a \$13 million grant from the federal government to help with the \$21 million it will spend to retool the plant to produce engines compliant with new European environmental standards. The decision means 400 workers will keep their jobs at the plant, which makes the unique-to-Australia in-line six-cylinder engine for Ford's Terri-

torys and Falcons. The grant also boosts the prospects of a further 900 people being employed in the plant's component supplier chain, which is a fantastic beginning.

The key features of the New Car Plan for a Greener Future are a new, better targeted, greener assistance program, the Automotive Transformation Scheme, running from 2011 to 2020 and providing \$3.4 billion to the industry. There is an expanded Green Car Innovation Fund of \$1.3 billion brought forward to 2009 and running over 10 years. This is already fulfilling a lot of the requests of those car industry specialists. There are changes to the Automotive Competitiveness and Investment Scheme in 2010 to smooth the transition to the ATS with \$79.6 million, and \$116.3 million to promote structural adjustment through mergers and consolidation in the components sector from 1 January 2009 and to facilitate labour market adjustment from 1 November 2008. It will also, crucially, provide \$20 million from 2009-10 to help suppliers improve their capacity to integrate into complex national and global supply chains. It will provide \$6.3 million from 2009-10 for an enhanced market access program. A new Automotive Industry Innovation Council will be formed, bringing key decision makers together to drive innovation and reform. It will also provide \$10.5 million for expansion of the LPG vehicle scheme to start immediately. That scheme will double payments to purchasers of new private-use vehicles that are factory-fitted with LPG technology.

I want to talk a bit about the individual schemes, because I think it is worth dwelling a bit on how they will all fit together. First of all, the Automotive Transformation Scheme: in the last six years, Australia spent \$3.8 billion on the Automotive Competitiveness and Investment Scheme, the ACIS. That was a successful scheme; I will acknowledge that. Manufacturers taking part in the scheme

spent more than 10 times that amount on plant, equipment, R&D, taxes, wages and salaries. The government expects the New Car Plan for a Greener Future package to stimulate industry investment of at least \$16 billion in new capacity and new technologies. In Australia it has been proved again and again that manufacturers will take advantage of well-structured grant and investment schemes and build on those with their own money to forge a better future for themselves.

The ATS will also provide capped assistance of \$1.5 billion from 2011 to 2015, up from the \$1 billion which was planned for the ACIS stage 3. It will also provide new capped assistance of \$1 billion from 2016 to 2020. Capped funding will be in the form of grants rather than duty credits and will continue to be split 55 per cent to vehicle producers and 45 per cent to the supply chain. Then there is the Green Car Innovation Fund, which has attracted a lot of the publicity of the scheme and certainly is very important. The GCIF will provide \$1.3 billion over 10 years from 2009 to vehicle producers, component makers and researchers, up from the \$500 million over five years promised before the 2007 election and brought forward from 2011. The focus of the GCIF will be on research, development and commercialisation of Australian technologies, and I think that commercialisation step is very important. Time and time again in Australia, we have shown that we have the ability to do the research and development, but sometimes the commercialisation has fallen down. I think it is very important that this be a focus of the GCIF. This will significantly reduce fuel consumption, greenhouse gas emissions and the weight of vehicles.

Another part of the package is the Automotive Industry Structural Adjustment Program. I think this program is crucial for the success of the industry because it ensures a

proper functioning after the cars are manufactured and sent to market. This program recognises that the supply chain will need to consolidate if the industry is to achieve global scale and retain core capabilities. It also recognises that, in the short term at least, there may be further job losses. This program will provide \$116.3 million to facilitate consolidation by helping firms with legal, relocation and other merger costs. The program will provide labour market adjustment support similar to that provided by other adjustment programs but using delivery mechanisms appropriate to this particular industry. When workers are displaced, the program will provide training and other assistance to get them into alternative employment.

Then there is the Automotive Industry Innovation Council. The Australian government's innovation and trade ministers, the Victorian and South Australian industry ministers, the three vehicle producers, component makers, unions and researchers will all be represented on this council. It will serve as a forum for discussion and will provide strategic advice, not least on the best ways to boost skills and job opportunities. Its overarching task will be to coordinate the transformation of the industry. One thing that particularly struck me when I was working with the manufacturing industries generally in the northern suburbs of Adelaide was that industries can still compete fiercely with each other but cooperate in the common areas where they need assistance, such as skilling and training, and also in the supply chain and in marketing generally.

There has obviously been an impact on the car industry from the global financial crisis, and challenges will be thrown up in the future. There has been a drop in new vehicle sales during October, which reflects the broader slowdown in the Australian and world economies, as well as reduced access

to wholesale and consumer finance. This has been critical with the closure of GMAC here in Australia. That is a very difficult hurdle for the industry at this point in time. Official data released on 6 November by the Federal Chamber of Automotive Industries shows that 79,105 cars, trucks and buses were sold in October. That is down 11.4 per cent, or 10,184 vehicles, compared to the same month last year. In the year to date, new vehicle sales are down 0.9 per cent compared to the same period last year, with a total of 864,037 vehicles sold. Light commercial sales were positive in October, with the segment recording a 7.9 per cent increase compared to the same month last year. All other segments recorded decreases during October. Passenger vehicles were down 13.8 per cent, SUVs down 19.1 per cent and heavy commercial vehicles down 15.9 per cent. Toyota retained the top sales position in October with a market share of 23.6 per cent, followed by Holden with 12.9 per cent, and Ford with 10.8 per cent. The Federal Chamber of Automotive Industries chief executive, Andrew McKellar, said:

These figures confirm that the global financial crisis is having an impact on broader economic activity, including the new vehicle market ...

Locally in South Australia, the global financial crisis has led Holden to schedule another 25 days of production shutdowns, to be spread across the first three months of next year. Holden will make 15,000 fewer cars because of the production slowdown, so the impacts are being felt at a local level. In addition to the global financial crisis, the industry faces longer term challenges, including increased competition, rising environmental expectations, increasing fuel prices and changing consumer preferences. The industry expects major challenges in the future in each of those areas, particularly increased competition. We all know that the developing countries are working on their vehicle manu-

facturing industries, and it is important for Australia to work not only harder but also smarter to stay ahead of those developing countries.

We need to recognise that Australia's automotive and component manufacturing industry is a crucial part of the Australian economy and the broader manufacturing sector and is a key employer. I think we should not resile from supporting that industry or from making sure that the research and the development, the skills and the ability inherent in that car-manufacturing industry continue to be supported so that we can continue to keep this industry, which is the backbone of many families and communities around the country. Certainly, in South Australia it is held in high regard and valued greatly.

Water

Senator COLBECK (Tasmania) (1.19 pm)—I wish today to speak on an important matter of public interest which has seen a cruel blow dealt to a small rural community in my home state of Tasmania. I have spoken previously of the effects that the prolonged dry conditions have had on areas of Tasmania—most seriously the areas in the central and southern Midlands, and along the east coast right up to and including Flinders Island. I have spoken of a visit by the coalition's rural and regional affairs backbench committee to some of these areas and of the heartbreaking stories of struggling individuals and communities. I have also highlighted the plight of the Clyde Valley farmers and the Bothwell community, and it is to this group that I will again turn my attention today.

Last week this community finally heard from the Minister for the Environment, Heritage and the Arts, Peter Garrett. After months of chasing this minister, requesting appointments and extending an invitation—all of which were ignored, unfortunately—

Minister Garrett finally responded to the Bothwell community and the Clyde River farmers and their request for an emergency allocation of water from Lake Crescent. The community had high hopes, but the response from Minister Garrett was not the good news that these drought-weary farmers were relying on.

The background to this issue is simple to understand. Farmers around the Clyde River catchment have, like those in many other parts of my state, been subject to a savage and prolonged period of dryness. Above the valley is Lake Crescent and in very near proximity is Lake Sorell. The farmers in the valley below have lost their regular water source, and the lakes above, while also affected by the dry conditions, have water which would be of great benefit to the farmers who are struggling to water stock and to maintain domestic supplies.

It is true that the state government has assisted this community through the provision of a temporary emergency pipeline from the Shannon River, but this pipeline does not provide for a number of farmers who are upstream from the pipeline's outlet, which is some 30-odd kilometres below Lake Crescent. Therefore the Clyde River Water Group successfully put the case to Tasmanian government that an emergency allocation of water taken from Lake Crescent would be a suitable and safe way to provide greater assistance.

I will pause here to draw attention to the fact that these farmers are not asking for millions of megalitres of water to be drawn from the lake. They are not cowboys—in fact, they are very responsible farmers. As Tasmanian water minister, David Llewellyn, told Mr Garrett last week, via a rather scathing media release:

The maximum release would have been around 200 megalitres out of the approximately 15,000 megalitres currently in Lake Crescent.

The impact on the lake would have been to take 15 millimetres—a bit over half an inch—off the level of the lake.

I will also draw attention to this community's track record of responsible water use—and I have mentioned that before in previous contributions. The Commonwealth did approve last year a 2,000-megalitre release of water from Lake Crescent and Lake Sorell for domestic and stock needs. With careful management, the community used only 1,500 megalitres within the permit's time frame. But the community, unfortunately, was not rewarded for its efficiency—the remaining 500 megalitres was left in the lakes and was not allowed to be used.

So, a few months ago, with the water situation still dire, the Clyde River Water Group tried to put their case to the minister for the environment. They were acutely aware that the decision on a future emergency allocation from Lake Crescent and Lake Sorell hinged on his approval, under the Environment Protection and Biodiversity Conservation Act.

For those who are not aware of it, an area around the lakes is also listed as a Ramsar wetland and the lakes themselves are home to a fish called the golden galaxias. The Clyde farmers knew that it was critical for Minister Garrett to understand the local issues and to get an idea about the local environment. They even asked him to visit and see for himself. But Minister Garrett decided he did not need a firsthand look at this area. Despite the request, Minister Garrett made two sneaky fly-in fly-out visits to Tasmania during this period and ignored the Clyde farmers' invitation to visit the site—which is a little over an hour's drive north of Hobart,

where Minister Garrett was courting the media for good news stories.

Minister Garrett also decided that he did not need to meet with the Clyde River Water Group representatives when they actually travelled to Canberra. They had figured that if Mohammed would not come to the mountain they would take the mountain to Mohammed. They came here thinking that they had a meeting with him but ended up meeting only an adviser. On their behalf, representatives of the Tasmanian Farmers and Graziers Association came here in the last sitting fortnight. But again they went home empty-handed, without a decision and without a meeting.

It is interesting here to note the activity of the local member for Lyons, Mr Dick Adams, who said:

I've lobbied for as much attention as possible to give consideration to the people of the Bothwell area, from the farmer right through to the township.

Unfortunately, Mr Adams has proved to be completely ineffectual. In fact, that is what the local community is saying. Bothwell farmer Anthony Archer said on ABC Radio on 24 November:

Dick Adams is our local member, where is Dick?

He certainly hasn't had any influence over this decision and I think it's pretty disappointing.

I know that Mr Adams was keen to see some support for the farmers, but it is quite tragic that he has had absolutely no influence over Minister Garrett in representing his constituents. It really is a great disappointment that, despite any work that he might have done, he has had absolutely no effect for the benefit of these farmers.

In fact if Mr Garrett had met with the group that day or if he had found the time to visit the site in question he would be aware of the following with regard to the Ramsar

site and the golden galaxia. The Ramsar wetland, named in Minister Garrett's media release of 20 November, has been dry, with cattle and sheep grazing on it, for 10 years. For this wetland to be inundated again it will require both Lake Sorell and Lake Crescent to be full. With respect to the lake levels and the galaxia, Lake Sorell has a rocky lake bottom upon which the fish can spawn. The Tasmanian government has taken action to ensure that sufficient water is provided to support the fish that remain in that lake. Lake Crescent has only a rocky foreshore that water must be rising over before the galaxia can be induced to spawn.

Until the control gates, built in the 1990s by the Inland Fisheries Service, are lowered to their original level, Lake Crescent is unable to fill from Lake Sorell, which receives the first run-off in the catchment. Low water levels contribute to turbidity, which has no effect on the galaxia but is a major concern for the local fishing community. It does have a large effect on the trout which also live in the lake and which, given Minister Garrett's concern for the galaxia, are a major predator to the galaxia. When the water levels are low the turbidity increases and the trout find the galaxia hard to locate in the cloudy waters, so they lose an assured food source. If Minister Garrett had bothered to meet or visit he might have learnt these facts about how these lakes operate.

It is interesting to note that the recreational-fishing sector have come out strongly in favour of Minister Garrett's decision. The Anglers Alliance chairman, Richard Dax, on ABC radio recently applauded the minister's decision, saying, 'It's good sense.' Perhaps it is for the trout and for the fishermen who like to fish for them—as I am a fisherman myself, I must admit it is a great pastime—but it is not so for anyone living downstream. Interestingly, one of the reasons Lake Crescent is so low is that it became infested with

carp, which is another major pest species, and it was drained in the interest of saving the trout fishery. The fact that the interests of the trout and the fishermen seem to be taken as greater than even those of the galaxia—which might be nice feed for the trout—is quite interesting.

Minister Garrett himself admits that the fish will be lucky to survive the summer, because the lake is expected to evaporate to a level where it will all but cease to exist. Farmers were seeking just 1.3 per cent of the water in the lake—as I said, 15 millimetres off the depth. So it is amazing that this very small request has been refused. Again, if Minister Garrett had bothered to visit the area in one of his sneaky fly-in fly-out trips to Tasmania I am sure he would have realised that this relatively small water release would not endanger the golden galaxia but would provide a significant assistance to the community of Bothwell and to drought stricken farmers.

Both the farmers and the state government have expended valuable energy and resources to meet the rigidity in the application of the EPBC Act. Unfortunately, not so Minister Garrett, who was two days late and has confirmed his complete ineptitude by missing the 20-business-day deadline, as set out in the EPBC Act, for responding to the application. As I said earlier, the Tasmanian government figures indicated that the maximum release would have been around 200 megalitres out of the approximately 15,000 megalitres currently in the lake.

In the meantime the Tasmanian government is taking short-term measures to protect the golden galaxia population by investigating opportunities for the establishment of satellite populations in other suitable water bodies and by abstaining from any water transfers between Lake Sorell and Lake Crescent to maintain the maximum water

level possible in Lake Sorell until the drought breaks. As I mentioned earlier, the Tasmanian government in this respect is being quite responsible.

So it appears that Minister Garrett has made a decision on a fish that is best protected in Lake Sorell rather than Lake Crescent. He has made a decision to save water that, by his own admission, will evaporate anyway, and he has been unwilling to meet the members of this rural community face to face, leaving the hard work to his party colleagues at both a state and a federal level. He is also claiming to protect a wetland that has been dry for a decade and has cattle grazing it and, to add insult to injury, the minister is so incompetent that he even failed to meet his own deadlines under the EPBC Act. Just so this is not seen as a partisan presentation from the coalition against the Labor Party, I will leave the last words to the Tasmanian state Minister for Primary Industries and Water, the Hon. David Llewellyn, who said in his press release:

“It was a clear choice between leaving the water in Lake Crescent to evaporate, or releasing a small amount—

and I reiterate ‘a small amount’, which is up to 200 megalitres out of 15,000—

to alleviate some of the impact of the drought on downstream property owners.”

... ..

“But if the current drought conditions continue over the coming summer and autumn, then the Golden Galaxias in Lake Crescent and the Clyde catchment community face a very bleak period,”

...

Domestic Violence

Senator HANSON-YOUNG (South Australia) (1.13 pm)—I rise today to address the issue of domestic violence in Australia. Yesterday was White Ribbon Day. Nine years ago the United Nations General Assembly declared that 25 November would be ob-

served as the International Day for the Elimination of Violence against Women, with the white ribbon becoming the global symbol of solidarity.

The origins of 25 November as the International Day for the Elimination of Violence against Women go back more than four decades, when three sisters from the Dominican Republic were killed for their political activism. The sisters became a symbol of the crisis of violence against women in Latin America, with 25 November proclaimed as the date to not only commemorate their lives but also promote global recognition of gender based violence.

Violence against women is the most widespread human rights abuse in the world. Every day, thousands of women and girls are abused in their own homes. They are raped in armed conflict or murdered by someone known to them. They are attacked for speaking up and ostracised for defending women's rights. Current statistics show that at least one in every three women around the world has been beaten, coerced into sex or otherwise abused in her lifetime. Unfortunately, the abuser is usually someone known to her.

White Ribbon Day has been a great success in Australia. The symbol of wearing a white ribbon is a pledge that we will never commit, condone or remain silent about violence against women. This particular campaign is aimed at engaging with men and boys to promote a culture of nonviolence and respect. Yet, despite the overwhelming success of the white ribbon campaign, with more than 300,000 ribbons sold in 2006 alone, it is disturbing to see the recent trend in gender based violence across the country, which suggests that an estimated 1.3 million Australian women experienced partner violence in the 2005 calendar year. That is 17 per cent of all women.

Domestic and intimate partner violence negatively impacts on all areas of women's lives. As well as the acute physical harm women experience, the fear associated with the violence can impact on their health, self-esteem, wellbeing, parenting and employment. One of the most disturbing trends of violence against women in Australia and around the world relates to partner homicide. According to the 2005-06 Australian Institute of Criminology National Homicide Monitoring Program annual report, of 74 intimate partner homicides in that calendar year, four out of five involved the male offender killing his female partner. This is an appalling statistic that urgently needs to be addressed.

As recently as this week, we heard that the number of New South Wales women and children killed in domestic disputes has hit a 10-year high, with the Bureau of Crime Statistics and Research recording 29 domestic related murders in the past year. The same report shows that there were 27,000 domestic violence related assaults recorded in the last year, with only 30 per cent of those assaults formally reported to the authorities. It is clear that we need more than just a national, 24-hour phone number to combat domestic violence in Australia. We need to be talking about it and looking at how we can move forward.

While I acknowledge the government's commitment to establishing the National Plan to Reduce Violence against Women and their Children, we need to see a national, integrated, long-term approach as the focus of the government's policy agenda. We need to see a commitment to key education and prevention programs, substantial financial assistance and formal recognition of domestic violence in federal legislation to combat violence against women in this country.

Yesterday Minister Plibersek was formally presented with the White Ribbon Founda-

tion's report *An assault on our future: the impact of violence on young people and their relationships*. This report presented some very disturbing statistics. It identified that one in seven girls aged 12 to 20 have experienced sexual assault or rape, with half a million teenagers revealing that they live with violence in their home—reiterating that a large proportion of girls and women are subjected to physical and sexual violence in the context of sexual and social relationships.

I am deeply concerned about the findings that suggest that attitudes towards intimate partner violence are worsening among young men and boys within our community. While the majority of young males who participated in the survey see violence in relationships as unacceptable, I am still concerned that 14 per cent of young males agreed with the sentiment: 'It's okay for a boy to make a girl have sex with him if she has flirted with him or led him on.' It is for this reason that I encourage the Minister for the Status of Women, as part of the National Plan to Reduce Violence against Women and their Children, to further develop national antiviolence public awareness and education campaigns and programs, with a specific focus on the role of men and boys in ending violence against women and girls.

While there are many factors that impact on the levels of violence against women in our communities, if we are serious about eliminating gender violence we must also address the issue of hostile gender norms and the sexist attitudes that exist in some corners of our communities before we can expect to see societal change in relation to violence. Nine years on from the declaration by the UN General Assembly, the White Ribbon Foundation of Australia has done a fantastic job in promoting the purpose of the day. It was wonderful to see so many men in the media, sports, politics, workplaces and schools across the country wearing their

white ribbons yesterday and speaking out about violence against women.

We must all do all we can to stop violence against women. Part of our strategy must focus on young people, creating the personal and social change needed to engender a society where women can live free from violence. The Australian Greens are committed to programs that assist community and women's services, as well as to collaborative efforts between state and federal governments and key community groups to prevent, educate, intervene and assist with recovery from violence.

It makes good policy to have a comprehensive strategy to eliminate violence against women through the implementation of violence prevention programs aimed at young people, in schools, communities and through the media. The programs should address the identified social and personal factors which contribute to violence against women, to educate young people about violence and its impact on individuals in society and to actively discuss healthy and respectful relationships. We need to ensure that any program introduced as part of an essential curriculum in all schools actively engages young people in developing positive and healthy attitudes in relation to gender and relationships.

While I stand here today as a proud feminist, not afraid to speak out about the injustices of the past and present, we must not for a moment forget the hundreds of women across Australia who live in constant fear of violence in their own homes and who require strong leadership to develop and legislate on policies for reform. With one in three women being victims of violence, we all know someone—our friends, our mothers, our sisters. I urge the government to act on the recommendations put forward in the White Ribbon Foundation report and hope that in developing a new policy agenda the govern-

ment gives further consideration to young people and their attitudes towards combating violence against women. It is our young men who must lead the way.

Workplace Relations

Senator FURNER (Queensland) (1.22 pm)—Having been part of the union movement for 19 years, and a past branch secretary of the National Union of Workers Queensland branch, the introduction of the Work Choices legislation was one of the main reasons I decided to run for the Senate. As a proponent of a fair day's pay for a fair day's work, the introduction of these laws made me passionate about helping to get rid of this legislation, which put unnecessary stress on working families. As a union official, I saw firsthand the effects the legislation was having on working families as well as migrant workers.

Equality in the workplace is something I am ardent about. I believe all workers should have access to fair pay—no matter what their background is or where they originate from. Howard's IR laws provided disparate conditions where it was unlawful to provide equal conditions of employment in workplaces where, in some circumstances, contractors or labour hire staff were working for cheaper rates alongside company employees. At some work sites I was aware of, there were some instances where greater conditions applied in enterprise-bargaining agreements; however, businesses were offering permanently-employed staff redundancies and replacing those staff with labour hire employees who were cheaper to employ. Some of these employees were migrant workers, hired under the 457 visa program, who were doing the same work as other employees but for less pay. As someone who has seen this practice firsthand, it is unacceptable. Every worker, no matter their background, deserves the same pay as the person next to them who

is doing the same job. Exploitation of these workers is unacceptable and Howard's IR laws made this legal.

It is now time to remedy this situation and, to do so, the Rudd government has introduced measures to stop the exploitation of temporary migrant workers by conducting a review of the 457 visa program. I would like to commend in particular the Minister for Immigration and Citizenship, Senator Evans, for his tireless compassion on this worthy campaign. While many employers have been doing the right thing under the 457 visa program, in the 2007-08 financial year 192 sponsors were formally sanctioned and a further 1,353 employers were formally warned. This was substantially more than the previous year, when there were 95 sanctions and 313 formal warnings issued. This government is concerned that migrant workers are being poorly treated and underpaid, and a review of these visas would go some way towards stopping everyday Australian workers from losing their jobs to migrant workers and towards stopping migrant workers from being paid at lower rates.

In order to stop migrant workers from being exploited, on 1 August 2008 the Rudd government introduced, for the first time in two years, increased minimum salary levels for subclass 457 visa holders. This has applied to existing visa holders. The government has ordered a review by Industrial Relations Commissioner Barbara Deegan to review the integrity of the program and recommend measures to better protect our migrant workers.

The Rudd government has also introduced the Migration Legislation Amendment (Worker Protection) Bill 2008, which has expanded powers to monitor and investigate possible noncompliance by sponsors. It has introduced penalties for employers found in breach of their obligations, improved infor-

mation sharing to allow immigration officials to check the tax records of employers and employees to ensure they are paying the correct wages, and better defined sponsorship obligations for employers and other sponsors.

Two weeks ago the *Visa subclass 457 integrity review* report, conducted by Barbara Deegan, was released with recommendations referred to the Skilled Migration Consultative Panel. These recommendations are: to abolish the minimum salary level in favour of market rates of pay for all 457 visa holders earning less than \$100,000, to develop an accreditation system or risk matrix to ensure rapid processing of low-risk visa applications so employers can meet skills needs quickly, to develop new lists setting out the skilled occupations for which temporary work visas can be granted, and to limit visa holders to a stay of no longer than eight years in Australia, while providing a pathway to permanent residency for those who have required language skills.

The union movement has been concerned with the 457 visa program. In a submission to the third issues paper of the integrity review, the Australian Council of Trade Unions stated that the conditions within the 457 visa did not adequately safeguard against employers who wanted to use the Temporary Business (Long Stay) visas to avoid investing in training or to reduce rates of pay or conditions. The submission stated that they believed that employers should use only 457 visas in instances where they could not find a local worker to fill a position. They also believe the 457 visa program does not protect migrant workers from exploitation and abuse.

An example of abuse under the 457 visa program includes having migrant workers who may not have a grasp of the English language and do not have an understanding

of what their rights are in respect to working longer hours and sometimes in dangerous conditions. This to me, as an advocate for a fair day's pay for a fair day's work, is unacceptable. Migrant workers have also been faced with life-threatening situations, and some have lost their lives. However, because their situation of being in Australia is dependent on their employment, some have been afraid to speak out about these atrocities.

In September 2006, ACTU President, Sharan Burrow, spoke about the plight of Filipino chefs who were treated unfairly under the 457 visa program in 2005. Approximately 30 Filipino chefs and cooks were recruited and charged 100,000 pesos, or A\$2,500, each to secure their jobs in Australia. They flew into Sydney and then, unknown to them, they were brought to the nation's capital. Here, they were 'sold' to various restaurants. One of the workers made a complaint to the Department of Immigration and Multicultural Affairs about his pay and work conditions.

Another victim of exploitation under a 457 visa was Miriam Nhliziyo. The Zimbabwean registered nurse arrived in Sydney and was given just 10 minutes to sign her employment contract, otherwise she and her family would not have been allowed to continue on to Melbourne, where she was to work under a 457 visa. Another man, a migrant from India, had to shell out \$12,000 to a recruitment agent to get a job under a 457 visa but was sacked because he did not sign an Australian workplace agreement. I have also read of instances where people have been given limited access to sick leave, been dismissed for being pregnant or sick, been dismissed for looking after an ill family member, been sexually harassed or been overcharged rent.

The subclass 457 visa program has grown dramatically over the last four years in response to the current skills crisis across many sectors. It is important that we overhaul this 457 visa program so that migrant workers are treated with the same respect as Australian workers. Equal pay for migrant workers is a positive and equitable move by the government to fix this area of disparity.

New South Wales North Coast

Senator NASH (New South Wales) (1.30 pm)—I wish to inform parliament about my visit with the Nationals Leader, Warren Truss, to the New South Wales North Coast last week. After arriving late Monday, we started early Tuesday when Warren Truss was the keynote speaker at the Kingscliff and District Chamber of Commerce breakfast. The chamber is extremely well run by local businessman Alan McIntosh, who, as it happens, was in parliament this week for meetings with various shadow ministers. Mr Truss's address on economic issues, particularly the financial crisis and its impact on local small business, was well received by the 60 or so small business people and community leaders who attended. I thank Alan McIntosh, Idwall Richards and the Kingscliff community for the warm welcome afforded to us.

We then went on to meet the Tweed Nationals MP, Geoff Provest, for a comprehensive briefing on Tweed issues. Geoff is known in the NSW parliament as 'Mr 100 per cent for the Tweed', and it is easy to understand why when you meet him. He is a great local champion fighting against a range of measures the NSW Labor government has taken against North Coast communities, particularly in its recent minibudget. These include downgrading the Tweed Hospital, the appalling taxing of parents to put their kids on school buses, partially closing the Tweed fire station, underfunding local schools, allo-

cating insufficient police resources and delaying the Pacific Highway upgrade.

We then went to Sexton Hill in Banora Point to again meet with representatives of the Community Highway Action Group. These good people are fighting alongside Geoff for the upgrade of the Pacific Highway at this awful black spot. They support community option C of the upgrade, which is superior to the RTA's preferred option B in every respect—except perhaps cost. The Labor government's preferred upgrade is great for passing B-doubles, but a nightmare for local traffic. Warren Truss was able to offer the community his full support. NSW Labor has just deferred the upgrade for two years; however, the Rudd government promised over \$200 million for the upgrade before last year's election, so it could proceed with or without the cooperation of NSW.

We enjoyed lunch at the South Tweed Sports Club with a great group of local people, including pensioners' advocate Don Morgan and his wife, Nancy; their friend Sue Hudson, with her seeing eye dog; Tweed skate park advocate Daphne White; Southern Cross University researcher Geraldine O'Flynn and her very bright teenage son Stuart Perry.

It was then off to Ballina for an afternoon tea with Ballina Shire Councillors, Keith Johnson, Ben Smith, Sharon Cadwallader, Robyn Hordern, Sue Meehan and General Manager Paul Hickey. Ballina is proud to have, under the leadership of Mayor Phil Silver, one of the most efficient councils in the state, with among the lowest rates. In the evening, the Ballina Nationals MP, Don Page, organised a great evening with local people at the highly recommended Shelly's on the Beach. Many thanks to Don's staffer Donna Cruz and the tireless local Nat, Kim McInnes, for all the work they put into organising the event.

In the morning, Don Page took us to Alstonville, where, unbelievably, the NSW Labor government is closing down the Tropical Horticulture Research Station. We held a protest outside the station. We were outside, because the NSW Labor primary industries minister denied us permission to visit the facility. We were joined by local media and key stakeholders including Robyn Amos, Managing Director of Australian Fruit Producers and a great lychee grower; Rebecca Zentfeld, who started growing coffee in the region thanks to research undertaken at the station; Jolion Burnett and Kim Jones from the Australian Macadamia Society; Natalie Bell from the Blueberries Association; and Kim Wilson, General Manager for Gray Plantations. All these people, their families, their employees and their communities depend to some extent on the 40-year-old research station. Labor is closing it along with seven others across New South Wales to sell off the land and raise cash. It is absolutely appalling and follows on the Rudd government's sell-off of six CSIRO ag stations earlier this year.

We then travelled to Harwood Island to meet the people at Harwood Island Slipway, particularly Ross Roberts and Gio Cervella. They build some amazing boats there between the cane fields and the mighty Clarence River. It is quite an extraordinary sight to see when you are driving through cane fields and there is a ship mast sticking up in between the rows of cane. It was also an opportunity to meet probably one of the most interesting and extraordinary gentleman I have met in quite some time—a fellow by the name of Max Hayes, an old seafarer, who is quite amazing in his ability to build, make and engineer all types of unknown things.

At Slipway, they have just completed a new million-dollar sand-blasting shed. It was officially opened a couple of days later by the Page Labor MP, Janelle Saffin, who cor-

rectly described it as an 'excellent example of sustainable development'. What she failed to mention was that it was partially funded by a \$445,000 grant from the previous coalition government's Sustainable Regions program. The irony is that Labor has since abolished Sustainable Regions, claiming it is National Party pork barrelling.

We moved on to Grafton to a meeting organised by Tony Wade of Timber Communities Australia. This was attended by around 30 representatives from the local timber industries, which remain strong despite years of aggression from Labor governments. They are concerned and confused about Rudd Labor's emissions trading scheme. We did our best to explain the government's policy to them—something Labor has failed to do. We finished off the visit with a dinner in Grafton with the Clarence Nationals MP, Steve Cansdell, and local community leaders.

I would again like to thank everyone involved for a very successful visit. Warren Truss and I left the region better informed than ever about the concerns of local people, including the poor representation they are getting from their federal Labor members of parliament. We look forward to returning to the North Coast. In fact, I will be there on Saturday to join in protests against NSW Labor cuts to local hospitals and federal Labor's failure to keep its election promise that Kevin Rudd will fix our hospitals.

**Sitting suspended from 1.37 pm to
2.00 pm**

QUESTIONS WITHOUT NOTICE

National Broadband Network

Senator MINCHIN (2.00 pm)—My question is to the Minister for Broadband, Communications and the Digital Economy, Senator Conroy. Now that Telstra has confirmed that it is not prepared to submit a formal bid in response to the government's National Broadband Network request for

proposals, is it not the case that the government's tender process has effectively collapsed?

Senator CONROY—I thank Senator Minchin for his ongoing interest. Today is a significant milestone in the government's NBN request for proposals. In fact, it is a significant day for the Australian telecommunications sector. I have here media statements from Axia, Optus, Telstra, Transact and Aca-cia indicating that they have submitted proposals to build the National Broadband Network. The number of bidders competing for the right to build the National Broadband Network is a vindication of the government's commitment to an open, competitive process facilitating the rollout of this important infrastructure. It is clear from the public statements of bidders to date that the government's process has produced substantial competitive tension amongst proponents. This competitive tension was important to maximising the quality of proposals received by the government. This competitive tension will ultimately ensure a better outcome for Australia. This has been the government's overriding objective for the process all along. The government's independent expert panel will now get down to work and assess these proposals. The request for proposals states that the expert panel will have eight weeks to evaluate these proposals and provide a report to me. It is, however, important to emphasise that the RFP process for the NBN is still live. *(Time expired)*

Senator MINCHIN—Mr President, I ask a supplementary question. I refer the minister to Telstra's statement today in which they say that their detailed bid has been prepared but 'could not be submitted due to a number of unresolved issues in the government's request for proposals.' Why has the minister sought to mislead this Senate by suggesting that Telstra has submitted a bid?

Senator CONROY—Selective quoting is what you expect from a party that consistently failed to deliver after 18 failed broadband plans in nearly 12 years. It is no surprise to see this opposition trying to undermine the process. Let me read to you from the Telstra press release: 'Telstra believes the Government can consider its proposal under the existing terms of the RFP'. It is pretty simple: Telstra think they have put in a proposal. It could not be clearer than that. So let me be clear: as I was saying, it is, however, important to emphasise that the RFP process for the NBN is still live. As a result, I cannot pre-empt the words of the expert panel—*(Time expired)*

Senator MINCHIN—Mr President, I ask a further supplementary question. I ask the minister: is it not the case that the terms and conditions of the government's RFP prevented entering into negotiations with Telstra in relation to the NBN, given its clear failure to lodge a formal bid?

Senator CONROY—I guess when you have already made the announcement on behalf of Telstra that they did not put in a bid, Senator Minchin, you want to ignore what is stated here.

Senator Minchin—Mr McGauchie told me they aren't submitting a bid. You are misleading the Senate.

Senator CONROY—I am reading from a statement by Telstra's chairman, Donald McGauchie. It says, 'Telstra believes the Government can consider its proposal under the existing terms of the RFP'. So Telstra have stated that they believe that it can be considered.

Senator Minchin interjecting—

Senator CONROY—I am sorry to disappoint Senator Minchin.

Opposition senators interjecting—

The PRESIDENT—Order! Senator Conroy, resume your seat. Shouting across the chamber so the chair cannot hear the answer is disorderly.

Senator CONROY—Thank you. As I have been trying to make clear to those in the chamber, the expert panel will now consider the proposals. They will now consider the proposals and they will then make a recommendation. And it is a live process, so I will not be commenting on the content of individual— *(Time expired)*

Dr Bernhard Moeller

Senator JACINTA COLLINS (2.05 pm)—My question is to the Minister for Immigration and Citizenship, Senator Evans. I refer to the case of Dr Bernhard Moeller and his family, who were refused permanent visas by the Department of Immigration and Citizenship because of the significant public health and community care costs their son's health condition would incur. Could the minister please update the Senate on this matter?

Senator CHRIS EVANS—I thank Senator Collins for her interest in this case and for her representations to me. I was advised last night that Dr Moeller's appeal to the Migration Review Tribunal had been unsuccessful. By law the minister cannot intervene until such time as a tribunal or court upholds the Department of Immigration and Citizenship's decision to refuse a visa. This morning I received a request from Dr Moeller that I intervene in the family's case. A short time ago my office contacted Dr Moeller to advise him that I have granted permanent visas to the family.

Dr Moeller and his family are a compelling case. The family moved to Horsham in Victoria two years ago on a temporary skilled migration visa in response to the severe rural doctor shortage. The family's application for permanent residency was refused by the department last month—I must

stress, in accordance with the law—after a Commonwealth medical officer assessed that Dr Moeller's 13-year-old son, Lucas, would incur significant public health and community care costs due to his Down syndrome. Where a medical officer of the Commonwealth has assessed a visa applicant as having a health condition that is likely to result in a significant cost to the Australian community or prejudice the access of Australians to health care or community services, the law requires that this decision must be accepted by the department.

As minister, I can take into account all the circumstances, and it was clear to me that Dr Moeller and his family are making a very valuable contribution to their local community. Dr Moeller is providing a much needed service in the area. The family have integrated very well and they have substantial community support, including of course from the Victorian Premier, their local member, Mr Forrest, and a range of parliamentarians. Their continued presence and contribution to Australia will be beneficial to our society and I am pleased that they have chosen to call Australia home. I wish to express my regret at the distress this has caused Dr Moeller and his family and I look forward to them becoming citizens. *(Time expired)*

Senator JACINTA COLLINS—Mr President, I ask a supplementary question. I would first like to commend the minister for his handling of this matter. Can the minister advise what steps he is taking to ensure this does not happen to other migrant families working in Australia with similar circumstances who may be seeking permanent residency?

Senator CHRIS EVANS—The case of Dr Moeller and his family has publicly highlighted concerns that I had expressed and raised recently after having to intervene in a small number of similar cases involving

children with a disability in families seeking permanent visas. Currently, all applicants for permanent visas must meet health requirements and any health or community care with significant cost implications can lead to the health requirement not being met and a visa refused. When assessing the health requirement, the cost is taken into account along with state related costs such as educational needs, accommodation and community care. But no assessment of the individual's particular circumstances occurs. I have consulted with the Hon. Bill Shorten, the parliamentary secretary for FaHCSIA with responsibility for disability services, and he and I will ask the Joint Standing Committee on Migration to inquire into the treatment of disability in the context— (*Time expired*)

Senator JACINTA COLLINS—Mr President, I ask a further supplementary question. Can the minister expand on the concerns about how provisions in the health requirement impact on people with disabilities seeking permanent residency?

Senator CHRIS EVANS—As I said, I am seeking to have the Joint Standing Committee on Migration inquire into the immigration treatment of people with disabilities. I have also sought to encourage state and territory leaders to support an amendment to the migration regulations that will allow for a possible waiver of the health requirement for permanent visa applicants in areas of demonstrated need. If the states and territories agree, a waiver will be available for onshore applicants and their dependents who do not meet the health requirement. The regulations will enable the department to waive the health requirement after seeking input from the states and territories. The regulations have been drafted and require the agreement of the states and territories because there are state related costs such as special educational needs, assisted accommodation and community care. I urge the states and territories to

sign up to this agreement because that will assist other families who may be in a similar situation to the Moellers.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the chamber of a parliamentary delegation from the Kingdom of Saudi Arabia led by the speaker of the Shura Council, Dr. Saleh bin Homaid. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate. With the concurrence of honourable senators, I propose to invite the speaker to take a seat on the floor of the Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Budget

Senator IAN MACDONALD (2.11 pm)—My question is also to Senator Conroy. The minister can stop shaking, because it is not about the broadband fiasco but in his role representing the Treasurer. Will the minister rule out issuing debt, or in any other way borrowing, to fund the government's infrastructure programs?

Senator CONROY—I thank Senator Macdonald for what may be the first question he has ever asked me in question time. As I said earlier this week in response to a question, in MYEFO the government is forecasting a modest surplus; however, as I have also said, as global conditions deteriorate that position will become tougher and tougher. Let me reiterate that the Rudd government remains committed to taking whatever action is necessary to strengthen growth and limit the impact of the global recession on Australian jobs.

Our strategy is to run budget surpluses on average over the medium term and to allow the automatic stabilisers in the budget to do their job. This is the position of a responsible

government. MYEFO made it clear that the global financial crisis and the recession that has resulted have taken \$40 billion off the budget surplus over the forward estimates. MYEFO is a reminder that, notwithstanding the sound state of our economy and the regulatory framework that underpins it, our budget is not immune from the global financial crisis, which has delivered a global recession and budget deficits all around the world. To put it into context for those opposite, some of the largest economies in the world are forecasting budget deficits in 2009. Specifically, the following countries have forecast budget deficits—at the stated shares of GDP—in 2009: the United States, minus 4.6— (*Time expired*)

Senator IAN MACDONALD—Mr President, I ask a supplementary question. My question was about government infrastructure programs and whether the government would be borrowing or issuing debt for them. I am sure that the minister is aware that the Building Australia Fund will have a capital of \$12.6 billion. How much of that proposed capital will have been provided by the Rudd government and how much of that capital will have come from the surpluses built by the former coalition government?

Senator CONROY—Again we have the situation where we are asking questions across different representational responsibilities, but I am happy to give Senator Macdonald some information. The government remains strongly committed to a nation-building agenda, which is a key part of our Economic Security Strategy. The government has established the Building Australia Fund, the Education Investment Fund and the Health and Hospitals Fund to fund critical economic and social infrastructure. Legislation to set up these funds will be introduced shortly. We have already injected \$26 billion into the funds, including \$12.6 billion into the Building Australia Fund.

Opposition senators interjecting—

Senator CONROY—It is your money—exactly right. As I said, we have already injected \$26 billion into the funds, including \$12.6 billion into the Building Australia Fund. (*Time expired*)

Senator IAN MACDONALD—Mr President, I ask a further supplementary question. The minister has mentioned the \$12.6 billion. Isn't it a fact that \$7.5 billion of that comes from the 2007-08 surplus created by the Howard government, \$2.7 billion of it comes from the T3 proceeds, which was done by the Howard government, and that the balance of \$2.4 billion comes from the Communications Fund, which was also established by the Howard government? I repeat: how much is the Rudd government putting into the Building Australia Fund and how much is the previous coalition government responsible for? If, Minister, you are going to suggest to me that the Labor Party is going to put anything into it, how could anyone believe that when last time you were in government you left a deficit of some \$96 billion?

Senator CONROY—I will reiterate what I have already said in a previous answer, because Senator Macdonald has chosen to ignore the answers that have been given when he asked the questions. The Rudd government has established the Building Australia Fund, the Education Investment Fund and the Health and Hospitals Fund to fund critical economic and social infrastructure. As I mentioned, legislation to set these funds up will be introduced shortly and we will be looking forward to your support for that. We have already injected \$26 billion into these funds, including \$12.6 billion into the Building Australia Fund. It could not be clearer than that. The government has asked Infrastructure Australia to bring forward its in-

terim national priority list by December of this year— (*Time expired*)

Broadband

Senator LUDLAM (2.18 pm)—My question is to the Minister for Broadband, Communications and the Digital Economy, Senator Conroy. I refer to the government's national broadband network tender process and associated issues for end users of the network, which has been significantly shaped by the previous government's decision to privatise what is fast becoming an essential service. The winner of the tender to build the national broadband network will have control of what is essentially a natural monopoly. Given the high degree of concern expressed in the telecommunications industry about monopolistic and litigious practices by Telstra, will the minister consider in your deliberations the possibility of public ownership of the national broadband network so that the public interest is prioritised at all times over the interests of shareholders?

Senator CONROY—I thank Senator Ludlam for that question and for his indication that he would be asking questions on these broad issues. I do appreciate that.

Senator Ferguson interjecting—

Senator CONROY—I thought that that was actually your proposal, Senator Ferguson.

The PRESIDENT—Senator Conroy, just address Senator Ludlam's question.

Senator CONROY—I apologise. The Deputy President is interjecting very rudely and I was distracted by him! Senator Ludlam is actually trialling what you wanted, Senator Ferguson.

When the government established the national broadband network process, it indicated that its preference was for an equity contribution of \$4.7 billion. Depending on the final size of the network, that could be 50

per cent or it could be 30 per cent. That is actually stated in the RFP. That is in actual fact our preferred model, but we are prepared to consider other models. We have always made it clear that we believe that there is a role for the federal government. That contrasts to those opposite who, for many years, apart from 18 pork barrel efforts, completely and utterly rejected any public participation in the telecommunications sector. Your predecessors, Senator Ludlam, and mine all voted against the privatisation of Telstra. It was a great disappointment that those opposite chose to go against the will of the majority of Australians by privatising Telstra. We have made it clear in the RFP process that we are prepared to consider this as one of the options. In fact, we expressed it as our preferred option. Let me be clear about this: we have put forward \$4.7 billion to deliver the necessary outcomes for the benefit— (*Time expired*)

Senator LUDLAM—Mr President, I thank the minister for the answer and I ask a supplementary question. My supplementary question goes to the end users issues which I foreshadowed. Can the minister tell us the status of the new consumer protection body, the Australian Communications Consumer Action Network, in particular what date it will be established, who is on it and what role this network will play in the deliberations on the national broadband network tender?

Senator CONROY—The government has already taken active steps to improve the level of consumer representation in the telco sector. Unlike the previous government, we actually care what consumers and their representatives think. Better representation and a stronger voice for consumers lead to better consumer outcomes. However, for many years the consumer voices have been somewhat fragmented. Earlier this year, after extensive consultation with the sector, we sup-

ported the establishment of a new national peak body to provide telecommunications consumers with a stronger, unified voice. This body, the Australian Communications Consumer Action Network, ACCAN, has already established its founding board and constitution. This is an important development for consumers, who, through this new group, will have a more powerful voice. They will be better represented in the establishment— (*Time expired*)

Senator LUDLAM—Mr President, I ask a further supplementary question. Perhaps the minister could take this on notice. My question was specifically on what role this network will be playing as the tender process unfolds. Further to that, given that the operator of the network will, in effect, have control over a natural monopoly and that Telstra has indicated that it wants an 18 per cent return on investment, which according to some commentators could raise broadband prices by 50 per cent per month for users, what measures will be taken to protect consumers from price-gouging, particularly in regional areas?

Senator CONROY—I will happily get you the rest of the information on ACCAN. I think you asked for its membership as well. There is no more important outcome than delivering faster, cheaper broadband to Australians. For 12 years, those opposite just did not get it. They did not understand the transformation that is taking place. They are happy now to retreat back to the old arguments and the old debates. Let me be clear: we are determined to deliver faster and cheaper broadband. We are putting in place, as part of the RFP—it is there in the documents, which people have submitted against today—that they have to—

Senator Minchin—Telstra haven't.

Senator CONROY—You can continue to believe what you like, Senator Minchin, but I quoted to you exactly, word for word—

The PRESIDENT—Senator Conroy, ignore the interjections.

Senator CONROY—I accept your admonishment. We have put in place a range of measures in the RFP to ensure those outcomes. I am sure, as you would understand, that those opposite— (*Time expired*)

Climate Change

Senator BUSHBY (2.26 pm)—Does the minister agree with the member for Denison, Mr Kerr, that the zinc works is an important industry in southern Tasmania and that the government takes Nyrstar's concerns relating to the Carbon Pollution Reduction Scheme seriously?

Senator WONG—I am very pleased to rise and respond to this question. As I have said previously on a number of occasions, we put out a green paper in July which set out Labor's plans to reduce carbon pollution and to tackle climate change—

Opposition senators interjecting—

Senator WONG—unlike those opposite. Those plans were put out in a green paper particularly for the purpose of consultation. I am pleased to say, contrary to some of the assertions which have been made in here, that consultation has generally been constructive and extremely useful for government consideration of these issues.

I was very pleased to receive a very courteous letter from Nyrstar in relation to the way in which this issue had been previously discussed in the chamber. I know Senator Fisher knows what I am talking about. I think it is beholden on us in this place to ensure that we appropriately utilise information given to us. As to the issue of Nyrstar, I am pleased to say that I have had very constructive discussions not only with the member

for Denison but also with other Tasmanians, including Tasmanian senators, about their issues, which they put to the government on behalf of their constituents, and their views about the way in which the proposals in the green paper are perceived by some people. I have found those consultations very useful. I have also met face-to-face with Tasmanian members of the government and members of the community from Tasmania.

I will say this: the government made it clear, when we put our green paper out, that we recognised that the introduction of a carbon price— (*Time expired*)

Senator BUSHBY—Mr President, I ask a supplementary question. Thank you for mentioning the constructive meetings that you had. Why was Nyrstar not invited to today's round table meeting, attended by you, to discuss Nyrstar's concerns about the proposed Carbon Pollution Reduction Scheme?

Senator WONG—I met with members of the Tasmanian government today as well as some community representatives—

Senator Abetz—A Labor mayor.

Senator WONG—Senator Abetz interjects, 'A Labor mayor.' I did not ask what her party affiliation was. She was the mayor.

Senator Abetz—You did.

Senator WONG—Actually, I did not. I had a request for a meeting with a range of individuals, to which I acceded. Again, I remind senators opposite that my department, from memory, has met some four times with Nyrstar, as I said on the last occasion. We will continue to ensure that we consider the information provided by them. We are committed to consulting on these issues— (*Time expired*)

Senator BUSHBY—Mr President, I ask a further supplementary question. Is it a fact that every attendee at today's meeting was a card-carrying member of the Labor Party,

and is this the way in which the government intends to conduct its so-called consultation with the other 999 identified companies at risk from the Carbon Pollution Reduction Scheme?

Senator WONG—First, we on this side understand the risks of climate change. It is one of the key differences between us, before the election and now. Second, as I said previously, we have met with Nyrstar, as we have met with a range of other companies, and I am very grateful to the senior individual in Nyrstar for his most courteous letter, provided to me after this issue was previously raised in the chamber. The fact is, my department has met with Nyrstar, just as the government has met with a range of business leaders from a range of industry sectors. This government will consult and is consulting, unlike members of the opposition, like Senator Boswell, who write letters to business people demanding that they oppose the government's scheme. So let's be clear who in this chamber is willing to consult.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the chamber of a parliamentary delegation from the Parliament of Singapore, led by the Speaker, Mr Abdullah Tarmugi. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate. With the concurrence of honourable senators, I propose to invite the Speaker to take a seat on the floor of the Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Workplace Relations

Senator ARBIB (2.31 pm)—My question is to Senator Ludwig, the Minister representing the Minister for Employment and Workplace Relations. It is on a topic that I know both sides of the chamber have great interest

in: industrial relations. Can the minister inform the Senate how the Rudd government's Forward with Fairness policy will ensure that employers and employees will have a fair and balanced framework of rights and obligations that is easy to understand and that will reduce the compliance burden on business?

Senator LUDWIG—I thank Senator Arbib. I know he has a deep interest in industrial relations. This is the Australian government's new era of workplace relations. Yesterday the Rudd government moved forward with its plan to scrap the disastrous Work Choices legislation of the Howard era. In fact, even the opposition are now distancing themselves from the Howard legacy—

Senator Chris Evans—Some of them.

Senator LUDWIG—but maybe not all. We delivered on our promise to the Australian people at the last election to replace Work Choices with the Labor policy Australians endorsed, Forward with Fairness. Labor's policy provides for fair enterprise bargaining, because senators on this side realise that to have fairness in the workplace you also have to have fairness in the industrial relations system.

We are condemning individual statutory agreements to the scrap heap of history, along with Work Choices. We are going to introduce good faith bargaining—something that is a distant song for the Howard era—less regulation regarding the content of agreement making, the creation of a single stream of agreement making and a streamlined process for the approval of agreements. Of course, that will reduce the compliance burden for business. Labor will create a new independent umpire, Fair Work Australia, to facilitate bargaining for the low paid, because we on this side of the chamber are here to look after the low paid, unlike those oppo-

site during the Howard era who punished the low paid.

Under Work Choices, employers and employees had to navigate seven agencies. Fair Work Australia will bring those agencies together in a one-stop shop to provide the public with practical information and assistance on workplace issues and to ensure compliance within workplace laws. Forward with Fairness will provide for working Australians to take unfair dismissal action should that be necessary. The new system will remove the—*(Time expired)*

Senator ARBIB—Mr President, I ask a supplementary question, and I note the silence on the other side of the chamber. Can the minister inform the Senate how the new workplace relations system will ensure that awards are restored and that they contain a fair and decent safety net of conditions?

Senator LUDWIG—The Liberal Party introduced a system of workplace relations that truly misrepresented Australian values. It forced it onto the Australian people, and when Australians had an opportunity to say no, at the last election, they did so. The Liberals wanted awards to wither away. What we on this side of the chamber say is that modern awards will play a valuable role in industrial relations. They will ensure not only that employees have the effective right to bargain collectively but that they will also be supported by standards that apply to all employees covered by the federal award system. The Rudd government will ensure modern awards include minimum wages in classifications and types of employment, overtime rates, penalty rates, allowances, superannuation and other matters to ensure that we have a truly modern award system. It will also include 10 national employment standards to ensure that not only issues such as public holidays—*(Time expired)*

Senator ARBIB—Mr President, I ask a further supplementary question. Most importantly, can the minister confirm to the Senate why it is necessary that the coalition pass the new Forward with Fairness policy, reject Work Choices, which the Australian public voted out at the last election, and ensure that we create a truly national system?

Senator LUDWIG—The electorate endorsed our policy at the last election and voted to ensure that Work Choices would be dead—

Honourable senators interjecting—

The PRESIDENT—Order, on both sides!

Senator LUDWIG—As I was saying, the electorate voted in overwhelming numbers to ensure that Work Choices was dead, and Mr Malcolm Turnbull said that the coalition would not vote against the legislation. He admitted Work Choices is dead and that the Australian people have spoken. I would encourage those on the other side in the Senate to heed what their leader has said.

But what amendments will the coalition consider? They have said they may still want to tinker. But what they really want to do is to bring back those extreme industrial relations laws that the Howard government introduced. Those on the other side of the chamber do not want to let go of the Howard legacy. They want to ensure that the workplace relations Forward with Fairness legislation is not implemented in full. (*Time expired*)

Royal Australian Navy

Senator JOHNSTON (2.37 pm)—My question is to the Minister representing the Minister for Defence, Senator Faulkner. With Australia's Navy on Christmas holidays for the next two months, can the minister reassure this chamber and guarantee that the ability of the Navy to be available at short notice to deal with people smugglers, illegal fishers

and any other maritime incidents will not be diminished in any way during that period?

Senator FAULKNER—I thank the shadow minister for defence for asking the first defence question from the opposition in this chamber since the Rudd government was elected—in excess of a year.

The issue in relation to the Navy program and Christmas stand-down is an important issue. As I hope senators would understand, our Navy will improve recruitment and retention by changing Navy culture and improving workplace balance. This recognises that significant change is required to prepare Navy for the future with respect to new ships and equipment, current and future work practices and expectation, and, I might say, the drive for efficiencies. The initiative is a three-pronged program involving leadership and values, structural reform and cultural change and will be in place by early 2009.

I am asked the important question by Senator Johnston of whether the stand-down period will affect capability. I can assure Senator Johnston that the reduced activity period is one example of how Navy will be enabled to continue delivering capability while also looking after its people. Operational requirements will still be met throughout this period, and of course, as senators would appreciate, Australia's national security remains our No. 1 priority. (*Time expired*)

Senator JOHNSTON—Mr President, I ask a supplementary question. I thank the minister for his attempt at the answer. Given the Navy says that only 500 Navy personnel will be on active duty over these coming two months, including overseas deployments, exactly how many of Australia's 12 frigates and 14 patrol boats will be on duty to protect our borders during the period?

Senator FAULKNER—I thank Senator Johnston for his supplementary question.

Over the Christmas period, half the patrol boat fleet will remain on duty protecting our borders, while our frigate HMAS *Parramatta* and the Australian led Combined Task Force 158 personnel will remain on duty in the Middle East. As in the past, the Navy stands ready to respond swiftly to any unforeseen emergencies in our region with a frigate on standby on both the east and the west coast.

Senator JOHNSTON—Mr President, I ask a further supplementary question. I am obliged to the minister for that response. Having signalled to the rest of the world that our Navy is laid up for Christmas, just how long will it take for our Navy to be able to respond to emergency tasking over the December-January stand-down period?

Opposition senator—A very important question.

Senator FAULKNER—I accept the interjection that was made by a member of the opposition that this is an important issue. Let me say in response to the second supplementary question of Senator Johnston that the Navy's preparedness will not be affected by the plan to stand down non-essential personnel in order to give them and their families the rest and respite that they have earned and that I hope members of the opposition—in fact I hope all senators—would agree is well deserved.

Alcohol Advertising

Senator FIELDING (2.43 pm)—My question is to the Minister representing the Minister for Health and Ageing, Senator Ludwig. Given that the National Centre for Education on Training and Addiction released statistics this week that say 50 per cent of both girls and boys are drinking alcohol from the age of 14, which means girls are now starting to drink alcohol as early as boys because of alcohol advertising, and that alcohol companies spend \$40 million a year on

advertising during sports programs because, as the Foster's spokesman Troy Hey says, sport is 'popular and it's a way of us getting our brands in front of people,' and that research shows that one in three Australian kids under the age of 12 see ads on TV promoting alcohol, because of a crazy loophole that allows alcohol advertising to appear at any time of the day during sports programs, when will the government clamp down on alcohol advertising on television and stop alcohol ads from appearing during daytime sporting programs, especially given 72 per cent of people support restricting alcohol advertising until after 9.30 pm?

Senator LUDWIG—I thank Senator Fielding for his interest in this area, which is ongoing. The revised draft Australian alcohol guidelines for low-risk drinking are currently being finalised by the National Health and Medical Research Council, the NHMRC. On 24 August 2008 the *Age* newspaper ran an article claiming the delay in releasing the guidelines was due to public outcry about how restrictive they are.

I am aware of the situation faced by young people and the difficulty in ensuring that the anti-binge-drinking message gets out. Last Sunday, on 23 November 2008, another phase of the government's anti-binge-drinking campaign kicked into action with the screening of what, quite frankly, is a hard-hitting and in-your-face campaign, themed 'Don't turn a night out into a nightmare'. This issue continues to raise itself.

The *Sunday Age* also reported on a company attempting to get around the alcopops crackdown by selling drinks that look and taste exactly like alcopops but apparently use alcopops which can technically be defined as beer. As I have said in the past, the government will take a very dim view of anyone who attempts to artificially circumvent our crackdown on the alcopops loophole. The

minister has been very firm on this issue and continues to ensure that we address it, for the sake of both the youth and the alcopops industry. There is a need to ensure that we continue to address the issue of how we— (*Time expired*)

Senator FIELDING—Mr President, I ask a supplementary question. I acknowledge that the government has begun its extensive television advertising campaign. Is the minister aware that research shows that young people are concerned about their friends' welfare but need help to raise difficult topics with them and that health information labels on alcohol products would help friends raise this difficult topic? So I ask: when will the government put health labels on alcohol products, with effective key messages that back up the TV campaign, warning of the damage that excessive alcohol consumption can cause?

Senator LUDWIG—I thank Senator Fielding for the question. In respect of the detail, what I can also go through is that the government are addressing the issues of alcohol abuse, particularly to do with ready-to-drink products. We are doing that by closing the alcopop tax loophole. We are also dedicating some of the revenue to preventative health measures. That process includes \$14.4 million in community-level initiatives, because it is about confronting the culture of binge drinking, in partnership with sporting and community organisations. We are also dealing with how we intervene early to assist young people and to ensure that they assume responsibility. It is about ensuring that young people do undertake responsible drinking, do understand the nature of the products that they consume and do understand the level of alcohol in those drinks. (*Time expired*)

Senator FIELDING—Mr President, I ask a further supplementary question. Is the minister aware of the following statistics? Un-

derage drinkers currently contribute \$216 million per year to the coffers of the liquor industry. Alcohol related admissions to Victorian hospital emergency rooms have risen by 10 per cent for females and five per cent for males in the last decade. It costs Australia \$15.3 billion every year to mop up the damage caused by excessive alcohol consumption. Why is the government not prepared to do the hard yards by closing the crazy loophole allowing for the advertising of alcohol on television at any time of the day and also by introducing warning labels as soon as it can? Is it because the government is blind drunk on alcohol revenue?

Senator LUDWIG—I take the question from Senator Fielding as a serious one. The critical issue here, the key statistic in this area, is that the proportion of teenagers between 12 and 17 who chose RTDs as a preferred drink rose from six per cent to 14 per cent for boys and from 23 per cent to 48 per cent for girls. Of the teenage girls who drink at risky levels, the proportion who also consumed RTDs on their last drinking occasion rose from 21 per cent to 78 per cent. It is necessary that the government undertake the program that we have outlined, which includes a \$20 million campaign and advertising that confronts young people with the cost and consequences of binge drinking. It is important that we continue to ensure that that message gets out and that we work with sporting and community organisations on how we address this. It is a serious issue. (*Time expired*)

Council of Australian Governments

Senator CORMANN (2.49 pm)—My question is to the Minister representing the Prime Minister, Senator Evans. Has the government received any representations or had any discussions on issues relating to this Saturday's COAG meeting as a result of the pre-

COAG strategy meeting held by Labor state and territory treasurers?

Senator CHRIS EVANS—I am not sure that I fully understand the question from the senator. What I do know is that a lot of preparation goes into COAG meetings. There is a great deal of work conducted by officials from state and Commonwealth governments on the agenda, to try and reach agreed positions and to do the necessary research work and exploratory work that will facilitate the ministers, the Prime Minister and premiers to reach conclusions on their deliberations. So, obviously, a great deal of work goes into those meetings. Former ministers of the Howard government would be well aware of that. In many ways, the COAG meeting is a culmination of a lot of work that has been done by officials in the lead-up. Certainly there would have been preparations done.

In terms of my own portfolio, I am not involved in the COAG, so I have no personal knowledge of that arrangement, but it stands to reason that there has been very serious engagement with the states and territories in the lead-up to COAG. The agenda has been prepared and no doubt that will be considered at the meeting. If there is anything further I can help the senator with, I will see whether the Prime Minister has got anything to add. But, as I said, I think it is self-evident that there is a lot of preparation before the meeting. No doubt that will be used to assist the deliberations of the ministers at the COAG meeting.

Senator CORMANN—Mr President, I ask a supplementary question. Given that the minister confirmed that there were such preparations for the COAG meeting, does the Commonwealth believe that it was appropriate that the Western Australian Treasurer was excluded from the pre-COAG strategy meeting just because he is a Liberal?

Senator CHRIS EVANS—I can think of a lot of reasons why you would not invite Troy Buswell to a meeting—a lot of reasons—because his behaviour has been of less than the required standard. I certainly would think twice about meeting with him.

Honourable senators interjecting—

The PRESIDENT—Order! Senator Evans, resume your seat. On both sides, order! It is completely disorderly to be shouting across the chamber from both sides. The minister has 33 seconds remaining to answer the question.

Senator CHRIS EVANS—I would regard it as quite prudent not to invite Mr Buswell to certain meetings—not because he is from WA, not because he is a Liberal but because of his own personal characteristics that many of us find offensive.

Honourable senators interjecting—

The PRESIDENT—Order! On my right! People shouting across the chamber is not going to allow question time to proceed. Senator Macdonald is rightly standing on his feet. I believe he wants to take a point of order. He is entitled to be recognised.

Senator Ian Macdonald—Mr President, I do raise a point of order. I refer the President to the provisions of the standing orders which prevent ministers from referring disrespectfully to other members of parliament.

Honourable senators interjecting—

The PRESIDENT—Order! When senators come to order I will proceed. I have Senator Macdonald, who has taken a point of order, and I have Senator Ludwig waiting to get to his feet. I call Senator Ludwig.

Senator Ludwig—Mr President, on the point of order: I would submit to you that there is no point of order. There was no imputation that was related to another member of a chamber. Senator Evans was simply stating a factual response to a question that was

put by the senator on the other side. I would ask you to have a look at the record to confirm that.

The PRESIDENT—There is no point of order, but, Senator Evans, I would draw your attention to the fact that there are 18 seconds left to answer the question, and you should be careful about not imputing any other motives to a person in another parliament.

Senator CHRIS EVANS—I have completed my answer, Mr President.

Senator CORMANN—Mr President, I ask a further supplementary question. Doesn't the minister's partisan answer prove that cooperative federalism is nothing more than a political slogan without any substance? Has the Prime Minister taken any action to reprimand state and territory Labor governments or at least reminded them of the need to work cooperatively, including with the state of Western Australia? If the Prime Minister has been too busy since this became public, given his international commitments, will he do so at the meeting on Saturday?

Honourable senators interjecting—

The PRESIDENT—Order!

Senator CHRIS EVANS—Can I say first of all—

Honourable senators interjecting—

The PRESIDENT—Senator Evans, resume your seat. I no sooner called 'order' than two people, one from either side, started up again. It is not fair to the person trying to answer the question. I understand that there will be interjections from time to time, but Senator Evans and other senators are entitled to be heard in silence.

Senator CHRIS EVANS—I actually think that the Premier of Western Australia, Mr Barnett, has indicated his support for cooperative federalism. The Prime Minister had a very positive meeting with the premier about that, and I hope that the WA govern-

ment continues to provide support for that approach. Mr Barnett is a person of strong reputation and he is a very reputable person. I think he and the Prime Minister had a good first meeting on working together in a cooperative way. I am sure that that relationship will continue and I hope WA provides a strong input into the COAG discussions on the weekend.

Women in the Workplace

Senator CAROL BROWN (2.58 pm)—My question is to the Minister representing the Minister for the Status of Women, Senator Wong. Can the minister outline to the Senate some of the challenges faced particularly by women in the workplace? Can the minister particularly advise the Senate on how women fared under the Howard government's Work Choices laws?

Senator WONG—I am very pleased to answer this question from Senator Brown, who, like everyone on this side of this chamber—unlike those opposite—understands the issues facing women in the workplace and the ways in which the Howard government's Work Choices legislation made life harder for so many Australian working women. We know that, despite all the advances over the years, women continue to earn—

Opposition senators interjecting—

Senator WONG—We know that women continue to earn less than men in our society. For example, starting salaries for graduates show that female graduates still start work on about \$3,000 less than men. I am sure senators will remember that, when we debated Work Choices in this place, Labor senators—and I also acknowledge the contribution of the crossbenchers on this—said that women, in particular, would be impacted by these changes. We know that many Australian women, courtesy of the Howard government's extreme laws, had basic employment conditions stripped away without compensa-

tion under Australian workplace agreements. We know that women on Australian workplace agreements have lower earnings when compared with the earnings of men. In fact, women on AWAs earn nearly 20 per cent less than men on AWAs.

Those on the other side should hang their heads in shame for imposing on already low-paid workers in this country a regime which stripped away wages and conditions, a regime which ensured too many women were on AWAs and earning less than they ought. Those opposite should hang their heads in shame. I am pleased to say that soon they will have the opportunity to remedy this mistake. They will soon have the opportunity to vote with the government to remove their extreme Work Choices legislation. (*Time expired*)

Senator CAROL BROWN—Mr President, I ask a supplementary question. I thank the minister for her answer. Can the minister also outline to the Senate some of the benefits of the Rudd government's Fair Work Bill for women in the workplace? In particular, can the minister outline how the 10 National Employment Standards will benefit women?

Senator WONG—The Labor government's Fair Work Bill will put in place a comprehensive safety net of employment conditions which will be made up of the 10 National Employment Standards as well as industry- and occupation-specific modern awards. This is to ensure that workers across this country have a comprehensive safety net—something that was removed by those opposite in their extreme and ideologically driven agenda to reduce the wages and conditions of Australian workers. Those opposite keep saying, 'Let's have evidence based policy.' Well, the cold, hard evidence is that your policy led to many women on AWAs earning less and certainly earning less than men on AWAs. Under our legislation, crucial

employment benefits will now be protected, including rest breaks, redundancy, overtime, and weekend and shift work— (*Time Expired*)

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

Senator Ferguson—Mr President, I wish to raise a point of order in relation to Senator Evans's answer to Senator Cormann's primary question. I raise standing order 193(3), which states:

A senator shall not use offensive words against either House of Parliament or of a House of a state or territory parliament, or any member of such House, or against a judicial officer, and all imputations of improper motives and all personal reflections on those Houses, members or officers shall be considered highly disorderly.

Mr President, I would ask you to look carefully at the *Hansard* transcript, as there was a lot of noise in the chamber at that time, because I believe that the Leader of the Government in the Senate was transgressing standing order 193(3) in his reflections on a duly elected member of another house who was elected by an overwhelming majority.

Senator Faulkner—Mr President, on the point of order: I do not believe that there is any accuracy in the statement that Senator Ferguson has made, though I do accept that an opportunity for you to reflect on the *Hansard* record is probably a sensible course of action for you to take. The words that appeared to upset some members of the opposition went to a description of 'personal characteristics'. They were the words used, I believe, by my leader in this chamber. I actually happen to believe that it was the interpretation that members of the opposition had about those words that is critical. I do not believe that, under any circumstances, that terminology be considered to be unparliamentary. It is merely an interpretation that some members of the opposition have. How-

ever, the substantive point that Senator Ferguson raises in relation to reflecting on the actual *Hansard* transcript is, I suppose, a sensible way to go in these circumstances.

Senator Ian Macdonald—Mr President, speaking to Senator Ferguson's point of order, I reinforce standing order 193(3), which does refer to 'all personal reflections' and indicates that they are 'highly disorderly'. There was a lot of discussion and noise in the chamber and perhaps, Mr President, you did not hear it, but I think the conduct of the Leader of the Government in the Senate really does require recognition as being highly disorderly.

I would just say that, if it is about one of us in the chamber, well, we are all big boys and girls and we can take it and give it back as much. But, when you are talking about someone in another house, who has no opportunity of refuting those personal slurs, I think it deserves a ruling from the President that the conduct of the Leader of the Government in the Senate was indeed highly disorderly.

Senator Chris Evans—On the point of order, Mr President, can I indicate that I am perfectly comfortable with the course of action suggested by Senator Ferguson. It has always been followed in the past. If the President has any concerns with anything I said—which I take to be in order—I would of course, as I always do, accept the ruling by the President. Senator Ferguson's suggestion is perfectly reasonable. My intention, I thought, was expressed appropriately. But, if that is not the case, Mr President, you will obviously come back to the chamber. So, rather than delay the chamber by trying to debate the issue, can I say that I think Senator Ferguson's suggestion is a perfectly reasonable procedure for us to follow.

The PRESIDENT—Order! On the points of order, I will take the path suggested by

Senator Ferguson. I think that is reasonable. But there is one thing I want to say at the start of my considering this matter. The behaviour at that time was completely reprehensible. I do not know what *Hansard* were able to record. I look forward to seeing what they were able to record. But it makes it difficult for the chair to intervene in these matters when both sides of the chamber are shouting at each other across the chamber. We need reasonable order. I understand that people will react and I expect people to react in certain circumstances, and that is understandable. But you need to give the person sitting in the chair a reasonable chance to hear what is going on as well, because some people in this place have very strong voices indeed. I will reflect on the matter and I will report back to the Senate.

**QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS**

Climate Change

Council of Australian Governments

Senator BUSHBY (Tasmania) (3.08 pm)—I move:

That the Senate take note of the answers given by the Minister for Climate Change and Water (Senator Wong) and the Minister for Immigration and Citizenship (Senator Evans) to questions without notice asked by Senators Bushby and Cormann today relating to the carbon pollution reduction scheme and to the Council of Australian Governments.

I am absolutely astounded at the answer provided by Senator Wong to my question regarding Nyrstar in Hobart. No admission was provided by her that she agrees with the member for Denison, Mr Duncan Kerr, that the Hobart zinc works is an important industry, nor any acknowledgement of the company's concerns about the devastating impact that the proposed CPRS will have on their business in Tasmania. All she provided to us

were the same old glib comments about consultation.

I think it is worth taking a look at the government's record on consultation and its approach in the last 12 months. Consultation is not something that the Labor government is particularly good at, despite its efforts to portray itself as otherwise. In fact, I think it is patently apparent that the government needs to check the definition of 'consultation'. It makes a lot of noise that it is always listening and widely consulting as part of the careful image it likes to spin. But does it ever listen? To me, and I suspect to most Australians, 'consultation' means listening to concerns and ideas—and here is the rub: actually considering the value of the concerns and ideas that are put to it and giving them due weight as part of its decision-making process. But this government clearly thinks that by merely holding some form of formal meeting—it calls it 'consultation'—that it has fully discharged its responsibilities and its promises to consult.

What is raised or is said at such meetings is totally irrelevant, because from that time on the government will always have the absolute defence that it consulted. 'What more can we do? We consulted.' I cannot tell you how many times I have sat in hearings of this chamber's economics committee over the past year and heard stakeholders recount over and over again how they have been consulted, how they have relayed clearly and accurately their real and valid concerns and how this Labor government ignored everything that they said and ploughed on with its original plans regardless. But the Australian public is awakening to the government's tactics of trying to fool them. The more it consults, and subsequently the more it ignores the matters raised by those it consults with, the more that Australians realise the government is trying to pull a swift one on them.

But you do not need to be awake to their tactics to be shocked by the astounding decision of the Labor member for Denison, Mr Duncan Kerr—and, incidentally, Denison is the electorate in which I live—to hold a roundtable meeting in Canberra today to discuss issues raised by Nyrstar. It is almost beyond belief that the federal member for an electorate which contains an operation employing so many people would organise a meeting with the federal minister responsible for a policy threatening all of those jobs and not even invite the company running that operation. To bastardise a quote from the comperes of the Australian *Top Gear* show, 'What was he thinking?'

It is worth looking at who the member for Denison did invite. There was the Mayor of Glenorchy—the suburban city in which the Nyrstar operation is located—a card-carrying member of the Labor Party. Also, there was the federal Labor member for Franklin, Julie Collins, and Tasmanian Labor senators Senator Carol Brown and Senator Polley, who is here today. So far, it sounds like a Labor Party branch meeting.

Senator Abetz—But not that big!

Senator BUSHBY—It would be a good size for a Labor Party branch meeting. It also sounds like a collection of people very unlikely to strongly object to what is decided in the Labor Party caucus, even if they make some appropriate noises of concern. Was there anyone else invited? Yes, there was. There were also representatives of—and wait for it—the AWU and the AMWU. But was the company involved present at this meeting? No.

Senator Abetz—Were they invited?

Senator BUSHBY—That was my next question: were they invited? No. Would that company have come if it had been asked? The answer would have been a resounding yes.

Senator Cash—Would they have been listened to?

Senator BUSHBY—That is a good point, Senator Cash. Here we have a roundtable meeting to address the issues raised by Nyrstar in respect of the threat to its Australian operations presented by the government's proposed Carbon Pollution Reduction Scheme—operations, which I remind the Senate, employ around 3½ thousand people in Port Pirie and about half of that number in Hobart. But no-one was invited from Nyrstar who could explain how the threat to its operations would actually materialise.

We have heard from the minister that her department has met with Nyrstar four times, but she has never met with Nyrstar. This meeting today would have presented an ideal opportunity for her to sit down with representatives from Nyrstar and to actually listen to their concerns and take them into account. No-one was present at the roundtable meeting who could meaningfully respond to the platitudes and diversions that would no doubt be put forward by the minister. (*Time expired*)

Senator FEENEY (Victoria) (3.13 pm)—I also rise to take note of the answers given by Senator Wong and Senator Evans in question time today. I can understand that these are very challenging and difficult times indeed for the other side. I can only imagine that, when they were trying to work out this morning what they would talk about today, they ran through the list: 'Fair Work; no, we can't talk about that. Broadband; no, we have a dreadful record there, too. What is another national issue of importance? Water. Well, we have completely failed on water. The global financial crisis? We have nothing to contribute there, either.'

These are the great issues of the day and those opposite remain mute. Perhaps in their despair they called their loyal friends in the

country auxiliary from the 'Notional Party'. But coming up with deep questions on matters of public policy is not the forte of our furry friends in the 'Notional Party', so no doubt they let them down too. So what do we have at the end of this potpourri? We have a question about the Labor Party's track record on consultation—and let me say what a fine and upstanding issue it is! When it comes to consultation or, more accurately, the complete lack of it, the other side are virtuosos. What is their track record on consultation? In recent times we have seen that wonderful and enlightening series *The Howard Years*, which gave us some wonderful insights into how seriously the other side take consultation. I particularly remember one poignant moment when the then Treasurer of the land, Peter Costello, and his loyal sidekick in finance, John Fahey, complained that no-one consulted with them about the announcement that there would be a GST. So consultation begins at home, brothers and sisters of the opposition, and you have a track record of delivering absolutely none. This party was led for 11 years by a man who deigned not to even consult his cabinet, let alone the community at large.

But, hang on, who else might we look at for your models of consultation? I dare say that if you had extended some of your consultation to your branch membership it would have been a magnificent improvement on the status quo. With whom did you consult when you were introducing the GST? With whom did you consult when you were considering Work Choices? I dare say that you exposed yourself to some critical thought when you were developing Work Choices. Those opposite have in recent times turned hypocrisy into a fine art. We have had questions on broadband—when these guys were responsible for 11 years of magnificent failure. We have had questions on IR—when, of course, it was those opposite who in gov-

ernment had a record that was second to none in its crushing effect on ordinary people. What else can we point to? Climate change—and that brings me to the issue at hand. Your side never needed to engage in consultation with respect to climate change. Why did they not need to consult with anyone? Because they knew it did not exist. Their policy was to pull the doona up that little bit higher over the dear heads of the policy geniuses of the Liberal Party!

Senator Abetz—Who introduced the first greenhouse office in the world?

Senator FEENEY—I dare say that it was not you, Senator Abetz, because climate change—

Honourable senators interjecting—

The DEPUTY PRESIDENT—Order! Resume your seat, Senator Feeney. Senator Feeney, I remind you that you are addressing the chair. Interjections are disorderly and you are not to respond directly to them. You may continue.

Senator FEENEY—Thank you, Mr Deputy President. I will henceforth ignore the interjections as best I can.

Senator Cash interjecting—

Senator FEENEY—That is flouting your authority, Mr Deputy President. I am shocked and appalled!

The DEPUTY PRESIDENT—I think I can handle myself, Senator Feeney!

Senator FEENEY—Very good. Thank you, Mr Deputy President. Getting back to this critical question of consultation: what are you decrying our side for doing? You are decrying our side for speaking to local government figures and people from employee organisations. In fact, you are decrying us for talking to the community. All I can say in response is that I would encourage you, when developing policy, to in the first in-

stance consult with your shadow cabinet colleagues. *(Time expired)*

Senator BIRMINGHAM (South Australia) (3.19 pm)—Consultation is not about being able to talk underwater with a mouthful of marbles, as we have just seen from Senator Feeney. Consultation is not what we heard at the beginning of this week from former Prime Minister Bob Hawke, who acknowledged that the current Prime Minister—your Prime Minister, Senator Feeney—could be described as a control freak. Control freaks are hardly renowned for their consultation—far from it. This is a government that is very clearly demonstrating that it is a one-man show and nobody else gets a word in. Those who might wish to talk to the government do not get the opportunity to get a word in either. It is a closed shop on the other side—that is, of course, what they would like to reintroduce in industrial relations and it is what they are operating in their own government. As Senator Bushby said so clearly before, we had these meetings happening today, which the Minister for Climate Change and Water was happy to undertake, which, in the true Labor tradition, were closed shops. ‘No ticket, no entry’ is obviously the approach the Labor Party is taking to its so-called consultation.

That is not good enough when Australian jobs are on the line—and they are very clearly on the line at present. We have had international reports overnight that that there will be 200,000 Australian jobs at risk over the next year. These jobs are at risk partly because of the global financial crisis and partly because they depend on this government’s management. And, from what we have seen of this government’s management of the global financial crisis so far, there can be little doubt that those 200,000 or more Australians who are worried about their jobs have every reason to continue to be concerned.

Amongst those who are worried about their jobs are the people at Nyrstar—the workers, the contractors, the families and the communities who rely on Nyrstar and many other companies like it around Australia for their employment and support. There are hundreds of jobs at stake.

Senator Bushby—Thousands.

Senator Abetz—Thousands.

Senator BIRMINGHAM—Thousands indeed. In Tasmania, the home state of Senator Bushby and Senator Abetz, 521 full-time employees, plus another 91 contractors and many others are dependent on the Nyrstar plant. In Port Pirie, in my home state and your home state, Mr Deputy President, Nyrstar has some 670 full-time employees as well as 110 contractors. We both know and appreciate well and truly just how reliant Port Pirie is on the jobs and support that a company like Nyrstar provides. Without that support, that town is in significant strife. That is why we need clear advice and consultation from the government and why companies like Nyrstar need some clear direction.

We saw the South Australian Premier, Mike Rann, after this issue flared up decide that he had to make a—no doubt politically motivated—mercy dash to Port Pirie the other week. Off he dashed to meet briefly with the executives. At least that was one step better than what we have seen from Minister Wong. He did set foot on the ground of Port Pirie, which I note is in Minister Wong's home electorate as well. Perhaps rather than expecting them to come to Canberra she could go and consult with them in her own electorate.

Senator Abetz—That's a novel idea for her!

Senator BIRMINGHAM—That would be a novel idea, wouldn't it, Senator Abetz? She could kill two birds with one stone, con-

sulting with her own electorate and her portfolio constituency. I would have thought that would be effective use of the minister's time. But far be it from us to try to give her advice on ending the closed shop of Labor consultation practices.

Mr Rann went up there and he said that the South Australian government had made submissions to the federal government and they were hopeful there would be a positive response. We hope there will be a positive response too, but we hope it will be a more positive response than there was when Anthony Albanese, the then shadow minister, promised that Labor in government would give Nyrstar's Port Pirie water-recycling program urgent attention. Here we are, more than 12 months later, and there has been none of the urgent attention that was promised more than a year ago by the Labor Party to Nyrstar's desire to help end lead problems and deliver water recycling in Port Pirie. In more than 12 months, zero urgent attention—so how can we have any faith that this time around the Labor Party will give any sort of attention to the concerns of the people of Port Pirie and Tasmania about their jobs? (*Time expired*)

Senator POLLEY (Tasmania) (3.24 pm)—In the three years that I have been here, every single day I have learned something new. Unfortunately, my Tasmanian colleagues still have not learnt the lesson from the last election—that is, that people do want to be consulted. This government has a record of consulting. We have a record of delivering on our election promises.

Senator Bushby interjecting—

Senator POLLEY—Perhaps we should visit the fact that Senator Bushby obviously has a real interest in my diary. I do note that, yes, you are correct, Senator Bushby; I was at that meeting this morning to make representation on behalf of the Tasmanian com-

munity, in particular the workers and the operators of Nyrstar. I think it is my responsibility as a Tasmanian senator to lobby where there are areas of concern.

Those opposite never believed that we had an issue with climate change, until they suddenly discovered it, just as they have discovered the issue of workers. I assume that the reason Senator Bushby raised the issue was not really about consultation; I would hope that he has a concern about the workers at Nyrstar, a concern that I share. It is just a shame that his colleagues on the other side of the chamber never had the fortitude to stand up for Tasmanian workers, and for all Australian workers and families, when Work Choices was introduced.

A delegation met with the minister. I might add that the minister's department has met with Nyrstar on at least four occasions that I am aware of. A green paper was produced in July. The government is delivering on an election commitment to address climate change, to act and lead globally. As I said, the minister has released a green paper and there is now a period of consultation. I would have thought that those opposite would have learnt by now that consultation is a two-way street. You talk to the relevant people who have the concern, like the company, and you listen to organisations like the unions—in this case the AWU—who represent and stand up for the workers. The same people, I might add, that you are condemning, Senator Bushby, for meeting with the minister this morning are the same people you attacked with Work Choices—the workers. You cannot have it both ways.

We are about delivering. It was the Rudd Labor government that recognised and implemented changes to address climate change. We went to the election with the commitment on an emissions trading scheme

and we are going to deliver on that. There is still further work to be done in this area.

Senator Bushby interjecting—

Senator Abetz interjecting—

The DEPUTY PRESIDENT—Order! Give Senator Polley a go, please.

Senator POLLEY—Thank you, Mr Deputy President. Obviously it is a touchy subject. When it comes to addressing concerns like climate change, some of the sceptics on that side have decided, yes, they will do so. It is like the Fair Work legislation—some people in the coalition do not realise they are in opposition; they actually got defeated on Work Choices.

Senator Abetz—Arrogance! Arrogance, already!

Senator POLLEY—On the interjection from Senator Abetz: if he wants to talk about arrogance, the person that has the most experience in that would have to be my Tasmanian colleague.

The DEPUTY PRESIDENT—I think you should address the subject, Senator Polley.

Senator POLLEY—It is unfortunate that even the media has caught up with the fact that Senator Abetz no longer has any influence in the opposition ranks. It is time to move on. It is time to accept that part of the changes that this country and the globe have to address in terms of climate change will be the costs involved. The Australian community elected the Rudd Labor government, which had very clear election commitments. We are delivering on those commitments in health, in education and in ripping up Work Choices and bringing fairness back into the Australian workplace. We are intent on delivering on our commitments. We are intent on leading the world when it comes to climate change. In some circumstances there are going to be difficulties for companies.

That is why you consult. As I said, the department has met on four occasions— (*Time Expired*)

Senator CORMANN (Western Australia) (3.29 pm)—If there was any further proof required, today we got conclusive evidence that cooperative federalism is nothing more than a political slogan—there is no substance to it; there is no commitment to it—when you listened to the partisan political response by the Leader of the Government in the Senate and he essentially attacked the Treasurer of the state of Western Australia. I asked the Leader of the Government in the Senate today whether there had been any discussions or any representations to the Commonwealth in preparation for the COAG meeting on Saturday as a result of the pre-COAG strategy meeting of Labor state and territory treasurers. The answer he gave me was, ‘Of course; I don’t really understand the question—that is what normally happens.’ And when I asked him, ‘What is the Commonwealth’s view? Does the Commonwealth believe that it was appropriate that the Treasurer of Western Australia was excluded just because he is a Liberal?’, what did the minister say? The minister said, ‘He probably wasn’t excluded because he was a Liberal,’ and in not so many words—I know we are going to get a ruling from the President—the minister essentially said that the Treasurer of Western Australia was excluded not because he is a Liberal but because he is a bad bloke. I happen to think Troy Buswell is a good bloke, but that is not why he should be invited to a pre-COAG strategy meeting. Troy Buswell is the duly elected member for Vasse in Western Australia. He is the duly appointed Treasurer of the state of Western Australia. If there was any substance to ‘the spirit of cooperative federalism’, if the Prime Minister was serious in his commitment to cooperative federalism, he would discipline

and reprimand his minister in this chamber for the statements he has made today.

This is what Kevin Rudd said shortly after the election on 6 September:

The dream of cooperative federalism will not be diminished when Liberal leader Colin Barnett is sworn in as Western Australia’s new Premier.

... ..

Fixing a federation goes well beyond party politics and therefore I’m looking forward to working with the new WA premier and his government ...

That was a good start, but a month later all of the state and territory Labor treasurers met for a secret little meeting. The Treasurer of Victoria, John Lenders, gave Troy Buswell a call and said, ‘By the way, we are having this meeting, but don’t you dare turn up, because you are not welcome.’ The state of Western Australia, the people of Western Australia, are not allowed to be part of a meeting that is going to essentially set the scene, organise strategies and plan for what is going to be discussed at the COAG meeting this Saturday. Is that the new spirit of cooperative federalism? Is cooperative federalism only applicable if you are part of the Labor Party? Is it cooperative federalism as long as the people across various jurisdictions do not dare to elect a Liberal-National Party government? I am sure that is not what the people of Australia understood before the election about how the Prime Minister would proceed. Quite frankly, I would urge the Prime Minister to have a very close look at, firstly, what the minister said in this chamber today in trying to justify why the Treasurer of Western Australia has not been invited to this meeting—trying to justify the unjustifiable, quite frankly—and, secondly, the reflection by this minister on the Treasurer of the state of Western Australia.

Look at the way the Commonwealth has approached its relations with states and

territories over the last 12 months. We had the episode of the Medicare levy surcharge, putting huge pressure on state and territory budgets and not even consulting with the states and territories. We had the issue of the government saying, 'We want to take over public hospitals if the states don't perform, but we won't tell the states and territories the targets that they have to meet'—even though the deadline that the Prime Minister put out there is only six months away. Do senators remember before the last election, when Kevin Rudd had this love-in with all the state and territory premiers, who were then all Labor. When commissioning the Garnaut climate change review, he said:

Federal Labor and the states and territories have today commissioned the Garnaut Climate Change Review—

That review was funded by state and territory governments. Taxpayers across Australia funded what was essentially a party political exercise at the time.

We had a committee inquiry hearing in Perth last week, and what did Treasury in Western Australia tell us? They now want to get access to Treasury modelling to be able to reach some conclusions about the impact of the proposed Carbon Pollution Reduction Scheme on the state of Western Australia, but no access has been provided beyond what is publicly available.

To sum up, this slogan of cooperative federalism has been exposed again and again as nothing more than a political exercise before the last election. It was there to minimise and manage the risk of wall-to-wall Labor in terms of how it was going to be perceived by the people across Australia.

Question agreed to.

National Broadband Network

Senator LUDLAM (Western Australia) (3.34 pm)—I move:

That the Senate take note of the answer given by the Minister for Broadband, Communications and the Digital Economy (Senator Conroy) to a question without notice asked by Senator Ludlam today relating to the national broadband network.

I want to make a few brief comments on the occasion of the deadline for tenders for the national broadband network and in response to some of the minister's answers to my questions earlier. I have been involved in the national broadband network inquiry, which is being chaired by Senator Fisher, which has heard evidence from a broad range of players in the telecommunications industry. We have heard strong evidence all the way through that Telstra has played an aggressive and litigious hand in its activities as the incumbent market player and that we seriously risk entrenching this behaviour, depending on the final market structure adopted as the process that is underway rolls out.

The ACCC, as the regulators, have been tied in knots with a multitude of appeals against regulatory and pricing decisions. They told the committee on 18 October that telecommunications litigation outweighs all the rest of their case load and workload in the regulatory area combined. So, everything else that the ACCC have oversight of is outweighed by the amount of telecommunications litigation, much of it brought by Telstra on pricing and regulatory decisions.

One solution to this behaviour of monopolistic practices by the incumbent that was advanced by many witnesses was that of structural separation—that is, that the ownership of the network backbone be separated from industry participants who might be providing retail services. I put this proposition to Mr David Quilty, Telstra Group Managing Director, Public Policy and Communications, when Telstra eventually appeared before the committee a couple of weeks ago. I asked what his thoughts were on structural separation as one possible means of reducing

the apparent covert cross-subsidisation that occurs under the current market structure. He said:

The bottom line for us is that we have to act in the interests of our shareholders. We cannot do anything that we do not consider is in the interests of our shareholders. There is no doubt in the mind of Telstra management, and all of the analyst reports concur, that further separation of Telstra is not in our shareholders' interests. We simply cannot contemplate it.

They essentially gave the minister an ultimatum, which has certainly not been resolved today, that they will not participate in the national broadband network if their shareholders' interests are not taken into account as the primary concern. I am afraid that is not good enough. Broadband services are approaching the status in Australia and around the world of an essential service. It is essential that a broadband network be regulated in the public interest and not in the interests of the shareholders of one corporation that so far happens to have the upper hand.

The question I put to the minister earlier this afternoon this afternoon was, rather than handing over and further entrenching the role of Telstra, or any other player for that matter, perhaps we should take the matter back into the public arena to operate the network backbone so that proper competition can be assured. I think this is one case study, if ever we needed it, of why you do not privatise essential public services. We have created something of a monster and I think ministers on both sides of politics who have had to grapple with the behaviour of Telstra have had to deal with the fact that they are behaving as large corporations do when they are given a monopolistic position in an extremely important market. So Telstra are not behaving in any way unpredictably; I think they are behaving entirely predictably. But they are, as they have told us so on many occasions, putting their shareholders' inter-

ests—as they have to—above the public interest. And of course that is not the minister's job in the provision of \$4.6 billion worth of public funds, which the public is putting towards the broadband network. I think it is essential that we consider taking matters back into public hands and operating the national broadband network in the public interest.

Question agreed to.

NOTICES

Presentation

Senator Sterle to move on the next day of sitting:

That the time for the presentation of the report of the Rural and Regional Affairs and Transport Committee on matters specified in part (2) of the inquiry into the management of the Murray-Darling Basin system be extended to 19 March 2009.

Senator Marshall to move on the next day of sitting:

That the time for the presentation of the report of the Education, Employment and Workplace Relations Committee on academic freedom in school and higher education be extended to 4 December 2008.

Senator Milne to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to progressively increase the target for mandatory renewable energy requirements, and for related purposes. *Renewable Energy Amendment (Increased Mandatory Renewable Energy Target) Bill 2008*.

Senator Ian Macdonald to move on the next day of sitting:

That the Senate—

(a) notes that:

- (i) a federally-funded independent review into the sustainability of shark and other protected species in the East Coast Inshore Fin Fish Fishery, which

- includes Queensland's Moreton Bay, is yet to be publicly released,
- (ii) the future of fishers in the Moreton Bay area could very much depend on the outcome of this federally-funded review, and
 - (iii) the Queensland Government is closing tenders for the Structural Adjustment Package for Moreton Bay fishers on 28 November 2008, the timing of which will prevent fishers from making fully informed decisions, taking into account the outcome of the federally-funded review; and
- (b) calls on:
- (i) the Minister for the Environment, Heritage and the Arts (Mr Garrett) to release the federally-funded review immediately, and
 - (ii) the Queensland Government to extend the closing date for tenders for the Structural Adjustment Package to 1 February 2009 to give fishers the opportunity of considering the independent federally-funded review to determine whether or not they should be exiting the fishery and making application for the Structural Adjustment Package.

COMMITTEES

Selection of Bills Committee

Report

Senator McEWEN (South Australia) (3.40 pm)—I present the 16th report of 2008 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. 16 OF 2008

- (1) The committee met in private session on Wednesday, 26 November 2008 at 10.30 am.
- (2) The committee resolved to recommend—That—

- (a) the Freedom of Information (Removal of Conclusive Certificates and Other Measures) Bill 2008 be **referred immediately** to the Finance and Public Administration Committee for inquiry and report by 10 March 2009 (see appendix 1 for a statement of reasons for referral); and
 - (b) the *provisions* of the Tax Agent Services Bill 2008 be **referred immediately** to the Economics Committee for inquiry and report by 12 February 2009 (see appendix 2 for a statement of reasons for referral).
- (3) The committee resolved to recommend—That the following bills **not** be referred to committees:
- Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Miscellaneous Measures) Bill 2008
 - Tax Laws Amendment (Luxury Car Tax—Minor Amendments) Bill 2008.

The committee recommends accordingly.

- (4) The committee considered a proposal to refer the Guarantee Scheme for Large Deposits and Wholesale Funding Appropriation Bill 2008 to the Economics Committee, **but was unable to reach agreement on whether the bill should be referred** (see appendix 3 for a statement of reasons for referral).

(Anne McEwen)

Acting Chair

26 November 2008

Senator McEWEN (South Australia) (3.41 pm)—I move:

That the report be adopted.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.41 pm)—I would like to get a copy of that report. I note that in the report there was an inability of the committee to come to an agreement on the move I made to have the Guarantee Scheme for Large Deposits and Wholesale Funding Appropriation Bill 2008

referred to the Economics Committee. In the absence of that decision, I foreshadow that I will move:

At the end of the motion, add “and, in respect of the Guarantee Scheme for Large Deposits and Wholesale Funding Appropriation Bill 2008, the provisions of the bill be referred to the Economics Committee for inquiry and report”.

I am moving this amendment, because we are being asked to deal with the legislation this afternoon. I believe that it is such an important piece of legislation that it does deserve an inquiry.

One of the things that distressed me about the three years of the government dominance of the Senate between 2004 and 2007 was that it seemed that referrals to committee tended to become inversely proportional in importance to the significance of the legislation. Here we have an extremely significant piece of legislation that is aimed to have the public become guarantors of loans made by banks overseas. The committee could not make a decision as to whether or not there should be a Senate inquiry into the matter.

At the same time, where requests were made, all the other matters were effectively referred. The freedom of information amending legislation, which I think is important, and the Tax Agent Services Bill, which I think is also important, were referred immediately—the latter to the Economics Committee—and it is beyond me to see why the committee could not recommend that the guarantee for the bank funding bill could not also have been referred. I am therefore moving, as an amendment to the motion, that the bill be referred to the Economics Committee.

The DEPUTY PRESIDENT—Do you have a reporting date for the referral?

Senator BOB BROWN—No.

Senator LUDWIG (Queensland—Minister for Human Services) (3.44 pm)—I assume that at some stage Senator Brown

does want the bill to come back. I will assume for the purposes of the debate that in moving that amendment he will adopt the original position that he put to the committee itself, which did have a reporting date.

The government in this instance did move quickly and decisively to ensure that there is confidence in the banks. This was done in an environment where our international competitors were moving, and if we had not acted our banks would have been seen as second class internationally. Our action was taken on the advice of the Council of Financial Regulators and gave 13 million Australians certainty over their deposits. The RBA governor said that actions like this averted a ‘potential systemic collapses that would have had massive repercussions throughout the world’.

Since the initial guarantee announcement, the government has been engaged on a daily basis with putting in place the detailed arrangements. We have consulted with regulators and industry to manage new developments as they have arisen. Providing a standing appropriation is part of that process. It is part of our ongoing effort to work quietly and methodically through the complex issues that the nation confronts, and this will continue as global circumstances change. Obviously the consultative approach that we have taken to these matters means that information can leak out from time to time, including in circumstances such as these, to the opposition. Our promise is that we will continue to consult. It is important that we work collaboratively with regulators and with industry and that we act in the national interest.

There is a need to introduce a standing appropriation to pay any possible claims made under the government’s guarantee scheme for large deposits and wholesale funding. The Guarantee Scheme for Large Deposits and Wholesale Funding Appropria-

tion Bill 2008 will provide international markets with the assurance that Australian institutions are supported by government guarantee and that any payments will be timely. This bill will guarantee financial system stability, confidence in our banks, building societies and credit unions and help to ensure the flow of credit to businesses and households. The bill has two measures: a standing appropriation that enables claims to be paid in a timely way in the unlikely event that claims are made, and a borrowing power. There is a necessity to ensure that we have those in place as soon as possible. It is the view of the government that we need it before the end of this week.

Action is needed on the basis that the appropriation may have been viewed on one measure as not a legal necessity, according to our legal advice. Nor would it have been a commercial necessity if the international market could be confident that there would be bipartisan support for an appropriation in the unlikely event that one was needed. Unfortunately, we are now in a position where the actions of the opposition have been a real threat to the stability of our banking system, which is one reason why we have acted responsibly again today. The Australian community and their banks would have been more comfortable if the Leader of the Opposition had stuck to his initial pledge of support. Unfortunately the Leader of the Opposition's growing attacks on the guarantee scheme have sowed the seeds of doubt in the minds of global investors. This shows again that we really do need to ensure that we move forward in Australia's national interest.

The scheme will bolster the stability of the financial system, bring confidence to our banks, building societies and credit unions and help to ensure the flow of credit to Australia's businesses and households. The scheme will ensure that Australian institutions borrowing in the international whole-

sale markets are supported by an Australian government guarantee and that payments made under the guarantee will be timely. For those reasons, it is necessary to deal with it in the way that we have. It is the view of this government that we continue to consult. We have consulted with regulators, and that, in part, is why we are here today. I do take Senator Brown's point, and where we can we have undertaken to refer bills to committees so that proper consultation with the community can be had. The workplace relations bill is one such bill where we do see that necessity and we have had extensive consultations to date to ensure that the Senate has that opportunity to undertake that consultation, unlike the opposition when they were in government when they reduced it to a one-minute committee. (*Time expired*)

The DEPUTY PRESIDENT—Before I call Senator Coonan, Senator Brown I must remind you of standing order 24A relating to the selection of bills, where in moving an amendment of this kind you are required, and it is specified, that you should have a day on which the committee shall report. I just advise you to reflect on that while I call Senator Coonan.

Senator COONAN (New South Wales) (3.50 pm)—It is very disappointing to hear from Senator Ludwig today a long diatribe that is almost word for word from the Treasurer's second reading speech when introducing the Guarantee Scheme for Large Deposits and Wholesale Funding Appropriation Bill 2008 but does not really address what has gone on here in relation to the saga of the retail deposit guarantee and the wholesale term funding guarantee. That has been comprehensively bungled and mismanaged by the Labor government from the time of its introduction until today.

I have a degree of sympathy for Senator Brown's proposed amendment. This has not

been handled properly. The Labor government should have accepted the recommendation of the Leader of the Opposition and the shadow Treasurer, who advised weeks ago that, in order to introduce a wholesale term guarantee, it needed an appropriation in the unlikely event that the contingent loan would be required to be paid out. The circumstances in which this has been handled by the Labor government, I warrant, Senator Brown, does deserve a committee investigation. There is no doubt about that. But it has taken six weeks for the government to concede that legislation should be introduced into the parliament to support the government's bank guarantee of large deposits and wholesale term funding—six weeks when people, who are reliant upon accessing funding to support their borrowing and to support their lending, have not been able to proceed because of the uncertainty caused by the way in which the Rudd Labor government has handled this. Mr Turnbull has, from time to time, said that.

This is an instance where, despite the position that Australia is in, which is perhaps as good as any country in terms of withstanding the global financial crisis, we are distinguished by Mr Rudd and Mr Swan having actually made it worse by the way in which they have tried to address the problem. They ignored the warning signs and ignored the bipartisan advice offered by the Leader of the Opposition and the shadow Treasurer, which said two things. Firstly, in respect of the retail guarantee, if you were to make it unlimited, it would have unintended consequences. So what are we seeing? We have seen the non-guaranteed institutions with funds frozen and 270,000 Australians who are locked out from accessing their deposits because of bungling of this unlimited guarantee. We have now seen a cap placed on it but still institutions are begging the government to make the cap lower so that this problem might be addressed. It is still not fixed.

Secondly, in respect of the wholesale term guarantee, we know that, because of the requirements of the rating agencies, particularly Standard and Poor's, unless there were legislation underpinning the appropriation, it would not have the desired and called-for effect.

We will be supporting the bill not because we in any way commend the government for the way in which this has been handled but because we accept that all of this delay is causing ongoing uncertainty for financial institutions, for consumers and for the economy more broadly. We accept that this matter should be dealt with urgently and expeditiously. It is why we are responding to the government's request that we deal with it without reference to a committee. Whilst I have a degree of sympathy for Senator Brown's natural curiosity as to how this appalling situation could come about, it is important that I place on the record the opposition's reasons for opposing it being sent to a committee.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.54 pm)—I move:

At the end of the motion, add “and, in respect of the Guarantee Scheme for Large Deposits and Wholesale Funding Appropriation Bill 2008, the provisions of the bill be referred to the Economics Committee for inquiry and report by 4 December 2008”.

Question put:

The Senate divided. [3.59 pm]

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

Ayes.....	7
Noes.....	<u>49</u>
Majority.....	<u>42</u>

AYES

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

Milne, C.
Xenophon, N.

Siewert, R. *

NOES

Abetz, E.
Barnett, G.
Bilyk, C.L.
Bishop, T.M.
Brown, C.L.
Cameron, D.N.
Colbeck, R.
Cormann, M.H.P.
Evans, C.V.
Feeney, D.
Fifield, M.P.
Forshaw, M.G.
Hurley, A.
Johnston, D.
Ludwig, J.W.
Macdonald, I.
McEwen, A.
McLucas, J.E.
Parry, S. *
Polley, H.
Ronaldson, M.
Sherry, N.J.
Sterle, G.
Trood, R.B.
Wortley, D.

Arbib, M.V.
Bernardi, C.
Birmingham, S.
Boyce, S.
Bushby, D.C.
Cash, M.C.
Coonan, H.L.
Crossin, P.M.
Farrell, D.E.
Ferguson, A.B.
Fisher, M.J.
Furner, M.L.
Hutchins, S.P.
Kroger, H.
Lundy, K.A.
Marshall, G.
McGauran, J.J.J.
Nash, F.
Payne, M.A.
Pratt, L.C.
Ryan, S.M.
Stephens, U.
Troeth, J.M.
Williams, J.R.

* denotes teller

Question negatived.

Original question agreed to.

LEAVE OF ABSENCE

Senator McEWEN (South Australia)
(4.02 pm)—by leave—I move:

That leave of absence be granted to Senator Moore on 27 November 2008 on account of parliamentary business.

Question agreed to.

NOTICES

Postponement

The following items of business were postponed:

Business of the Senate notice of motion no. 1 standing in the name of Senator Milne for today, proposing the disallowance of the Environmental and Natural Resource

Management Guidelines, postponed till 1 December 2008.

Business of the Senate notice of motion no. 2 standing in the name of Senator Heffernan for today, proposing the reference of a matter to the Rural and Regional Affairs and Transport Committee, postponed till 27 November 2008.

General business notice of motion no. 156 standing in the name of Senator Siewert for today, proposing the introduction of the Food Safety (Trans Fats) Bill 2008, postponed till 23 February 2009.

BUSINESS

Consideration of Legislation

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (4.03 pm)—I move:

That the provisions of paragraphs (5) to (8) of standing order 11 not apply to the Guarantee Scheme for Large Deposits and Wholesale Funding Appropriation Bill 2008, allowing it to be considered during this period of sittings.

Question agreed to.

COMMITTEES

Economics Committee

Meeting

Senator McEWEN (South Australia)
(4.04 pm)—At the request of Senator Hurley, I move:

That the Economics Committee be authorised to:

- (a) hold a public meeting during the sitting of the Senate on Wednesday, 26 November 2008, from 4.30 pm, to take evidence for the committee's inquiry into matters relating to the gas explosion at Varanus Island, Western Australia; and
- (b) hold an in camera hearing during the sitting of the Senate on Wednesday, 26 November 2008.

Question agreed to.

AGRICULTURAL RESEARCH AND DEVELOPMENT INSTITUTIONS

Senator PAYNE (New South Wales) (4.04 pm)—I move:

That the Senate—

- (a) notes and agrees with the comments of the Minister for Agriculture, Fisheries and Forestry (Mr Burke) when he called for all governments to refocus on agricultural research and development so as to boost agricultural productivity;
- (b) condemns:
 - (i) the New South Wales Labor Government for eroding agricultural research and development institutions like Hurlstone Agricultural High School and the Glen Innes Research and Advisory Station, and
 - (ii) the Federal Government's decision to axe funding to various Commonwealth Scientific and Industrial Research Organisation agricultural research institutions, such as JM Rendel Laboratory for livestock research in Rockhampton, Queensland, and the plant research laboratory in Merbein, Victoria; and
- (c) calls on the Federal Government to intervene and prevent the destruction of these institutions and to save the future of the Australian agricultural research and development sector.

Question agreed to.

TRAVESTON CROSSING DAM

Senator IAN MACDONALD (Queensland) (4.04 pm)—I refer to general business notice of motion No. 299, standing in my name. I indicate that I am also moving this motion on behalf of Senator Russell Trood, a Queensland colleague who has taken a great interest in this subject. The motion relates to the Traveston Crossing Dam, and I ask that it be taken as a formal motion.

The DEPUTY PRESIDENT—Is there any objection to this motion being taken as formal?

Senator Bob Brown—I have no objection, but may I just associate the Greens with wholehearted support of the motion that is to be moved by Senators Macdonald and Trood.

Senator LUDWIG (Queensland—Minister for Human Services) (4.05 pm)—by leave—The Australian government is aware of the decision, announced yesterday by the Queensland government, to delay submitting the Traveston Dam assessment report to the Australian government so that additional environmental mitigation measures can be fully investigated. The Australian government acknowledges the rigorous consideration being undertaken of the potential environmental impacts of that project and notes that Queensland's decision was made in the context of ongoing communication with the Australian government with regard to the potential impacts of the proposed dam on matters of national environmental significance.

It is entirely a matter for Queensland whether and, if so, at what time it wishes to proceed with the Traveston Dam proposal. If Queensland decides to proceed with the proposed Traveston Dam and submits a formal assessment report to the Australian government, that proposal will be assessed and a final decision will be made on the project rigorously, transparently and in strict accordance with the provisions of the objects of the Environment Protection and Biodiversity Conservation Act 1999.

Senator IAN MACDONALD (Queensland) (4.06 pm)—I assume Senator Ludwig was indicating that he is going to support the motion, so I move the motion standing in my name and in the name of Senator Trood:

That the Senate—

- (a) notes the backflip of the Queensland Government in deferring the construction of the Traveston Crossing Dam; and

- (b) calls on the Queensland Government to remove the social threat to people living in the Mary Valley and to ensure protection of the Mary River cod, Mary River turtle and the Australian lungfish, by permanently shelving the proposal to construct the Traveston Crossing Dam.

Question agreed to.

CYPRUS

Senator XENOPHON (South Australia) (4.07 pm)—I move:

That the Senate—

- (a) notes the role of the United Nations (UN) Special Envoy for Cyprus, the Honourable Alexander Downer, to achieve a just and lasting solution to the Cyprus problem; and
- (b) urges the Australian Government to continue its support for the independence, sovereignty and territorial integrity of the Republic of Cyprus, and for a just and lasting solution to be achieved in accordance with UN Security Council resolutions on Cyprus which embody the principles enshrined in international and European Union law and norms.

Question agreed to.

GROCERYCHOICE

Senator BARNETT (Tasmania) (4.07 pm)—I, and also on behalf of Senator Fisher, move:

That the Senate—

- (a) notes the Government's GROCERYchoice website is:
 - (i) not delivering any valuable information to consumers with website hits suffering a massive reduction from more than 3 million hits per month on commencement to 104 000 hits in October 2008 and only 54 608 on the last report,
 - (ii) unable to produce a specific cost of a specific grocery item at a specific supermarket, and in some cases compares

supermarkets several hundred kilometres apart,

- (iii) damaging to the best interests of independent supermarket retailers,
- (iv) wasting \$13 million of taxpayers' funds, and
- (v) fundamentally flawed and unable to be improved or upgraded so as to provide any consumer benefit or adequate return on taxpayer funds, irrespective of whether the website is managed and operated by the Australian Competition and Consumer Commission or the consumer organisation Choice; and
- (b) calls on the Government to close the website down immediately.

Question put.

The Senate divided. [4.12 pm]

(The President—Senator the Hon. JJ Hogg)

Ayes.....	32
Noes.....	<u>32</u>
Majority.....	<u>0</u>

AYES

Abetz, E.	Barnett, G.
Bernardi, C.	Birmingham, S.
Boswell, R.L.D.	Boyce, S.
Brandis, G.H.	Bushby, D.C.
Cash, M.C.	Colbeck, R.
Coonan, H.L.	Cormann, M.H.P.
Ferguson, A.B.	Fielding, S.
Fierravanti-Wells, C.	Fifield, M.P.
Fisher, M.J.	Heffernan, W.
Humphries, G.	Johnston, D.
Joyce, B.	Kroger, H.
Macdonald, I.	Mason, B.J.
McGauran, J.J.J.	Nash, F.
Parry, S.	Payne, M.A.
Ryan, S.M.	Troeth, J.M.
Trood, R.B.	Williams, J.R.

NOES

Arbib, M.V.	Bilyk, C.L.
Bishop, T.M.	Brown, B.J.
Brown, C.L.	Cameron, D.N.
Collins, J.	Crossin, P.M.

Evans, C.V.	Farrell, D.E.
Feeney, D.	Forshaw, M.G.
Furner, M.L.	Hanson-Young, S.C.
Hogg, J.J.	Hurley, A.
Hutchins, S.P.	Ludlam, S.
Ludwig, J.W.	Lundy, K.A.
Marshall, G.	McEwen, A.
McLucas, J.E.	Milne, C.
Polley, H.	Pratt, L.C.
Sherry, N.J.	Siewert, R.
Stephens, U.	Sterle, G.
Wortley, D.	Xenophon, N.

PAIRS

Adams, J.	O'Brien, K.W.K.
Eggleston, A.	Carr, K.J.
Ellison, C.M.	Faulkner, J.P.
Minchin, N.H.	Wong, P.
Ronaldson, M.	Conroy, S.M.
Scullion, N.G.	Moore, C.

* denotes teller

Question negatived.

COMMITTEES

Scrutiny of Bills Committee

Alert Digest

Senator COONAN (New South Wales) (4.15 pm)—As Chair of the Scrutiny of Bills Committee, I lay on the table Scrutiny of Bills *Alert Digest* No. 13 of 2008, dated 26 November 2008, and I move:

That the Senate take note of the document.

I seek leave to have my tabling statement incorporated in *Hansard*.

Leave granted.

The statement read as follows—

In tabling the Committee's *Alert Digest No. 13 of 2008*, I would like to draw the Senate's attention to the Nation-building Funds Bill 2008.

This bill establishes no fewer than 10 Special Accounts for the purposes of the Financial Management and Accountability Act 1997. If an Act establishes a Special Account and identifies the purposes of the account then, by virtue of section 21 of the Financial Management and Accountability Act 1997, the Consolidated Revenue Fund is appropriated for those purposes, thereby establishing a standing appropriation.

The Committee has determined that, as part of its standard procedures for reporting on bills, it should draw Senators' attention to the presence in bills of standing appropriations. It will do so under provisions 1(a)(iv) and (v) of its terms of reference, which require the Committee to report on whether bills:

- (iv) inappropriately delegate legislative powers; or
- (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.

In scrutinising standing appropriations, the Committee looks to the explanatory memorandum for an explanation of the reason for the standing appropriation. In addition, the Committee likes to see:

- some limitation placed on the amount of funds that may be so appropriated; and
- a sunset clause that ensures the appropriation cannot continue indefinitely without any further reference to the Parliament.

Three main financial asset funds will be established by the Nation-building Funds Bill—the Building Australia Fund (BAF), the Education Investment Fund (EIF) and the Health and Hospitals Fund (HHF)—along with 'accounts within accounts' relating to specific areas of infrastructure, through which payments will be channelled.

The bill specifies the purposes for which amounts can be debited from the various Special Accounts.

The Committee has noted from the explanatory memorandum and the Minister's second reading speech that the initial credit of funds to the BAF, the EIF and the HHF will be limited in amount.

Although the bill does not specify a limit on the amount of funds that may be subsequently credited to the Special Accounts, the Committee notes that the funds can only be used for very specific purposes. Further, the explanatory memorandum to the bill explicitly states that the Government's intention is that payments against the BAF, EIF and HHF appropriations 'will be transparent and subject to parliamentary scrutiny with the aim of ensuring a managed and orderly rate of expenditure'. From the 2009-10 financial year onwards, the annual Appropriation Acts will specify the

maximum limit on the amount that can be paid out from the Funds in a particular financial year.

In light of the fact that the money in each of the Special Accounts is not available to be spent at the Government's unfettered discretion, the Committee considers that these standing (special) appropriations do not raise the same concerns as other Special Accounts to which the Committee has previously drawn the attention of Senators.

I commend the Committee's *Alert Digest No. 13 of 2008* to the Senate.

Question agreed to.

MINISTERIAL STATEMENTS

Trans-Pacific Partnership

Economy

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (4.16 pm)—I table two ministerial statements relating to: (a) promoting free trade in the Asia-Pacific region, together with a document outlining views that emerged in public consultations; and (b) Australia's response to the global financial crisis.

Senator IAN MACDONALD (Queensland) (4.17 pm)—I did not quite hear Senator Sherry. I thought he was going to make the ministerial statement. Did he just table it?

The ACTING DEPUTY PRESIDENT (**Senator Carol Brown**)—He tabled it, Senator Macdonald.

Senator IAN MACDONALD—I seek leave to make a statement on the ministerial statement on trade matters.

The ACTING DEPUTY PRESIDENT—Is leave granted?

Senator Sherry—Three minutes.

The ACTING DEPUTY PRESIDENT—Leave is granted for three minutes.

Senator IAN MACDONALD—I find it quite strange that the minister comes in here and makes a ministerial statement and then stops any discussion on it. Why do we bother with the farce of having ministerial state-

ments if we are not going to be able to discuss them? I am not quite sure of the reason.

Senator Sherry—The leader responded in the other chamber.

Senator IAN MACDONALD—Oh, so the leader responded in the other chamber!

The ACTING DEPUTY PRESIDENT—Senator Macdonald, please address your remarks to the chair.

Senator IAN MACDONALD—Madam Acting Deputy President, I wonder why the Senate bothers to sit if, because there is debate in the other chamber, we do not have debate in this chamber. This seems to be a ludicrous position. I am not aware that the government is rushing forward with legislation that enables us to discuss this particular issue. I find the Labor Party's running of this chamber quite incredible. They have a ministerial statement of several pages—I must say I have not seen it—which is given here, I assume, to encourage debate, and then we are prevented from having any debate. So much for accountability. So much for the Labor Party promising open government and encouraging parliament to be involved.

Having said that, in the last 60 seconds that the Labor Party have kindly allowed me to speak on this major ministerial statement, can I say that the Export Market Development Grants Scheme is one that was reviewed by Mr Mortimer. The industry and all those associated with it have been keenly awaiting the government's response to this report. Again, in an action which, I might say, seems a little strange, I have not yet been given the courtesy of having a look at this report. But I certainly do hope that the ministerial statement contains a response to the Mortimer inquiry into the Export Market Development Grants Scheme.

We know from estimates that the scheme will this year be underfunded in the range of \$50 million. It has been suggested around the

industry that the Labor Party are looking at getting rid of the Export Market Development Grants Scheme, along with Commercial Ready and a lot of other programs that have helped Australia's exporters and innovators over many years. I am desperately hoping that, when we are given the courtesy of having made available to us a copy of the ministerial statement that the minister has just delivered, the statement will contain information about the Mortimer review of the Export Market Development Grants Scheme and they will have agreed not only to continue it but to fund it for the \$50 million which it is underfunded by in this current year. The claims are coming in from about now. From memory, I think they have to be submitted by the end of November— (*Time Expired*)

Senator Ian Macdonald—Can I inquire whether Senator Sherry's giving of leave for a fixed period of time is actually appropriate?

The ACTING DEPUTY PRESIDENT—I am advised that it is appropriate for a statement.

DOCUMENTS

Commonwealth Ombudsman

The ACTING DEPUTY PRESIDENT (Senator Carol Brown)—I present the report of the Commonwealth Ombudsman for the period 1 July 2007 to 30 June 2008 on the Ombudsman's activities under part V of the Australian Federal Police Act 1979.

COMMITTEES

Membership

The ACTING DEPUTY PRESIDENT (Senator Carol Brown)—The President has received letters from a party leader requesting changes in the membership of committees.

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (4.22 pm)—by leave—I move:

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

Finance and Public Administration—Standing Committee—

Appointed—

Substitute members:

Senator Bob Brown to replace Senator Hanson-Young for the committee's inquiry into the Plebiscite for an Australian Republic Bill 2008

Senator Ludlam to replace Senator Hanson-Young for the committee's inquiry into the Freedom of Information (Removal of Conclusive Certificates and Other Measures) Bill 2008

Participating member: Senator Hanson-Young

Foreign Affairs, Defence and Trade—Joint Standing Committee—

Appointed—Senator Ludlam.

Question agreed to.

GUARANTEE SCHEME FOR LARGE DEPOSITS AND WHOLESALE FUNDING APPROPRIATION BILL 2008

First Reading

Bill received from the House of Representatives.

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (4.23 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 SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (4.23 pm)—I move:

That this bill be now read a second time.

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

Senator Bob Brown—Madam Acting Deputy President, my understanding is that we are about to deal with this bill, if the government has its way. Under those circumstances, I think it would be appropriate for the minister to read the second reading speech.

The ACTING DEPUTY PRESIDENT (Senator Carol Brown)—The question is: is leave granted?

Leave granted.

The speech read as follows—

GUARANTEE SCHEME FOR LARGE
DEPOSITS AND WHOLESALE FUNDING
APPROPRIATION BILL 2008

I am introducing a bill to provide a standing appropriation to pay any possible claims made under the Australian Government's Guarantee Scheme for Large Deposits and Wholesale Funding.

The bill will provide international markets with the assurance that Australian institutions are, in their borrowings, supported by an Australian Government guarantee, and that payments made under that guarantee will be timely.

The global financial crisis continues to wreak havoc on economies around the world. Growth in many of the world's largest economies has slowed substantially. Some are already in recession.

Australia is not immune.

The Mid Year Economic and Fiscal Outlook showed the global financial crisis has reduced future surpluses by \$40 billion. Domestic economic growth will slow significantly over the coming year.

Faced with the most difficult economic conditions since the Great Depression, the Rudd Government has kept a strong focus throughout on measures to protect our financial system from the fallout of the crisis.

On 12 October, the Government took action to stabilise and promote confidence in Australia's

financial system by instituting a broadly-based deposit and wholesale funding guarantee.

In one stroke, the guarantee provided support to banks, credit unions and building societies in the provision of credit to Australian businesses and households, and security and peace of mind to Australian depositors.

This guarantee was part of coordinated global action, which is starting to produce real results. In recent weeks, spreads have begun to narrow, and there are tentative signs that markets have started to thaw.

Reserve Bank Governor Glenn Stevens noted last week that globally coordinated action – of which our guarantee was a part – has “averted...potential systemic collapses that would have had massive repercussions throughout the world.”

Since the initial guarantee announcement, the Government has been engaged on a daily basis in putting in place the detailed arrangements.

In recent weeks, we have settled the parameters of the guarantees, including the applicable fees and coverage.

Last Friday, we released the deed of guarantee, with the specific detail on the scheme's operation.

This deed will take effect from 28 November.

We have consulted with regulators and industry to ensure that the guarantees are effective for our industry and to ensure that we take account of new developments as they have arisen.

Providing a standing appropriation is a part of this process.

Let me first go to the detail of the guarantees and how they are being implemented.

Deposit and wholesale funding guarantees

Deposit guarantee

To restate the Government's deposit guarantee commitment, from 28 November, the first one million dollars deposited with an Australian-incorporated bank, a credit union or a building society will be guaranteed free of charge.

Large deposits, that is, deposits in excess of one million dollars, deposited with an Australian-incorporated bank, a building society or a credit union will be eligible for the guarantee, for a fee.

In addition, any deposits by Australian residents with a foreign bank branch in Australia will also be eligible for the guarantee, for a fee.

These deposit guarantees will apply to accounts including, for example, savings accounts, pass-book accounts, cheque accounts, pensioner deeming accounts, term deposits, mortgage offset-accounts, farm management deposit accounts, first home saver accounts and retirement savings accounts.

Wholesale funding guarantee

In addition, from 28 November, short-term and long-term wholesale funding for Australian-incorporated banks, building societies and credit unions, and short-term funding for foreign bank branches raised from Australian residents, will be eligible for the guarantee, for a fee.

The wholesale funding guarantee will apply to selected short-term liabilities with initial maturities of up to fifteen months, for example, bank bills, certificates of deposit, commercial paper and certain debentures.

The wholesale funding guarantee will also apply to selected long-term liabilities with terms of maturity of fifteen to sixty months, for example, bonds, notes and certain debentures.

The wholesale funding guarantee will apply to these instruments whether they are offered domestically or in international markets.

It will ensure that Australian institutions are not placed at a disadvantage when seeking funding in international markets, given that many of their international competitors have the benefit of similar government guarantees.

The wholesale funding guarantee will also promote financial system stability in Australia and assist banks, building societies and credit unions to continue to access funding at a time of considerable market turbulence.

Implementation of these arrangements this coming Friday is a substantial step at a time of significant turbulence in financial markets.

The Australian people should be aware that the Government has very strong real-time monitoring arrangements in place through the Council of Financial Regulators, whom I met with as recently as last Friday.

The Council will also have contingency plans in place to deal with any problems that may arise in implementation.

The Government stands ready to refine these arrangements in response to their advice.

It is in all our interests that this happen as quickly and as smoothly as possible.

Implementing the guarantees

It is estimated that 99.5 per cent of individual deposits held by Australians are worth one million dollars or less. As a result, as of 28 November, virtually all depositors will continue to be protected, free of charge, by the Financial Claims Scheme established in the Banking Act.

The Financial Claims Scheme was established by the Parliament, when the Financial System Legislation Amendment (Financial Claims Scheme and Other Measures) Act 2008 was passed just six weeks ago.

Since 12 October 2008, the Government has been working to implement the guarantee for large deposits, that is, those in excess of one million dollars, and the guarantee for wholesale funding.

The Government's Guarantee Scheme for Large Deposits and Wholesale Funding is established by a Deed of Guarantee and associated Scheme Rules, which I executed on behalf of the Commonwealth on 20 November and made public the next day.

The Government decided that the quickest and most effective way to implement these guarantees was to use the Commonwealth's executive power to establish a contractually-based scheme that is valid and enforceable.

This follows international practice, for example the UK and New Zealand have guaranteed their wholesale funding by contract.

The Government's legal advice confirms that legislation is not required to implement these guarantees.

This bill deals with a separate but related issue of an appropriation to cover the very unlikely event of a claim on Government under the guarantee.

Essentially, there are two options: one option is for the Government not to legislate for an appropriation now, given the extremely low probability of a claim under the guarantee.

Under this option the Government would legislate at the time of the call on the guarantee.

The alternative option is that the Government legislate for an appropriation now.

During the government's consultations, banks raised concerns about doubts in international funding markets that Government will be able to pass legislation with sufficient speed in the event of a claim on the guarantee.

Put simply, potential investors need to be confident they can get their money quickly if a bank were to default on a loan.

If they doubt quick and seamless bipartisan support for an appropriation bill, they will place too great a risk premium on lending to Australian banks.

Given the Opposition's recent commentary on the bank guarantee, it is now clear that quick and seamless bipartisan support could not be counted on.

For our part, the Government has decided it is better for us to settle the appropriation argument with the Opposition now, rather than have it be an impediment to Australian banks being able to access vital funding on international markets.

To reiterate, the Government considers it unlikely that claims will need to be paid under the Guarantee Scheme because Australia's banks, building societies and credit unions remain sound, well capitalised and well regulated.

No depositor of an institution supervised by APRA, or before that the RBA, has ever lost any money.

Nonetheless, to give certainty to the investors providing funding to Australian banks, building societies and credit unions, and to provide certainty to those with large deposits, the Government is seeking the Parliament's support to pass this appropriation Bill now.

Quick passage of this bill will ensure that, from 28 November, any claim under the Guarantee Scheme, however unlikely, will be able to be paid in a timely way.

Guarantee Scheme for Large Deposits and Wholesale Funding

The Australian Government Guarantee Scheme for Large Deposits and Wholesale Funding will

be administered by the RBA, acting as agent for the Commonwealth. For their part, the Treasury, the RBA and APRA will cooperate closely to ensure the Guarantee Scheme is administered effectively.

Eligible institutions, that is, eligible banks, building societies and credit unions, will need to apply for access to the Guarantee Scheme.

The scheme is voluntary and each eligible institution can determine whether or not it takes part.

Each eligible institution can also determine which of their deposits and which of their wholesale funding liabilities are covered by the Guarantee Scheme.

Once eligible institutions have applied for coverage of their large deposits and/or wholesale funding liabilities, and the application has been accepted, these liabilities will be supported by the guarantee.

Each eligible institution will be obliged to pay a fee based on the value of large deposits, or wholesale funding, it has covered by the guarantees.

The Guarantee Scheme application process provides a number of important safeguards for the Government and for taxpayers.

Transparency and accountability mechanisms

To ensure transparency and accountability, the Government will publish regular reports on the Guarantee Scheme's website www.guaranteescheme.gov.au including a statement of publicly issued guaranteed liabilities.

The Government can also publish on the website the details of participating institutions and the liabilities that are covered.

The Government will provide six-monthly reports to the Parliament on the Guarantee Scheme's operations, including:

- the extent of the liabilities covered by the guarantees;
- whether any calls have been made under the guarantees for payment; and
- the payments, if any, made by the Commonwealth under the guarantees.

Protecting the interests of taxpayers

The Guarantee Scheme protects the interests of taxpayers in three key ways.

First, all of the eligible institutions under the Guarantee Scheme are regulated by APRA and must already comply with stringent prudential requirements, accounting and audit rules, and reporting requirements.

To have liabilities protected by the Guarantee Scheme, eligible institutions will need to provide a statement of prudential compliance as a part of the application process or, alternatively, obtain special consent from APRA.

Any applications with incorrect prudential compliance statements, or without special consent from APRA, will be rejected.

Second, eligible institutions will need to execute a counter-indemnity that will require them to reimburse the Commonwealth for any payments made and costs incurred under the Guarantee Scheme.

Eligible institutions will also be required to agree to abide by the Scheme Rules, which include a requirement that institutions have reports relating to the guarantee audited.

The Government also has the power to independently audit these institutions' records.

The RBA and APRA will work together in the administration of the Guarantee Scheme.

The agencies already have a Memorandum of Understanding that sets out a framework for co-operation between them, which covers such matters as information sharing and consultation arrangements for the handling of threats to system stability.

Third, the Council of Financial Regulators—comprising Treasury, the RBA, APRA and ASIC—will actively monitor the administration arrangements and will develop any further protocols considered necessary for effective scheme administration.

Features of the bill

The bill has two substantive measures.

A standing appropriation is established by the bill to enable claims to be paid in a timely way, in the unlikely event that claims are made under the Guarantee Scheme.

A borrowing power is also provided, should there be insufficient funds in the Consolidated Revenue Fund when claims are to be paid under the Guarantee Scheme.

The appropriation before the Parliament is not a legal necessity for the commencement of the guarantee. Our legal advice makes that absolutely clear.

Nor would it be a commercial necessity, if international markets could be confident that there would be ready bipartisan support in this Parliament for an appropriation bill in the very unlikely event that one is required.

Australian banks could have been pretty comfortable this support would be forthcoming, based on the Leader of the Opposition's words on the day the guarantee was announced, and I quote:

"The Opposition welcomes the decisions taken by the Prime Minister today to provide a guarantee for all deposits for Australian deposit taking institutions, banks, credit unions, building societies and so forth. That's a very important step and we will undertake to give the Government every assistance in ensuring that the necessary legislation is passed through the parliament promptly."

As we all now know, that support has been withdrawn.

That wouldn't matter if it were just a case of the usual political rough-and-tumble.

But in the midst of a global financial crisis, words are bullets, and the Leader of the Opposition's growing attacks on the guarantee scheme have sowed the seeds of doubt in the minds of global investors.

We cannot allow those doubts to fester.

It is certainly the case that the Leader of the Opposition has been issuing dark warnings about uncertainty for banks on international funding markets if legislation was not passed.

I'd just make the point in passing that this is a bit like a cat burglar warning of an impending crime spree.

In essence, we have decided to bring this legislation forward now, to allow the Leader of the Opposition to take his potshots at a time when they can cause least damage.

This standing appropriation is an important step in our ongoing efforts to protect Australia from a global financial crisis that has already driven some of the world's largest economies into recession.

It is part of an ongoing process of the Rudd Government working quietly and methodically through the complex issues the nation confronts.

This process will continue as global circumstances change.

Our promise is that at all times, we will consult broadly, work collaboratively with regulators and with industry, and act in the national interest.

I'll make one final point.

Obviously the consultative approach we have taken to these matters means information can leak out from time to time, including to the Opposition.

This is inconvenient, but we won't ever stop consulting on such important matters, whatever the political cost we incur.

Of course, the national interest is more important than the political interests of anyone in this Parliament.

It's something those opposite would do well to remind themselves.

I urge the Parliament to support the Guarantee Scheme and this bill in the interests of promoting financial system stability, confidence in Australia's banks, building societies and credit unions and in the interests of ensuring the flow of credit to Australian businesses and households.

Debate (on motion by **Senator Sherry**) adjourned.

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (4.25 pm)—I move:

That the resumption of the debate be made an order of the day for a later hour.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (4.26 pm)—It would be good and kind of the minister to indicate when that later hour is. However, let me take this opportunity to flag the opposition that I and the Australian

Greens have to this legislation being rail-roaded through the Senate in the next 36 hours. There has been no inquiry, there has been no reference to the Australian public and there has been no assessment of what the cost to Treasury might be, either as a direct result of the bill or should the circumstances for which the bill is being put to the Senate—that is, to deal with a default on a major borrowing overseas—come about. The objection that I have is that this is the wrong way to go about things. Senator Coonan said that the opposition has been pursuing this outcome for about six weeks, and I accept that. But the fact is that the government has said, until the last week or so, that there is no need for this legislation. Now suddenly there is a need for the legislation. In that circumstance, there is a need for the Australian public to be acquainted with the legislation that is being passed on this hill and to have input, because there is not one Australian household that is not potentially affected.

This bill is to use consolidated revenue—or, if there is not enough money in consolidated revenue, the government is to go out and borrow the money—to pay for an overseas borrowing by one of the banks that they are failing to repay. In other words, the public purse becomes the guarantor of the private operator. We will hear argument in the coming 36 hours that this is necessary for the banks to be able to compete in the international market. The *Financial Review* today, in a piece by Matthew Drummond, says that the banks are eager to get in early and test pricing power. They are all in the starting blocks and they are waiting for Friday to roll around so that they can go onto the market and borrow at a much lower rate.

In the absence of a Senate inquiry, I will be asking of the government—and this is important; this is why I am speaking now—in the committee stages of this bill to provide the Senate with the figures on how much the

government will raise through any imposition on bank lending that gains the favour of the guarantee in this legislation. I will also be asking the government to indicate to the Senate how much advantage the banks can be expected to get from this guarantee going through this place—that is, what difference it will make to their ability to borrow overseas—and the conditions of that borrowing, in particular, of course, with respect to interest rates.

This is a piece of legislation that will be obscure to much of the public because it looks complicated. But, in effect, it is simply a means of the government guaranteeing the banks when they borrow overseas—and, on the long-shot chance that one of those borrowings fails, the public picks up the tab. When the public picks up the tab, that means money that otherwise might be available under consolidated revenue or through borrowings for hospitals, for schools, for public transport, for security, for the environment or for tackling climate change will instead go to make up for that defaulting bank loan—which means the defaulting bank. This is legislation which, logically, will encourage more risky borrowing overseas. It is legislation which will increase borrowing overseas and therefore, logically, the potential for default.

It is no good for the government or the opposition, which is claiming credit for this legislation, to argue, that the chance of a default is ‘infinitesimal’—a word I had put to me yesterday—because this whole piece of legislation is predicated on a bank defaulting on an overseas loan. If that potential were not there, there would be no legislation. Therefore, it is wagering the public good, the public purse, against a mistake by the private sector, the banks, in borrowing overseas—by borrowing in circumstances where a default not only was possible but also became a reality. So it is a very clear case of the Labor

government putting on the line the public wellbeing as a backup for private enterprise, which we are told needs less government regulation not more. This is socialising the risk of the big banks. It is as simple as that. And it deserved much more scrutiny than we are getting here today.

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (4.33 pm)—In closing the debate, I would say that most of the points that Senator Brown has raised I do not agree with. But we will deal with those issues, and I would expect him to make those issues clear in his contributions when we get to the legislation—hopefully in a short while. It should not be long. The reason that I have moved to adjourn consideration of the legislation is to deal with some messages from the House of Representatives and what I would describe as ‘necessary clean-up material’ this afternoon.

One other point I would make—because I know we are on broadcast, and, obviously, this is an important piece of legislation—is that this is not just for the banks, or the ‘large banks’, as you refer to them, Senator Brown. It is for all banks, all credit unions and all building societies that choose to sign. It is not just for the big four banks. But we will develop these arguments and points when we get to the debate itself.

Question agreed to.

**AGED CARE AMENDMENT (2008
MEASURES No. 2) BILL 2008**

**AUSTRALIAN CURRICULUM,
ASSESSMENT AND REPORTING
AUTHORITY BILL 2008**

First Reading

Bills received from the House of Representatives.

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law)

(4.35 pm)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the *Notice Paper*. I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (4.36 pm)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

AGED CARE AMENDMENT (2008 MEASURES No. 2) BILL 2008

Caring for our ageing population is one of the major challenges facing our nation this century – it requires careful planning, adequate funding and comprehensive safeguards to ensure the protection of our frail, older Australians.

The Government takes this responsibility very seriously and is committed to the highest quality of care for older Australians.

I am pleased to be able to demonstrate our commitment in a very concrete and real way today, by introducing the Aged Care Amendment Bill 2008.

The Bill is part of a package of reforms designed to ensure that frail, older Australians who enter in residential care receive high quality care, that the significant sums of money paid by care recipients are managed responsibly by the aged care provider, and that the aged care regulatory framework is robust.

In the decade since the Aged Care Act 1997 (the Act) first came into effect the industry has matured significantly. The setting in 2008 is significantly different from what existed in 1997. The

sector is evolving from typically a one site, one service “cottage” type to multi-site, multi-State, multi-service operations using complex financial and legal arrangements.

The Act as currently written does not scrutinise these complex corporate structures to the same extent as it does the business model that existed when the Act was first developed.

Another feature of the sector in 2008, not envisaged in the 1997 legislation, relates to the provision of a broad range of aged care services within the one facility.

This Bill addresses each of these major areas of change in a considered way to meet the challenges of the 21st Century.

Addressing changes in business structures

When the aged care legislation was developed ten years ago, the typical business model adopted by aged care providers was one whereby the owner of the facilities also operated the aged care facility. The regulatory framework reflected the “cottage” nature of the sector as it then was.

In recent years a different model of aged care has emerged, one in which the owner and operator of a facility have distinct roles and responsibilities and may function quite separately. The last decade has also seen a significant increase in the level of investment in the sector from large corporate entities. The regulatory framework has not kept pace with this shift in business practice.

This lack of consistency between the regulatory framework and contemporary business practice means that the regulations have not been able to be applied equally to all approved providers regardless of their corporate structure.

Under current arrangements, those “pulling the financial strings” may not be currently considered as “key personnel” for the purposes of regulatory scrutiny. Amendments to the range of people considered to be ‘key personnel’ of an approved provider will ensure an inspection of those pulling the financial strings, and that the relevant provisions apply consistently to approved providers.

Presently, there is limited capacity for the Department of Health and Ageing to consider the record of “related entities” when making deci-

sions about approvals, which unnecessarily and inappropriately limits the ability of the Department to make an informed assessment of a company's record in service delivery and its suitability to be approved to deliver care in the future. The Bill addresses this issue, to provide better protection for residents and promote public confidence in the industry.

The changes outlined in the Bill will ensure that the legislation holds large aged care providers as accountable as smaller ones, and that no entity can avoid their accountabilities through sophisticated business structures. It will enable the Department to consider the record of related entities when making decisions and considering approvals.

The requirement for more comprehensive assessment of applicants for approvals also provides better protection for residents and promotes public confidence in the system.

Very importantly, the Bill also eliminates ambiguity about which aged care services are regulated by the legislation. Increasingly developers are putting aged care, retirement villages and sometimes disability or step down care all in the same development, giving rise to uncertainty relating to the regulatory reach of the Aged Care Act. Changes to the regulatory and administrative framework will clarify that only the aged care services are regulated by the Aged Care Act.

This provides greater certainty for care recipients and providers about their respective rights, obligations and protections. These changes are a critical, structural platform for other changes and for ensuring the ongoing protection of aged care recipients.

Increased protection of bonds

Significant sums of money are held on behalf of residents, these accommodation bonds, often represents most of their life-savings. As at 30 June 2007, around 970 approved providers (75% of all approved providers of residential care) held accommodation bonds, with a total value of \$6.3 billion. Comprehensive consumer safeguards must be in place to protect these funds.

Since the introduction of the Accommodation Bond Guarantee Scheme in 2006, which guarantees the repayment of bonds in the event that a

provider becomes insolvent or bankrupt, experience has highlighted some areas where the protections for residents could be strengthened. This Bill addresses these issues and ensures that accommodation bonds, and similar payments paid by residents for entry into aged care services, are fully protected under the Guarantee Scheme.

The number of people seeking access to care

Turning now to the way the Bill addresses the increase in the number of people seeking approval for access to care.

In 2006-07, Aged Care Assessment Teams conducted a total of 189,000 assessments of frail older Australians across community, hospital and residential settings.

This requires significant resources to enable timely assessment of care needs. The Government is committed to meeting this need. However, we also recognise that there are ways that we can do business better in order to reduce waiting times for our elderly citizens. The Bill addresses this issue by streamlining assessments and reducing red tape.

Following these amendments, negotiations will commence with the States and Territories so that the greater efficiencies provided for in this Bill will result in improvements in the timelines of assessments for older people.

Ensuring the health, welfare and other needs of care recipients are met

Finally, and most importantly – the reform package ensures that the protection of residents is of the highest priority.

The reform package includes changes to the Aged Care Principles, which very directly address the safety of residents.

Measures to be included in amended Principles include reducing the risk of potentially unsuitable people working with vulnerable older Australians through strengthened police check requirements. This ensures that people with convictions for serious offences such as murder, sexual assault and physical assault are not employed to care for older Australians. This change will be put in place through an amendment to the Accountability Principles.

A new measure requiring providers to raise the alarm with the Department of Health and Ageing is particularly important for protecting residents who are absent without a reason known to the home, and who have been reported to the Police as missing. This will enable the Department to determine whether appropriate action has been taken and to ensure that the service has systems and processes in place to ensure the safety of all residents. This change will be established by amendments to both the Act and the Accountability Principles.

Finally, changes to the Act will make certain that when the Department needs to take action against an aged care provider for non-compliance, and is considering both the safety of the residents and the rights of aged care providers, the Department must give the most weight to whether the non-compliance threatens or would threaten the health, welfare or interests of current and future care recipients. While this has always been the intent of the legislation, this requirement will now be placed front and centre so that there can be no doubt about what is the paramount consideration.

In addition, the amendments will make some minor, operational changes to improve the administration of the legislation so that it operates effectively.

Timing

Subject to the passage of the Bill through Parliament and the development of associated changes to delegated legislation, it is proposed that the package of reforms will take effect from 1 January with a transition period for some of the reforms until the end of June 2009. This transition period will ensure that aged care providers and residents have an opportunity to prepare for, and become familiar with, these changes.

These changes have been the subject of consultation with the aged care industry and consumer representative groups, which has helped shape this Bill. To ensure smooth implementation, the Government will continue to work collaboratively with providers, professional bodies, unions, care recipients and their families, and listen closely to their views.

Conclusion

I am very pleased to be able to introduce this Bill and announce the package of reforms of which it is part.

The reforms strike the right balance between maintaining contemporary, effective regulation to protect vulnerable and elderly people and delivering change to reduce the regulatory burden for aged care providers. They also complement the record funding by the Australian Government to support aged and community care.

Over the next four years, the Australian Government will provide more than \$40 billion funding to aged and community care including more than \$28.6 billion to nursing homes and hostels.

These changes will promote public confidence in the aged care system, ensure the regulatory framework is appropriate in an evolving corporate environment and provide the best possible protections and quality of care for older Australians.

AUSTRALIAN CURRICULUM, ASSESSMENT AND REPORTING AUTHORITY BILL 2008

Introductory remarks

It gives me great pleasure to present the Australian Curriculum, Assessment and Reporting Authority Bill 2008. This bill is yet another illustration of how this Government is getting on with the job of delivering an Education Revolution to Australia.

This Government knows that a world-class education system is the foundation of a competitive economy, that it underpins a dynamic labour market and that it is central to building a stronger and fairer Australia.

Over the last 12 years, under the Howard Government, our education system has been allowed to fall behind. It has suffered more than a decade of neglect.

In the May Budget, this Government committed an unprecedented \$19.3 billion to an Education Revolution; we have started rebuilding a modern, high quality education system for all Australians.

We are delivering computers to schools and new Trade Training Centres are also on their way.

Our Education Tax Refund is available to parents for educational expenses incurred since July this year. This bill builds on this Government's achievements so far.

In less than one year in Government we have begun to transform the Australian education landscape.

This bill, by creating a new national authority responsible for curriculum, assessment and reporting, introduces a new era of transparency and quality in Australian schools.

Australian Curriculum, Assessment and Reporting Authority

During the 2007 election we promised that a Rudd Labor Government would deliver a National Curriculum for Australia. We promised that a Rudd Government would deliver a comprehensive and sophisticated approach to performance reporting for individual schools across Australia.

Now we are delivering on that promise.

In the past, education policy in Australia has been dogged by a lack of transparency. Information about what happens in schools and what difference it is making has been seriously lacking.

In a world where education is central to prosperity and to social inclusion, being limited to such an opaque picture is not acceptable.

We cannot afford for our educational debates to ignore the fundamental issues of quality and outcome that will determine our young people's future life chances.

But this was the reality of education policy under the Howard Government. Its funding policies polarised debate and neglected the long term needs of students. Its curriculum posturing generated more heat than light. It was all about publicity for Liberal Ministers rather than what children learn. Its coordinating structures failed to bring either coherence or efficiency to the regulation of schooling or the management of essential business between governments.

In contrast, this Government has built the foundations of a comprehensive, long term school reform strategy.

A National Education Agreement will be concluded through COAG before the end of this year. This agreement will establish for the first time the

shared national targets, outcomes and policy directions that we need to achieve a world class school system serving the needs of every Australian student.

The National Education Agreement will provide the framework for ongoing, collaborative reform.

Its priorities include proposals for National Partnerships to lift teacher quality, boost literacy and numeracy and raise achievement in disadvantaged school communities.

Our ambition is to deliver a world class education for every Australian student in every community.

To achieve that goal, we need curriculum, assessment and reporting systems that are up to the task.

A new era of transparency

Earlier this year, the Prime Minister and I called for a new era of transparency in Australian schooling.

We argued that to lift performance and direct new resources to where they will make most difference, we need unprecedented rigour and openness in the collection and publication of schools data

If we are to identify accurately where the greatest educational need across the Australian community is located and encourage excellence in every school, we need a basis for fair, consistent, and accurate analysis of how different schools are doing.

Accurate information on how students and schools are performing tells teachers, principals, parents and governments what needs to be done.

This means publishing the performance of individual schools, along with information that puts that data in its proper context. That context includes information about the range of student backgrounds served by a school and its performance when compared against other 'like schools' serving similar student populations.

In a world class school system curriculum, assessment and performance reporting all play a crucial role in ensuring that teaching and learning are of the highest quality. They must be carefully aligned with each other and reflect the best of what happens in Australian schools and around the world.

This bill will establish a single national Authority to perform that role.

This bill marks a defining moment in the future of education in Australia. A defining moment that we could have only achieved by working closely with our colleagues in the States and Territories to end the blame-game in education.

It is with pride that I acknowledge the role of the State and Territory education Ministers who have worked with me through the Ministerial Council on Education, Employment, Training and Youth Affairs to achieve this reform. This is collaborative federalism at its best.

The creation of this new Authority gives effect to the Council of Australian Governments' historic decision on 2 October 2008 to establish a new national education authority.

The Australian Curriculum, Assessment and Reporting Authority will bring together, for the first time, the functions of curriculum, assessment and reporting at the national level.

It will be a key driver of the Education Revolution.

It demonstrates to parents, students, teachers and the international community how committed we are to ensuring that every young Australian has the best possible start in life.

It places education at the forefront of the national agenda—a place where it has not been for twelve long years.

As part of our commitment, the Australian Government is committing more than \$37 million over the next four years to support the work of the new Authority. This commitment will be matched through existing contributions made by the States and Territories.

Detail on provisions of the Bill

This bill establishes the Australian Curriculum, Assessment and Reporting Authority as an independent statutory authority under the Commonwealth Authorities and Companies Act 1997.

The bill includes provisions to ensure that state and territory education ministers' responsibility for curriculum arrangements in their own jurisdictions is recognised and respected and that non-government school systems are participants in the new national arrangements.

The Authority will be responsible for the management of curriculum, assessment and reporting at the national level and will report to all Australian education ministers through the Ministerial Council.

The Ministerial Council will be responsible for setting the Authority's work program through a Charter. The Authority must perform its functions and exercise its powers in accordance with the bill and the Charter.

The bill provides for the Authority's core functions across the areas of curriculum, assessment and reporting as well as the ability to operate commercially with regard to educational services.

The Authority will be led by a 13 member expert Board of Directors, responsible for overseeing the functions of the Authority. Membership will include a Chair, a Deputy Chair, one nominee from the Commonwealth, one nominee each from each State and Territory Education Minister, one nominee from the National Catholic Education Commission and one nominee from the Independent Schools Council of Australia. These appointments will be made by the Ministerial Council.

There will also be a Chief Executive Officer of the Authority, appointed by the Board, responsible for overseeing the day-to-day management of the Authority.

The Authority will be responsible for delivering Australia's first national curriculum and the new transparency and performance reporting agenda announced by the Prime Minister last month.

National curriculum benefits

In developing a single national curriculum, the Authority will ensure that every young Australian has access to the highest quality education—regardless of where they live or their socio-economic background. The national curriculum will outline the curriculum entitlement for every young Australian. This is something that I believe is 30 years overdue for a modern, talented and resource-rich country, such as Australia.

We must ensure that all Australian children achieve their educational potential, and that more of them complete schooling through to Year 12.

The new national curriculum will be future-oriented and will equip our young people with the

essential skills, knowledge and capabilities to compete internationally and thrive in the globalised economies of the future.

It will also facilitate greater student mobility for some 340,000 Australians, including for some 80,000 school-aged students who move interstate each year in pursuit of educational or employment opportunities.

A national curriculum will benefit teachers by giving them a clear understanding of what needs to be covered in each subject and in each year level during each phase of schooling. It will also allow teachers the flexibility to shape their classes around the curriculum in a way that is meaningful and engaging for students.

The national curriculum will also bring benefits to parents. It will give them clear and explicit agreement about what it is that young people should know and be able to do. It will be grounded in the best of the traditional disciplines and will have as its foundation specific standards of literacy and numeracy.

Earlier this year, this Government announced the establishment of an interim National Curriculum Board with responsibility for overseeing the challenging task of developing the national curriculum.

The interim Board, led by Professor Barry McGaw as Chair, and Mr Tony Mackay as Deputy Chair have been working very hard to engage the education community in developing Australia's first national curriculum in English, mathematics, the sciences and history.

And they have been doing an excellent job. I would like to commend the interim Board members for their efforts and energy in taking the work this far.

The work of the National Curriculum Board will now form part of this new authority and we will work with the Board to ensure that there is a considered transition strategy put in place to effect this transfer of responsibilities.

As part of our election commitment, we committed to establishing the final governance arrangements for the Board by 1 January 2009. Today, we deliver on that commitment.

Concluding remarks

The Australian Curriculum, Assessment and Reporting Authority will be at the forefront of the Australian Government's commitment to provide all young Australians with better opportunities and the best start in life. It will be the engine room of reform, a key driver of our Education Revolution. It will be responsible for delivering some of the most significant educational reforms in Australia's history. It heralds a new era in education across Australia. And it places education at the forefront of the national agenda where it rightfully belongs.

Debate (on motion by **Senator Sherry**) adjourned.

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

SAME-SEX RELATIONSHIPS (EQUAL TREATMENT IN COMMONWEALTH LAWS—GENERAL LAW REFORM) BILL 2008

Returned from the House of Representatives

Message received from the House of Representatives returning the bill and informing the Senate that the House of Representatives has made the amendments requested by the Senate to the bill.

Third Reading

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (4.37 pm)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

SAME-SEX RELATIONSHIPS (EQUAL TREATMENT IN COMMONWEALTH LAWS—SUPERANNUATION) BILL 2008

Consideration of House of Representatives Message

Message received from the House of Representatives returning the bill and informing

the Senate that the House has agreed to amendments (2), (3) and (4) made by the Senate, disagreed to amendment (1), and made further amendments in place of the amendment; and requesting the reconsideration of the bill in respect of the amendment disagreed to and the concurrence of the Senate in the amendments made by the House of Representatives.

Ordered that the message be considered in Committee of the Whole immediately.

House of Representatives message—

Schedule of the amendment made by the Senate to which the House of Representatives has disagreed

(1) Clause 2, page 2, omit the table, substitute:

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	
2. Schedule 1	1 July 2008.	1 July 2008
3. Schedules 2 and 3	1 July 2008.	1 July 2008
4. Schedule 4	1 July 2008.	1 July 2008
5. Schedule 5	1 July 2008.	1 July 2008

Schedule of the further amendments made by the House of Representatives

(1) Clause 2, page 2 (table item 1, column 1), omit “3”, substitute “4”.

(2) Clause 2, page 2 (table item 3), omit the table item, substitute:

3. Schedule 2, Part 1	The day on which this Act receives the Royal Assent.	
3A. Schedule 2, Part 2	At the same time as the provision(s) covered by table item 2.	

3B. Schedule 2, Part 3 The day on which this Act receives the Royal Assent.

3C. Schedule 3 At the same time as the provision(s) covered by table item 2.

(3) Clause 2, page 2 (table item 4), omit the table item, substitute:

4. Schedule 4, Parts 1 and 2 1 July 2008. 1 July 2008

4A. Schedule 4, Part 3 The day on which this Act receives the Royal Assent.

(4) Page 2 (after line 11), after clause 3, insert:

4 Entitlements from 1 July 2008

(1) If:

(a) a person would have been entitled to one or more payments (the *lost payments*) under an Act that is amended by Schedule 1, 2, 3 or 5 to this Act if the relevant Schedule had commenced on 1 July 2008; and

(b) because the Schedule did not commence until after 1 July 2008, the person is not entitled to the payment or payments; and

(c) the person makes an application to the Finance Minister for one or more payments (the *replacement payments*) to compensate the person for the lost payments;

the Finance Minister must make a determination, in accordance with subsection (4), to fully compensate the person.

(2) If:

(a) a person would have been entitled to one or more payments (the *lost payments*) under the *Military Superannuation and Benefits Act 1991* if the first amendment of the Trust Deed under that Act that is made after the commencement of this section had commenced on 1 July 2008; and

(b) because that amendment did not commence until after 1 July 2008,

- the person is not entitled to the payment or payments; and
- (c) the person makes an application to the Finance Minister for one or more payments (the *replacement payments*) to compensate the person for the lost payments;
- the Finance Minister must make a determination, in accordance with subsection (4), to fully compensate the person.
- (3) If:
- (a) a person would have been entitled to one or more payments (the *lost payments*) under the *Superannuation Act 1990* if the first amendment of the Trust Deed under that Act that is made after the commencement of this section had commenced on 1 July 2008; and
- (b) because that amendment did not commence until after 1 July 2008, the person is not entitled to the payment or payments; and
- (c) the person makes an application to the Finance Minister for one or more payments (the *replacement payments*) to compensate the person for the lost payments;
- the Finance Minister must make a determination, in accordance with subsection (4), to fully compensate the person.
- (4) A determination by the Finance Minister under this subsection must:
- (a) be in writing; and
- (b) set out:
- (i) the amount and timing of the replacement payments; or
- (ii) the method of determining the amount and timing of the replacement payments.
- (5) An application must be in writing in the form approved by the Finance Minister.
- (6) To avoid doubt, a determination of the Finance Minister that a person is entitled to one or more replacement payments does not affect the entitlements of any other person under an Act amended by Schedule 1, 2, 3 or 5 to this Act, the *Military Superannuation and Benefits Act 1991* or the *Superannuation Act 1990*.
- (7) Replacement payments are to be made out of the Consolidated Revenue Fund, which is appropriated accordingly.
- (8) A determination made under this section is not a legislative instrument.
- (9) In this section:
- Senator SHERRY** (Tasmania—Minister for Superannuation and Corporate Law) (4.39 pm)—I move:
- That the committee does not insist on its amendment to which the House of Representatives has disagreed and agrees to the amendments made by the House in place of that amendment.
- The amendment which the House disagreed too, namely Senate amendment (1), was the amendment proposed by the opposition which would result in schedules 1, 2, 3 and 5 of the bill having retrospective effect from 1 July 2008. Senator Wong outlined the government's concerns regarding this amendment when the bill was previously considered in this place. Specifically, the government is concerned that this amendment will give rise to significant legal complications which will require complex transitional and consequential amendments.
- The government is also concerned that any retrospective operation of the bill would require provision to be made for the Commonwealth to provide just terms in respect of any acquisition of property brought about by the retrospective application of the amendments to ensure that the bill does not involve an impermissible acquisition of property for the purposes of section 51(xxxi) of the Constitution.

Further, this amendment would create inconsistencies between the Commonwealth Superannuation Scheme and the Public Sector Superannuation Scheme relating to the commencement of the reforms, as well as between the Military Superannuation and Benefits Scheme and the Defence Force Retirement and Death Benefit Scheme. The Public Sector Superannuation Scheme and the Military Superannuation and Benefits Scheme are governed by trust deeds, which in this circumstance cannot be amended retrospectively. This would mean that, as a consequence of the opposition's amendments, benefits would not be extended to same-sex partners in the Public Sector Superannuation Scheme and the Military Superannuation and Benefits Scheme from 1 July 2008.

It was for these reasons that the House disagreed with this amendment and proposed a further amendment as an alternative. The government believes that the alternative amendment proposed by the House will address the concerns of both the opposition and the Australian Greens. It will ensure that any individual who would have been entitled to a payment, or payments, will be compensated fully for any payments lost as a result of the bill not commencing on 1 July 2008. The House amendment also addresses the government's concerns because it does not require the bill to have a retrospective effect.

The House amendment to the bill will provide a mechanism to allow replacement payments to be made to an individual who has lost a superannuation payment or payments because these reforms did not commence on 1 July 2008. It will also amend the commencement of part 1 of schedule 2 to the bill, which inserts a definition of 'de facto partner' into the Acts Interpretation Act, to make it commence on royal assent. It will make other amendments to commencement dates for certain schedules to the bill, which the government previously intended to move

in the Senate but which it did not move because they were overtaken by the Senate's approval of the opposition's amendments. I commend the House amendment to the Senate.

Senator BRANDIS (Queensland) (4.42 pm)—Can I just indicate that the opposition will accept the government's amendment and will not press the amendment which I moved when the bill was last considered by the Senate. Particularly since we are being broadcast and there are no doubt a number of people listening to this broadcast, can I just say a few words about the history of these amendments.

The opposition indicated to the government that it was their strong view that the operation of this bill ought to be made retrospective to 1 July 2008. The government, while, I think it is fair to say, not dissenting from that proposition, nevertheless exhibited or expressed some concerns about the manner in which that retrospective operation could be achieved. I think I can say that we were privately favoured with access to some legal advice that the government had received. We considered that advice carefully and we were not persuaded that the constitutional difficulties under section 51(xxxi) of the Constitution, or the other difficulties that have been recited by the minister, were other than speculative or fanciful. Therefore, we insisted on an amendment which would have made the operation of the bill retrospective, and that amendment was carried.

The government proposed an amendment of a much weaker kind which would have given persons who might otherwise have been entitled to be claimants under the legislation, arising from the death of a partner after 1 July 2008, the right to apply to the minister and to request that the minister exercise a discretion in their favour. I do not suggest that there would be any reason to

doubt that that discretion would be exercised in good faith. Nevertheless, it did not put people in that position on the sure footing of having a right, enforceable against the Commonwealth, in respect of the death of a partner from 1 July 2008. In other words, that amendment put such people in a much weaker position than the amendment which the Senate ultimately carried, which was proposed by the opposition.

The government has evidently reconsidered the position, and the amendment moved in the House of Representatives, and now moved in this chamber by Senator Sherry, strengthens the position of claimants in that position. Under subclause (4)(1), the amendment provides that, if certain eligibility criteria are met, the finance minister must make a determination, in accordance with subsection (4), to fully compensate the person. Subclause (4)(4) merely requires that the minister must set out in writing the amount and timing of the replacement payments or the method of determining the amount and timing of the replacement payments—the replacement payments being payments to the same quantum of and in lieu of what would have been entitlements under the act after it receives royal assent. So, effective retrospectivity has now been achieved, and that retrospectivity is based on an enforceable right, exercisable against the Commonwealth, rather than making a potential claimant a supplicant for ministerial favour in the exercise of a discretion. This amendment would not have been made had the opposition not insisted on its position in the Senate. I welcome the concession made by the government in that respect, and that is the reason why the opposition is now satisfied that we can support this amendment, as we do.

Finally, let me close on this: the reason why the issue of retrospectivity arises is that, when this legislation was introduced into the

Senate in June this year, the opposition referred this bill and the related bill to the Senate Standing Committee on Legal and Constitutional Affairs. As you would be aware, there were extensive hearings during the winter recess by that committee in relation to this bill and three related bills, two of which have now passed. Many of the recommendations of that committee were adopted. They were adopted in the form of government amendments, and the government acknowledged that the process of review of this legislation by the committee was a beneficial process which improved the legislation.

At the time that the opposition referred this and the related bills to the Senate Legal and Constitutional Affairs Committee there was a deal of quite ignorant criticism of the opposition. The very ignorant accusation was made by some that the purpose of the opposition was to delay the bills. Plainly, since it has been at the insistence of the opposition that the bills have, for all practical purposes, retrospective operation from 1 July 2008, the baselessness of that criticism will now be evident.

One of the principal critics of the opposition at the time of its decision to refer the bills to the Senate Constitutional and Legal Affairs Committee—and I should say that I do not extend to him the description ‘ignorant’—was Mr John Challis, the Convener of the ComSuper Action Committee. Mr Challis in fact appeared before the Legal and Constitutional Affairs Committee hearings and gave some very helpful and extensive evidence to those hearings. Last Thursday, 20 November 2008, I received from Mr Challis an email. Let me read some of it onto the record:

Thank you for including the backdating amendment in the bill, which, as you will recall, I argued strongly for at the Senate inquiry mainly because of the then critical condition of my committee colleague—

And then he names a particular gentleman, whose name I will not read onto the record—

Fortunately, his health has improved and he is elated by the passage of the bill. Although, at the time, I was very critical of the opposition's decision to refer the bill to a Senate inquiry, I have to agree with you that it did improve the bills and facilitated their passage through the Senate.

Warmest regards and thanks,

John Challis

So Mr Challis, who is the leader of the principal public sector advocacy group on behalf of people potentially affected by this legislation, having criticised the opposition's decision to refer the bills to proper Senate committee scrutiny, was generous enough to send in that message acknowledging that the decision was the right one and thanking the opposition for initiating the legislative steps which resulted in the operation of the bill being made retrospective. I might say that the current Leader of the Opposition, Mr Malcolm Turnbull—then shadow Treasurer—made it very clear in his speech in the House of Representatives on the second reading of this bill that that was what the opposition was minded to do: to make the operation of the bills retrospective so that there would be no delay in the commencement of their operation. To those in the community and in the legal profession who essayed that very ignorant criticism of the opposition, Mr Challis's generous acknowledgement is your answer. The opposition welcomes the amendment.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (4.51 pm)—The Greens likewise congratulate the government on this amendment. We do recognise that the amendment would not be there without the work of the opposition. I equally congratulate Senator Hanson-Young and my fellow Greens because we have also ensured that this worthwhile amendment came about.

Question agreed to.

Resolution reported; report adopted.

GUARANTEE SCHEME FOR LARGE DEPOSITS AND WHOLESALE FUNDING APPROPRIATION BILL 2008

Second Reading

Debate resumed.

Senator COONAN (New South Wales) (4.53 pm)—On behalf of the coalition, I am contributing to the second reading debate on the Guarantee Scheme for Large Deposits and Wholesale Funding Appropriation Bill 2008. As I indicated a little earlier to the Senate, the opposition supports the bill. But I want to place on record the history of how this bill has come to be considered by the Senate without being referred to a Senate committee and also place in context some of the quite unfortunate and untrue remarks about Mr Turnbull and the shadow Treasurer, Ms Bishop, in terms of their statements made on these guarantees and the guarantee scheme.

This bill will provide for a standing appropriation from the Consolidated Revenue Fund to pay claims under the large deposit and wholesale funding guarantee scheme. The bill allows for the repayment of borrowing, and the payment of interest on borrowing, made in accordance with the scheme. It therefore provides greater certainty to the guarantee scheme by allowing an appropriation to occur without the requirement for parliament to be recalled to pass a specific bill should a claim be made.

There is a background to this. On 10 October the Leader of the Opposition and the shadow Treasurer called on the Rudd Labor government to take three immediate decisions to further strengthen the Australian economy in response to the international financial crisis. Those calls included: to increase the proposed government backed de-

posit guarantee scheme to cover deposits up to a minimum of \$100,000; to increase the investment into AAA rated residential mortgage backed securities, RMBSs, through the AOFM; and to announce that it will not implement the emissions trading scheme, the ETS, prior to 2011. The coalition committed to working cooperatively with the government to expedite the passage through parliament of any legislation that they would bring forward to responsibly implement the deposit guarantee.

On 12 October the Prime Minister announced an unlimited deposit guarantee scheme to operate for a period of three years and a guarantee of wholesale term funding by authorised deposit-taking institutions in return for a fee which was unspecified at the time of the announcement. The Prime Minister told Australians that he was acting on the advice of the regulators. In a press release on 12 October this year, he said:

My officials have done considerable work on the design of these arrangements and, in developing these measures, I have received advice from the Governor of the Reserve Bank of Australia ...

The opposition supported the policy. In a press conference on 12 October 2008 the Leader of the Opposition, Mr Turnbull, said:

The Opposition welcomes the decisions taken by the Prime Minister today to provide a guarantee for all deposits for Australian deposit taking institutions, banks, credit unions, building societies and so forth.

In the parliament, the opposition asked questions regarding the detail and design of the scheme, and the government was unable to answer even the most basic questions. On 21 October, it was confirmed that the Prime Minister had not directly consulted the Governor of the Reserve Bank prior to announcing the unlimited guarantee. On 22 October, during the Senate estimates process, we learnt that the decision to increase the deposit guarantee, unlimited in amount as it

was, was an entirely political decision in response to the Leader of the Opposition calling for a \$100,000 scheme. During the Senate estimates process, I asked Dr Henry:

When did you first have a conversation with any senior member of the government about the possibility of extending the proposal for a \$20,000 capped guarantee to one that is unlimited in amount?

His response was:

It is hard to say. I suspect it would have been the day the Leader of the Opposition first suggested that the \$20,000 capped figure may not be adequate.

The government had initially claimed that it had been working on the detail of its bank guarantee policy for over a week and that the weekend meeting was merely to finalise the details. But, of course, the lack of policy detail underpinning the announced policy immediately caused confusion for account holders, business and financial markets. Account holders were unable to find out for certain whether their savings were even covered by the guarantee and, if not, whether they could move their funds. The government was unable to release a comprehensive list of institutions and accounts covered. To this day, the list of accounts covered is only a sample list.

So, with the savings of thousands of Australians frozen, the Treasurer said, 'Go to Centrelink.' He said:

So I say to the people who are adversely affected by some of these decisions that have been taken in these managed investment funds, do fully investigate your eligibility for income support through Centrelink, that's what I say to them.

That was a quote from the Treasurer from a press conference on 23 October 2008. This week, the Treasurer denied ever making what I think could only be regarded as careless, and perhaps even disrespectful, remarks. Yesterday—I believe it was—he said:

I did not say that all people in managed investment funds who were experiencing problems should go to Centrelink.

So we have rampant confusion and contradiction. It was revealed on 21 October that the Reserve Bank governor had written to the Treasury secretary, Dr Henry, on 12 October informing him that there should be a cap on the guarantee and 'the lower the better'. On 24 October the Treasurer announced that a \$1 million cap would now apply. The exclusion of foreign bank branches from the guarantee resulted, as you would expect, in a rush of transfers from foreign bank branches to banks covered by the guarantee. On 28 October the government finally got around to sorting out the anomaly of foreign bank branches being excluded from the guarantee while foreign subsidiary banks had been included. This had caused considerable problems for foreign bank branches. On 31 October, in a response to the hardship caused to depositors in non-guaranteed institutions and funds, the government requested ASIC to provide advice on how to assist hardship cases where redemptions from funds had been frozen.

As we can see, the lack of detail on how the wholesale term funding guarantee would operate immediately caused confusion for the financial sector. On 13 October the Leader of the Opposition asked the Prime Minister how the government would ensure that the wholesale term funding guarantee did not have the result of bank losses being borne by the taxpayer. The Prime Minister failed to answer the question. On 14 October the Leader of the Opposition asked the Prime Minister whether the government would undertake to make public the amount, and terms, of wholesale term funding guarantees provided by the Commonwealth to Australian banks and other institutions, and the Prime Minister failed to answer the question. On 20 October, the Leader of the Opposition

asked the Prime Minister if he would introduce legislation for the wholesale term funding guarantee. The Prime Minister failed to answer the question. On 21 October, the opposition asked the Treasurer how the fee structure for the wholesale term funding guarantee would operate. The Treasurer failed to answer the question. The details of the fee structure for the wholesale term funding guarantee were finally provided on 24 October.

On 24 October the Leader of the Opposition called on the government to make the wholesale term funding guarantee the subject of legislation. On 13 November the Leader of the Opposition asked the government whether it was aware that Standard & Poor's, the ratings agency, had ruled that it would not give the government guarantee a AAA credit rating unless the payment on the guarantee 'is unconditional, irrevocable and timely'. He also asked:

Why won't the government act to fix this flawed guarantee and allow banks to receive its full benefits, which must then be passed on to the millions of Australian customers through lower interest charges and fees?

The Acting Treasurer, Mr Tanner—yes, you guessed it—failed to answer the question. On 17 November the Leader of the Opposition called on the government to immediately present legislation to authorise the provision of wholesale term funding guarantees to Australian banks. He said:

Without legislation the guarantees will not be effective commercially or practically.

By 21 November the major banks were calling on the government to fix the wholesale term funding and bank deposit guarantees. Again, the Leader of the Opposition called on the government to present legislation to provide for an appropriation to give effect to the wholesale term funding guarantee for Australian deposit-taking institutions.

From that history, of course, we are no doubt going to hear Senator Sherry repeat the comments made by the Treasurer, Mr Swan, in his second reading speech in the House yesterday. Somehow or other, from this unfortunate history with the government being incapable of clearing up this mess and of making clear statements for the benefit of consumers and financial institutions, this becomes Mr Turnbull's fault. But it has taken six weeks for the government to concede, and finally get around to the fact, that legislation should be introduced to the parliament to support the government's bank guarantee of large deposits and wholesale term funding. It was immediately clear that the government's bank guarantee policy was panicked and poorly implemented economic policy that was simply not thought through.

Confronted with the real impact of its panicked and poorly thought through decision, the government has steadfastly refused to acknowledge, or to immediately rectify, its mistakes. The Rudd government bank guarantee has been all about a political strategy with no focus on sound economic decision making. Over one weekend, in a series of long distance phone calls, Prime Minister Rudd and Treasurer Swan produced their flawed bank guarantee. They did not even bother talking directly to the Reserve Bank governor before unveiling their bank guarantee policy. Since the announcement of the bank guarantee policy, the government has been forced to announce a series of changes to try to paper over the cracks of what was poorly conceived from the outset. If the government had simply adopted the policy of the coalition—announced on 10 October—ordinary Australian investors and our financial markets would have been spared six weeks of uncertainty and instability caused by the government's poorly designed policy and, what is more, the opposition would have provided that advice for free.

The unlimited bank deposit guarantee has been a financial blunder of epic proportions. As a direct consequence, 270,000 Australians with investments in unguaranteed mortgage funds and cash management trusts have had their savings frozen. This has affected finance companies which support, for example, the purchase of motor vehicles. They have been unable to roll over their short-term borrowings. The cash management trusts and superannuation funds that used to buy their commercial paper are now only investing in guaranteed deposits. This has dire consequences for jobs, and the impact on jobs is something of enormous consequence to Australians. As the Leader of the Opposition has said, what this government must be responsible for is jobs, jobs and jobs. And this is certainly not the way to go about creating jobs and preserving jobs at risk for the thousands of people in just the motor vehicle industry alone.

The leading banks are now begging the government to roll back the guarantee to a cap in the order of the amount that we originally proposed. The banks' representatives have been told by officials that the Prime Minister will never agree to a cap at or even approaching that recommended by the opposition. This problem is still not fixed and it shows the folly of the government's approach to this. But, not content to bungle the retail deposit guarantee, the Rudd government has also bungled the wholesale term funding guarantee. We supported the wholesale guarantee. All other countries have done the same. Australian banks should not be disadvantaged, which is why we are ultimately supporting this legislation today.

It was the opposition that saw the problem and urged the government to legislate for it. There are two reasons for that. I will place them very briefly on the record. The first is that, while the government can give a guarantee administratively, it cannot pay out on it

without an appropriation law being passed by the parliament. It is obvious that, without that law being passed, credit rating agencies and potential investors around the world will not regard the government's guarantee as being unconditional, irrevocable and timely in terms of payment. That is what Standard and Poor's have indicated will be required for a AAA rating. As the opposition leader has said so presciently, it is self-evident, it is common sense, it is belt and braces law and indeed economics. The second reason is—and this comes to Senator Brown's earlier point—that the wholesale term funding guarantee involves the government potentially taking on hundreds of millions of dollars of contingent liabilities. Why shouldn't that be the subject of legislation and proper scrutiny? Certainly we have also been calling for legislation that would require fees to be charged on commercial terms and would require the extended guarantees to be disclosed to parliament.

The government has finally admitted that we called it right, we called it early and we called on them to fix it when they could have done so six weeks ago. The government's reaction to our proposal has been, I am sorry to say, characteristically—and this seems to be part of a pattern that is emerging—abusive, firstly, and then dismissive. Finally, there was a backflip with pike by them in admitting that we had it right all along. The finance minister was very recently adamant that no legislation would be introduced. I think as recently as last Thursday he brushed aside the report from Standard and Poor's. Of course he might have then had a look at what was happening in the UK, where the banks had been raising funds and the government had stated that it would legislate. That legislation is proceeding in the UK parliament.

Once again the Australian banks have been begging the government to fix this up.

Mr Rudd's ineptitude is simply shutting off the cashflow that the banks need to lend to their customers. So bank officials are saying that the Prime Minister has been reluctant to do anything that may appear to concede a win to the opposition. How petulant and childish is that! The Prime Minister is so vain and so concerned about his reputation as an economic manager that he cannot bear to admit that he got it wrong and cannot bear to admit that the opposition spotted it, called it and he has had to play catch-up.

The opposition has made constructive and, as it turns out, completely correct proposals as to this important area of economic policy. It may be embarrassing for Mr Rudd and Mr Swan to admit this. It is farcical to suggest that any uncertainty is due to the opposition. In fact, we were trying to save the government from the error of its ways that was causing such uncertainty and still is for the economy and certainly for investors. I think it clearly shows the government is struggling when faced with an economic challenge whereby one has to actually think carefully about what you do because of the unintended consequences.

The government's handling of the guarantee scheme has been both amateurish and oafish. It is a situation where—and I say this through Senator Sherry, who is occasionally given to making some thoughtful contributions of his own—occasionally it will do the government good to listen to some advice from the opposition and to take it. We got it right on this occasion. Not everybody has all the answers written on tablets of stone. The government certainly does not in this case, and we have seen the consequences of the government's folly. Although we are supporting the bill, it is entirely reasonable that the fact be placed on the record that the government got this badly wrong and it is certainly time that it be fixed up.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (5.13 pm)—The greed that brought about the current global financial crisis is now being extended by the private sector, through willing parliamentary representatives, as an extra impost on the public sector. This legislation, the Guarantee Scheme for Large Deposits and Wholesale Funding Appropriation Bill 2008, is all about advantaging the finance houses when they go to borrow overseas against competitors for those borrowings. Senator Coonan said that the government, by failing to move this legislation earlier, was effectively—the word she used meant this—blocking the banks from getting finance. That is just not right. The finance is there, it is available and it is on the open market.

What we are part of here today is a process which was begun in the UK and has spread to New Zealand and elsewhere whereby governments guarantee through the use of consolidated revenue—that is, the public purse—the ability of their domestic banks and indeed, in some cases, foreign banks to borrow on the global market and compete against other financial institutions which do not have such a government guarantee. At the end of the day, the logical process will be for governments around the world to put in similar legislation to what we are seeing in Australia today so that their banks, wherever they might be, will not be left with the disadvantage of not having a public guarantee.

According to the *Australian Financial Review* analysis of this process by Matthew Drummond:

The major banks—

he is talking about Australian banks—

are already at the starting gate, waiting for the race to begin.

While each of Australia's major banks has a hard-to-beat AA credit rating, such a rating is

trumped by the federal government's AAA. Banks are keen to test the pricing possible with the government guarantee and are hoping what the UK guarantee did for London-based Lloyds TSB, the Australian guarantee can do for them.

In October, before the UK guarantee came into force, AA-rated Lloyds raised 10-year debt at a margin of 1.99 percentage points above the benchmark interbank swap rate.

Three weeks later, armed with the UK government's AAA credit rating, it raised three-year debt at a margin of 0.18 of a percentage point. That's getting raw materials at about a 90 per cent discount. The comparison is not exactly comparing oranges with oranges, as three-year debt is cheaper than 10-year debt, so the difference cannot be completely attributed to the guarantee.

But even after allowing for about 0.25 of a percentage point premium that typically gets levied on 10-year debt above three-year debt, the guarantee has allowed Lloyds to cut its cost of borrowing to about a fifth.

Well, somebody else did not get that money because they did not have a guarantee. The competition has been weighted by public guarantee for that bank against other borrowers who did not have such a guarantee.

The point that I want to make at the outset is that we have the big end of town getting the Australian government, the Rudd Labor government—if we believe Senator Coonan, through the pressure of the coalition—to use consolidated revenue. This is the fund from which we pay for hospitals, schools, defence, public transport and pensions, and it is to be used as a guarantee against a default by one of the finance houses having borrowed overseas. My advice, when I sought it from Treasury, was that the chance of that happening is very low. I think the word 'infinitesimal' may have even been used. That is what we are debating here today: no chance, no need for legislation. But the chance is high enough that this bill is now being railroaded through the Senate, having gone through the House of Representatives last night, so that

funds will be made available to the borrowers who, according to the *Financial Review*, are at the starting gate waiting for the race to begin on Friday. A lot of money in the private sector is going to be gained because of this public guarantee, which, I submit to every member of this Senate, has not been canvassed with the public at all.

We saw today a move by the Greens to have this matter put to a Senate committee for investigation over the next week, but both of the big parties voted that down. In other words, they sidelined the time-honoured role of the Senate to ensure that, particularly where there are nationally significant pieces of legislation affecting every household in the country—and this certainly qualifies in that category—scrutiny is applied to the executive, which is effectively what the House of Representatives is when there is a one-party majority, and the public interest can be brought to bear. But dangling on the strings of the big finance houses, the two big parties have decided that that scrutiny will be set aside so that this legislation can be gotten through before there is any public scrutiny and, dare I say it, public furore at the parliament being sidelined.

It is not just the parliamentary process that is being sidelined today. At the heart of this bill is the future prospect of a default by a finance house on an overseas loan, which will then be adjudicated by the executive, the government of the day. It will draw on consolidated funds—that is, the people's money—or borrow at risk to the people of Australia to make good that failed overseas loan. This piece of legislation is the Liberal Party of Australia, the National Party of Australia and the Labor Party of Australia dismissing parliament's responsibility to be intimately involved in debating an issue as big as a loan default where billions could be at stake and it being made up for through the public purse.

I would submit that parliament must—and should—in a democracy which is respected be called to deal with such a matter. This legislation fails at the outset to respect the logic that, if there were a default big enough to warrant federal government intervention, the parliament should be recalled to deal with that matter. We Greens have a difference of opinion with other parties on the matter of going to war. We believe that, like the right of the congress in the United States, it simply cannot be done by the executive; the parliament has to agree. We have seen with the misadventure by President Bush and Prime Minister Howard of invading Iraq in 2003 how this parliament was sidelined. Anybody who wants to see the debate that took place as a result of that might do well to read the speech at that time from the then honourable member for Calare, the late Peter Andren, in which he railed against this failure of government and parliamentarians to respect democracy, which makes the parliament the supreme authority. It is not the executive.

But here we are today, legislating through this bill to sideline the parliament should the event arise for which this bill is constructed—that is, the failure of a major borrowing overseas and the need for the government to move in to make up for it through public funds, through taxpayers' money, or through borrowed money, at taxpayers' ultimate expense. The parliament ought under those circumstances to be recalled, but this bill specifically says the parliament will be sidelined in that circumstance and the executive will make that decision. This is a provision for a circumstance where parliament should be totally involved, and the opposition and the government say, 'No, we will sideline parliament under those circumstances and leave it to the executive to plunder consolidated revenue to the extent needed to make up for the failed decision in

the private financial sector and honour a borrowing made overseas.'

I object on behalf of democracy to the big parties sidelining this parliament in such a fashion. We will not simply let that go through to the keeper. I foreshadow an amendment in the committee stage to ensure that the parliament is recalled in such an event if it is not at that time sitting. I also foreshadow an amendment which would put a sunset clause into this legislation so that 24 months from now it is reviewed, because, as we are about to find out, I suspect—the minister may prove me wrong—we will not be given in this house of review any estimate of what the government expects to raise through the guarantee process where the bank pays an amount to the government for the guarantee offered on a particular loan. Nor will we be able to get an estimate of how much the public purse is put at risk through borrowings overseas, although I note again that in the *Financial Review* there is an estimate from Citigroup—you can take this figure as being as secure as the bank itself!—that the big four Australian banks need to raise \$88 billion in wholesale funding in financial year 2009. We are talking about extraordinarily large sums indeed.

Mr Swan, the Treasurer, has said that the banks raised concerns about doubts in international funding markets that government will be able to pass legislation with sufficient speed in the event of a claim of the guarantee. In doing so he revealed that this is banks dictating to government both policy and the parliamentary process, and in that they have a lackey in the opposition. I stand here for the Greens in defence of the public interest. We will get an argument that says, 'You know, the borrowings of the banks overseas can be at a cheaper rate, and that'll be passed on to the person in the street'—the unsuspecting person who does not know that their

funds are being used to guarantee that very process.

But then we move to seeing how the ratings which determine the cost of borrowing overseas work. We are told here that the Australian banks are the most secure in the world and, therefore, they rate the best. But they would like their AA rating to become AAA because that is what the government has, and this guarantee will effectively move them to AAA. Who determines these things? It is the rating agencies. What a record they have! As Prime Minister Martin of Canada said when there was a desperate financial situation brought about there in the mid-nineties because Moody's indicated it might change the rating for Canada, 'Who are these people to be telling us what to do?' Here we effectively have a parliament legislating on the basis—banks are captured by this—of three international rating agencies based in Washington who have manifestly failed. They were the watchdogs of international finance.

Senator Xenophon—More like chihuahuas.

Senator BOB BROWN—Senator Xenophon, I would not demean chihuahuas by saying that the ratings agencies were in their category! These ratings agencies failed their job; yet we have a system that inherently depends upon the very same ratings agencies. The banks are saying, 'Give us this legislation so we can move up a notch on Moody's or Standard & Poor's.'

The Prime Minister, in his last address to the Press Club, said:

The balkanisation of risk, the attenuation of risk sought the impossible dream of the elimination of risk and responsibility—so that ultimately nobody believed they carried risk and responsibility.

And through it all, the ratings agencies blessed these products as safe investments—ratings agencies that have yet to face their own day of reckon-

ing—and the products they sanctioned continued to proliferate.

Here we have the Prime Minister, who said that the ratings agencies have yet to face their own day of reckoning, dancing to their tune post the financial crisis, post the failure of the very same ratings agencies. I ask the question—and I will be asking it in committee, so get ready, Minister: who is rating the ratings agencies? What is the government doing about the failure of these three international watchdogs, which are manifestly a disgrace? Whatever reason you give for them, they disgracefully failed, and millions of people around the planet are paying for it.

Now the banks are saying, ‘We depend on the ratings agencies for borrowings overseas and we want legislation that is going to put us up a notch on the ratings offered by these very same failed ratings agencies.’ What a remarkable situation this is that the Australia parliament is being bulldozed by these failed ratings agencies and the international banking system. This puts pressure on other countries in our region to do the same, to fall into line. Poorer countries cannot compete with our banks for the very same reason that we are here today, which is because our banks are saying, ‘We want to compete with the UK banks.’ We have the wealthy countries instituting a process to get advantage—I will not use the word ‘greed’—in the international financial system, which puts the squeeze on poorer countries again. That is part of this process which I object to. (*Time expired*)

Senator XENOPHON (South Australia) (5.33 pm)—I indicate my support for the second reading of the Guarantee Scheme for Large Deposits and Wholesale Funding Appropriation Bill 2008. Having said that, I supported Senator Brown’s motion that this matter be referred to the Standing Committee on Economics for inquiry. I thought it was not inappropriate that there be a short, sharp

inquiry by the economics committee in terms of process and that it could have been dealt with within the week. But I appreciate that the numbers were not there.

I will confine my remarks on this issue to the implications that need to be taken into account with respect to this guarantee scheme, which I support. I think it is important that we put in context what the potential ramifications could be. I would commend to my colleagues in the Senate an article in the *Australian Financial Review* of 14 November by Sam Wylie, a research fellow at the Melbourne Business School, entitled ‘The Big Four need to give us something back’. It is an article that I am in substantial agreement with.

I think we need to put this in perspective. As a result of this guarantee the credit ratings of, in particular, the big four banks has improved immeasurably. It has been put that they are almost a sovereign investment because this is a government guarantee. The point that Mr Wylie and, I believe, others are making—and I think it is something we need to consider—is that, as a quid pro quo for the largesse, as Mr Wylie puts it, on the part of the government, the government must demand actions by the banks that will maintain the soundness of Australia’s banking system while the global credit crisis continues.

I think there is a concern that the market will be skewed for those institutions that have the guarantee and those that do not. I understand that that is a consequence of this measure and I believe the government did the right thing by acting swiftly to ensure confidence in the banking and financial sector broadly. I think that was the right thing to do. But the concern is that there will be ramifications from that, and I believe that, in return for that guarantee, the big four banks in particular need to give something back.

There is a concern that banks have clawed back margin lending to all sectors, especially the small and medium sized enterprises—the small businesses that are the bedrock of the economy. I note that, in the mortgage market, banks raised rates by 0.55 percentage points more than the Reserve Bank did as rates rose and then held back an average of 0.35 percentage points as rates fell. That is an extra 0.9 percentage points, 90 basis points, which is partly explained by the increased costs of funding to the banks. But the fact that there is now a guarantee diminishes any excuse for not passing on the full extent of any interest rate decreases.

It is important that the major banks, in return for the support that they are getting through this legislation, are made to raise capital levels, maintain credit flow to borrowers and improve transparency. These are three issues that must be taken into account. There is a real risk, as capital ratios are calculated as bank capital divided by bank assets, that instead of raising capital some banks could cut back on loans to get their capital ratios higher. That is a real concern. I think it is important that the government pressures banks not to do this.

There is also an issue of transparency on the part of the banks. In return for deposit and bond guarantees, banks should be open about the state of their loan books and their credit derivative exposure. That is important. I think that it is also important to look at the whole issue of bank mergers. The recent merger that has gone through between Westpac and St George, and the other mergers involving BankWest and also Suncorp, need to be taken into account. I think we will end up seeing less competition in the banking sector but, by virtue of this guarantee, I think that there are legitimate grounds for the government to insist on a greater degree of competition. We need to have that level of competition because otherwise consumers will be

the long-term losers in this, in terms of having a robustly competitive banking sector.

So I think it is important that, in addition to this legislation, the government needs to be absolutely vigilant in ensuring that the banking sector remains competitive, and that means having a very critical view of mergers. I am looking forward to the economics committee inquiry into the whole issue of bank mergers in the coming weeks. I think it is also important that the banks should be encouraged by the government to ensure that their capital ratios are maintained in a way that does not lead to a contraction of lending, given these bank guarantees. I think there ought to be a greater degree of transparency on the part of the banking sector.

So, with those comments, I indicate my support for the legislation. I note that Senator Bob Brown has a number of amendments that will be dealt with in the committee stage. But I think it is important that, in addition to this, parallel to this guarantee scheme, there ought to be a greater degree of transparency and accountability of the banking sector so that consumers, in the long term, are not disadvantaged by a less competitive banking sector.

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (5.39 pm)—I thank all senators for their contributions. I will touch on a couple of issues raised by each of them shortly. The world is facing the most significant upheaval in global financial markets since the Great Depression. A crisis that began in the US subprime mortgage market some 15 months ago—

Senator Fierravanti-Wells—It's Senator Conroy's speech!

Senator SHERRY—From which I will be departing, with some additional comments—and it is paper based, not electronic based!

The crisis that was felt in the US subprime mortgage market over 15 months ago is very much being felt in Australia today. I could depart here and go into a considerable amount of detail as to why this crisis occurred in the United States, but I think I am on the record as saying many times in this chamber that it was the largest mis-selling of mortgage products in the US, with five to six million customers, and then the packaging of the underlying investment instruments, in a form of pass-the-parcel, given AAA ratings by credit rating agencies, through the financial system, in particular in the US and the UK, that has led us to where we are today.

Unfortunately, as I said, this has affected the US, the UK and Europe, and Australia is not immune from this international turmoil. We live in an interconnected and international financial system. The fundamentals of the Australian economy are sound but we are not immune from the effects of this turmoil that has emerged over the last year. Building on Australia's strong regulatory framework and our strong fiscal position, the government did take an unprecedented and decisive step on 12 October to protect the Australian economy and the financial system. From this Friday, the first \$1 million deposited with an Australian incorporated bank, a credit union or a building society will continue to be guaranteed, free of charge.

I do want to respond to one point at this stage—there are some other points I want to respond to—with respect to Senator Bob Brown, who has strongly asserted that he is representing the public interest in making the points he has made. But I would strongly contend, on behalf of this government, that what we are considering here today, and the way in which we are having to consider it, is in the public interest. There are some occasions—and they are relatively rare—where we have to deal with legislation where the circumstances are most important and most

critical, and it is clearly in the public interest that we maintain, in the current circumstances, public confidence in Australia in our banking system. The cause of the Great Depression was not the collapse of the share market; it was the collapse of confidence in the banking system. In the current circumstances, it is very definitely in the public interest—not in the interests of the banks or the building societies or the credit unions but in the public interest—to be ensuring, through the measures we are passing here and the measures we have already passed, confidence in our financial institutions that are being guaranteed in this way because, in the current circumstances, if that public confidence were not maintained, the impact of this global financial crisis would be truly catastrophic. Senator Brown has claimed that he is representing the public interest; well, I would strongly claim that the public interest is being met by the legislation we are considering.

The large deposits—that is, deposits in excess of \$1 million deposited with an Australian incorporated bank, or a building society or a credit union—will be eligible for the guarantee, for a fee. I made the earlier point: Senator Bob Brown, I noticed, changed his language slightly, after I reminded him that we are not just dealing with the big four banks here—we are dealing with the building societies and credit unions and also the regional banks. It is not just the big four banks. He has dubbed it 'the big end of town'. I do not agree with that sort of language. This is not a measure for the big end of town, for the big four banks—this is a measure for all banks, credit unions and building societies, and it is a measure for the Australian economy and society as a whole. The public interest—that is what this is all about. It is not just for 'the big end of town', as it has been dubbed.

In addition, any deposits by Australian residents with a foreign bank branch in Australia will also be eligible for the guarantee, for a fee. In addition, from Friday, short-term and long-term wholesale funding for Australian incorporated banks, building societies and credit unions and short-term funding for foreign bank branches raised from Australian residents will be eligible for a guarantee, for a fee.

I want to come to another comment of Senator Brown's. He referred to the article in the *Financial Review* by Matt Drummond. I cannot recall the exact quote but he said the banks were at the starting gate, or the race was ready to begin. I have to say: thank goodness they are lined up as of Friday to move out there into the international money markets to borrow. Thank goodness, Senator Brown—that is what we want! One of the underlying reasons for this legislation is to ensure that they have a capacity in the international financial turmoil that is occurring, that they have a level playing field, to be out there to borrow money which we need in our economy. So thank goodness they are there at that starting gate, Senator Brown.

The wholesale funding guarantee may apply whether the borrowings are obtained in a domestic market or internationally. The wholesale funding guarantee will ensure Australian institutions are not placed at a disadvantage when seeking funding in international markets, given that many of their international competitors have the benefit of a similar government guarantee. By taking decisive and early action we have guaranteed the stability of this country's financial system in the face of destabilising developments abroad.

I think the first country to implement a bank guarantee was Ireland. Once Ireland did it, we saw the international ramifications because there was a shift of deposits, particu-

larly from Northern Ireland and the UK, into Irish banks. This is one of the consequences that we have seen when a guarantee is given in one country. I think we then saw the Chancellor of Germany declaring that she would not be guaranteeing financial institutions, and the next day she got back to Germany and there was a guarantee in Germany. We saw similar shifts in capital across international boundaries. So these are the sorts of movements in financial markets that this country—we are not isolated; we are not immune from these impacts—has had to respond to, and respond decisively. The guarantees are designed to promote financial system stability and ensure the continued flow of credit through the economy at a time of heightened turbulence in international capital markets.

This is not a measure for Wall Street, as it was dubbed in the US. It is a measure for main street, suburban street, because if we do not ensure the strength and confidence of Australian financial institutions by measures such as this, it is small business, business in general and consumers who will suffer as a consequence. That is why this is in the national interest. I can say that the Australian government's actions are starting to produce results with spreads beginning to narrow and tentative signs that markets are starting to thaw.

The government's guarantee scheme for large deposits and wholesale funding is established by a deed of guarantee and associated scheme rules, which were released on 21 November and which will commence this Friday. The government has relied on the Commonwealth's executive powers to implement the guarantees in a contractually based scheme. This allows the guarantees to be implemented in the most seamless, effective and flexible way. This is broadly consistent with the approach taken in a number of other countries, including the UK and New

Zealand. The Australian government, quite clearly, has the legal ability to implement the guarantees in this way, and our legal advice confirms this.

Senator Brown, on behalf of the Greens, is proposing to move an amendment to sunset these arrangements and is apparently proposing an amendment that will require parliament to approve any payment under the guarantee. I would argue on behalf of the government that this will undermine the purpose of the bill. It is vital that there is certainty around the guarantee in the appropriation. The appropriation must stay in force for the life of the guarantee. The deed for the guarantee itself deals with termination arrangements. In addition, further parliamentary consideration of payments under the guarantee introduces uncertainty, the very thing this bill is designed to overcome.

The standing appropriation in the bill we are putting through the parliament today will cover any claim under the guarantee in the very unlikely event of such a claim being made. The appropriation will ensure that investors are confident they can get their money quickly in the unlikely event that a bank defaults on its obligations. We think it is prudent to give certain powers to investors who provide funding to our institutions and to give certainty to those with large deposits. That is why we are moving on this appropriation today. Passage of the bill will ensure that from 28 November any claim under the guarantee scheme, however unlikely, will be able to be paid in a timely way.

I will touch on a couple of other matters before I conclude. Firstly, I think Senator Xenophon's contribution was a particularly thoughtful one. He has clearly given significant consideration to the way in which the financial markets in Australia are evolving as a consequence of what has happened internationally and the actions the government has

undertaken. I do take his contribution seriously, and there are certainly issues that I and the government do give considerable thought to. But I would say on the point he raised about the prudential oversight of our banking, credit union and building societies by APRA, that it has been very strong and very robust. There has been very effective regulatory oversight by APRA with respect to the levels of risk, the borrowings, and I think he touched on credit derivatives. APRA has reported regularly to parliament on this particular set of issues.

There is one area where I agree in part at least with Senator Brown, and that is in relation to the credit rating agencies. I do accept that there is some irony in the role of credit rating agencies today, given what occurred in the US. The reality is that, as Senator Brown mentioned, we are dependent on the ongoing oversight or gatekeeping of at least part of our financial system. The regulators et cetera have their responsibilities on the robustness of credit rating agencies, and there is an irony, given the credit rating agencies' manifest failure to properly rate the risk of the extraordinarily exotic—if I can term it that way—complex investment instruments that emerged as a consequence of the mis-selling of mortgage products in the US.

This government has acted. In my capacity as Minister for Superannuation and Corporate Law, I released the new regulatory and supervisory arrangements that are to apply to credit rating agencies and research houses in this country. We have analysed the risk and we have analysed the supervisory arrangements, in accordance with the request from IOSCO, the international credit organisation. I do not have the time here to go through what I have announced. But we have tackled this issue, Senator Brown. It is another example of the government acting decisively. There will be licensing and reporting of these credit rating agencies and re-

search houses to our regulator for the first time in Australia. We have not waited and relied on what has occurred in the US.

Senator Bob Brown referred to the 'big end of town' and the use of consolidated revenue, from which we pay hospitals, roads, pensions et cetera. He seemed to be implying that if we approve this legislation we are somehow going to put at risk payments for hospitals, roads, pensions et cetera. I strongly submit to the Senate on behalf of this government that, if we do not take action like this, the risks of serious repercussions for our economy would put at risk the very payments and benefits that Senator Bob Brown is highlighting. We need to ensure that the integrity of our financial system is maintained to minimise the impacts both on the financial system and on the economy as a whole. Senator Brown has his perspective, and I would strongly argue, not just on behalf of the government but personally, that the very things that Senator Bob Brown is concerned about—if the worst were to happen and our financial system was impacted more heavily than it has been—would be at risk if we did not pass this underpinning legislation.

I strongly rebut the accusation from Senator Bob Brown that we are dangling on the strings of the big finance houses. I do not agree. I have explained why we are presenting this legislation and I would not suggest that the Liberal opposition is dangling on the strings of the big finance houses. We are supporting appropriate legislation for the times, given the circumstances that I have outlined. When I reminded Senator Brown that these measures were not just for the big four banks but for credit unions, building societies and regional banks, I noticed that he changed his language from 'the big banks' to the 'big finance houses', I think in an attempt to generalise his language because he is not keen to say of course that we are danc-

ing to the tune of small- to medium-sized credit unions or building societies, who also happen to benefit from this legislation. And I strongly reject the claim that the executive will allow the 'plundering' of the public purse. These are, I think, over-the-top criticisms being made not just of us as a government but also of the Liberal opposition. I strongly reject this language.

Senator Coonan outlined some of the history. I have been in this place for 18 years and Senator Coonan is not far behind me. The issue of the guarantee scheme with respect to financial institutions has been around for quite some time. It has been debated in the Australian finance community and the public policy community for a very long time, but it certainly was highlighted as a consequence of the HIH royal commission, which I know Senator Coonan would certainly remember as she was a minister at the time, back in 2005. I want to emphasise this. This issue came to the boil in a public policy sense for insurance companies as a consequence of the HIH royal commission, and the previous Liberal government did not do anything with regard to guarantees up to the point in time that it lost office. So if you want to go through history, I can highlight what I believe has been the inaction of the previous Liberal government in this particular area.

Senator Coonan strongly argues that we should have just adopted the policy of the Liberal Party, which was a \$100,000 guarantee. There is one thing I want to point out that has not been pointed out significantly, I think, by many observers of this debate: if that \$100,000 had been adopted, what would have been the impact on the non-guaranteed products? I suggest that if it had been adopted it would be very similar in its impact on the non-guaranteed products—the property trusts and cash management trusts and the like—that were not covered by the guar-

antee. It would have had a very similar effect, and very few people have remarked on that issue.

I strongly urge the Senate to support this particular legislation. It is vital; it is extraordinary, but we live in extraordinary times; it is necessary; it is in the national interest; and it is very important to underpin the financial system in this way. The world financial systems have been battered in recent times and this legislation should be passed urgently. *(Time expired)*

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (6.00 pm)—I expect that questions can range widely. I have two amendments. For the purpose of debate, if the committee wishes, I will move the first amendment, which is for a sunset clause. By the way, we are dealing here with a two-page bill. I move Greens amendment (1) on sheet 5672:

(1) Page 1 (after line 10), after clause 2, insert:

2A Sunset

This Act ceases to have effect on the second anniversary of its commencement.

Talking about prudence, I think it is a very prudent thing that the parliament should have to review the function of this extraordinary piece of legislation, particularly in view of the fact that we are not having a Senate inquiry or the opportunity for the public to feed into the legislation. I note that in the second reading speech the minister said:

On 12 October, the government took action to stabilise and promote confidence in Australia's financial system by instituting a broadly based deposit and wholesale funding guarantee.

If that were the case on 12 October, how come this legislation is now put on the Senate without the time to deal with a proper analysis of it? There is something very, very wrong with a process where suddenly the government puts this legislation into the Australian parliament in the second last week of the sitting year, votes against there being any Senate inquiry into the legislation and insists not only that it pass the Senate but that it do so by tomorrow—because the minister says in his own speech that Friday is the day that the banks get the benefit of the guarantee that is involved.

If the Committee of the Whole will permit it, I will ask a series of questions. I will take them in order so that we might facilitate the quickest passage of this process in the committee. The first of those questions is: which of the regional banks or credit unions spoke to the minister about this legislation or asked for it?

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (6.03 pm)—I can indicate that there has been broad consultation with the Australian Bankers Association, the ABA, representing the banks—what are known as the 'big four' and the regionals—and Abacus, which represents credit unions and building societies. I am not able to indicate the extent, number et cetera of individual one-to-one meetings. They were certainly not with me, Senator Brown; I have had no involvement. I took it to mean meetings with the Treasurer and/or the Prime Minister. Both those organisations support this legislation.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (6.04 pm)—I ask the minister whether he might, by the conclusion of the committee's deliberation, furnish the committee with a list of the specific regional banks, credit unions or building societies which approached the

government asking for this guarantee legislation. He has made a feature out of the fact that it is not the big four banks; it is right across the board, and I hear him talking about the representative organisations. But this is a matter that is so pressing that the government has voted down a Senate inquiry into it. It has to be through by Friday. I ask the minister to produce any evidence that shows that regional banks or those building societies or credit unions approached the government asking for this particular facility.

I turn to my second question. I know New Zealand has been mentioned as having this facility, and I ask: is that legislated? Then I ask: which other countries in the region have legislated in a parallel fashion?

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (6.06 pm)—I can inform the committee that New Zealand has not legislated in this way.

Senator Bob Brown—I thought not.

Senator SHERRY—I will get to New Zealand and I will come back to that, but there are some special circumstances for Pacific countries. I know firsthand, because I have discussed this issue with economic ministers of the Pacific nations. As to other countries, say in South-East Asia and Asia, we will have to take that on notice and we will come back to you with the specific arrangements. We are aware in general that there are some guarantees of types in some of the Asian countries, but we will have to come back because we do not have those details here.

Let me return to the circumstances of New Zealand and the Pacific nations. If you look at the New Zealand banking system, Senator Brown—and I will be tactful—you see Australian banks predominate. They have Kiwibank, which is a New Zealand state-owned bank that the previous Labour government established, but, other than Kiwibank, the

banking system is predominantly Australian owned and operated. So there is a strength for New Zealand in an indirect sense, given that the banking system is dominated by Australian banks.

I could make a similar comment about the Pacific countries. I attended the Forum Economic Ministers Meeting in Vanuatu three or four weeks ago, and this issue was raised. ANZ and NAB dominate the banking systems of those particular countries. They were broadly pleased by the actions of the government because they gave an indirect guarantee to their banking systems in the Pacific, which are dominated by Australian banks. In the Pacific generally, there is a bank out of PNG and I think there are a couple of French banks in New Caledonia. I am not sure of their particular status, I have to say, but in general the Pacific countries are appreciative of the actions of the government because of the indirect guarantee, which helps their financial system. They do not have significant non-banking sectors in those countries. There are some insurance type products—properties and trusts—but they are not significant in the context of their economies. That is as much information as I can give you at the present time.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (6.09 pm)—I take it from that that the minister discussed this potential legislation and the wholesale funding to be guaranteed with those specific banking representatives four weeks ago, including the New Zealand banking representatives or interests. I am aware of Kiwibank, of course, because Mr Jim Anderton, a former minister, went to an election, two or three elections ago, in New Zealand to have that established as a people's bank in some reaction to the takeover of so much of the banking system by the big four Australian banks. I do not resile at all from calling this an initiative of the big four

banks, because I have seen no evidence of and heard no evidence to say anything other than that this is primarily to facilitate their interests. I ask the minister if he could elaborate on what he told those banking organisations in the Pacific about this legislation that we are dealing with today.

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (6.10 pm)—My reference to the meeting of economic ministers in Vanuatu was not in respect of this legislation.

Senator Bob Brown—Oh!

Senator SHERRY—You drew that conclusion. Frankly, I do not see how you could. But anyway—

Senator Bob Brown—We are talking about this legislation.

Senator SHERRY—You asked me about the situation broadly, about guarantees in other countries and what they are doing. They were well aware of the actions taken by the Australian government back in October. Obviously, I did not discuss this particular legislation. We discussed the guaranteeing of banking, credit unions and building societies in the broad in Australia and the implications for those Pacific nations. I have indicated what those implications are.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (6.11 pm)—We have established that New Zealand has not, in fact, passed similar legislation. I asked the minister about the UK or other countries that have passed legislation parallel with this, guaranteeing overseas borrowings.

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (6.11 pm)—I will come to New Zealand first and then I will go to the UK. It is a contractual guarantee in New Zealand. It is implemented through a deed of guarantee entered into by Her Majesty the Queen in the right of

New Zealand, acting by and through the Minister of Finance on 11 November. The appropriation for guarantees is already in public finance legislation in New Zealand. Section 65ZG of the Public Finance Act 1989 already provides appropriation for any guarantees entered into by the Minister of Finance.

In the UK, it is a contractual obligation. The guarantee was implemented through a deed of guarantee entered into by the Commissioners of Her Majesty's Treasury on 13 October of this year. The appropriation is in banking legislation. An appropriation is available in legislation. The appropriate provision was put in place in the temporary legislation enacted to nationalise Northern Rock. Because of the circumstances around the probable collapse of the Northern Rock bank in the UK—I think that started in January—and the issues there, they actually had a broader remit, which they have used. So they have the appropriation authority.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (6.13 pm)—There are 200 countries around the planet and that is a short list of two, which have come to have, in legislation, backing for a process that we did not consider until now. My next question to the minister is: how much will Treasury raise from the fees to be paid on the guarantees? What is the forward estimate on that?

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (6.13 pm)—Just in response to your earlier question, No. 2, I will have Treasury prepare a summation of the forms of guarantee and the way in which it is being done in a range of other countries around the world. I cannot give you the full world list but we will do our best to get you a list. I will take it on notice. You obviously want some detailed in-

formation, and we will give you as much as we reasonably can in the next week.

In respect of the revenue raised, I just make the point that it is not a revenue-raising exercise. It is very difficult to estimate, because it will depend on a range of factors: what institutions will apply to be covered, the value of the liabilities they want covered, deposits and/or wholesale funding, and how institutions administer the large deposit scheme vis-a-vis their clients. So any estimate—and this is why we have not done an estimate—would be highly speculative and highly unreliable. I think it would be reasonable to say in ‘due course’—after presumably some months of operation—we will obviously have a revenue figure which would be provided.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (6.15 pm)—It is quite extraordinary that we are dealing with legislation and the government cannot give an estimate of the revenue raising. But I am sure we are going to find the potential risk that is incorporated in this legislation. Difficult as it might be, the worst thing you can do is to come to a parliament with legislation saying ‘we have no idea and we will tell you after the event’. We are here as legislators who are responsible for knowing what we are getting into with legislation, and the minister ought to have that information available. I go to David Crowe’s piece on page 7 of today’s *Australian Financial Review*. It says:

Banks with an AA rating will have to pay a fee of 70 basis points on debt raised overseas when they draw on the guarantee on wholesale funding. Institutions with an A rating will have to pay 100 basis points while those with a BBB rating will pay 150 basis points.

“It is proposed that where an institution has a split rating, the predominant rating is to be used,” Treasury said. “If there is no predominant rating the lowest rating is to be used.”

I ask the minister: is that observation or that assertion correct? If it is correct, has he had any indication from any bank that it required this legislation to enable it to proceed to borrow overseas? If so, could he outline the degree of borrowing anticipated by that bank or by any banks or financial institutions which approached the government?

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (6.17 pm)—On examining the David Crowe figures that you quoted from the *Financial Review*, I believe that they are consistent with the figures identified in the scheme rules.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (6.17 pm)—I think the minister was diverted but I thank him for confirming that. My question was: did any financial institution, particularly the four big banks or their representatives, in talks with the government indicate that they would be using this guarantee? If so, were they asked what their anticipated borrowing would be? If not, why not?

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (6.18 pm)—I am informed that, to this point, there are 16 institutions that have indicated they will be using the facility. No figures have been given yet as to the extent to which they will be entering into borrowings in, for example, the wholesale market.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (6.19 pm)—Were they asked for those figures and could the minister furnish the committee with the list of the 16?

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (6.19 pm)—Once their application goes in they will be providing the figures—ongoing.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (6.19

pm)—Yes, I know that. But I have to anticipate the public risk that is being put upon us through this legislation. I am asking the minister, firstly, to provide the committee with the list of the 16 who have indicated that they will avail themselves of the guarantee in this legislation. Secondly, I ask: did the government seek from any or all of those 16 the extent of anticipated borrowings? We have to thank the *Financial Review* for quoting an estimate of \$88 billion as to forward borrowing by the big four in the financial year 2009. So I do not think it would have been too difficult to get from the banks—at least those who were in the starting gates for Friday—the anticipated borrowing on the market for which they wanted, and are going to get, a guarantee.

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (6.20 pm)—It is not easy to ascertain as of, say, today or Friday because the banks—or anyone who goes into the wholesale markets—will have to make their commercial decisions about the extent to which they go into those wholesale markets, depending on the circumstances that exist at that time, which may well be different from those of, say, today or last week. The other factor is the issue of customers to whom the guarantee and the sorts of provisions are provided. We cannot give an accurate figure. We cannot give a figure, Senator Brown, at this point in time. In respect of the 16 institutions, I am told it is on the website. If you have any particular problems accessing the names, let us know and we will get the names of the 16 for you.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (6.21 pm)—For the benefit of the Senate, which is bereft of the committee to look at this, the minister might put in *Hansard* the website address. I ask again: did the government ask any or all of the 16 institutions what their

anticipated borrowings using the guarantee would be in financial year 2009?

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (6.22 pm)—www.Guaranteescheme.gov.au is the website address. What was the second part of your question?

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (6.22 pm)—Did the government ask any of the 16, or all of the 16, what their anticipated borrowings would be using this guarantee?

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (6.22 pm)—I am told there have been discussions in the broad with financial institutions about what they would be doing. But, as I have already indicated, it is very difficult for them to give precise figures, for the reasons I have given you: they have to make a commercial decision on the day—for example, in the world financial market—about where they will go, and that may change from day to day.

Senator Bob Brown—You didn't ask, did you?

Senator SHERRY—In the discussions it became clear that there were very valid reasons why they could not provide precise figures, let us say, as of last week. For the reasons I have outlined, we do not have those precise figures.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (6.23 pm)—Cap in hand, the government, at the pleasure of the financial institutions, failed to ask the obvious question: what is the anticipated borrowing and therefore, for the public interest, what is the degree of liability, using this guarantee, that the public is to be exposed to? It has not asked that question. We now wait for the institutions to use this facility and to go and borrow—after they have filled out the application form upon which

the guarantee relies—and then for the government to provide the public with an account, growing, no doubt, of the degree of exposure which it has as a result. I would have thought it very prudent indeed for the government to have got an estimate. The minister resorts to the terminology ‘precise figures’. Of course we know that those would not be possible, but an estimate is very, very possible indeed, and this committee ought to be having one.

The *Financial Review*—this is again today—says that the banks are eager to get in early and test the pricing power of this new arrangement. I ask the minister: what will the arrangement be worth to the banks in terms of the advantaged position they will be given, and how will that advantage manifest itself?

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (6.26 pm)—I would stress that we are not just talking about the big banks. There is a capacity for any of the financial institutions who put in an application and have it approved to access necessary capital, necessary borrowings. That is important, and we have outlined the importance of that. I can give you an update. There are 19 current applications received, with five approved on the website. Those are the latest figures that I have just been given.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (6.26 pm)—Are those applications non-specific or do they include the amount of anticipated borrowing that is involved?

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (6.27 pm)—In terms of the five approved, the advice I have received—but we have to check this, of course—is that it is for the deposit guarantee, not for the wholesale funding.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (6.27 pm)—We are talking here not about the deposit guarantee, unless of course it is the above \$1 million deposits—

Senator Sherry—Yes, that’s what I’m talking about.

Senator BOB BROWN—The minister indicates that that is what is being indicated. My interest—let me state this now; if it was confused in the minister’s mind before, I do not want it to be in future—is about the wholesale borrowing facility.

Senator Sherry—That’s as I’ve taken it.

Senator BOB BROWN—Okay, but there is no indication from any of the 16 banks—and I presume that they include all four big banks, but let me know if that is wrong—of an intention to use the borrowing guarantee that is inherent in this legislation.

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (6.28 pm)—As I mentioned—I gave an update—it is 19 applications received, and I do not know whether it is one or all of the big four.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (6.28 pm)—Are any of those applications for borrowings as against deposits?

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (6.29 pm)—I do not have that information, but I am happy to provide it to you on notice.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (6.29 pm)—Yes. We should have that information. I just want to go to a section of the minister’s unread second reading speech. It refers to the website www.guaranteescheme.gov.au. The second reading speech says:

The Government will provide six-monthly reports to the Parliament on the Guarantee Scheme's operations, including:

- the extent of the liabilities covered by the guarantees;
- whether any calls have been made ...

Thank goodness the government is going to tell the parliament if the executive moves in to make good a failed bank loan. The speech continues:

- the payments, if any, made by the Commonwealth under the guarantees.

Thank goodness, again, that this government is so publicly minded that it is going to actually inform the parliament if it takes from consolidated revenue millions—potentially hundreds of millions—of dollars to pay a loan for a bank default.

That brings me to the question of why the government considered that a recall of parliament for such an extraordinary situation was not the appropriate way to go. What was it about the deliberations in cabinet, if indeed the matter was dealt with in cabinet—I presume that the legislation was—that caused it to come to the conclusion that the Australian parliament was second rate to either the requirements of the banks lobbying the government or the greater wisdom, as it must be assumed here, that the government thought resided in the executive, rather than in the parliament elected by the people of Australia?

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (6.31 pm)—It goes to certainty. We have an appropriation on the passage of the legislation that will have been approved by parliament—

Senator Bob Brown—How much?

Senator SHERRY—Let me finish the answer. Unfortunately, in international financial circles, Senator Brown, where they would not have the same understanding of

the parliamentary process in Australia as you or I, and the particular nuances of our parliament and the way it operates—and particularly the Senate—the best way to ensure certainty is to take the approach that we have presented in this parliament, via an appropriation.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (6.32 pm)—International finance does not understand the nuances of the Australian parliamentary system, so sideline it. What an extraordinary admission that is by a very able minister, I might say, because that is the truth of the matter. I am very sad that why we are here today is to hand away the parliament's authority to deal with national crises. A default by one of the banks would be a national crisis and the parliament ought to be recalled.

The minister says in his second reading speech that the banking institutions did not think parliament could be recalled fast enough, so they did not want parliament involved, and the government has obliged. Again, I object. This parliament is here to represent the interests of the Australian people. It is bad enough that we do not have a Senate committee inquiry into this matter, because that has been voted down by both the big parties. But it is worse that the outcome is going to be a situation where it will be up to the executive—that is, Mr Rudd, Mr Swan and one or two other members of cabinet—to decide when and how they are going to use public money to make up for a default, a failed loan, by an Australian banking or finance institution which has unwisely borrowed overseas. That is the heart of this matter. This is a public guarantee for private incompetence. This is a public guarantee for a mistake made by the private sector. That is what is ultimately being arranged here. The parliament is left aside. I will come to the Greens amendment on that in a moment.

I want to ask the minister something before I get to the matter of the wisdom of the sunset clause. Yesterday the Senate passed a motion calling on the Prime Minister to specify the measures he is going to take against executive salary excesses by tomorrow week and what action will be taken. Now we are dealing with the banking sector in Australia. We have seen the extraordinary tens of millions of dollars given to some executives in that sector in Australia in the last 12 months, totally outside any reasonable payment for any person. That is some 80 times the take-home pay of the Prime Minister of this country. I defy any banking institution, Macquarie Bank included, to justify that sort of self-organised largesse at the expense of deposit holders and taxpayers generally. I ask the minister: could he outline to this committee what it is that the Prime Minister is going to do.

The Prime Minister has spoken strongly against executive greed in both domestic and international forums—most recently at the G20 meeting in Lima in the last week. So what action will be taken? Here we are, acting on behalf of the finance houses and the big banks, giving a public guarantee to a private risk. I ask the minister: where is the quid pro quo here? Wasn't this a very good opportunity to say that finance institutions that are going to be advantaged by this guarantee and take it up ought to have their executives be decent about the amount they take out of those finance institutions? The Prime Minister says that he is going to act on it—he has not—but it is fair enough for me to ask at this point: what action is he going to take?

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (6.37 pm)—Parliament is not being sidelined. The fact that we are here dealing with this legislation indicates that the parliament is not being sidelined, Senator Brown. There

are a range of accountability matters, issues, reports et cetera that have been outlined in the second reading speech. Secondly, you continue to refer solely to banks. It is not just banks we are dealing with; it is in respect of credit unions and building societies as well.

Thirdly, you refer to a public guarantee for private incompetence. I would just point out that we do not face the situation in Australia that is faced in the US or the UK, for example. There is a big difference between a guarantee and a bailout. We have seen bailouts in the US, the UK, Iceland, France, Italy and Germany. There is a very different set of scenarios and outcomes in those countries where they had to bail the institutions out. They have had to nationalise them or force merge them—and ignore their competition laws in the case of the UK—or provide them with funding to remove the toxic assets. It is very different—they are bailouts. In referring to the Australian circumstances, I think it is overly strong to say 'a public guarantee for private incompetence' in the Australian context.

With respect to the executive pay issue—I am sure Senator Brown is well aware, as Senator Coonan is; I think we debated executive pay in another context when the Senate last sat, in the last sitting week—APRA has prepared a set of principles which ensure that short-term risk-taking behaviour is not rewarded. APRA is considering how to best link those principles to capital requirements. The G20—the major 20 economies of the world—have endorsed work on executive salaries and have worked, at the urging of this government, to have the International Monetary Fund and the Financial Stability Forum consider these matters. We will provide the Senate with an outline of the government's initiatives in this area next week, as per the Senate motion.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (6.40 pm)—We can hope that it is not as wishy-washy as that outline. It is not just a matter of risk-taking behaviour—which, by the way, this legislation encourages; it is also a matter of there simply being no warrant, on a planet which has a billion people starving, for people to be taking home \$5 million, \$10 million, \$20 million, \$30 million or \$80 million. It is disgusting—and the Prime Minister said so, but where is the action? I have had three or four motions in here to do something about this, and they have been voted down by both of the big parties each time. I think we are hearing a lot of words but I do not think we are going to see real action to curb the ability of executives to have \$20 million taken out of the Australian public's domain—private or public—for the private gain of people who are in executive positions. I believe in the free enterprise system, but it is out of kilter. It has got itself into trouble. We are here because of this neoconservative viewpoint that small government is good government. We are here putting in place public guarantees for the private sector. It is legitimate that, at the same time, we put some regulation on the more excessive of the corporate executive salaries and bonuses that we have seen some executives taking out of the public largesse in the last 12 months.

We have had very little information and no statistical information at all—zero statistical information—presented to this committee about the impact of these guarantees. By the way, the minister just said that we are offering a guarantee here, with the implication that that is where it stops. You offer a guarantee because you expect that there is some chance that there will be a default. This legislation is a result of the threat of a potential default coming down the line. We are here to guarantee the banks and the financial institutions against a default coming down

the line. The very fact that the government guarantee—which means the taxpayers' guarantee—is being put in place will encourage more risky behaviour, but it will lower the cost of borrowing overseas.

I ask the minister: where is that saving going to manifest itself in lowered interest rates, in the removal of some of the extraordinary costs that the banks have put onto transactions by the Australian public or in some other way? Of course, again, we will get no definition on that matter. We will get a general statement that they will be able to borrow more cheaply. Will it be more commensurate with the gains that this legislation gives? What I am asking is: the public is being put at risk to give the banks the ability to borrow more cheaply, but where is the government guarantee that that gain will be passed on lock, stock and barrel to Australian businesses and borrowers? Of course, we are not going to get that. I wonder if the minister and Senator Coonan, for the opposition, would indicate whether they support the Greens move to ensure that the parliament deals with this matter again in 24 months time through the sunset clause amendment that I have put forward.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (6.45 pm)—I would just ask if the government or the opposition might comment on this amendment, the sunset amendment, which would have this act cease to have effect on the second anniversary of its commencement.

Senator COONAN (New South Wales) (6.45 pm)—I will make a very brief comment, given the hour, and just indicate to Senator Brown that, whilst I appreciate the sentiments behind seeking a sunset clause, if you think it through, obviously this act and the operation of the act need to stay in place for the life of the guarantee. The amendment

does not contemplate any provision for the act to continue so long as there are deeds of guarantee in place, so it would not be appropriate in those circumstances for the opposition to be supporting a sunset clause of the kind contemplated.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (6.46 pm)—I might ask the opposition: is it 63 months? How long does the deed of guarantee stay in place? Would the opposition be amenable to me adjusting this sunset clause to coincide with the expiration of the deed of guarantee from the date of the commencement of this legislation, or are we really facing an endless guarantee for borrowings overseas by the institutions?

Question negatived.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (6.47 pm)—Well, there was no support for that, but I will now move Greens amendment (2) on sheet 5672:

(2) Page 2 (after line 28), at the end of the bill, add:

7 Minister to make statement to Parliament

- (1) If the Minister borrows money in accordance with subsection 6(1) then the Minister or the Minister's representative must, within 3 days of taking that action, make an explanatory statement to each House of the Parliament.
- (2) If either House of the Parliament is adjourned so that it would not otherwise meet within the time referred to in subsection (1), the Presiding Officer, shall summon that House to meet, in spite of anything contained in the resolution of adjournment of that House.
- (3) In this section, *Presiding Officer* in relation to a House of the Parliament means the Presiding Officer of that House within the meaning of the *Parliamentary Presiding Officers Act*

1965, or the person who is deemed to be the Presiding Officer of that House for the purpose of that Act

I add, again, that this bill is in fact two pages. The description of this amendment is 'accountability to parliament' because that indeed is what it is. This amendment to the bill will ensure that parliament—although it is disempowered to do anything about it—is at least recalled in the event of the executive, or the minister, being required to borrow money from consolidated revenue or in some other form to pay for a loan to a bank which the bank has defaulted on, and all of the consequent turmoil that would come from that. This is simply to involve parliament, at least to the extent of being able to debate the situation were that to occur.

This is not a frivolous amendment; it is a very important democratic check on the executive. We could have the situation where a bank defaulted in December and parliament was not due to sit until February or March, with \$100 million, \$500 million or indeed billions of dollars or tens of billions of dollars being required from the public purse to make good that default—with quite extraordinary public turmoil and alarm about it. I think it would be most settling to have parliament recalled to deal with that matter and to support the executive if it were doing the right thing.

I am not here to support the idea that the executive ought to be the arbiter of what happens in all national situations and that the parliament simply legislate to facilitate that—in other words, for itself to be sidelined when issues of great national importance come along. This amendment does not take from the executive its power to make good a guarantee if there is a default, but it does require the parliament to be recalled to discuss that. If the government has confidence in this legislation, I think that it would have the democratic decency to ensure that

the parliament was recalled automatically under this amendment in those circumstances.

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (6.51 pm)—Could I just briefly say that, in the second reading speech, I have already covered the accountability reporting type mechanisms. Senator Brown, in the very unlikely event that these circumstances occurred, I would be amazed if the minister—the Treasurer in this case—did not make a report to parliament when parliament came back on a scheduled sitting.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (6.52 pm)—Then it is a good amendment and it ought to be acceptable to the government. We are dealing here with a guarantee for an amazing circumstance—a default on a loan. I am now testing the government to have a guarantee for an amazing circumstance—that is, that the minister, or the executive, does not recall parliament. Do you see the logical flow-on? Or is it that the interests of the banking sector are more important than the democratic interests of this country and that the same logic does not flow on for the need for the democratic watchdog of the executive, which is the parliament, to be called into action when this circumstance arises? Do we not need a guarantee here that the executive will recall parliament? In my experience, the one thing that executives do not like is parliamentary scrutiny. Governments more and more, when they have been in the saddle, like to get out of parliament as much as they can. On behalf of the Greens, I am proposing that, in the extraordinary circumstances outlined where there is a default and then in the extraordinary circumstances—which the minister thinks unlikely—that the executive did not recall parliament, it is recalled.

Senator COONAN (New South Wales) (6.54 pm)—I will just briefly indicate the opposition’s position. I have listened very carefully to Senator Sherry’s remarks in relation to transparency and I have listened in silence to Senator Brown’s questions. I do think it is appropriate that I indicate that our position on the amendment is that we will not support it, not because I do not think that transparency is important—I could raise some issues in relation to it—but because I am firmly of the view that a provision to summon parliament to come back if it is adjourned and for the Presiding Officer to summon the House to meet, in spite of anything contained in the resolution of adjournment of that House, is not necessary to ensure transparency. To the coalition, summoning to meet seems to be a bit excessive.

Question put:

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

The committee divided. [7.00 pm]

(The Temporary Chairman—Senator S Parry)

Ayes.....	6
Noes.....	<u>44</u>
Majority.....	<u>38</u>

AYES

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

NOES

Arbib, M.V.	Barnett, G.
Bilyk, C.L.	Bishop, T.M.
Boyce, S.	Brown, C.L.
Bushby, D.C.	Cameron, D.N.
Colbeck, R.	Collins, J.
Coonan, H.L.	Crossin, P.M.
Farrell, D.E.	Faulkner, J.P.
Ferguson, A.B.	Fielding, S.
Fierravanti-Wells, C.	Fifield, M.P.
Forshaw, M.G.	Furner, M.L.
Humphries, G.	Hurley, A.

Hutchins, S.P.	Kroger, H.
Lundy, K.A.	Marshall, G.
Mason, B.J.	McEwen, A.
McLucas, J.E.	Nash, F.
Parry, S.	Payne, M.A.
Polley, H.	Pratt, L.C.
Ronaldson, M.	Ryan, S.M.
Scullion, N.G.	Sherry, N.J.
Stephens, U.	Sterle, G.
Troeth, J.M.	Trood, R.B.
Williams, J.R. *	Wortley, D.

* denotes teller

Question negatived.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (7.04 pm)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

BUSINESS

Rearrangement

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (7.05 pm)—I move:

That government business order of the day no. 1, the Water Amendment Bill 2008, be postponed till the next day of sitting.

Question agreed to.

MIGRATION LEGISLATION AMENDMENT (WORKER PROTECTION) BILL 2008

Second Reading

Debate resumed from 25 November, on motion by **Senator Ludwig**:

That this bill be now read a second time.

Senator CAMERON (New South Wales) (7.05 pm)—I am pleased to support the Migration Legislation Amendment (Worker Protection) Bill 2008. This legislation is de-

signed to introduce a new framework for the sponsorship of noncitizens seeking entry to Australia. The legislation is a timely and absolutely necessary response to the problems associated with the operation of the 457 visa program. The government is determined to strengthen the integrity of the program and to ensure that workers who come to Australia to assist this nation to build for the future are treated with fairness, dignity and equity—something that, for thousands of workers, was not applied under the previous government. We will achieve this through four main measures: providing the structure for better defined sponsorship obligations on employers and other sponsors; improving information sharing across all levels of government; expanding powers to monitor and investigate possible noncompliance by sponsors; and introducing meaningful penalties for sponsors found to be in breach of their obligations.

The use of temporary visas, particularly 457 visas, has increased dramatically over the last few years. This increase is a direct result of the Howard government's failure to develop a strategic approach to building the skill base of Australia. Not only did they fail to develop a strategic approach; they did not have an approach on skills development for this country. Widespread skill shortages have been an impediment to the improved productive performance of this nation. They are a clear example of the failed economic policies of the previous government. In terms of economic policies, the previous government's golden policy was Work Choices. It was not about building the skills of the nation; it was about taking rights away from ordinary Australians and trying to compete internationally on low skills and low wages—a proposition that was never, ever going to deliver for the nation.

But this government, the Labor government, is determined to build a sophisticated

national skill development program, a program that we can be proud of and that will reduce our reliance on temporary overseas labour to build this nation. All of the opportunities that have been lost over the last 11½ years, all of the lost opportunities of the mining boom, could have been resolved if we had had a decent skill base and had been able to build the infrastructure projects to underpin this nation's growth for the future.

Because the previous government failed to do that during those 11½ years, we have determined that we must invest \$19.3 billion in education and training. We are not going for the easy way out. We are not saying to the bosses, 'Screw your workers into the ground.' We are saying to everyone in this country that skills, innovation and training are the way to move forward for this century. The \$19.3 billion is an investment in Australia's future. We will invest \$1.9 billion over five years to fund up to 650,000 new training places—and I think we should send some older senators back for some training in common decency. That \$1.9 billion over five years will provide 650,000 new training places. Those training places will be the engine that drives personal skill development and lifelong career progression.

While the government's policy will increase the skill base of our country, significant progress on reducing skill shortages will take time, because we have to make up for 11½ years of incompetence by the previous government. This means that Australian industry will continue to seek access to the 457 visa system. Given the global economic crisis and the inevitability of Australia being caught up in the worldwide economic downturn, there is a high probability that the future use of 457 visas will decline. Nevertheless, the need to treat all workers in a fair, dignified and acceptable manner is fundamental to our government's approach in this legislation.

Contributions in this debate from the opposition point to a minority of companies being engaged in unacceptable conduct towards 457 visa holders. It seems to me that the plight of migrant workers is being reduced to a statistical analysis by the opposition. Treating migrant workers who are helping build the nation as just a statistical blip is unacceptable to this government. It is quite illuminating when you analyse the statistics used by the opposition to defend the problems that they created in the 457 visa system. Senator Fierravanti-Wells argued that only 1.67 per cent of sponsors were found to have breached their sponsorship obligations. Senator Fierravanti-Wells stood up and said: 'Look, it's not a problem; it's only 1.67 per cent. The Labor Party's beating it up—1.67 per cent is another statistical blip. It's just statistics. It's not a problem if workers are being denied fair and reasonable treatment. Only 1.67 per cent of sponsors have breached their obligations.'

I had a look at Senator Fierravanti-Wells's speech, and in it she also pointed to the fact that nearly 19,000 employers use the 457 visa system. If you take 1.67 per cent of those 19,000 employers, that is approximately 317 employers who are breaching their obligations across this nation and treating migrant workers in a manner other than what is fair and reasonable. If the opposition say that is something that should just be ignored because it is simply a minority of employers treating workers badly, we say that is unacceptable. We say that epitomises the worst aspects of the Howard government, the uncaring view that the Howard government had for not only migrant workers but Australian workers. This is the genesis of Work Choices—an uncaring view towards Australian workers, or any workers, and their plight.

These 317—approximately—employers breaching their obligations, in my view, un-

derstates the problem. I think it understates the problem massively. I think it is the tip of the iceberg in terms of what happened under the Howard government. These 317 employers employ what could be tens of thousands of migrant workers in this country. Even on your own figures and your own analysis this could be thousands of workers being exploited. In my view, you do not treat this as a statistical blip, you do not try and justify your inept performance on 457 visas by a statistic of 1.67 per cent—because if one migrant worker is exploited then that is one worker too many. That is what the Labor Party thinks. That is what the government thinks. If one migrant worker is killed or injured as a result of employer exploitation then that is one worker too many. If one migrant worker is denied equal pay for work of equal value then in my view that is one worker too many. If one worker is intimidated then that is one worker too many. And if one migrant worker goes back to their homeland and says Australia is a bad place in which to work then that is one worker too many having that point of view.

I note the opposition's claim that the union campaign of opposition to 457 visas has been oversensationalised by the media. Since I have been in this place—not for a very long time—I have noticed that when the opposition are in trouble they go back to the old opposition position: 'Blame the unions for our incompetence, blame the unions for our problems; don't look under the carpet where you'll find we have been incompetent for 11½ years on skill development, that we've been incompetent in our treatment of migrant workers, that we've failed to run the 457 visa system effectively; we'll let migrant workers be exploited. Don't worry about that, just blame the trade union movement.' It is the basis of the Liberal Party's approach on every issue on industrial relations where they find a problem.

But far be it from me to defend the media. The opposition say the media have oversensationalised it. 'Blame the media, blame the unions—they have over-sensationalised it.' I do not want to be the defender of the media, but I do think it is fair and reasonable and in the national interest that the media report the death of migrant workers, that they report the injuries suffered by migrant workers, that they report the exploitation of migrant workers under the Howard system, and that they expose the intimidation that went on under this scheme under the Howard government. I think that is a fair and reasonable thing for the media to do in this country. It is also a fair and reasonable thing for the trade union movement of this country to stand by and support migrant workers who are brought here without basic rights and forced into a system that strips them of rights similar to those of Australian workers. It is a fair and reasonable proposition for this government to say that the 457 visa system was mishandled, misused and abused by employers under the Howard government—and we are going to fix it. That is what we are going to do.

I have had personal experience of attempting to assist 457-visa workers who have been outrageously exploited. The problems with the system are not some invention of the media. They are not some invention of the trade union movement. They are not an invention of disgruntled migrant workers. There is massive documentation on the problems and incompetence of the Howard government with the 457 visa. The problems with the system have also been documented by the Victorian Magistrates Court.

Debate interrupted.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Mark Bishop)—Order! It being 7.20 pm, I propose the question:

That the Senate do now adjourn.

Education

Senator ARBIB (New South Wales) (7.20 pm)—I rise tonight to speak on the issue of education and talk about some of the good news and the good work that is being done in some of our schools. It is very timely that I give this speech, especially with respect to Rupert Murdoch's recent comments about the importance of education and the visit to Australia this week of New York school reformer Joe Klein. I have said it many times, and I will say it again now: the Rudd government is passionate about education. That is why we are undertaking an education revolution and are committed to making Australia the best-educated country in the world.

As Rupert Murdoch said, if we want to build an Australia where people are not left behind we need to recognise that a first-class education is no longer a luxury. He is right. Education is the key to this country's future. It gives us a chance to modernise and transform our economy from one that relies disproportionately on mining and resources to one that leads the world in information technology, professional services and science. Mr Murdoch is also right about not leaving people behind, because without doubt education is the best way to fight inequality, providing opportunities for all our children to lead fulfilling and productive lives. It should not matter what your background is or where you live—in the city or in the country. Every child has a right to the highest quality education. As a senator for New South Wales, I am committed to ensuring all our schools have the teachers, resources and facilities they need to deliver world-leading education for their students.

You do not hear much good news about New South Wales at present, but in the last three weeks I have had the honour to attend

four very small schools in country New South Wales where I witnessed firsthand the fine work that is being done by teachers, school administrators, the local community and state and federal governments to ensure that every child has the best start.

The first school I visited was Beckom Public School. This school is located in the wheat-growing community of the central Riverina. It services the small town of Beckom, which has 159 residents. Beckom Public School teaches only 14 students from kindergarten to year 6, but it is an institution with a long history of serving its local community and it is achieving outstanding results. Something that caught my eye, apart from the fine work the teacher was doing, was the sense of pride that the local community felt in its school. In talking to the teacher and to the parents there it was evident that the school was the backbone of the community. The community relies on the school and generations of families had gone through it. Grandparents have attended the school, their children have attended the school and now their grandchildren were attending the school. Coming from Sydney, it was an eye-opener for me.

I had the pleasure of meeting the 14 students and, despite their very small number, they were full of life and extremely talented. It was like being on the set of *The Sound of Music*. Their singing was unbelievable. I note the strange look I got from Senator Faulkner then, but, Senator Faulkner, this is a school that had a great expertise in bell ringing. I had never seen that at a school before. Their bell ringing was first class. Not only were they extremely talented in music and speech making but they were also talented academically. For a school of 14, you would think that they would be struggling in terms of their academic achievements. But this school was achieving better results than the state average. Full credit goes to the teacher

and to the principal for the work they are doing. I was also happy to see the use of technology in the school. Even in a school this small they had computers, access to the internet and a smart board. It is a credit to the government, to the state government and to the local community. And it is a good news story—something that you do not hear about or see in the media, but it is happening, even in towns as small as Beckom.

With your indulgence, Mr Acting Deputy President, I promised the students that I would mention them, so I am going to put their names onto the record. I think it is a good thing for them and I know they will go to the internet to have a look. So, I thank Josh Griffin, Kate Turner, Joseph Grinter, Rhys Wheatley, Lily Day, Henry Grinter, Zach Griffin, Mehak Bhangu, Benjamin Grinter, Peter Wheatley, Emma Collis, Abbey Weise, Jim Griffin, Oscar Day and the principal, Helen Sturman, for the great generosity they showed me. I would also like to thank the P&C for turning on a wonderful lunch. They do a brilliant job out there and I urge Senator Faulkner, when he gets a chance, to visit the town of Beckom. You will not be disappointed.

On the same trip I also attended St Michael's Primary School in Coolamon, which is another school that is doing outstanding work. It has a long and continuing history with the local community, in which there are only 1,361 residents. There are 120 children at the school and, again, the thing that stood out for me was the great sense of pride. The community and the parents were proud of what they were achieving at their local school and I was proud to be there.

The government has delivered for these schools. There has been an extension of the classrooms and, thankfully, they were getting technology into the school. To see the students using the new smart board was inspira-

tional. The kids are advanced in technology—they were well ahead of me on the smart board and left me for dead. To the children there, I say, 'Keep up the good work and congratulations on what you are doing.' To the teachers I say exactly the same thing. To the principal, Paul Jenkins, thank you for letting me visit. I really do appreciate the opportunity.

More recently, I have been in far western New South Wales. There I visited two schools that are really making a difference. One is Palinyewah Public School. Palinyewah is a small town near Wentworth. People who know Wentworth will know that it is where both the Murray and the Darling rivers join. I am sure Senator Williams knows Wentworth well.

The school dates back to 1954 and has 29 students. Can I tell you that these kids are committed to their education. It was wonderful to see their use of technology. Not only did they have the computers and not only did they have the smart boards but they actually had video conferencing in place. The children were using the video conferencing to talk to other schools, to other teachers, to other educators in the city, to authors and to artists. This is the education of the future. This is how you compete with the rest of the world. Children in a town as small as Palinyewah are getting an education just the same as, if not better than, that which children in the big cities and in regional centres get. That is something we can be extremely proud of. I would like to quickly read into *Hansard* the names of the children: Kate Seaman, Matilda Byrnes, Jack Seaman, Kaitlyn Hinks, Ethan Catterall, Ashley Strachan, Jack Cullinan, Bradley McMahon, Jessie Worrell, Chris Radloff, Kayla Catterall, Sam Seaman, Clay Lambert, John Lambert, Alicia Robertson, Maddison Bourke, Natalie Catterall, Tori Catterall, Natalia Radloff, Rebekah Robertson, Thomas Cullinan, Jesse

Martin, Ben Salathiel, Kyle Richards, Patrick McMahon, Owen Lambert, Tiffany Cullinan, Brittany Martin and Rebekah McMahon. I would also like to acknowledge their school principal, Jennifer Wall. They are doing an outstanding job. And I have to apologise that my performance in handball—they call it ‘downball’—was not up to their level. I know they were pretty disappointed that I was out first go, but on my next visit I promise to do better.

The last school I would like to talk about is Menindee Central School, which is outside of Broken Hill, as most people would know. This is a school that is delivering not just in academic standards but also in increased retention rates for Indigenous children. Anyone who knows Menindee knows that there are a large number of Indigenous people living there. Brian Debus, the local school principal, had retired from his city school and went out to Menindee to take on the task, and he is delivering. There are Indigenous children who are now—(*Time Expired*)

Tasmanian Forests

Senator ABETZ (Tasmania) (7.30 pm)—In recent times there have been accusations of violence in the forests of Tasmania between workers and protesters. Violence and other unlawful conduct need to be condemned—and condemned outright. They cannot and should not be condoned.

I was reminded the other day of an incident, I think in 1995, when protesters, having been unable to gain entry to North Forest Products offices at the old Marine Board Building in Hobart—a heritage building, by the way—sought to burn down the wooden doors. Police were called, the fire was extinguished and no-one was charged because ‘they were just protesters’. Not surprisingly, this attitude breeds resentment. It was a silly and irresponsible response by the authorities.

Similarly, the so-called Florentine Camp has been allowed to remain in place for some 2½ years, blocking an access road. The camp is an eyesore. It is a clash of blue and green plastic tarpaulins, corrugated iron, burnt-out car wrecks, 44-gallon drums, black plastic, with numerous chopped down saplings held together by ropes that create the imagery of a spider’s web, and a free-standing kitchen sink. In short, the place is a mess, a junkyard. It looks worse than a shantytown with, you have guessed it, camp fires burning wood in an area the protesters describe as being ‘vital pristine wilderness’. I seek leave to table three photographs of that camp site.

Leave granted.

Senator ABETZ—I thank the government for the leave. Amongst the protesters is a person who has been there for 2½ years on welfare—that is, courtesy of the taxpayers. This brief scenario raises a number of salient issues. Why has the protester on welfare been allowed to be on welfare for all this time? When the allegation of welfare is put to the protester, we are given the response: ‘I do what I have to do.’ I call on the welfare authorities to breach this permanent professional protester who is living on welfare. I also ask: why has this been allowed to go on for 2½ years? I also inquire as to how authorities can allow car bodies to be dumped in state forests. I am sure that if any other Tasmanian tried it they would be charged, as they should be. But, here again, why have authorities refused to act?

Similarly, how have the relevant health authorities and officers approved the toilet and sanitary facilities for the past 2½ years? I hope they have not. So why haven’t they taken action? It is the same with the camp fire, it is the same with the illegal structure and it is the same with the lack of helmets. Where is the occupational health and safety standard? When confronted, the protesters

tell us they follow most of the rules, suggesting, therefore, that they do not follow all of them. That, of course, is more than apparent, especially from the photographs that I have tabled. My plea to those in authority is to ensure that all people are treated equally before the law. Just because they are protesters does not put them above the law or allow them to avoid welfare, trespass, hygiene, littering, fire-planning, occupational health and safety and other rules and regulations—let alone their ethical responsibilities.

I note that another protest group, the front group, Investors for Tasmania, who took legal action against the forest company and spectacularly failed both at first instance and on appeal, are now disbanding the organisation before court orders can be pursued in relation to the costs that were awarded against that organisation. If company directors were to behave in such a way, they would be named and shamed—and, might I say, quite rightly so; they should be. Can I invite the same action in relation to those that set up this front organisation so that they personally would not have to bear the consequences of their failed court action?

One of the great things about Australia is that we have a right to freedom of speech and a right of access to the law. But those rights, like all other rights, have countervailing obligations, and those are to act within the confines of our laws and to act ethically. People being confronted with clear breaches of the law that are not dealt with by the authorities has the potential to breed vigilantes—people who believe it is appropriate to take the law into their own hands in what they perceive to be the absence of action by the authorities. The authorities have a responsibility to ensure that that does not occur.

The Senate will be aware of my concerns about ABC bias and the culture within the

ABC on a host of issues, including the portrayal of forestry, especially in Tasmania, where the ABC has had to admit breaches of very fundamental and basic journalistic standards. At Senate estimates, the ABC has been regrettably reluctant to admit to these problems and to address them seriously.

Well, I have news for the ABC. During the Tasmanian *Stateline* program on Friday, 7 November 2008, Tasmanian viewers were given another ABC insight into forestry, which was actually fair and balanced. I congratulate the ABC for it but, on reflection, I should not need to. Fairness and balanced reporting should be the accepted standard. It should be the norm.

Tasmanian forest workers deserve to be allowed to go about their duties and workplaces unhindered. I wonder what the outcry would be if a couple of machines blocked The Green Shop in the city of Hobart, if half-a-dozen workers stood in the doorway of the shop blocking access—for 2½ years, might I add—and getting paid welfare for their trouble. I think we all know what would happen. Fairness, equity and balance are on a two-way street. The passion with which one holds a particular view is not licence to break the law by blockading or engaging in violence. I say to the authorities: if you do not want retribution, if you do not want vigilantes then deal with the initial illegal activity, which is, regrettably, responded to by some who are frustrated at officialdom's inaction.

The forestry sector in Tasmania has to continually live with these sorts of frustrations in circumstances where it is recognised worldwide as being a world-class industry. Indeed, just recently I had the pleasure of having dinner with some PEFC people from all around the world, from Europe, Asia and elsewhere. Having observed Tasmanian forestry, these experts, who undertake classification of forest practices, were overwhelm-

ingly impressed by the way that we do forestry here in Australia, particularly in my home state of Tasmania. It is a matter of regret that that visit was hardly noted by the media in my home state or elsewhere in Australia, although, in fairness, the ABC's *Statewide Mornings* program with Tim Cox did put on Mr Michael Clark, the Chairman of the PEFC worldwide to give some explanation in that regard.

The Tasmanian forest industry has a lot to be proud of and has a lot of genuine individuals engaged in it. It should not have to face the sort of confrontation that Camp Florentine has now provided and aggravated for the past 2½ years. I call on the officials in Tasmania to ensure that it is disbanded.

White Ribbon Day

Senator CAROL BROWN (Tasmania) (7.40 pm)—On Saturday, 22 November, I, along with over 100 other Tasmanians, including my federal parliamentary colleague the member for Denison, Duncan Kerr, and state MPs Lisa Singh and Nick McKim, attended an event hosted by Amnesty International to mark White Ribbon Day. Those present formed Tasmania's largest human white ribbon in a show of unity and support for Amnesty's Stop Violence Against Women Campaign. The event represented a creative means of drawing attention to what continues to be a serious issue, both here in Australia and overseas.

The sad reality is that many women, both here in Australia and overseas, remain victims of violence, whether it be physical, sexual, psychological or emotional. Indeed, as the federal Minister for the Status of Women, Tanya Plibersek, noted in her contribution yesterday to mark White Ribbon Day, violence against women remains the:

... greatest human rights violation in this country and the greatest human rights violation on the

planet in terms of the number of people who are affected.

This is a statement that is likely to take many by surprise because of the silent nature of the issue.

White Ribbon Day was created by a group of men in Canada in 1991 on the second anniversary of the massacre of 14 women by a man in Montreal. The men started the campaign to encourage other men to speak out against violence against women. In 1999, the United Nations declared 25 November the International Day for the Elimination of Violence against Women, and the white ribbon was adopted as its symbol. White Ribbon Day activities have been conducted in Australia since the year 2000. Indeed, from 2000 the Commonwealth government's Office for Women began running awareness activities and, since that time, the Australian branch of the United Nations Development Fund for Women, in partnership with various men's and women's organisations, has conducted a national campaign.

The aim of the White Ribbon Foundation of Australia is to eliminate violence against women by encouraging men to speak out about the issue and to provide positive role models. A number of high-profile Australian men have accepted the role of becoming White Ribbon ambassadors, including the foundation's chair and television identity, Andrew O'Keefe, and the Prime Minister, Kevin Rudd. However, White Ribbon Day offers men all around Australia the opportunity, by wearing a white ribbon, to make a personal statement that they will not commit, condone or remain silent about violence against women. Indeed, if we are to make serious progress in reducing violence against women, both here and abroad, men are to play a pivotal role in taking the lead and providing positive role models for our young boys and men to shape attitudes towards women.

Statistics show that one in three Australian women will experience domestic or family based violence in their life and one in five will experience sexual assault. This equates to nearly half a million women in Australia suffering from some form of violence each year. Further, with Amnesty International reporting that domestic violence is the leading contributing factor to ill-health and premature death for women between the ages of 15 to 44, there remains a need for constructive action to be taken to combat the problem in Australia.

During its first term in office, the Rudd government has remained committed to its pre-election commitments in the area of social policy reform, pursuing a number of significant reforms in key social policy areas, including the reduction of violence against women. Indeed, it has been the government's decisive action in such areas which I believe has provided the real hallmarks for its first year in office. In May, the government announced the formation of an 11-member national council charged with the responsibility of providing the government with advice on measures to reduce the incidence of domestic violence and sexual assault against women and delivering a draft of the National Plan to Reduce Violence against Women and their Children, which is due to be handed to the government by the end of this year. Since then the national council has undertaken a period of extensive consultation with a broad range of stakeholders to provide insights and advice to form the basis for the draft national plan. This has included the hosting of three expert roundtables, inviting written submissions and the hosting of public forums right around the country, including in my home state of Tasmania.

On Tuesday the national council released a summary of the consultations, in the lead-up to the draft plan being handed to the government by the end of the year. According to

the summary, the council received over 2,000 written submissions, the majority of which came directly from service providers and the general public. Further, 440 individuals participated in the 30 forums held around the country. The council noted that the consultations highlighted the need to improve support and services for those affected by domestic violence and sexual assault, to improve the legal system so that perpetrators are held to account, to increase primary prevention efforts so that more children and young people are educated about respectful relationships, and to increase research and set targets so that Australia can track its progress. In all, the draft report promises to draw on a range of expert opinion as well as personal experience to outline a clear way forward in reducing domestic violence and sexual assault in Australia and creating a safer, more supportive society in which to live.

Whilst awaiting the delivery of the draft report, the government, since coming to office, has also delivered \$1 million to the White Ribbon Foundation to assist them in promoting and expanding their campaign in rural and remote areas, which is a constructive means of facilitating cultural and behavioural change in such areas, particularly for men; \$2 million to commission a national survey to measure and compile community attitudes relating to violence against women, which will in time complement and strengthen the draft national plan; and \$500,000 to the Australian Institute of Criminology to undertake further research into the tragic circumstances surrounding cases of domestic homicide. Currently, more than one woman per week has her life taken away by a partner as a result of domestic homicide. Obviously, I echo the sentiments of everyone in the chamber that that is one too many. The government hopes the survey will assist in determining just where the sys-

tem is currently letting these women down and how we can better support and protect them to prevent such tragedies occurring.

The government has also put \$500,000 towards 22 local projects that support victims of domestic and family violence. I am proud to say that this includes the funding of a project by the Huon Domestic Violence Service in Tasmania for a radio program that aims to target the attitudes and behaviours of young people. Once again, this represents very real and constructive action on the part of the government to ensure that it is addressing the issue at both a national policy level and a local, grassroots level.

Finally, representative of its genuine commitment to moving forward on this issue, the Rudd government formally moved that Australia become a party to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. The government's announcement, on the eve of White Ribbon Day, made for a powerful statement that this country will no longer tolerate violence against women in any form. Under the optional protocol, women in Australia will be granted the right to make a complaint to the UN Committee on the Elimination of Discrimination against Women about alleged violations of Australia's obligation. Whilst this can occur only after domestic legal options have been exhausted, it demonstrates that the government is serious about promoting gender equality and that it is prepared to be judged by international human rights standards.

Whilst admittedly we have a long way to go if we are to eliminate the perpetration of violence against women in all forms, the government has made a constructive start. I would like to believe that we as a country would be well on the way to actively combating the problem by the time my daughter reaches her teenage years; however, there is

a lot of work yet to be done. Yesterday, the formal proceedings to mark White Ribbon Day were participated in by the Attorney-General, the Hon. Robert McClelland, and the Hon. Joe Hockey, who are both White Ribbon ambassadors. I was at the launch, as were a lot of members and senators from all parties. Senator Bilyk, my colleague from Tasmania, was in attendance, as was Senator Furner, both of whom are in the chamber this evening. I understand Senator Furner signed up on the spot to be a White Ribbon ambassador.

As part of these formal proceedings to mark the day, the Chair of the White Ribbon Foundation, Andrew O'Keefe, presented the Minister for the Status of Women, Tanya Plibersek, with a copy of the foundation's most recent report, *An assault on our future: the impact of violence on young people and their relationships*. The report highlights that indeed there remains a lot of work to be done, revealing that one in seven girls between the ages of 12 and 20 have experienced sexual assault or rape and that half a million teenagers admit they live with violence in their home. Such findings ensure that the government's commitment to tackling this is essential, not only in supporting current victims but also in preventing and protecting our young girls and women from falling victim to the same cycle of violence. (*Time expired*)

People with Disabilities

Senator BILYK (Tasmania) (7.50 pm)—I rise tonight to speak to a very important issue, that of people with disabilities. I also wish to recognise the upcoming International Day of People with Disability, which will occur on 3 December 2008.

For far too long, people with disabilities in Australia have faced discrimination. There is a popular saying that the truest measure of a society is how it treats those that are worst

off. For a nation that prides itself on its egalitarianism, Australia has a lot of work to do to address the needs of people with disabilities. It should be our mission, as the Australian government, to ensure that, to the best possible degree, every Australian who suffers from a physical or mental impairment has the same quality of life and opportunities for achievement as everyone else. Not only do we need to strive for equality of opportunity for people with disabilities; we need to encourage all Australians to lend them a hand when they need it and to always treat them with dignity and respect.

It has been the case throughout Australia's history that people with disabilities have too often been treated as second-class citizens. In the 1950s, school leavers with intellectual disabilities lacked employment opportunities and ended up at home or in state care. This prompted an organisation in my home state of Tasmania, the Retarded Children's Welfare Association, to construct a sheltered workshop with an adjoining residential facility for children with an intellectual disability.

The Hobart branch of the RCWA purchased land for the development in 1961 at Warrane, in the electorate of Franklin, and construction of the Oakdale workshop was completed in 1964. The workshop had an initial intake of 14 children. The adjoining residential facility, Oakdale Lodge, was built in 1970 and started with nine residents. Extensions then allowed the facility to accommodate 36 residents. Accommodation has been further extended over time with the construction of five independent living units on the Oakdale Lodge site.

In 1992, Oakdale Services Tasmania was established as a separate entity to assume responsibility for Oakdale Lodge. Today the residents are supported by a variety of programs, including acquired brain injury accommodation, youth services, a community

living program and an ageing-in-place program. The ageing-in-place program supports seven ageing people with an intellectual disability to remain in their home with the support of their friends and family. They are involved in a range of occupational and community access services throughout the Hobart area. Oakdale Lodge does its best to ensure that its residents have the best quality of life possible. They regularly organise leisure activities, visits by entertainers and sporting personalities, and regular day trips and holidays, including interstate and overseas trips.

I was lucky enough to visit Oakdale Lodge recently with the Parliamentary Secretary for Disabilities and Children's Services, Bill Shorten, and the member for Franklin, Julie Collins. Mr Shorten had already visited Oakdale Lodge, in December last year, and discovered, while talking to many of the residents, that they were passionate AFL fans. During his December visit Mr Shorten promised to return with some AFL memorabilia for the residents. He contacted AFL clubs around Australia, who generously contributed a variety of signed memorabilia, including items such as posters, jerseys, footballs and caps. It was a truly great honour and privilege for me to be invited to attend the event where these gifts were given out. Minister Shorten, Julie Collins and I not only enjoyed the hospitality of the clients but truly enjoyed seeing them so thrilled with their gifts.

I would like to take this opportunity to thank both members from the other place for their hard work and dedication in following through on this issue. I also give great thanks to the staff and volunteers at Oakdale Lodge for their hospitality. Their warm hearts and smiles show they are truly committed to their jobs and to their clients. Seeing the smiles on the faces of the clients highlighted the value

of acknowledging and respecting people with intellectual disabilities.

After we had been to Oakdale, Julie Collins and I co-hosted a forum for disability service providers. Julie Collins is an incredibly hardworking member and she has quickly earned the praise of her electorate for the amount of work she does to actively listen to the concerns of her constituents, for whom she is an effective advocate. At the forum, Mr Shorten outlined the government's plans for the disability sector to service providers in southern Tasmania. The forum also provided an opportunity for us to hear the concerns of service providers, and, more importantly, to hear their ideas about how the government can improve services and support for people with disabilities.

I am really pleased that the Rudd government is undertaking important work in the area of disabilities. Through our many initiatives, the government is giving people with disabilities the opportunity to better participate in the community. It is also important that our actions as a government fit within an international framework. This is why the Rudd government fast-tracked the ratification of the UN Convention on the Rights of Persons with Disabilities. The convention was ratified on 17 July 2008 and entered into force for Australia on 16 August. The government is now consulting with state and territory governments on the optional protocol to the convention.

At the domestic level, we are currently in the process of developing a national disability strategy. The development of the strategy is aligned with an international trend that recognises that a whole-of-government, whole-of-life approach to disability issues is required to tackle the social and economic divide between people with a disability and people without a disability. The final strategy will provide an organising and monitoring

framework for existing work. Furthermore, it will bring together other key initiatives currently under review or development.

These initiatives could include, but are not limited to, the national disability agreement, the inquiry into better support for carers, the National Mental Health and Disability Employment Strategy, the Arts and Disability Strategy, the Disability Discrimination Act Access to Premises Standard, and the Harmonisation of Disabled Persons Parking Scheme and Companion Card Scheme. The strategy will be developed in collaboration with state and territory governments. Through the strategy, Commonwealth departments can ensure that people with a disability are considered in the development of policies and programs and resource allocation.

The Rudd government is also demonstrating that we are serious about listening to the concerns of people with disabilities. In developing our National Disability Strategy, we need expert advice on the development and implementation of the strategy. For this reason, we have established the National People with Disabilities and Carer Council. The council's membership has a broad representation, including people with a disability, their family and carers, community representatives and industry representatives. The first meeting of the council took place on 3 September 2008.

If we are to seriously address the barriers faced by people with disabilities, then it is important that we address the problem of discrimination against people with disabilities. The Disability Discrimination Act was enacted for this reason in 1992. The Productivity Commission undertook a review of the Disability Discrimination Act in 2004. Unfortunately, the previous government failed to act on the recommendations of the Productivity Commission's review. This is un-

finished business on which disability advocacy groups have been crying out for action since the commission's report.

The previous government left these reforms dormant for too long. The Rudd government, by contrast, is serious about addressing disability discrimination. We will introduce amendments recommended by the commission to clarify the obligation for employers, service providers and others to remove discriminatory barriers for people with disabilities. To complement our efforts in the removal of disability discrimination, we are examining ways to facilitate community engagement with people with disabilities.

Brendan O'Connor, the Minister for Employment Participation, and Bill Shorten are co-chairing a strategy to look at how we give people with a disability greater opportunities to participate in the community. There are over 300 submissions to the strategy. These consultations show that the Rudd government is serious about listening to ideas and suggestions about how we can help people with a disability.

It is important that the work we are doing complements the work being undertaken by state and territory governments. In my home state of Tasmania, the state government has committed—in conjunction with the Australian government—to a major injection of funds to increase the number of Tasmanians receiving specialist disability services by 25 per cent over the next four years. Just this financial year the Tasmanian government has introduced 12 more accommodation places, 75 more individual support packages, 50 more community access packages and 70 more respite places.

I commend the important work that the Tasmanian government is undertaking in supporting people with disabilities. It helps support the excellent work being done by our federal ministers who take responsibility for

this area of policy, such as the Commonwealth Attorney-General, Robert McClelland, who is undertaking reform of disability discrimination legislation, and the Minister for Employment Participation, Brendan O'Connor, who is devising strategies to help people with disabilities to become active and valued participants in the community. (*Time expired*)

Senate adjourned at 8.00 pm

DOCUMENTS

Tabling

The following government documents were tabled:

Australian Postal Corporation (Australia Post)—Equal employment opportunity program—Report for 2007-08.

Crimes Act 1914—Authorisations for the acquisition and use of assumed identities—Report for 2007-08—Australian Customs Service.

Equal Opportunity for Women in the Workplace Agency (EOWA)—Report for 2007-08.

Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Act 2004—Report on financial assistance granted to each state in respect of 2007.

Treaty—*Bilateral*—Agreement between the Government of Australia and the North Atlantic Treaty Organisation on the Security of Information, done at New York on 26 September 2007—Text, together with national interest analysis.

Tabling

The following documents were tabled by the Clerk:

[*Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number*]

Appropriation (Northern Territory National Emergency Response) Act (No. 1) 2007-2008—Determination to reduce ap-

proprations upon request (No. 8 of 2008-2009) [F2008L04347]*.

Australian Prudential Regulation Authority Act—Australian Prudential Regulation Authority (Confidentiality) Determination No. 13 of 2008—Information provided by locally-incorporated banks and foreign ADIs under Reporting Standard ARS 320.0 [F2008L04377]*.

Civil Aviation Act—

Civil Aviation Regulations—Instrument No. CASA EX78/08—Exemption – of authorised flying instructors employed by Singapore Flying College Pte Ltd [F2008L04309]*.

Civil Aviation Safety Regulations—Airworthiness Directives—Part 105—AD/B737/346—Cabin Altitude Warning Takeoff Briefing [F2008L04349]*.

Environment Protection and Biodiversity Conservation Act—Amendments of Lists of—

Exempt Native Specimens—

EPBC303DC/SFS/2008/25 [F2008L04417]*.

EPBC303DC/SFS/2008/34 [F2008L04385]*.

EPBC303DC/SFS/2008/35 [F2008L04395]*.

Threatened species, dated 14 November 2008—

[F2008L04356]*.

[F2008L04359]*.

Higher Education Funding Act—Declaration under subsection 4(2), dated 11 November 2008 [F2008L04384]*.

Higher Education Support Act—VET Provider Approval (No. 7 of 2008)—Australian College of Applied Psychology Pty Ltd [F2008L04365]*.

Migration Act—Migration Regulations—Instruments IMMI—

08/103—Travel agents for PRC citizens applying for tourist visas [F2008L04346]*.

08/106—eVisitor – eligible passports [F2008L04321]*.

National Environment Protection Council Act—Variation to the National Environment Protection (National Pollutant Inventory) Measure 2008 (No. 1) [F2008L04326]*.

National Health Security Act—National Health Security (SSBA Standards) Determination 2008 [F2008L04331]*.

Social Security Act—Social Security (Australian Government Disaster Recovery Payment) Amendment Determination 2008 (No. 1) [F2008L04379]*.

Superannuation Industry (Supervision) Act—Superannuation Industry (Supervision) Modification Declaration No. 1 of 2008 [F2008L04381]*.

Therapeutic Goods Act—

Conformity Assessment Standards Order (Standard for Quality Management Systems and Quality Assurance Techniques) 2008 [F2008L04337]*.

Medical Device Standards Order (Standards for Biological Safety of Medical Devices) 2008 [F2008L04338]*.

Trade Practices Act—

Class Exemption Determination No. 3 of 2008 [F2008L04332]*.

Model Non-Price Terms and Conditions Determination 2008 [F2008L04341]*.

* Explanatory statement tabled with legislative instrument.

QUESTIONS ON NOTICE

The following answers to questions were circulated:

Mobile Phone Services**(Question No. 740)**

Senator Cormann asked the Minister for Broadband, Communications and the Digital Economy, upon notice, on 24 September 2008:

- (1) Has the Minister or the department received complaints about the practices of major telecommunications companies in relation to so-called 'premium mobile services', particularly in relation to third party billing.
- (2) Is this Minister aware that major telecommunications companies including Telstra: (a) include in customer accounts, without the authority of the customer, charges for so-called 'premium mobile services' when those services are alleged to have been provided by a third party; (b) refuse to deal with customer complaints about the accounts and simply refer the customer to the third party provider; (c) can charge penalties and interest on monies owing to third parties; and (d) are under no obligation to assist customers who are unable to contact or resolve complaints with the third party providers.
- (3) Has the Minister received legal advice about the practices referred to above.
- (4) Is the Minister satisfied that the voluntary code known as the Mobile Premium Services Industry Scheme, is placing adequate responsibility on the major telecommunications providers in relation to their billing and complaints handling procedures.
- (5) Has the Minister received advice from the Australian Competition and Consumer Commission that legislative change is needed to protect consumers from predatory practices by telecommunications companies in relation to 'premium mobile services'.
- (6) What action is proposed by the Minister in regard to public concern about activities of telecommunication companies in relation to 'premium mobile services', and particularly their billing practices.

Senator Conroy—The answer to the honourable senator's question is as follows:

- (1) Yes.
- (2) (a) Yes. It is common practice for service providers to bill for services that they have not directly supplied. For example, services provided by another service provider, or a content service provider.
- (b) The difficulty some consumers have experienced when seeking to pursue their mobile premium service complaint with their service provider is one of the main areas of concern consumers have expressed with the mobile premium services industry. As a result, industry is addressing this issue (and other key areas of consumer concern) through the development of the new industry code.
- (c) Yes. I assume you are referring to the charging of late fees by service providers for unpaid bills. However, the charging of late fees in relation to unpaid bills is not directly linked to individual items, such as mobile premium service charges listed on that bill. For example, although a customer may receive an itemised account, the amount owing is a total of all the itemised charges listed for the specified period. Further, charging late fees for unpaid bills is not an uncommon practice unique to the telecommunications industry.

It is also important to note that under the existing Telecommunications Consumer Protection Code (an industry code that sets the minimum requirements providers must meet when billing their customers and providing billing information), telecommunications companies must not take credit management action over disputed amounts while the dispute is being investigated and remains unresolved.

- (d) Service providers have an obligation under the current Mobile Premium Services Industry Scheme to assist customers who wish to pursue their complaint with the content service provider (the third party).
- (3) No.
- (4) No. I have publicly expressed my concern about the increase in mobile premium service complaints to the Telecommunications Industry Ombudsman and the effectiveness of the current self-regulatory arrangements. In this regard, I welcome the commitment of industry to develop a new industry code addressing the concerns raised by consumers and regulators alike.
- (5) No.
- (6) I have asked my Department to commence exploring measures to work in parallel, and outside of, the new code to ensure consumers are protected and can use premium services with confidence. In consultation with the Australian Communications and Media Authority and the Australian Competition and Consumer Commission, my Department is currently developing these measures for my consideration. I have warned industry that it needs to address the current issues with mobile premium services, including billing and complaint handling practices, quickly and effectively, or I will have little choice but to intervene and consider more direct regulation to ensure the interest of consumers are protected.