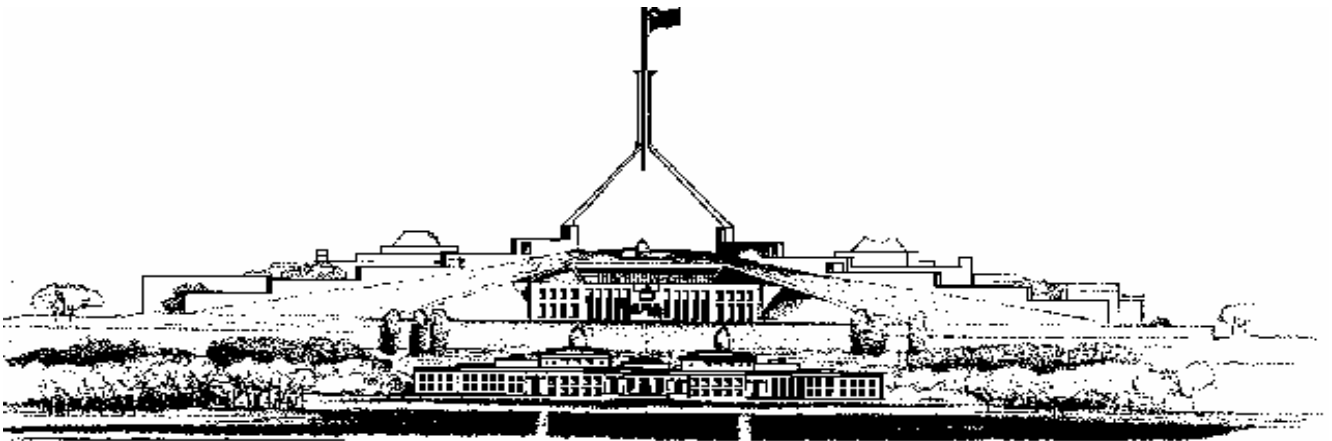




COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



Senate

Official Hansard

No. 6, 2008

Tuesday, 24 June 2008

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

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Commander of the Royal Victorian Order, Military Cross

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Leader of the Opposition in the Senate—Senator Hon. Nicholas Hugh Minchin

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The Nationals Whip—Senator Fiona Joy Nash

Australian Democrats Whip—Senator Andrew John Julian Bartlett

Australian Greens Whip—Senator Rachel Siewert

Family First Party Whip—Senator Steve Fielding

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Members of the Senate

Senator	State or Territory	Term expires	Party
Abetz, Hon. Eric	TAS	30.6.2011	LP
Adams, Judith	WA	30.6.2011	LP
Allison, Lynette Fay	VIC	30.6.2008	AD
Barnett, Guy	TAS	30.6.2011	LP
Bartlett, Andrew John Julian	QLD	30.6.2008	AD
Bernardi, Cory ⁽⁵⁾	SA	30.6.2008	LP
Birmingham, Simon John ⁽⁶⁾	SA	30.6.2008	LP
Bishop, Thomas Mark	WA	30.6.2008	ALP
Boswell, Hon. Ronald Leslie Doyle	QLD	30.6.2008	NATS
Boyce, Suzanne Kay ⁽¹⁾	QLD	30.6.2008	LP
Brandis, Hon. George Henry, SC	QLD	30.6.2011	LP
Brown, Carol Louise ⁽⁴⁾	TAS	30.6.2008	ALP
Brown, Robert James	TAS	30.6.2008	AG
Bushby, David Christopher ⁽⁹⁾	TAS	30.6.2008	LP
Campbell, George	NSW	30.6.2008	ALP
Carr, Hon. Kim John	VIC	30.6.2011	ALP
Chapman, Hedley Grant Pearson	SA	30.6.2008	LP
Colbeck, Hon. Richard Mansell	TAS	30.6.2008	LP
Collins, Jacinta Mary Ann ⁽¹⁰⁾	VIC	30.6.2008	ALP
Cormann, Mathias Hubert Paul ⁽⁸⁾	WA	30.6.2011	LP
Conroy, Hon. Stephen Michael	VIC	30.6.2011	ALP
Coonan, Hon. Helen Lloyd	NSW	30.6.2008	LP
Crossin, Patricia Margaret ⁽³⁾	NT		ALP
Eggleston, Alan	WA	30.6.2008	LP
Ellison, Hon. Christopher Martin	WA	30.6.2011	LP
Evans, Hon. Christopher Vaughan	WA	30.6.2011	ALP
Faulkner, Hon. John Philip	NSW	30.6.2011	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 ⁽²⁾	VIC	30.6.2008	LP
Fisher, Mary Jo ⁽⁷⁾	SA	30.6.2011	LP
Forshaw, Michael George	NSW	30.6.2011	ALP
Heffernan, Hon. William Daniel	NSW	30.6.2011	LP
Hogg, John Joseph	QLD	30.6.2008	ALP
Humphries, Gary John Joseph ⁽³⁾	ACT		LP
Hurley, Annette	SA	30.6.2011	ALP
Hutchins, Stephen Patrick	NSW	30.6.2011	ALP
Johnston, Hon. David Albert Lloyd	WA	30.6.2008	LP
Joyce, Barnaby	QLD	30.6.2011	NATS
Kemp, Hon. Charles Roderick	VIC	30.6.2008	LP
Kirk, Linda Jean	SA	30.6.2008	ALP
Lightfoot, Philip Ross	WA	30.6.2008	LP
Ludwig, Hon. Joseph William	QLD	30.6.2011	ALP
Lundy, Kate Alexandra ⁽³⁾	ACT		ALP
Macdonald, Hon. Ian Douglas	QLD	30.6.2008	LP
Macdonald, Hon. John Alexander Lindsay (Sandy)	NSW	30.6.2008	NATS
McEwen, Anne	SA	30.6.2011	ALP

Senator	State or Territory	Term expires	Party
McGauran, Julian John James	VIC	30.6.2011	LP
McLucas, Hon. Jan Elizabeth	QLD	30.6.2011	ALP
Marshall, Gavin Mark	VIC	30.6.2008	ALP
Mason, Hon. Brett John	QLD	30.6.2011	LP
Milne, Christine	TAS	30.6.2011	AG
Minchin, Hon. Nicholas Hugh	SA	30.6.2011	LP
Moore, Claire Mary	QLD	30.6.2008	ALP
Murray, Andrew James Marshall	WA	30.6.2008	AD
Nash, Fiona Joy	NSW	30.6.2011	NATS
Nettle, Kerry Michelle	NSW	30.6.2008	AG
O'Brien, Kerry Williams Kelso	TAS	30.6.2011	ALP
Parry, Stephen	TAS	30.6.2011	LP
Patterson, Hon. Kay Christine Lesley	VIC	30.6.2008	LP
Payne, Marise Ann	NSW	30.6.2008	LP
Polley, Helen	TAS	30.6.2011	ALP
Ronaldson, Hon. Michael	VIC	30.6.2011	LP
Scullion, Hon. Nigel Gregory ⁽³⁾	NT		CLP
Sherry, Hon. Nicholas John	TAS	30.6.2008	ALP
Siewert, Rachel	WA	30.6.2011	AG
Stephens, Hon. Ursula Mary	NSW	30.6.2008	ALP
Sterle, Glenn	WA	30.6.2011	ALP
Stott Despoja, Natasha Jessica	SA	30.6.2008	AD
Troeth, Hon. Judith Mary	VIC	30.6.2011	LP
Trood, Russell	QLD	30.6.2011	LP
Watson, John Odin Wentworth	TAS	30.6.2008	LP
Webber, Ruth Stephanie	WA	30.6.2008	ALP
Wong, Hon. Penelope Ying Yen	SA	30.6.2008	ALP
Wortley, Dana	SA	30.6.2011	ALP

- (1) Chosen by the Parliament of Queensland to fill a casual vacancy vice Hon. Santo Santoro, resigned.
- (2) Chosen by the Parliament of Victoria to fill a casual vacancy vice Hon. Richard Kenneth Robert Alston, resigned.
- (3) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.
- (4) Chosen by the Parliament of Tasmania to fill a casual vacancy vice Susan Mary Mackay, resigned.
- (5) Chosen by the Parliament of South Australia to fill a casual vacancy vice Hon. Robert Murray Hill, resigned.
- (6) Chosen by the Parliament of South Australia to fill a casual vacancy vice Jeannie Margaret Ferris, died in office.
- (7) Chosen by the Parliament of South Australia to fill a casual vacancy vice Hon. Amanda Eloise Vanstone, resigned.
- (8) Chosen by the Parliament of Western Australia to fill a casual vacancy vice Hon. Ian Gordon Campbell, resigned.
- (9) Chosen by the Parliament of Tasmania to fill a casual vacancy vice Hon. Paul Henry Calvert, resigned.
- (10) Chosen by the Parliament of Victoria to fill a casual vacancy vice Hon. Robert Francis Ray, resigned.

PARTY ABBREVIATIONS

AD—Australian Democrats; 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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Prime Minister	Hon. Kevin Rudd, MP
Deputy Prime Minister, Minister for Education, Minister for Employment and Workplace Relations and Minister for Social Inclusion	Hon. Julia Gillard, MP
Treasurer	Hon. Wayne Swan MP
Minister for Immigration and Citizenship and Leader of the Government in the Senate	Senator Hon. Chris Evans
Special Minister of State, Cabinet Secretary and Vice President of the Executive Council	Senator Hon. John Faulkner
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 Finance and Deregulation	Hon. Lindsay Tanner MP
Minister for Infrastructure, Transport, Regional Development and Local Government and Leader of the House	Hon. Anthony Albanese MP
Minister for Broadband, Communications and the Digital Economy and Deputy Leader of the Government in the Senate	Senator Hon. Stephen Conroy
Minister for Innovation, Industry, Science and Research	Senator Hon. Kim Carr
Minister for Climate Change and Water	Senator Hon. Penny Wong
Minister for the Environment, Heritage and the Arts	Hon. Peter Garrett AM, MP
Attorney-General	Hon. Robert McClelland MP
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

Leader of the Opposition	Hon. Brendan Nelson MP
Deputy Leader of the Opposition and Shadow Minister for Employment, Business and Workplace Relations	Hon. Julie Bishop MP
Leader of the Nationals and Shadow Minister for Infrastructure and Transport and Local Government	Hon. Warren Truss MP
Leader of the Opposition in the Senate and Shadow Minister for Defence	Senator Hon. Nick Minchin
Deputy Leader of the Opposition in the Senate and Shadow Minister for Innovation, Industry, Science and Research	Senator Hon. Eric Abetz
Shadow Treasurer	Hon. Malcolm Turnbull MP
Manager of Opposition Business in the House and Shadow Minister for Health and Ageing	Hon. Joe Hockey MP
Shadow Minister for Foreign Affairs	Hon. Andrew Robb MP
Shadow Minister for Trade	Hon. Ian Macfarlane MP
Shadow Minister for Families, Community Services, Indigenous Affairs and the Voluntary Sector	Hon. Tony Abbott MP
Shadow Minister for Agriculture, Fisheries and Forestry	Senator Hon. Nigel Scullion
Shadow Minister for Human Services	Senator Hon. Helen Coonan
Shadow Minister for Education, Apprenticeships and Training	Hon. Tony Smith MP
Shadow Minister for Climate Change, Environment and Urban Water	Hon. Greg Hunt MP
Shadow Minister for Finance, Competition Policy and Deregulation	Hon. Peter Dutton MP
Manager of Opposition Business in the Senate and Shadow Minister for Immigration and Citizenship	Senator Hon. Chris Ellison
Shadow Minister for Broadband, Communications and the Digital Economy	Hon. Bruce Billson MP
Shadow Attorney-General	Senator Hon. George Brandis
Shadow Minister for Resources and Energy and Shadow Minister for Tourism	Senator Hon. David Johnston
Shadow Minister for Regional Development, Water Security	Hon. John Cobb MP

[The above constitute the shadow cabinet]

SHADOW MINISTRY—*continued*

Shadow Minister for Justice and Border Protection; Assisting Shadow Minister for Immigration and Citizenship	Hon. Chris Pyne MP
Shadow Special Minister of State	Senator Hon. Michael Ronaldson
Shadow Minister for Small Business, the Service Economy and Tourism	Steven Ciobo MP
Shadow Minister for Environment, Heritage, the Arts and Indigenous Affairs	Hon. Sharman Stone MP
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Shadow Minister for Ageing	Margaret May MP
Shadow Minister for Defence Science, Personnel; Assisting Shadow Minister for Defence	Hon. Bob Baldwin MP
Deputy Manager of Opposition Business in the House and Shadow Minister for Business Development, Independent Contractors and Consumer Affairs	Luke Hartsuyker MP
Shadow Minister for Veterans' Affairs	Hon. Bronwyn Bishop MP
Shadow Minister for Employment Participation and Apprenticeships and Training	Andrew Southcott MP
Shadow Minister for Housing and Shadow Minister for Status of Women	Hon. Sussan Ley MP
Shadow Minister for Youth and Sport	Hon. Pat Farmer MP
Shadow Parliamentary Secretary Assisting the Leader of the Opposition and Shadow Cabinet Secretary	Don Randall MP
Shadow Parliamentary Secretary Assisting the Leader of the Opposition in the Senate and Shadow Parliamentary Secretary for Northern Australia	Senator Hon. Ian Macdonald
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Shadow Parliamentary Secretary for Education	Senator Hon. Brett Mason
Shadow Parliamentary Secretary for Defence	Hon. Peter Lindsay MP
Shadow Parliamentary Secretary for Infrastructure, Roads and Transport	Barry Haase MP
Shadow Parliamentary Secretary for Trade	John Forrest MP
Shadow Parliamentary Secretary for Immigration and Citizenship	Louise Markus MP
Shadow Parliamentary Secretary for Local Government	Sophie Mirabella MP
Shadow Parliamentary Secretary for Tourism	Jo Gash MP
Shadow Parliamentary Secretary for Ageing and the Voluntary Sector	Mark Coulton MP
Shadow Parliamentary Secretary for Foreign Affairs	Senator Marise Payne
Shadow Parliamentary Secretary for Families and Community Services	Senator Cory Bernardi

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Tuesday, 24 June 2008

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

COMMITTEES

Legal and Constitutional Affairs Committee Meeting

Senator CROSSIN (Northern Territory) (12.31 pm)—by leave—I move:

That the Legal and Constitutional Affairs Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, from 3.30 pm, to take evidence for the committee's inquiry into the Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008.

Question agreed to.

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) AMENDMENT (ASSESSMENTS AND ADVERTISING) BILL 2008

Second Reading

Debate resumed from 14 May, on motion by **Senator Carr**:

That this bill be now read a second time.

Senator JOYCE (Queensland) (12.32 pm)—It is very important that people understand the concerns surrounding the Classification (Publications, Films and Computer Games) Amendment (Assessments and Advertising) Bill 2008 that have been brought to us by a number of groups, including the ACL. There are concerns that we are starting to move towards self-regulation of the industry and, in so doing, are opening up potential loopholes for people who have the capacity to put themselves in positions in relation to classifications that may not reflect the true aspirations of the community.

There are strong concerns held about this area, and I think that as we go forward we

need to make sure that we keep in contact especially with families who have seen the problems that can occur when there is endorsement by the public of a certain classification and the issues that can arise for certain members of the community who can be affected. We are affected by what we see and what we hear, and we see classifications as an endorsement of a community's view about how they see a certain issue. We also note that the views and self-assessment of someone who has a vested interest in getting a media product such as a publication, a film or a computer game out into the public may not be the same as the community's views when that product actually arrives out in the public. So what is going to be a mechanism that will truly take it back to a reflection of the family's view of how these things should be classified?

This bill increases the exposure of minors to violent and graphic adult material in the interests of advertising and industry profiteering. The safeguards to the bill include industry assurances that organisations will act responsibly and in compliance with the scheme; however, there is a question about the validity of these assurances should profits ever be threatened. Schedule 1 of the bill contains amendments to the current advertising arrangements. The current prohibitions are considered to unduly restrict advertising because, due to the risk of piracy, products are held back from classification until very close to their release date. The intention is to create a regime under which the likely classification of a product is assessed in advance for the purposes of advertising. Exposure to the advertising will be restricted to the appropriate classification level. However, we have always got the issue of the juxtaposition between what the market deems appropriate and what the community believes is appropriate to maintain some structure and control over what their families—especially chil-

dren—are exposed to. This is why, especially in today's arena, we possibly need to be a little bit more vigilant about this bill.

The growth of the computer games industry is driven by technological advances. However, the proposed scheme can be reviewed only in three years time. This is not in line with the speed of technology and leaves a question as to the speed at which schemes will date. The American Psychological Association has concluded that scientific evidence shows a cause-and-effect relationship between television and computer game violence and aggression in children. Children are more likely to affiliate with and imitate the actions of the character with whom they identify: in computer games this is often the shooter, the wielder of weapons or the driver of out-of-control vehicles. This indicates a requirement for strict regulations to ensure that materials of a violent nature are not viewed by minors or inappropriate audiences.

Research also indicates that exposure to violent computer games increases aggressive thoughts, emotions and actions amongst children. That comes from a study by Anderson and Bushman, *Effects of violent video games on aggressive behavior, aggressive cognition, aggressive affect, physiological arousal and prosocial behavior: a meta-analytic review of the scientific literature*. The quality of graphics is such that the violence depicted in some computer games matches the quality of that seen in movies. This makes it very hard for children to differentiate between fact and fiction. We are affected by what we see; we are affected by what we hear.

In 2006, sales of computer and video game hardware and software in Australia exceeded \$1 billion. Australians purchase 12.5 million computer and video games each year. A survey of popular Sega and Nintendo

games taken a few years ago found that 80 per cent of them primarily featured violence or aggression. According to Bushman and Huesmann of the University of Michigan, the effect of media violence on aggressive behaviours is nearly as great as the effect of smoking on lung cancer.

The University of Michigan study also reports that playing violent video games actually changes brain function. Chronic players are desensitised to real life violence. Desensitising reduces emotional responses to repeated stimulus. We have seen this in our own country, especially in the intervention, and that is why we try to get unrated and X-rated material away from children. We do not want these children desensitised. We know that it is a form of reprogramming of those children. There is nothing more insidious, I feel, than to see four- and five-year-old kids being open to pornography that—to be brutally honest—might involve animals and a whole range of things.

We have to always be aware of what this does to a child's brain, regardless of the colour of their skin, and the desensitising effects that forms of media can be responsible for. We have to try to always make sure that we have got unaffected kids and quiet streets. The ways to deliver that are not just through security but also through the formation of the child, the formation of the person. What children see through their surroundings as the norm is important, but what is more important is what they see endorsed by the community as the norm. If they are not receiving those meters, mechanisms and indicators from their immediate family then at least the community should endorse what is acceptable and what is unacceptable.

I believe strongly that self-regulation is a move away from that. We should not allow that. We should be making sure we have a clear mechanism that provides our nation

with the community values that we hold. This should not be done through a self-regulating body, which has an inherent self-interest in making sure that what makes them money gets out in the community rather than what is appropriate.

I know that there is a belief that this bill is non-controversial. Distributors have a good idea what the classification will be and do not provide advance copies of the work to avoid piracy issues. I understand the issues around this. This bill is not going to create a lot of interest today—I note that there are only three speakers on it.

Senator Stott Despoja—There are five.

Senator JOYCE—I take the interjection—five. This legislation is something that I think we should give a little more attention to prior to it going forward.

Senator STOTT DESPOJA (South Australia) (12.41 pm)—This debate on the Classification (Publications, Films and Computer Games) Amendment (Assessments and Advertising) Bill 2008 is taking place during a time when it is possible to have divisions or move amendments. We are not in a non-controversial period of the session. So if fellow senators do have objections or suggestions for changing the legislation before us, they can do so, regardless of the level of interest to date or, indeed, even the number of people on the speakers list. I might add—for Senator Joyce—that I thought it was three as well, but it has just grown in the last few moments. At any given time in this place—and I put this on record—there are usually only three or four speakers on a piece of legislation, sometimes not even that. Given it is our last week here as Australian Democrats, I note that nearly every bill in this place sees a Democrat speaker to that legislation, regardless of whether it is controversial or not.

In this case, the government will be pleased to see that the Democrats are sup-

porting the legislation before us. In many respects, it is a pretty mechanical sort of bill, for lack of a better description. I rise again for the penultimate contribution—or maybe the third to last time—as the Australian Democrats Attorney-General spokesperson to speak to this bill.

This bill implements a number of amendments to the National Classification Scheme, some directly and some via the development of separate legislative instruments. I acknowledge there has been, among some of us in this place, a concern about the increase in delegated legislation for some time. I suspect that might be something for those with concerns, particularly for the speaker before me, that disallowable instruments can be disallowed. If there is concern with delegated legislation that may flow from such legislation, there are opportunities in the Senate to tackle those issues.

Complimentary state and territory legislation currently prohibits the advertising of films and computer games before they are classified. However, exemptions can be granted by the Classification Board to allow for advertising prior to classification for public exhibition films. We have probably all seen this in practice when an advertisement for a major cinema release is accompanied by that familiar disclaimer stating: ‘This film has advertising approval. Check the classification closer to the release date.’ However, exemptions are not available for other films, including DVDs, videos, compilations of TV series, or computer games. In practice this means that new DVDs or games that are yet to be released in Australia cannot be advertised. This clearly creates an inequality between major cinema release films and other products.

Schedule 1 of the bill rectifies this inequality. It provides for a new legislative instrument that allows for the creation of a new

advertising scheme for unclassified films and computer games. An industry self-assessment scheme will be created whereby trained and authorised assessors are able to make an assessment of the likely classification of a film or computer game for the purpose of advertising that film or computer game before it has been classified.

Oversight of decisions by authorised assessors will be provided by the Classification Board as a safeguard. Authorised assessors may be barred from using the scheme by the Director of the Classification Board if the scheme is being abused. In addition, unclassified films and computer games will only be advertised with classified films or computer games of the same or higher level—for example, trailers on DVDs, and trailers or demos on computer games, which means that likely PG films are only to be advertised with films classified with a PG or higher rating et cetera. I think—and the Democrats believe—this is an important safeguard to ensure that people are not inadvertently exposed to potentially offensive material. We take on board Senator Joyce's concerns in that regard.

Schedule 2 of the bill will enable the establishment of a scheme for the classification of films that are episodes of a television series. A trained and authorised person will be able to provide a report and a recommendation to the Classification Board to assist them in their classification of a box set of episodes of a television series. The Classification Board will retain responsibility for classifying the film. So, again, the Classification Board essentially reigns supreme.

Schedule 2 is designed to streamline and reduce the cost to industry of the classification scheme as it relates to TV series. It will also introduce a new requirement that at least one of the episodes in a series box set has been broadcast in Australia in recognition of

the fact that many series produced and broadcast overseas will never be broadcast in full in Australia. This will allow producers and distributors to obtain a classification while the series is being broadcast so that it can be released for sale during or at the end of the season.

The idea is that the cumbersome nature of the existing classification scheme will not prevent producers and distributors from advertising and selling their products, thereby preventing them from being beaten to the punch by internet downloads and illegal piracy activities. The Democrats understand that these reforms are generated by industry concerns that the classification scheme is cumbersome, costly and does not keep up with technological developments that allow virtually instant access to films and games when they are released. As such, we will support the amendments.

However, the Democrats recognise that there is a risk that a move towards greater industry self-regulation when it comes to classification could undermine the integrity of the classification scheme if important safeguards are not maintained. We think that today this bill strikes an appropriate balance between creating a more streamlined and user-friendly classification system and maintaining high standards for classification.

In relation to advertisements for unclassified films, the Director of the Classification Board can call in any advertisement that has been inappropriately assessed, and disciplinary action can be taken against assessors. In relation to TV series, the board will retain ultimate responsibility for classification but will be informed by industry assessments. However, given that the bill leaves a significant amount of detail to be provided via legislative instrument—to which I referred in my opening remarks—I think it is important that the parliament keeps a close eye on, and

a close interest in, further developments in this area, including, if need be, by disallowing any regulations which are not up to scratch.

Just on that parting note, as I have said during my time in this place and over the years that I have watched the parliament, there has been an increase—I think, Acting Deputy President Watson you are smiling knowingly; I am not sure—in the amount of delegated legislation that comes here. That is all right provided there are some accountability provisions through the parliament—that is, you can disallow—but I think there is a very strong argument for some things, which are almost shunted off to a disallowance framework or delegated legislation, to be enshrined in legislation: in the specifics of bills with which we deal. But today the Democrats will be supporting the legislation before us.

Senator BRANDIS (Queensland) (12.50 pm)—The Classification (Publications, Films and Computer Games) Amendment (Assessments and Advertising) Bill 2008 is, in substance, a legacy bill and it has the support of the opposition. The Classification (Publications, Films and Computer Games) Amendment (Advertising and Other Matters) Bill 2007 was introduced into the 41st parliament on 22 March 2007. The 2007 bill was referred to the Main Committee for the second reading debate and returned to the House of Representatives without amendment on 9 August 2007. The bill had not been passed, and lapsed when the parliament was prorogued in October 2007. The bill before the chamber has been introduced in the same form as the 2007 bill with one minor drafting change in schedule 2.

Senator Joyce raised a concern about the degree of scrutiny which had been given to this bill. Might I reassure Senator Joyce that the predecessor bill, which in all material

respects this bill is identical to, received very close scrutiny by the former Attorney-General, the Hon. Phillip Ruddock, and by the coalition's policy committee and party-room processes—hence the decision of the opposition to support the bill, as you would expect given it was germinated by the previous government.

The bill replaces the prohibition on advertising unclassified films and computer games with a new scheme to allow advertising, subject to conditions, and amends the classification procedures for compilations of episodes of a television series, subject to conditions. Both of those reforms were generated in discussion with the industry. The bill aims to streamline the classification process and reduce the regulatory burden on industry. Like Senator Stott Despoja, the opposition believes that the bill strikes an appropriate balance between self-regulation and necessary safeguards.

Schedule 1 of the bill amends the definition of advertisement to clarify that it includes advertising on the internet and excludes product merchandising and clothing products. Additionally, schedule 1 deals with the current prohibition that is considered to unduly restrict advertising because, due to the risk of piracy, products are held back from classification until very close to their release date. The intention is to create a regime under which the likely classification of a product is assessed in advance for the purposes of advertising. Schedule 1 will also amend the act to ensure that unclassified films and computer games are advertised with classified films or computer games of the same or higher level of classification. This amendment also reinforces the existing policy that the Classification Board must not approve an advertisement for a film or computer game that is or is likely to be classified RC, or 'refused classification'.

Proposed subsection 31(1) is the key provision. It enables the Attorney-General to make a legislative instrument that determines the conditions for advertising unclassified films and computer games and provides for an industry self-assessment scheme of the likely classification of unclassified films and computer games. The section is notably broad in scope. The amendments in section 2 which relate to films of television series are intended to streamline the classification process for boxed compilations of episodes of television series.

I hear and share the observations of both Senator Stott Despoja and Senator Joyce about the importance of ensuring that there are appropriate safeguards where, particularly in this area of policy, legislative reform moves in the direction of self-regulation. The former government was satisfied—and I note the new government is satisfied—that the appropriate safeguards have been incorporated into the legislation and a proper balance has been struck.

Senator FIELDING (Victoria—Leader of the Family First Party) (12.54 pm)—The Classification (Publications, Films and Computer Games) Amendment (Assessments and Advertising) Bill 2008 has a couple of aims, which are to allow advertising of unclassified films and computer games and to allow the industry more influence in the classification of boxed sets of DVDs of programs broadcast on television. Family First is concerned that some of the changes in the bill seem to undermine the involvement of the Classification Board in what otherwise would be its day-to-day work. That is why Family First took this legislation out of non-controversial into controversial—to ensure that there was greater scrutiny of this bill going forward. It was Family First who brought it out of the non-controversial into controversial.

Family First is not aware of any public debate on increasing the industry's involvement in classification. But Family First is concerned about the effectiveness of industry self-regulation in areas like this where there is a commercial incentive to push the regulatory boundaries. Television classifiers are always under pressure to squeeze the programs they have into a commercially advantageous timeslot. It would not help a television network to have spent big money on a television series but not be able to maximise its viewers because the rating given to the program forced it into a later timeslot. That is just commercial reality.

Last year, the policy function of the Office of Film and Literature Classification, OFLC, was merged into the Attorney-General's Department, and the Classification Board is now confined to classification work. Family First has had concerns in the past about some of the work by the OFLC and it is hopeful that an office in the Attorney-General's Department might be more accountable to the public through the minister than the old system. But Family First does not want to move from a system that is accountable to the public to a system of increasing industry self-regulation, which is less accountable to the public. As far as Family First is aware, there is no resource problem with the Classification Board being able to do its work of being an independent classifier of films and computer games. Family First would be concerned if this were part of a move to shift more and more responsibility to the industry in a bid to marginalise or get rid of the Classification Board over time.

The bill makes changes to the current system for advertising films. It formalises a system whereby the industry assesses the classification of films so they can advertise well in advance of formal classification by the Classification Board. The industry has a quota of films where that can happen, but this bill

opens the system up completely. Family First is concerned about the advertising of yet-to-be-classified films—that is, films that have not been classified, on the grounds that, when the industry determines a preliminary film classification and gets it wrong and the content of the trailer is inappropriate, children can be confronted by an ad classified at a higher classification than the film they actually came to see.

There was a move under the coalition government last year to loosen regulation on the film industry's advertising of yet-to-be-classified films. I understand the industry was concerned that the final cut of films was often not received until late, which made it difficult to get films classified fast enough to advertise them. It was argued that the industry knew the content of the films better, so they could make an advance assessment of the likely film classification. But allowing industry a free hand on this does risk cinema audiences seeing, for example, violence at a higher level than the film will eventually be classified at. In the case that classification is inaccurate, it could involve exposing children to violent material.

The bill also makes changes to how boxed DVD sets are classified. Family First does not agree with the legislation allowing industry classifiers to recommend the classification of boxed sets of TV programs on DVD. There have been a number of examples of how the industry and the classification body are in disagreement on the appropriate classification for particular films. For example, some cartoon series, like *Transformers* or *Power Rangers*, have been broadcast on TV as G-rated but when sold on DVD the Office of Film and Literature Classification classified them as PG. *The Line of Beauty* TV series was screened on TV as an M-rated program but when it was classified by the Classification Board it was given a rating of MA15+ for the box set. It was the same story

for *Robin Hood*, which was screened on ABC-TV as PG but sold on DVD as an M-rated box set. The series *The War* was screened on television on Sunday afternoons as PG but classified by the board as M for a box set. This is despite the TV and DVD versions not differing significantly.

If passed, this bill would give extra weight to recommendations made by the industry classifiers which may well be based on the classification used by the TV network that screened the program. Family First is not anti-industry but recognises that the industry has different motives from the government regulator's. Industry classifiers are under pressure to classify programs so that they fit into the broadcast times that their employer wants. There will always be the temptation to stretch the boundaries. The Classification Board has expertise and resources independent of such pressures. On a positive note, it is a good and positive step that the legislation will stop the advertising of PG films with G-rated films. There has been some concern about the trailers, sometimes screened as advertising during kids' films, which have contained material inappropriate for children.

Family First will be moving amendments in the committee stage to make sure that the classification system is not further undermined by allowing unclassified films to be advertised. Family First will also move an amendment to stop giving the industry greater role in the classification of box sets and TV programs when they go to DVD.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (1.01 pm)—The Classification (Publications, Films and Computer Games) Amendment (Assessments and Advertising) Bill 2008 will streamline the classification process for, as we have heard, TV box sets, film and computer games and reduce a regulatory burden on the industry. The

policy initiatives contained in this bill will benefit industry while continuing to protect the interests of consumers. Senator Fielding and Senator Joyce in particular should note that this bill does continue to protect the interests of consumers. The bill includes a raft of safeguards and sanctions to protect the integrity of the National Classification Scheme. Australian families can continue to rely on classification information to make informed entertainment choices for themselves and for those for whom they care.

I thank the various senators who have made a contribution to this debate today and concur with both Senator Brandis and Senator Stott Despoja that this bill has had considerable scrutiny and discussion in the Liberal Party and National Party party rooms, and also considerable consultation with industry, so I think it was a little naughty for Senator Joyce to suggest that there was not enough scrutiny of this bill. Senator Joyce expressed some concern about the impact of new media on children and on families. Senator Joyce and I are probably about the same age and in our home when I turned 13 there was black-and-white television. Things have changed considerably in that time. We have had to deal with enormous changes and to manage a classification system that continues to protect our children and ourselves from inappropriate and unwanted media. As Senator Brandis said, this bill does in fact find that line between protection of children in particular and facilitating an important industry that is operational in Australia. I do believe that Senator Joyce's concerns are heartfelt, but we need to ensure that fear of new media does not overcome the need to protect our children.

I thank Senator Stott Despoja for her reasoned contribution and support for this legislation and I take this opportunity to acknowledge her work in this area over many, many years. I also thank Senator Brandis for the

history of the passage of this legislation, both in the previous parliament and in this parliament. I think that that reinforces the level of scrutiny that the bill has had.

I note that Senator Fielding is intending to move some amendments, which we have just received, during this debate. We will address the contents of those amendments during the committee stage. Senator Fielding talked about the treatment of compilation box sets compared to how they are treated in a classification sense on television. The assessment of content for direct television broadcast does not translate directly to a classification under the Classification Act. Content of all television series is assessed before being broadcast under the television codes of practice. The TV codes of practice do not pick up the full scope of the principles contained in the Classification Act, the National Classification Code and the classification guidelines. Classification criteria for content under television codes of practice are similar but not identical to the National Classification Scheme. I hope that answers the question that you asked.

The classification of a television program received for broadcast will not be a factor in determining the appropriate classification for a box set of episodes of a television series under the new television series assessment scheme. Under the television series assessment scheme, industry assessors will make a recommendation based on the presence of any of the six classifiable elements and the impact of each of the classifiable elements. The six classifiable elements are: themes, sex, language, nudity, violence and drug use. Under the television series assessment scheme, the final decision will remain with the Classification Board. I hope that addresses some of the concerns that Senator Fielding raised.

The bill contains the first package of reforms that will allow films and computer games to be advertised before they are classified, subject to conditions. The new advertising scheme responds to industry concerns that the current advertising framework for unclassified materials is cumbersome and outdated. The increased risk of piracy and rapid advances in technology have led to products only being available for classification very close to their release date. The current system therefore causes difficulties for the marketing of films and computer games. It is no longer viable to prohibit the advertising of unclassified material but provide exemptions for some cinema release films. It is more equitable to permit cinema release and DVD or video films and computer games to be advertised on an equal footing in advance of classification, provided certain conditions are met.

The bill will also put in place a new scheme for compilations of episodes of a television series that has been broadcast in Australia. The purpose of these amendments is to reduce the cost to industry and the processing time for the Classification Board when television series are released for sale or hire.

The television series scheme has been designed to ensure that improvements in efficiency and the reduction of costs do not occur at the expense of consumer confidence in classification processes. The bulk of the advertising and television series self-assessment schemes will be contained in legislative instruments to be made by the Minister for Home Affairs, following consultation with state and territory censorship ministers. This will ensure that these aspects of the National Classification Scheme can remain flexible and responsive. This bill was developed in response to issues raised by industry, while continuing to ensure the integrity of the National Classification Scheme. It makes

sensible changes to classification practices, in recognition of the rapidly changing technological environment of entertainment media.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator FIELDING (Victoria—Leader of the Family First Party) (1.10 pm)—I move Family First amendment (1) on sheet 5507:

(1) Schedule 1, item 9, page 6 (line 29), at the end of subsection 31(4), add:

“and in so doing, the scheme must:

- (a) limit any advertising of an unclassified film or an unclassified computer game to the title and description of that film or game; and
- (b) not include excerpts of the sound or vision from that unclassified film or unclassified computer game until that film or game has been classified”.

This amendment inserts a restriction that limits any advertising of an unclassified film or computer game to only the title and description of that film or game. This is a practical step. How can you show clips from and promote a film that has not been classified? If people are already watching a PG film in a theatre somewhere and all of a sudden you are promoting an unclassified film, I think that can expose people to films that probably are inappropriate for that age group. So the amendment that Family First are moving addresses the issue of promoting films to people who probably would not want those films promoted to them. It limits the advertising of an unclassified film or computer game to the title and description of that film or game.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (1.11 pm)—In relation to

a number of the issues that Senator Fielding has raised, and particularly in terms of amendment (1), I would like to make the point that it would have been extremely useful to have had your amendments before the opening of debate today, to be able to deal with them in a sensible fashion. I understand that Minister Debus's office has contacted your office, Senator Fielding, on many, many occasions since early May in order to provide you with information that could be of assistance. It would have been extremely useful to have had your amendments earlier in order to ensure that questions that you raise legitimately in the committee stage can be appropriately answered. However, having said that, let us go to the content of your amendment.

Your amendment essentially redefines the word 'advertising'. It says that you cannot advertise any content of an unclassified film or computer game other than the title and a description of that film or game. If we allowed this amendment, there would no longer be advertising of the product. In allowing excerpts of the sound and vision, an advertisement actually provides parents and consumers with greater information on which to base their decision to view or purchase the product. By being able to provide more than a set of words that describe a film, therefore giving parents a bit of notion of what it is about—because if you see some excerpts from the film you will get as a parent bit of an idea of what the film is about—I think you actually provide parents with more information on which to make a judgement about whether they will take their child to the cinema or allow the purchase of particular computer game. Can I also reinforce with you that advertisements will be required to have a strong message to consumers to 'check the classification'. This is clearly saying to consumers that the classification of this film has not yet occurred, as occurs now.

So parents will be clearly aware of what is in a film prior to allowing their children to watch it or to purchase it.

You made the point, Senator Fielding, that you may take your child to a cinema to watch a PG film, and an advertisement for another film may appear that you find offensive. I understand that the regulation will say that a cinema which is going to carry an advertisement for another film can only show that advertisement if it is at the same classification level as or lower than that which applies to that showing. You cannot be there, having gone to see *Bambi*, and be confronted with a violent ad. I think that responds to the point you made in your contribution.

During the second reading debate, a number of speakers talked about the fact that this is 'self-regulation'. It is not about self-regulation. Under this bill, the final classification decision will continue to remain with the Classification Board. Whilst there is a period of time where an advertisement for a film will be based on the industry advice, the final decision regarding any classification will remain with the Classification Board. I think that is an eminently sensible way to go forward. It not only acknowledges the concerns of industry but also protects children in particular and consumers more broadly regarding what they see on film, television or while playing a computer game. The government will not be supporting Senator Fielding's amendment. Once again, it would have been great to have had it a little earlier.

Question negatived.

Senator FIELDING (Victoria—Leader of the Family First Party) (1.17 pm)—Family First oppose schedule 2 in the following terms:

(2) Schedule 2, page 10 (line 2) to page 13 (line 3), *to be opposed*.

Family First oppose the industry having a lot more say in the classification process. I think

that having the industry make a recommendation to the Classification Board allows it to have more of a say than it needs to. The industry has enough of a say, let alone allowing it to try to influence the Classification Board with recommendations on how things should be classified.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (1.18 pm)—Schedule 2 of the bill introduces a more streamlined process for classifying material. It does not allow industry to make classification decisions, as I have said before. Schedule 2 does nothing more than allow industry to make recommendations to the board. The purpose of this proposal is to reduce the regulatory burden on industry.

I would like to address some of the issues that Senator Fielding raised during his second reading contribution. I do not know if you watched the series *Robin Hood*. I certainly did—I thought it was terrific—but I have not seen it as a box set. The content of what is shown on television and what you purchase in a box set of the *Robin Hood* series, I am advised, may differ. That will explain why there are differences. It acknowledges that there are two different streams of approval and that the content does change, though not hugely. I think Maid Marian on *Robin Hood* was rather voluptuous, but she might have looked a bit more voluptuous, shall we say, on the box set. It is a shame she died; I was very sad about that part. This difference might explain why there will be a different classification for the box set than for the television series.

The other important reason why the government is moving this way in the classification of box sets is that a key characteristic of a television series is that episodes are generally fairly homogenous in impact, as the series as a whole is targeted to a particular con-

sumer group and is consistent in its treatment of classifiable elements across long running times. If the Classification Board watched all of *Robin Hood*, it would take an enormous amount of time. I think you would agree that they would have a wonderful time doing it—and that is great—but it would take an enormous amount of time. This is a sensible amendment that says, ‘We will get advice from industry about where the level of classification should be.’ The board continue to hold the ultimate classification tool; it is still their classification. But, in terms of box sets of material that has already been on TV in Australia—this is not new material—I think this is a sensible amendment that will waste less time and money, to be quite frank. The ultimate outcome will be that the community will be protected into the future and be happy to buy a box set of whatever they want—including *Robin Hood*.

The TEMPORARY CHAIRMAN (Senator Watson)—The question is that schedule 2 stand as printed.

Question agreed to.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (1.23 pm)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

JUDICIARY AMENDMENT BILL 2008

First Reading

Bill received from the House of Representatives.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (1.23 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 McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (1.23 pm)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

This bill responds to the 2003 decision of the High Court in *British American Tobacco v Western Australia*. This case relates to the recovery of invalid taxes paid under Western Australian law. The High Court held that a limitation period and a related special notice requirement in Western Australian laws applicable to actions against the Crown in right of Western Australia were not applied by section 79 of the Judiciary Act 1903 where proceedings were in federal jurisdiction.

Cases challenging the constitutional validity of a tax, including a State tax, are, by virtue of section 76(i) of the Constitution, matters in federal jurisdiction.

Section 79 of the Judiciary Act applies State and Territory laws to proceedings in courts exercising federal jurisdiction in that State or Territory 'except as otherwise provided by the Constitution or the laws of the Commonwealth'.

In the BAT case, the High Court held that a special limitation period applicable to actions against the Crown would be inconsistent with section 64 of the Judiciary Act as the limitation period would not apply as between subject and subject. As the law was inconsistent with section 64, it was 'otherwise provided...by a law of the Commonwealth' and so was not picked up by section 79 of the Judiciary Act.

It was also held that the right to proceed and related notice provision conferred by the State law was not picked up by section 79 of the Judiciary Act as it would have been inconsistent with sec-

tion 39(2) of the Judiciary Act which implies a right to proceed.

All of the States and Territories have special limitation periods with respect to the recovery of taxes paid under a mistake of fact or law, including constitutionally invalid taxes. For example, Victoria, New South Wales, Queensland, Tasmania, and Western Australia impose a 12-month limitation period from the date of the payment of the tax. South Australia imposes a 6-month restriction, as do the Northern Territory and the Australian Capital Territory.

This is an example of the Rudd Labor Government's commitment to co-operative Federalism. The bill assists in restoring the States and Territories to the position it was thought they were in before the BAT case. It does so by amending section 79 of the Judiciary Act to make clear that nothing in the Judiciary Act precludes State and Territory laws applicable to the recovery of invalid State and Territory taxes from applying where the relevant proceedings are in federal jurisdiction.

It is desirable that there be a special, short limitation period applicable to proceedings to recover invalid State and Territory taxes. Otherwise, claims could be made many years after a tax has been paid, with potentially far-reaching consequences for government budgeting.

The bill implements recommendations of the Standing Committee of Attorneys-General which have as their objective the protection of State and Territory revenue. I commend this bill.

Senator BRANDIS (Queensland) (1.24 pm)—The Judiciary Amendment Bill 2008 amends the Judiciary Act 1903 to permit the states and territories to provide for time limitations and notice requirements in respect of actions for the recovery of constitutionally invalid taxes in the federal jurisdiction. The bill is a response to the decision of the High Court in 2003 in the case of *British American Tobacco v Western Australia*, which involved proceedings in the federal jurisdiction for the recovery of invalid taxes paid under Western Australian law. The court held that provisions in Western Australian law con-

taining a special notice requirement and limitation period for actions against the Crown in right of the state of Western Australia were not applied in the federal jurisdiction by section 79 of the Judiciary Act. The bill amends the act to allow the states and territories to apply time and notice limitations in actions to recover amounts paid under an invalid tax and to bar suits on the ground that the person bringing the suit has charged someone else for the amount of the tax.

While one naturally sympathises with corporations and individuals who have been subjected to invalid state taxes and would not seek to impede the recovery of those amounts, the reality is that the scenario is usually one of an invalid excise. It is not unreasonable to expect that objections to these taxes would be brought promptly, and it would be unjust to require the refund of amounts that have been fully passed onto consumers. That would be tantamount to a double subsidy to claimants funded by the public, first as consumers and then as taxpayers.

The matter of bringing repeal legislation was agreed between the Howard government and the states through the Standing Committee of Attorneys-General. The bill is in identical form to one that was drafted under the previous government, and it accordingly has the support of the opposition.

Senator STOTT DESPOJA (South Australia) (1.26 pm)—As the Attorney-General spokesperson for the Democrats this time—for the penultimate time—I rise to speak on the Judiciary Amendment Bill 2008 and also to indicate the Democrats' support for this bill. The bill responds to the High Court decision in *British American Tobacco v Western Australia*, which involved proceedings in the federal jurisdiction for the recovery of invalid taxes paid under Western Australian law.

The High Court held that provisions in Western Australian law containing a special notice requirement and limitation period for actions against the Crown in right of Western Australia were not applied by section 79 of the Judiciary Act 1903. Section 79 of the Judiciary Act currently provides that, 'except as otherwise provided' by the Constitution or Commonwealth laws, the laws of a state or territory are binding on all courts exercising federal jurisdiction in that state or territory.

In the *British American Tobacco* case, the High Court held that a Western Australian special limitation period applicable to actions against the Crown would be inconsistent with section 64 of the Judiciary Act as the limitation period would not apply as between subject and subject. As the law was inconsistent with section 64, it was 'otherwise provided by a law of the Commonwealth' and so was not picked up by section 79 of the Judiciary Act.

The bill seeks to restore the states and territories to the position it was thought they were in prior to the *BAT* case. It does so by amending section 79 of the Judiciary Act to ensure that nothing in the Judiciary Act prevents state and territory laws related to the recovery of invalid state and territory taxes from applying, as far as possible, to proceedings in the federal jurisdiction. In introducing the bill, the Attorney-General referred to the fact that it implements recommendations of the Standing Committee of Attorneys-General, SCAG, and that the bill seeks to protect state and territory revenue.

The Democrats consider that this bill provides sufficient clarity to the law in the light of the High Court decision in the *BAT* case, and for that reason we will be supporting it today.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (1.28 pm)—in reply—I

thank Senator Brandis and Senator Stott Despoja for their contributions to the debate. The Judiciary Amendment Bill 2008 is the government's response to the issues raised by the High Court's 2003 decision in *British American Tobacco v Western Australia*. In that case, the High Court held that provisions in WA law containing a special notice requirement and limitation period for actions against the Crown in Western Australia were not applied by section 79 of the Judiciary Act 1903, when the proceedings were in the federal jurisdiction.

The Judiciary Amendment Bill 2008 responds to the High Court decision in the BAT case by amending section 79 of the Judiciary Act to ensure that, as far as possible, state and territory laws related to the recovery of invalid state and territory taxes apply in proceedings in the federal jurisdiction for the recovery of those taxes. Examples of the state and territory laws that may apply include special, short limitation periods, notice provisions and antiwindfall provisions. The purpose of these laws is to prevent claims for the recovery of invalid state and territory taxes being brought years after the tax has been paid. Such claims could have far-reaching consequences for state and territory government budgeting.

The Judiciary Amendment Bill gives increased certainty to state and territory governments in the management of their finances and is consistent with what was thought to be the situation prior to the High Court's decision. By advancing this bill, the Australian government is implementing recommendations of the Standing Committee of Attorneys-General. It is an example of the Rudd Labor government's commitment to working cooperatively with the states and territories through the SCAG process to achieve common goals. The previous government did not address the issues raised by the High Court's decision in the *British*

American Tobacco case, despite it being on the SCAG agenda for over four years. The Rudd Labor government has acted promptly to introduce these amendments, which resolve these serious issues for the states and territories, and I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (1.30 pm)—I move:

That this bill be now read a third time.

Senator BRANDIS (Queensland) (1.30 pm)—Can I just take the opportunity briefly to speak to the third reading debate to correct a statement made by the parliamentary secretary a moment ago. Far from the previous government not cooperating with the process, this bill in its current form was in fact prepared by the previous government.

Question agreed to.

Bill read a third time.

CRIMES LEGISLATION AMENDMENT (MISCELLANEOUS MATTERS)

BILL 2008

First Reading

Bill received from the House of Representatives.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (1.31 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 McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (1.31 pm)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

CRIMES LEGISLATION AMENDMENT
(MISCELLANEOUS MATTERS) BILL 2008

Today I will be introducing the Crimes Legislation Amendment (Miscellaneous Matters) Bill which contains three minor but important criminal law amendments. However, I would like to begin by giving some broader context for this bill.

This is the first criminal law bill I have brought before the federal Parliament. I look forward to bringing forward many more, including a victims rights package and federal sentencing reforms. Each of these larger packages will be the subject of extensive public consultation.

In the mean time, there are some minor amendments that I felt needed to be pursued as a matter of priority. These are contained in this bill.

The first amendment will re-insert the maximum penalty of two years imprisonment for the secrecy offence in subsection 60A(2) of the Australian Federal Police Act 1979. The penalty provision was inadvertently repealed by the Law Enforcement Integrity Commissioner (Consequential Amendments) Act 2006. The amendment does not alter the elements of the offence in any way but simply re-inserts the penalty which was previously in the provision before being inadvertently repealed.

The penalty for the offence is being inserted retrospective to when the penalty was repealed. This is important as the prohibition for the secrecy offence continued to be in force even though there was no penalty for it. It should not be the case that individuals can escape punishment simply because of the inadvertent repeal of the penalty.

The second measure is an amendment to Part ID of the Crimes Act 1914. Part ID of the Crimes Act deals with the collection and use of DNA material by Commonwealth law enforcement agencies. Part ID also set up the National Criminal Investigation DNA Database as a platform to facilitate the matching of DNA profiles across Australian

jurisdictions. The bill will amend section 23YV of the Crimes Act so that the second review of Part ID must commence no later than 1 November 2009 instead of March 2005.

As Part ID deals with the National DNA Database, it is important that any review is able to properly analyse the Database's operation. In early 2005, the Database was still only partially operational. If the review was conducted at that time, it would not have been better placed than the first review to analyse the operation of the Database. Commencing the review by November 2009 will allow time for the Database to be fully operational when the review takes place. If the Database is not operating effectively at that point, the second review will be able to analyse why the Database was not being used effectively nine years after its establishment.

As a result, the review will be able to assess trials which have involved DNA matching. The review will also be able to assess the adequacy of safeguards and any issues that have arisen in court proceedings. The review will also analyse the implementation of the recommendations from the first review in 2003.

The final amendment is to the Crimes (Aviation) Act 1991 which governs crimes and other acts committed on aircrafts, or, in airports or related facilities. Section 15 of the Crimes (Aviation) Act is intended to ensure that standard ACT criminal laws apply on Australian flights. However, the current reference to ACT laws in the Crimes (Aviation) Act is out of date. Currently, only offences contained in the ACT Crimes Act 1900 apply on flights, while those in the ACT Criminal Code 2002 do not.

The amendment will ensure that both the ACT Criminal Code and the ACT Crimes Act apply to conduct on relevant flights. The amendment will also introduce a regulation making power into section 15 of the Crimes (Aviation) Act. This will provide flexibility in the event of future changes to ACT criminal law.

In summary this bill contains three minor but necessary measures to ensure Commonwealth criminal law legislation is kept up to date.

Senator BRANDIS (Queensland) (1.32 pm)—The Crimes Legislation Amendment (Miscellaneous Matters) Bill 2008, which has the support of the opposition, proposes to make three minor amendments in the Australian Federal Police Act 1979, the Crimes Act 1914 and the Crimes (Aviation) Act 1991. None of the amendments are controversial; rather, they update outdated legislation or fix minor administrative oversights in the acts as they stand.

By the first of the amendments, the bill seeks to reinsert the maximum penalty of two years imprisonment for the secrecy offence in subsection 60A(2) of the Australian Federal Police Act 1970. The penalty was inadvertently repealed by the Law Enforcement Integrity Commissioner (Consequential Amendments) Act 2006. The re-enactment of the penalty is retrospective to when it was repealed so as to ensure that any convictions related to offences of this nature in the past two years do not escape punishment.

By the second of the amendments, the bill seeks to alter the timing of the second review into part ID of the Crimes Act 1914—that is, the collection and use of DNA material by Commonwealth law enforcement agencies. There was a review into this matter in March 2003, and the legislation required that a second review take place two years later, in March 2005. This did not take place, as inter-jurisdictional DNA matching between most states and territories, as well as the Commonwealth, has only been in place since mid-2007. It is argued that, for a review to be fully effective, it is desirable for a body of cases to have progressed from matching to investigation to trial so that there has been a meaningful test of the powers and safeguards in the legislation. The bill therefore requires that the second review commence no later than 1 November 2009.

By the third of the amendments, the bill seeks to ensure that the ACT Criminal Code is applied to flights originating or terminating in Australia or flights on Australian aircraft. Currently, the ACT Crimes Act 1900 and the ACT Prostitution Act 1992 apply to criminal behaviour on board flights. However, many offences which were formally in the ACT Crimes Act now appear in the ACT Criminal Code. This amendment will also allow regulations to be made to specify particular ACT laws that apply on relevant flights. This will provide flexibility in the event of future changes to ACT criminal law.

Senator STOTT DESPOJA (South Australia) (1.35 pm)—This is my last go as the Attorney-General spokesperson for our party. I notice it is pretty much the same speakers—we should take this show on the road, Senator Brandis, and try and make the Crimes Legislation Amendment (Miscellaneous Matters) Bill 2008 sound even more exciting! Here we go. The bill, as has been pointed out, makes fairly minor amendments to the Australian Federal Police Act 1979, the Crimes Act 1914 and the Crimes (Aviation) Act 1991.

As you have heard, the first amendment reinstates the maximum penalty of two years imprisonment for the secrecy offence in subsection 60A(2) of the Australian Federal Police Act 1979—the penalty provision having been inadvertently repealed by the Law Enforcement Integrity Commissioner (Consequential Amendments) Act 2006. No substantive change is made to the nature of the offence; however, the penalty provision will apply—and I say this in caps and bold—retrospectively to the date when the penalty was repealed, so that individuals convicted of the offence since 2006 are not able to escape punishment.

Of course, this rationale is entirely understandable. But—as you would know, Mr Act-

ing Deputy President Murray—Democrats as a rule get a little suspicious of retrospectivity in law, particularly in relation to criminal law, and we always advise that it should be approached with extreme caution, especially in relation to offence provisions. However, I have been advised by the office of the Minister for Home Affairs that no criminal prosecutions have previously failed as a result of this anomaly and no prosecutions are afoot or contemplated at the present time. In these circumstances, therefore, the Democrats will not oppose the amendment, which has arisen as a result of a legislative error made by the previous government. It is important that criminal acts do not go unpunished as a result of poor legislative practice, particularly where the elements of the relevant offence have remained clearly set out, and the amendment merely corrects the omission of a note detailing the penalty for that offence.

The second measure in the bill amends part ID of the Crimes Act 1914, which provides a review mechanism for the National Criminal Investigation DNA Database. Again, you have heard Senator Brandis outline the rationale in relation to this. As the legislation stands, a follow-up review should have occurred in 2005, based on a requirement that a subsequent review be held within two years of the completion of the first review. However, in 2005 the database was only partially operational; therefore, there was little point in conducting a review at that stage. Senator Brandis referred to the idea of it being optimum that there is a body of cases et cetera. We accept and agree with that rationale. However, the amendment provides that the review should now commence no later than 1 November next year to allow time for the database to be fully operational when the review occurs. The Democrats do support this commonsense amendment and we do also hope that when the review occurs

it reveals a functional and useful DNA database.

The third and final measure of the bill amends the Crimes (Aviation) Act 1991 to make reference to the Criminal Code 2002 (ACT) in its application to the Jervis Bay Territory. Under the Jervis Bay Territory Acceptance Act 1915, the laws of the ACT, including common law offences, apply in the Jervis Bay Territory, provided they are not inconsistent with Jervis Bay ordinances in force at the time. I told you there had to be a way to make this sound more exciting. Once the ACT Criminal Code came into force in 2003—

Senator Brandis—This is a much more riveting speech than mine was, Senator Stott Despoja.

Senator STOTT DESPOJA—Through you, Mr Acting Deputy President Murray, to Senator Brandis: thank you. I know you are just being nice because I have three days left, but I appreciate it. Now I just feel a lot of pressure to make this final paragraph really burst with feeling.

Senator Brandis—A great rhetorical flourish.

Senator STOTT DESPOJA—Just wait. Once the ACT Criminal Code came into force in 2003, it abolished common law offences in the ACT and replaced them with the offences in the code. This bill ensures that the offences contained within the code will apply to criminal conduct on board aircraft relating to the Jervis Bay Territory—that includes aircraft engaged in a commercial flight with other countries or among the states and territories, an Australian aircraft engaged in a flight wholly outside Australia and a Commonwealth aircraft or defence aircraft. This amendment and this bill have the support of the Australian Democrats.

Senator Brandis—Bravo!

The ACTING DEPUTY PRESIDENT (Senator Murray)—Thank you, Senator Stott Despoja. I think the interjections of approval were shared around the chamber.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (1.39 pm)—Can I too thank Senator Brandis and Senator Stott Despoja for their contributions to the debate on the Crimes Legislation Amendment (Miscellaneous Matters) Bill 2008. Their contributions show that even miscellaneous matters can be interesting. First of all, I will just take a few moments to address the points that have been raised. This bill contains three minor but very necessary amendments to Commonwealth criminal law. The first amendment, as Senator Stott Despoja so rightly said, is a correction of a legislative error on the part of the previous government and re-inserts the maximum penalty of two years imprisonment for the secrecy offences in subsection 60A(2) of the Australian Federal Police Act 1979. I note the Democrats ongoing concern about retrospective measures, but I am pleased that the Attorney-General and the Minister for Home Affairs have been able to reassure Senator Stott Despoja that there are no matters outstanding that would be affected by this retrospectivity.

The second measure relates to part ID of the Crimes Act 1914. We know of course that the follow-up should have occurred and will now occur with a more assessable DNA database, and that seems to be a very sensible provision in this amendment. The final amendment to the Crimes (Aviation) Act 1991, which was the subject of Senator Stott Despoja's riveting conclusion, relates to the issue of Jervis Bay and the current reference to ACT criminal laws in section 15. Those of us who are from New South Wales understand the peculiar relationship that New

South Wales government legislation has with the area around Jervis Bay, which is covered by the ACT Criminal Code under the Jervis Bay act. This amendment will introduce a regulation making power into section 15 of the Crimes (Aviation) Act 1991. It is an important and not so minor amendment to this legislation. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

TAX LAWS AMENDMENT (2008 MEASURES No. 1) BILL 2008

Second Reading

Debate resumed from 11 March, on motion by **Senator Faulkner**:

That this bill be now read a second time.

Senator COONAN (New South Wales) (1.42 pm)—I now want to make some remarks on behalf of the opposition about the Tax Laws Amendment (2008 Measures No. 1) Bill 2008. There were six schedules in the original bill when it was first introduced into the Senate and those who follow these things closely could be forgiven for losing track of where these various measures went. The opposition made it clear that we had no objection to the non-controversial elements of the original bill—that is, schedules 2 to 6. We did however have significant concerns about the effects, both intended and unintended, of the schedule 1 measure to end the tax-deductibility of donations to political parties.

For this reason, the coalition referred the original schedule 1 to the Joint Standing Committee on Electoral Matters. We believe that such an important measure that will affect the operation of democracy in this country ought to have been further scrutinised. Unfortunately, despite the significance of this matter, Labor did try to rush through the

measure without due scrutiny, and I will comment on what we regard as their motives for doing so shortly. However, the Senate referred this measure to the committee. Not wanting to hold up the other worthwhile measures in the original bill, the opposition supported the government's move to add schedules 2 to 6 to the Tax Laws Amendment (2008 Measures No. 2) Bill 2008 as amendments, and that of course was debated and passed last week.

Now that the committee has reported, we are here to discuss the measure in schedule 1. What a pity it is that Labor used its numbers on the committee to produce what I think has to be a very, shall we say, incomplete or perhaps even biased committee report—perhaps one of the most biased committee reports that I have seen in my time in this place. This bill provides that, from 1 July 2008, there will be no tax deduction for membership fees of political parties and gifts and contributions to political parties—for example, moneys paid to attend fundraisers.

In June 2006, the coalition government increased the deduction limit for these payments made by an individual from \$100 to \$1,500. Companies were allowed to claim a deduction for up to \$100; previously no specific deduction had been allowed. Even though these measures have had positive impacts on democratic participation, the Labor government, for what can only be described as cynical motives, wants to reverse them and end tax-deductibility for political donations. I note that the government does not propose to end tax-deductibility for donations or membership fees paid to a trade union. Significantly, in the past on a number of occasions, the ALP has put on the record its support for tax-deductibility of political donations. In its submission to the JSCEM report on the 1987 election and 1989 referendums, the ALP claimed:

... the additional funds raised by political parties with tax-deductibility advantage would alleviate any pressure for increased levels of public funding, would encourage political parties to continue to seek direct support from the public and would help them more adequately fulfil their social functions.

On 19 December 1991, the House of Representatives, under the then Hawke government, voted along party lines to introduce tax-deductibility of up to \$100 for political donations to parties. The Political Broadcasts and Political Disclosures Bill 1991, assented to on 19 December, gave effect to the introduction of tax-deductibility of political donations of up to \$100. The bill was introduced by the then Minister for Transport and Communications, Kim Beazley.

The ALP in government, making up the majority of the JSCEM, had nothing to say about the issue of tax-deductibility of contributions to political parties in the reports on the 1990 election and the 1993 election. In the JSCEM report on the 1996 election, a recommendation was included to make donations of up to \$1,500 annually to a political party, whether from an individual or a corporation, tax-deductible. In the report on the 1996 election, the ALP nominated \$1,500 as the maximum amount for tax-deductibility. The JSCEM report on the 1996 election was unanimous in recommending that

... donations to a political party of up to \$1,500 annually, whether from an individual or a corporation, would be tax-deductible.

Membership of the 1997 JSCEM, which unanimously recommended tax-deductibility for donations of up to \$1,500 from both individuals and corporations, included none other than Senator Stephen Conroy, the deputy chair of that committee; Mr Robert McClelland MP, who is now the Attorney-General; and Mr Laurie Ferguson MP, who is now a parliamentary secretary. So two cabinet ministers and one parliamentary

secretary of the current government recommended at that time that the current regime for tax-deductibility of political contributions be adopted.

The minister claims that schedule 1 was a commitment made as part of Labor's \$3 billion savings plan, which was announced on 2 March 2007. Let us examine that. I believe this is trivial compared with the potential damage done to democratic participation by this reckless and ill-considered change. While the cost to democracy cannot be accurately measured, the cost to the taxpayer can be. Treasury estimates that the measures contained in the bill will save \$31.4 million over four years to 2011-12, commencing in 2009-10. These costings comprise two components: party membership fees and donations. According to Treasury officials, the membership component of the costing is \$4.3 million each year. Of course, there are a lot of assumptions in these figures. Treasury, I think it is fair to say, could not possibly have known, because it does not have accurate information about the number of members of political parties or accurate data on which to base its assumptions. Also, Treasury presumably does not have access to data on how many political party members even make a claim for tax deduction of their party membership. So any claim about budget savings should be measured against Treasury making a lot of assumptions and being absolutely unaware of how many political party members claim a tax deduction.

Likewise, as the coalition noted in its minority report, 'Treasury had no knowledge of the amount or value of donations of less than \$1,500'—which is the subject of this bill. Treasury has derived an estimate based on a series of assumptions to arrive at a figure. While coalition members of the committee do not doubt the internal logic of Treasury's reasoning—it is very clever at making these kinds of assumptions—nevertheless, they

conclude, 'The result is totally arbitrary, as it relies completely on the reliability of the base data,' which in this case was non-existent. No doubt later, during this debate, we will hear comments being made that failure to agree to this bill will have negative effects on the budget outcome. Some rather amazing claims seem to be coming from the government—for example, that raising taxes will reduce inflation. So it will be interesting to see Labor try to claim that opposing the removal of this tax deduction will cause inflation.

However, one thing is clear. That is that all the bleating from the government about budget savings is really rhetoric. The government has absolutely no idea of what the cost of this policy is. It is quite clear that this is a major change to campaign finance in Australia. What strikes me as odd is that a major change in campaign finance was placed in a schedule in a tax law amendment omnibus bill; political donations are quite clearly an electoral matter. If the government is so concerned with campaign finance reform—let us call it what it is; I think it is a rather worthy reform, I might add—why isn't it including it as part of a reform or proposed reform of electoral matters?

The deductibility of political donations is entwined with the proper and effective functioning of Australia's democratic and electoral processes. It is an issue that has been repeatedly considered by JSCEM in the context of reporting on the conduct of elections and Australia's democratic system. Schedule 1 encompasses a matter substantially connected with the electoral process and it should be considered along with the democratic and electoral system, rather than be dealt with in an ad hoc fashion, by the back door, in a tax bill. I thereby call on the Labor Party to stop the talk and start a sensible conversation on campaign finance reform,

rather than the nonsense that we have seen in this schedule.

One of the coalition's most significant concerns about this bill is the fact that it will punish small individual donors but will make absolutely no difference to big corporate and union donors. A tax deduction for small donations—that is, of under \$1,500—is a financial incentive for small individual donors to donate to a political party and participate in the democratic process. What this bill will do is see the removal of the financial incentive for smaller donors. Currently, only individuals can claim a tax deduction for up to \$1,500 in donations. The *Bills Digest* prepared for this matter clearly summarises the small-donor argument when it states:

The availability of a \$1500 tax deduction is of greater importance to individual donors than to corporate or wealthy donors. Insofar as the absence of a tax deduction discourages a large number of smaller donors from contributing, it allows corporate and wealthier donors to make up a greater proportion of a political party's/candidate's source of funding. It may be argued that this potentially increases the influence of corporatist and wealthier individual's influence on political decision making.

That succinct summary of the issues makes it very clear why every senator should be opposed to this bill. What is the price of our democracy? And is it preferable to have many smaller donors or fewer larger donors?

Now that the horrors in the Labor Wollongong City Council corruption scandal have come to light, the Senate should be making moves to reform the system so that there are more small donations from individuals rather than fewer larger donations from corporations and unions. There has been a crisis of public confidence in the campaign finance system because of the bad behaviour of the New South Wales Labor Party. Labor are desperate to clean up their image—and so they should be. That is the real reason why

they are trying to rush this schedule through. Quite clearly this bill will not be hurting the big players. Instead it will hurt smaller individual donors. Indirectly, this just means that big business and big unions will gain even more influence over political parties than they already have.

By far and away, though, the most concerning reason why the Labor government have tried to pull a swiftie and push through this legislation without scrutiny is the political advantage that it gives to the trade union movement and its political subsidiary, the ALP. This bill ends the tax-deductibility of a donation from an individual, but it still allows a tax deduction if you donate to a union. What happens, then, if that union runs a \$10 million election campaign targeting marginal seats? How is it fair if a third party engages in political behaviour, yet membership fees and donations to that third party are tax-deductible?

The AEC political returns for 2006-07, published in February, revealed that the ACTU spent more than \$10 million on political campaigns, while 41 other unions spent a combined total of \$10.8 million. The 2006-07 political disclosure returns released by the AEC showed that unions declared donations to the ALP of more than \$1.3 million. And union membership is tax-deductible, of course, under section 8.1 of the Income Tax Assessment Act. This would continue to be the case for Labor's principal donors, while donations to other political parties would not be tax-deductible. Probably one of the biggest flaws in the schedule would be that it just allows Labor to funnel their money through the union movement and give their members a tax deduction by the back door, while members of non-Labor parties cannot do so. That is the real motive behind this bill: to give Labor the biggest financial advantage they can possibly have.

Unfortunately, but entirely predictably, Labor used their numbers on the committee to report that the committee supported the bill as written. This was because Labor knew the advantage that they would receive over other parties if this bill were to go through. The government are clearly seeking to use donation laws to gain political advantage here. The coalition will not allow the government to use the Senate to attack democracy and fair play, and we will oppose this legislation vehemently. I do hope that other non-Labor colleagues will join us in rejecting this very pointed attack on participatory democracy.

The ACTING DEPUTY PRESIDENT (Senator Murray)—Order! There being only two minutes to go in this debate, we will await the commencement of question time at 2 pm.

QUESTIONS WITHOUT NOTICE

Member for Robertson

Senator BRANDIS (2.00 pm)—My question is to the Minister representing the Attorney-General, Senator Ludwig. I refer the minister to his answer to my question on Monday last week, when I raised the issue of the possible breach by the member for Robertson of section 139.2 of the Commonwealth Criminal Code. Why did it take the Attorney-General seven days before he referred the matter to the Australian Federal Police? What new fact or piece of information was available to the Attorney-General yesterday that was not available to him on 16 June or earlier?

Senator LUDWIG—This matter—and I thank Senator Brandis for raising it—has been the subject of an investigation by the New South Wales police. The New South Wales police can investigate allegations that Commonwealth offences have been committed. They can also charge and prosecute. Alternatively, they can refer a matter to the

Australian Federal Police. In recent days, further allegations of a different type have been made in relation to this matter. Following a discussion that took place, yesterday the Attorney-General asked his department for advice on what role the Australian Federal Police should play in this matter, given the investigation which is being conducted by the New South Wales Police Force at the moment.

The Secretary of the Attorney-General's Department has advised, under the arrangements which exist between the Commonwealth and the state of New South Wales, that New South Wales police are able to investigate and charge people with Commonwealth offences. Where the New South Wales police are already conducting an investigation, the usual practice of the Australian Federal Police—if the same event or circumstances are referred to it—is to liaise with the New South Wales police to see if they can provide any assistance in relation to the investigation. This arrangement avoids any unnecessary duplication of work and inconveniences to the people and witnesses involved in the investigation. In these circumstances, I am advised that an appropriate course of action would be to request the Australian Federal Police to contact the New South Wales police to ascertain whether they would be assisted by the Australian Federal Police conducting an investigation as well. That is what the Secretary of the Attorney-General's Department has advised. On the basis of that advice, the Attorney-General did write to the Australian Federal Police yesterday stating:

In light of the fact of the investigation and matters now in the public domain, I would appreciate you considering liaising with the NSW Police Commissioner to confirm the extent of their investigation and whether those investigations would be assisted by an investigation conducted by the Australian Federal Police ...

This morning, the New South Wales police issued the following statement:

Australian Federal Police Commissioner Mick Keelty and New South Wales Commissioner Andrew Scipione have spoken this morning following a request from the federal government for the AFP to offer assistance. The commissioners have agreed that New South Wales police will remain in charge of the investigation until its conclusion, which is expected in the near future.

The Commonwealth government take this very seriously. The government have at all times acted appropriately in the matter and, now that the matter is with the New South Wales Police Force, I am not going to provide a running commentary in respect of those matters that are under investigation. I am sure the opposition would understand that. The appropriate course of action is to let the police investigation be conducted without political interference.

Senator BRANDIS—Mr President, I ask a supplementary question. Given that neither Mr Cornall's letter of advice to the Attorney-General dated yesterday nor the Attorney-General's letter to the Australian Federal Police Commissioner, also dated yesterday, identified any new facts that were not known at least on 16 June this year, what are the new facts which have subsequently come to light, to which the minister referred in his answer?

Senator LUDWIG—As I have said, the Rudd government take this matter very seriously. What we are not going to do is provide a running commentary on it. It is unfortunate that the opposition feel that they need to have a running commentary. These are serious matters. They are best left with those who are charged with investigating them. The New South Wales police have it in hand and it would be inappropriate for the government to provide a running commentary in respect of the matter.

Climate Change

Senator McEWEN (2.05 pm)—My question is to the Minister for Climate Change and Water, Senator Wong. Can the minister outline to the Senate Australia's most recent greenhouse emissions results and what they mean for Australia's response to climate change? How does the Rudd government plan to prepare Australia for the future by tackling climate change, and are there any threats to these plans?

Senator WONG—I thank Senator McEwen for her question. Senator McEwen, like all senators on this side, understands the environmental and economic challenge that climate change presents. She understands that Australia is particularly vulnerable to climate change and that, unless we act now, climate change could be catastrophic for Australia and for the world. It will seriously hurt the Australian economy and will cost jobs. Those of us on this side of the chamber understand that the economic costs of inaction are far greater than the costs of responsible action now. Those of us on this side of the chamber understand that this is a challenge for this generation—an economic challenge to which this nation has to rise. We understand that this is all about preparing this nation for future challenges.

Today I released *Australia's National Greenhouse Accounts*, which shows that Australia's emissions for 2006 and preliminary estimates of emissions in 2007 remain on track to meet our Kyoto target.

Opposition senators interjecting—

Senator WONG—And, of course, those opposite want to claim credit for that now, but we remember these are the people who said they would not sign Kyoto. The sky was going to fall in if they signed Kyoto, according to Senator Minchin and his colleagues—now they want to take credit for it. Isn't it amazing how the worm turns?

In 2007, Australia's greenhouse emissions were estimated to be 585 million tonnes, or 106 per cent of 1990 levels—an increase of 1.6 per cent from 2006. In 2006, the emissions were 104.2 per cent of the 1990 level of 576 million tonnes. But, despite the fact we remain on track, we still have a big job ahead of us to reduce greenhouse emissions. Because this government is serious about tackling climate change, we are committed to reducing emissions by 60 per cent of 2000 levels by 2050.

I note that those opposite have no such plan or target. The fact is that the economically responsible way to move Australia from a high-emissions economy to a low-emissions economy is through an emissions-trading scheme. It is the way this can be done at least cost. When those on the other side were in government they knew that. That is why, after 11 years of neglect, they finally came to the position that they were agreeing to introduce an emissions-trading scheme. However, what do we see now from the opposition? They are backing away from the responsible position they eventually got to, after 11 years of neglect in government. And what are they doing now? They are going back to their tried and true position, playing short-term politics and starting a fear campaign. Those opposite have no credibility on climate change; they simply confirm by their actions that they are a party of the past. They are a party that is focused on economic irresponsibility through their failure to tackle the great challenge of climate change—a challenge that confronts this generation and this nation. By their economic irresponsibility and their short-term politics, they are simply confirming that they are a party of the past.

Commercial Ready Program

Senator EGGLESTON (2.10 pm)—My question is to the Minister for Innovation,

Industry, Science and Research, Senator Carr. Has the government's decision to axe the vital Commercial Ready program resulted in numerous job losses and the loss of \$1.4 billion of investment in the development of new inventions and medical cures and treatments?

Senator CARR—There was no secret about just how tough the last budget was going to be. Faced with the inflationary legacy that had been left to us by the previous government—

Opposition senators interjecting—

Senator CARR—We inherited an inflationary legacy from the Howard government, which has produced the highest inflation in 16 years. This meant we had to make some pretty tough decisions. The budget contains disciplined savings measures to demonstrate our commitment to fiscal responsibility, to modernising government spending and to putting downward pressure on inflation. We understand just how damaging inflation is for working people. Closing Commercial Ready was very much at the heart of a very tough call. Of course, it will allow us to get on with the job of implementing a new, streamlined set of programs following the review of the National Innovation System.

All existing commitments under Commercial Ready—that is about \$200 million over four years—will be met, and all regional AusIndustry offices originally established with the Commercial Ready funding will remain open. This is a budget about resetting priorities, and I understand that the previous government endorsed the Productivity Commission view, which, I note, argued that there was a duplication of programs and that Commercial Ready was not in fact addressing the issue of market failure. I did not hear any complaints about the Productivity Commission in the past from those opposite.

One of our biggest problems is tackling climate change. That is why we have established new budget measures through this last budget—some \$2.3 billion worth of climate change initiatives, such as the new Clean Business Australia fund. Three-quarters of the savings from Commercial Ready during the period of 2008-09 will go into Clean Business Australia programs in line with our election commitments. These programs include Climate Ready, which will support innovation in water recycling, waste recovery, small-scale renewable energy, green building materials, energy efficient appliances and other areas. Climate Ready grants will match company spending on R&D and proof-of-concept and commercial activities dollar for dollar.

Funding for these programs actually begins next month, and we will continue to support innovative Australian businesses through the research and development taxation concession measure, the tax offset measure, the COMET program and venture capital programs. We will also build on support with new initiatives, such as Enterprise Connect and the Green Car Innovation Fund. I am very pleased the you have asked this question, Senator. Unlike our predecessors, this government is not leaving innovation and industry policy on autopilot. We are taking the tough decisions, and we are establishing clear priorities to produce the best outcomes for Australia.

Senator EGGLESTON—Mr President, I ask a supplementary question. Is the respected Australian Export and Industrialisation Advisory Corporation wrong, Senator Carr, when they say that the following inventions and medical cures are at risk as a result of your decision? I will list some of the things which are at risk: a prostate cancer cure, advanced IT safety programs, other IT projects, a new electric car, an insulin nebuliser, a new method for vascular repair, a new

form of eye treatment, a cure for spinal injuries and new mining technologies.

The PRESIDENT—Before calling Senator Carr I would remind Senator Eggleston that his question must be addressed through the chair.

Senator CARR—It is a fact that a number of companies have indicated that they are disappointed by the decision that the government has taken with regard to Commercial Ready. A number of companies have made claims in the press about access to government programs, some of which are untrue. Claims have been made and, despite the fact that some journalists who have contacted my office have been advised that the claims are untrue, they have sought to publish those comments irrespective of the facts in this regard.

We have had one case in recent times of Permo-Drive, as the senator mentioned, which is an electric truck. It uses one of the technologies that have been indicated. It has been said that this was a company that would be placed in serious financial difficulties as a result of the termination of the Commercial Ready program. The case that the company makes is somewhat difficult—(*Time expired*)

Budget

Senator MARSHALL (2.16 pm)—Mr President, my question is to Senator Evans, the Minister representing the Prime Minister. Can the minister please inform the Senate how the government's budget will help working families, pensioners and carers?

Senator CHRIS EVANS—I thank Senator Marshall for his question. Obviously, next week on 1 July a range of budget measures come into operation. Unfortunately some of them will not, because of the intransigence of the opposition, but a number of very important budget measures will take effect. The budget delivered a \$55 billion

package that delivers for working families, implements our election commitments and responsibly invests in the future. These are, of course, challenging economic times and ordinary Australians are under financial strain, with increasing mortgages, rising prices and other cost-of-living pressures. The Rudd Labor government understands the stresses that these things are putting on ordinary families and people on fixed incomes. Inflation is the No. 1 enemy of ordinary Australians because it eats away at their economic livelihood. That is why this government has delivered a responsible budget that delivers to those people but also seeks to fight inflation. The \$22 billion surplus that we have budgeted for, which the opposition seem to deride, is very important in setting the economic structures that allow us to fight inflation to keep downward pressure on interest rates. That is a huge assistance to those people who are trying to make ends meet.

It is a budget that delivers very much to working families through a range of important measures. Pre-eminent among them are the major tax cuts which will apply from 1 July 2008. More than \$46 billion will go to taxpayers over the next four years and, unlike the previous government, those tax cuts are directed at middle and lower income earners. They are directed not at the top end of town—where the previous government directed cuts—but at those most at need. Also, we will be delivering increased childcare support by increasing the childcare tax rebate from 30 per cent to 50 per cent. So, again, the measures will be directly targeted at those families.

We also have the Teen Dental Plan and, of course, the education tax refund, which will assist families as their children grow and attend school. So a range of these measures are very much targeted at assisting families through the budget. These will provide relief to families who are finding it tough. The

measures will go directly to their major costs and we have focused on the areas where the government can assist families with their taxation, their childcare, their education costs and their health costs. The measures also include a range of housing initiatives to assist people to meet the rising costs of housing, to help them get into homes and to provide access to more housing. For the first time in many years we have a federal government that is serious about housing issues and the stresses that people are confronting in the housing market. All of these measures delivered by the budget will be hugely beneficial to families in this country.

A range of measures that go to the benefit of carers and pensioners will also be delivered. The government is delivering \$1.8 billion in bonuses to seniors. By the end of June pensioners should each receive the \$500 bonus. Carers are also assisted in the budget. The government announced an extra \$822 million in assistance for carers and, for the first time, carer payment recipients will receive the utilities allowance of \$500. So, again, these are measures that are aimed at assisting these people dealing with economic pressures. (*Time expired*)

Senator MARSHALL—Mr President, I ask a supplementary question. I note that Senator Evans mentioned the budget surplus. Could he provide more information to the Senate on the role of the budget surplus in helping the government provide for working families, pensioners and carers?

Senator CHRIS EVANS—I thank Senator Marshall for the additional question because it is important that people understand that, in addition to the direct measures contained in the budget which will directly assist families and those on fixed incomes, the overall economic strategy of the budget relies on a large surplus. The surplus is designed to provide the economic conditions to

allow us to put downward pressure on inflation and interest rates. The opposition seem to have abandoned all economic responsibility and seem no longer to support a large surplus, but we have tried to ensure that our spending measures are supported by savings and increased revenue so as to maintain that large surplus. If we are allowed to get those revenue measures passed by the Senate we will be able to deliver those economic conditions for Australian families. I urge the opposition to allow this government to deliver that surplus rather than to continue to threaten it. That will enable us to provide assistance to families and people on fixed incomes.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the President's gallery of former distinguished President of the Senate, the Hon. Paul Calvert. Welcome back. I also draw the attention of honourable senators to the presence in the gallery of a delegation from the 3rd Philippine Council of Young Political Leaders, led by the Hon. Miguel Dominguez, Governor of the Province of Sarangani. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Commercial Ready Program

Senator BARNETT (2.22 pm)—My question is to the Minister for Innovation, Industry, Science and Research, Senator Carr, and it relates to the Commercial Ready program that the minister has been discussing. I note that the minister has accepted that some Australians are 'disappointed' in the government's action. Does the minister believe that Mr Jimmy Seervai, an award-winning inventor who is financially supported by others and who is working on solu-

tions to Australia's obesity epidemic, is a millionaire? Does the minister believe that he is a millionaire whose company does not need the assistance via Commercial Ready to get its important product to market?

Senator CARR—I am not aware of the financial standing of the gentlemen who has been mentioned, and I am not certain that that fits within my portfolio responsibility.

Senator Ian Macdonald—You said that you didn't want to fund millionaires.

Senator CARR—It is of course all too easy for the opposition to apportion comments to people. The fact is that there was an exchange in the chamber that related to the luxury car tax, which the opposition has chosen to champion. As we all well know, this is a tax that is aimed at supporting extremely expensive motorcars, and the opposition wishes to save money for people, who are often millionaires, who do buy these vehicles. If that is the type of thing they want to be in, so be it.

I have been asked a question about Commercial Ready. The Commercial Ready program provided assistance to industry to commercialise technologies. As a statement of principle, it is a program objective that was supported by the government and continues to be supported by the government. As I have indicated already today, this government has introduced spending commitments of some \$2.3 billion to tackle climate change initiatives and there has also been support for medical research commercialisation and other commercialisation programs, which are financed through the Department of Innovation, Industry, Science and Research.

I am more than happy to discuss the particular specifics of any case that the senator wishes to raise, because it may well be that there are other program opportunities for individual businesses to approach the department about. So I do urge senators, when

they have had representations made on these questions, to ask what approaches have actually been made to the department of innovation on these issues. I spoke recently of one particular company that has been given considerable press coverage. When I made inquiries and asked about the information, I was advised that this particular company approached the department, under its former guise, last October. It made preliminary inquiries and presented some preliminary paper work but took no further action—yet it said to its shareholders that the closure of this program has led to the company being in financial difficulty. That claim would be much stronger if the particular company had actually applied for a grant under Commercial Ready. On this particular occasion, it had not put the final applications to the department to seek assistance under this program.

So I would say to you, Senator, that if you do have representations to make—which of course is a legitimate function of senators and members of the House of Representatives—we are more than happy to engage in discussion with individual companies about what alternative programs are available. But one should not rely upon press reports. Before one engages in these dialogues one should actually check the facts.

Senator BARNETT—Mr President, I ask a supplementary question. I can assist the minister by providing the exact quote from the minister from Wednesday, 14 May. I will be seeking leave to table this page of *Hansard*. In answer to a specific question from Senator Abetz, you said:

We had this expectation that we should go on providing assistance and various other measures to millionaires ...

I seek leave to table that page of *Hansard*. In so doing, I ask: will the minister now apologise to Mr Seervai and the countless other inventors and other small businesses around

Australia whom he categories as ‘millionaires’ when in fact nothing could be further from the truth? I seek leave to table the *Hansard*.

The PRESIDENT—Is leave granted?

Senator Chris Evans—Mr President, I would be prepared to grant leave subject to checking the document. As you know, it is part of the normal courtesies of this place to show people the document before seeking to table it.

Senator Abetz—It is the *Hansard*.

Senator Chris Evans—If it is in *Hansard*, there is obviously no reason to table it, as it is already on the record.

Senator CARR—With regard to the particular exchange in this chamber, my recollection is that there was in fact an interjection. I was responding to an entirely different proposition from the context in which you have advanced this. As to the financial standing of the individual to whom the senator refers, I am not in a position to know what his accounts are and I am not in a position to be able to say whether or not this individual is a millionaire.

Zimbabwe

Senator MURRAY (2.29 pm)—My question is to Senator Faulkner, representing the Minister for Foreign Affairs. Minister, do you accept that the Zimbabwe government is no longer a legitimate government because it has violated the rule of law, created millions of desperate refugees, inflicted starvation on its people, inflicted grievous harm on its citizens and thrown aside basic democratic principles by declaring war if the MDC was victorious at the ballot box? Is the minister aware of the International Crisis Group’s ‘responsibility to protect’ doctrine, accepted as a general principle by the United Nations and others? I ask the minister whether he is

aware of the ICG's basic principle, and I quote:

... where a population is suffering harm, as a result of ... repression or state failure, and the state in question is unwilling ... to halt ... it, the principle of non-intervention yields to the international responsibility to protect.

Minister, now that it is obvious that the quiet diplomacy of South Africa and the SADC has failed, will the Australian government actively campaign for the implementation of the 'responsibility to protect' measures, meaning international and particularly African support for, to quote the ICG, 'whatever measures—economic political, diplomatic, legal, security or in the last resort military—become necessary to stop mass atrocity crimes occurring'?

Senator FAULKNER—I thank Senator Murray for his question and I might commence my answer by briefly outlining the situation that exists, as I understand it, in Zimbabwe as I speak. As the Senate would be aware, the Movement for Democratic Change leader and presidential candidate, Morgan Tsvangirai, announced on 22 June that the MDC would withdraw from the presidential run-off election. As I said yesterday, he said he could not ask the people of Zimbabwe to cast their votes on 27 June when that vote would cost them their lives. Overnight, Mr Tsvangirai has sought and been granted refuge in the Netherlands' embassy in Harare. I think these actions by the opposition are entirely understandable given the climate of fear and intimidation generated by state security forces in Zimbabwe and yesterday's raid on the MDC headquarters in Zimbabwe, where I understand 60 women and children, themselves taking refuge, were taken into custody. As I have said on a number of occasions in this chamber, as the Prime Minister and the Minister for Foreign Affairs have said also on a number of occasions—and I know it is a view shared by

members and senators across this parliament—Australia condemns absolutely the campaign of intimidation, violence and fear by the brutal Mugabe regime against its own people, the people of Zimbabwe, which has led to the prospect of this sham election.

Let me turn to the specific issues that Senator Murray asks in relation to the International Crisis Group and its 'responsibility to protect' doctrine, his concerns about the failure of quiet diplomacy on the part of South Africa and what this nation can do in the light of this failure. While I am aware of the doctrine, Senator, I might say to you I actually have not seen the most recent International Crisis Group report that you refer to. But of course I can say that Australia does support all efforts to resolve the crisis in Zimbabwe. South Africa, as the South African Development Community's appointed mediator, has a central role in facilitating a solution with political groups in Zimbabwe. I wish to reiterate Australia's support for African countries and organisations, particularly the SADC, that are doing all they can to assist the people of Zimbabwe and holding the Zimbabwean government to account for the atrocities that are currently taking place in that country. I can also say that Australia supports the calls by UN Secretary General Ban Ki-Moon and the President of Zambia for the presidential run-off election to be postponed. (*Time expired*)

Senator MURRAY—Mr President, I thank the minister for his answer and I ask a supplementary question. Minister, as you would recognise, my thesis is that once a government becomes illegitimate it is time to up the ante. I ask the minister: are there any changes to Australian legislation or policy being contemplated by the government to implement 'responsibility to protect' measures and principles? If there are not, will the government undertake to have a look at them and report back to the Senate in due course

as to whether they do intend to implement changes to Australian legislation or policy?

Senator FAULKNER—I thank again Senator Murray for his supplementary question. I am not aware whether Mr Smith, the Minister for Foreign Affairs, is contemplating such action but I am certainly happy to take that element of your supplementary question on notice. I can say to Senator Murray that Australia of course cannot recognise as legitimate the outcome of any election which is held without the unfettered participation of the opposition or any election that is conducted within the context of violence or harassment. That is the situation that is being faced, as we speak, in Zimbabwe. Substantively, I will take Senator Murray's specific question on notice. (*Time expired*)

Budget

Senator FIFIELD (2.36 pm)—My question is to the Minister for Innovation, Industry, Science and Research, Senator Carr. I refer to the minister's previous answers and the Rudd government's decision to axe the vital Commercial Ready program. Will the minister now consider funding the 71 grant applications which were before his department between 28 April, when the government secretly closed Commercial Ready, and budget night, 13 May, when the closure was announced?

Senator CARR—I thank the senator for his interest in innovation. I must say to you that this is heartfelt, because it has been such a long time since we heard from the opposition on the importance of innovation. I am encouraged by the opposition showing such a keen interest in innovation these days. They never showed such interest when they were in government—throughout those 11 years that saw Australia go backwards as our competitors forged ahead. Australia ranked eighth in the OECD for business expenditure on research and development as a share of

GDP in 1995-96. By 2005-06, we had slipped to 15th. Why? Because Australia was one of only three OECD countries to reduce its tax benefits for business research and development in the late nineties.

Senator Fifield—Mr President, I rise on a point of order which goes to relevance. The question to Senator Carr was extremely specific: will the minister now consider funding the 71 grant applications which were before his department?

The PRESIDENT—The minister is allowed to expand his answer, but I would remind him of the question.

Senator CARR—What I was indicating was that in the late nineties, while the previous government reduced research and development assistance, the situation was that 12 other countries increased their level of support. So our competitors were moving in one way and Australia was moving in the other. That has nothing whatsoever to do with the new-found interest that the opposition has in innovation.

We only have to compare this with what the previous government did in respect of universities. Here we see a similar pattern emerge. Between 1995 and 2004, public funding for tertiary education rose by 49 per cent on average among OECD member countries, but in Australia it fell by four per cent. And now I am asked whether or not the government are going to change our position with regard to the budget situation that we found ourselves in as a result of the legacy of the previous regime—a regime which left us with record levels of inflation. Australia, I might add, was the only one of the OECD countries where the top level of public funding for tertiary education, as a result of the former government's legacy, decreased during their period of office. And they want to lecture us!

Senator Abetz—Mr President I rise on a point of order. You are very kind to Senator Carr to allow him to wander far and wide but, when he is onto higher education, he really has strayed right off the topic in relation to the specific question asked by Senator Fifield.

Senator Chris Evans interjecting—

Senator Abetz—No, they are separate portfolios.

Senator Conroy interjecting—

The PRESIDENT—Senator Conroy, I do not need advice. I am struggling to find some relevance, Senator Carr, to the question that was asked. I remind you of the question and draw you back to it.

Senator CARR—We heard from the shadow minister just then that it was a different portfolio. He has failed to understand the elements of the innovation program that we are trying to run. He has failed to understand the links between our university system, our public research and development scheme and our private research and development scheme. He has failed to grasp the fundamentals of the national innovation revolution that the government are pursuing. What we have here is an opposition that is locked in the past. What we have here is an opposition that is so out of touch with what is going on that it may actually have to—

The PRESIDENT—Order! Senator Carr, I ask you to return to the question.

Senator CARR—I have of course addressed the fundamental issue here, which is the national innovation revolution that is being pursued by the government. It is said to me that we should reconsider 71 applications which were before the government at the time that the budget decisions were made. In what part of the process was it ever said that there will be a guaranteed outcome for an application for a government grant? At what

point in the process was that ever stated? At what point in the process was it ever stated that a particular government was prevented from changing the decisions of a previous government? At what point in the process has it ever been said that applicants cannot make approaches to the department for alternative programs which are currently underway? That is what I have indicated to this chamber and what I have indicated to the people who have approached the department. *(Time expired)*

Senator FIFIELD—Mr President, I ask a supplementary question. I observe that Senator Carr's response was woeful even by his standards. There was not a single word in response to the question.

The PRESIDENT—Order! Senator Fifield, as I said yesterday in response to a point of order taken by Senator Bob Brown, you should come to the question and not make arguments or statements prior to it.

Senator FIFIELD—I invite Senator Carr, through you, Mr President, to answer the question. I refer the minister to the case of Vigil Systems, in the Prime Minister's own electorate, who were told on the day before the budget by the minister's own department that their grant application for the development of a high-tech product designed to reduce the road toll was approved, bar the final dot on an 'i'. The next day, budget day, they were told the project would not go ahead. Will the minister commit to funding this application and others which were considered and approved for funding between 28 April and 13 May?

Senator CARR—The process of grant applications is well known, even to the opposition. In the short period that they have been out of government, they have chosen to pretend that they do not understand the process, but the fact is that at a particular point the delegation authority was removed from

the officers responsible. That is the nature of the budget decision. I cannot overturn that. I have no intention of seeking to overturn that. The budget decision will be maintained. What we have indicated is that individual companies who wish to approach the government will be advised about the alternative programs that are available and help will be provided to assist those companies in response to this government decision.

Economy

Senator HURLEY (2.44 pm)—My question is to the Minister for Superannuation and Corporate Law, Senator Sherry, the Minister representing the Minister for Finance and Deregulation. Can the minister update the Senate on the steps the government is taking to govern as economic and fiscal conservatives whilst also addressing the key issues affecting working families across Australia?

Senator SHERRY—I thank Senator Hurley for her very important question. The Rudd Labor government is delivering on its election commitments and promises. There are no core or non-core promises, as we saw from the previous Liberal government and made infamous by the declaration by the former Prime Minister, Mr Howard, of core and non-core promises after his election in 1996. We make commitments, we make promises and the Prime Minister, Mr Rudd, determines that we will deliver on all our promises and commitments.

Firstly, in respect of the budget, one of the important elements of the budget was our determination to tackle the legacy of high inflation, at a 16-year high, left to us by the former Liberal government. High inflation leads to upward pressure on interest rates, and that is why we have delivered a fiscally conservative budget. That is what is required, particularly in these uncertain times when we have seen the US subprime financial crisis

and the impact of international oil prices. So the budget was carefully designed to deliver a significant surplus, some \$22 billion in the next financial year, and to fight inflation by targeting government spending. But, in addition to that, one of the other major themes and commitments in the budget was to deliver a \$55 billion family support package—\$55 billion for a range of assistance to families in Australia. The budget also delivered a \$22 billion package of support for building Australian infrastructure, \$10 billion for the health and hospital fund and a further \$11 billion for the Education Investment Fund. Education, health and infrastructure are very important areas. They are areas that were seriously neglected by the previous Liberal government.

After all of this we are proposing and we hope to deliver a \$21.7 billion surplus—we are not sure because of the wrecking that is occurring as a consequence of the Liberal opposition's irresponsible reference of a range of measures to so-called committees of inquiry, which will delay what we would hope would be the passage of those measures. The surplus is built on substantial savings of \$33 billion over four years, including \$7 billion in savings, through a disciplined fiscal approach, in 2008-09 alone. We have seen in this budget the lowest real increase in spending in almost 10 years. We have delivered on fiscal conservatism and budget responsibility, despite the vandalism we are seeing from the Liberal Party and the National Party—I cannot call them something else yet—and their irresponsible approach.

Honourable senators interjecting—

The PRESIDENT—Order!

Senator SHERRY—Of course, as a consequence of the referral of these various bills to committees, we will see the budget surplus lowered by some \$284 million. So we are seeing the surplus, as a direct conse-

quence of the irresponsibility of the Liberal and National parties, being reduced by \$284 million. This will put upward pressure on inflation.

Senator Minchin—That's nonsense.

Senator SHERRY—No, it's not nonsense, Senator Minchin, because I can recall you saying very similar things in the past—

Senator Minchin—No.

Senator SHERRY—when you were a fiscal conservative. But unfortunately, Senator Minchin, now the Liberal opposition leader in the Senate and former minister for finance, you have dropped the ball in the last year or two. We are not going to. (*Time expired*)

The PRESIDENT—I inform the Senate that leave has been granted for Senator Barnett to table his document.

Commercial Ready Program

Senator ABETZ (2.48 pm)—My question is to the Minister for Innovation, Industry, Science and Research, Senator Carr. I refer to the minister's previous answers today and his dogged refusal to acknowledge the severe cost of axing Commercial Ready to individual innovators right around the country. Is the minister saying that one of Australia's most distinguished scientists, Sir Gustav Nossal, was wrong when he described the axing of Commercial Ready as 'short-sighted' and that Mr David Henderson of UniQuest, the company who commercialised the anticancer drug, Gardasil, was wrong when he warned that we will see 'less Australian techs moving into the marketplace' and that the CEO of Cochlear, the bionic ear company, was also wrong when he said that the decision was 'the saddest and dumbest decision of the entire budget'?

Senator CARR—The budget that was delivered on 13 May included the abolition of the Commercial Ready program. The pro-

gram was closed effectively as of 28 April. What the government has indicated is that current grants that have already been approved will of course be paid and be honoured. There will also be the retention of the regional Commercial Ready offices. However, the decision has seen a savings to the budget of some \$547 million over four years. The Commercial Ready funding of \$160 million over three years has been offset against the Clean Business Australia program. The total saving as to Commercial Ready in the budget papers therefore needs to be measured against the new programs that the government has initiated.

The government, as I say, will continue to meet its ongoing contractual obligations, so claims to the contrary are simply untrue. What needs to be appreciated is that there will be a number of new programs which the government is initiating, such as Enterprise Connect, a \$251 million network which is a key part of the government's innovation policy. It is designed to ensure that small and medium sized businesses have greater access to new ideas, new knowledge and new technologies that they are not currently accessing. Of course, business will be able to apply this knowledge and these new technologies to build their internal capacity, which will help them to become more innovative, more efficient and more competitive and to lift their productivity right across Australia. There are a number of other programs that the government has initiated, but it should not be forgotten that existing support for venture capital, through the IF funds in supporting early-stage developments, cannot be overlooked in this context nor can the existing programs that are operating, such as the Commercialising Emerging Technologies program, the COMET program.

The COMET program is a competitive, merit-based program that supports early growth and spin-off companies to success-

fully commercialise their innovations, so the claims that are being made by the opposition need to be measured against the facts. They need to be measured against what the government is actually doing as distinct from what the opposition would like to believe that it is doing. The Comet program is \$170 million program which runs to 2011. What you have here is a series of measures that the government is initiating. In fact, the Department of Innovation, Industry, Science and Research have the better part of a billion dollars worth of new programs, ranging from commercialisation initiatives through to research training and research infrastructure. Of course, this is a part of the agenda that the opposition has enormous difficulty coming to grips with because it failed to grasp the breadth of the government's approach. I think finally we need to draw to the—

Senator Abetz—Mr President, I rise on a point of order. My question was not about the coalition's approach but in fact the comments by such distinguished Australians as Sir Gustav Nossal and also the CEO of Cochlear who described this decision as 'the saddest and dumbest decision out of the whole budget'.

Senator Conroy interjecting—

The PRESIDENT—I do not need advice, Senator Conroy. I would remind Senator Carr of the question.

Senator CARR—I think I have been answering the question quite directly and quite specifically. What we have here is an opposition that has failed to grasp the fundamentals of the need for a national innovation strategy. We have an opposition here that has been stuck in the past. We have a government that has actually committed to an innovation revolution in this country. We have an opposition that is out of touch and way out of time, and fails to understand the fundamentals of this whole policy agenda. What we

have here is an opportunity, an opportunity for the opposition to come forward and support the government in its bid to see a fundamental shift in the culture of innovation that this country so desperately needs. I look forward to the opposition's support for the national innovation review report, which is due in a little over a month.

Senator ABETZ—Mr President, I ask a supplementary question. If the minister will not listen to Sir Gustav Nossal or UniQuest or Cochlear, will he at least listen to his former colleague and former Labor senator and science minister, Chris Schacht, who said recently in a letter to me:

The loss of these grand schemes will have a significant long-term negative impact on the Australian biotechnology industry.

Will the minister today commit to immediately reinstating the Commercial Ready program and will he apologise to Sir Gustav Nossal for his dismissive approach to his very well considered comments?

Senator CARR—I have always thought that Senator Schacht had a lot to contribute to public debate and now that I find out he is communicating with the opposition on these things, I think we are obviously in very good shape indeed. I raise the issue of the failure of the previous government to fulfil its responsibilities to this nation. We had a situation over the 11-odd years of the previous government's regime where our position slipped dramatically by international standards. No matter what measure you looked at, there was clear evidence that the previous government neglected its responsibilities when it came to the national innovation agenda. That is why we have instituted the national innovation review. We understand that Australia was one of the only OECD countries with a total level of public support for innovation which actually declined. Other countries, our competitors, saw it in-

crease quite dramatically. That is what—
(*Time expired*)

Murray-Darling River System

Senator SIEWERT (2.56 pm)—My question is to the Minister representing the Minister for the Environment, Heritage and the Arts, Senator Wong. Now that the Coorong has reached crisis point and is critically threatened, as evidenced in the report on the health of the Coorong leaked last week, can the minister advise if, and if so when, the government plans to nominate the Coorong and the lower lakes Ramsar site under the convention's Montreux Record of sites as undergoing change in ecological character prior to the Ramsar conference of the parties in October this year? Also, will the government list the area under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 as a critically endangered ecological community, and if not, why not?

Senator WONG—Thank you, Senator Siewert, for the question. Can I say on the Coorong and the lower lakes that I have previously answered questions on that issue in this place, and it is a very serious situation we confront in that region. I have previously visited the lower lakes and, of course, to all South Australians the Coorong is an area that we absolutely understand the value of.

What the Australia government is dealing with there is, to be honest, a situation which results from a number of factors. The first of those is climate change and the reduction in water availability through the Murray-Darling Basin in southern Australia more generally, consistent with what the IPCC said and the CSIRO predictions. The second is a persistent drought. The third, of course, is a history of overallocation under successive governments, including by those who were in government prior to the Rudd Labor government. We are dealing with a very difficult

situation in the lower lakes and the Coorong, and I have been quite clear about that. Obviously, we are confronting a situation where there were very low inflows for the last two years. We were hopeful, because of some of the weather predictions, that we might have seen a slightly less dry autumn than over the last two years. Unfortunately, to date in the relevant regions of Australia, that has not come to pass and we are still confronting very low inflows. Obviously, we are all hopeful of a better result in terms of rainfall over the winter. This is an issue that, as I said on previous occasions, I have asked for some urgent advice on given what has been put before the ministerial council.

I do make the point that the situation of the lower lakes has been something that certainly this government has been apprised of, as has the ministerial council, on previous occasions. You might recall, Senator Siewert, through you, Mr President, that we previously allocated \$6 million to pump water into Lake Albert in order to manage the impact of low water levels and in order to stabilise its acid sulphate soil problem—and pumping is well underway on that issue.

In terms of the Montreux Record listing, which was mentioned I think in the second part of Senator Siewert's question, the Montreux Record is a voluntary tool under the Ramsar Convention on Wetlands which is used to highlight sites that have been subject to actual or likely adverse changes in ecological character. In December 2006, following discussions with South Australia, the Australian government did notify the Ramsar secretariat of a change in the ecological character of this Ramsar site in accordance with its obligations under article 3.2 of the convention. In making these notifications—which occurred, as I said, in December 2006—contracting parties are encouraged to consider whether the site would benefit from listing on the Montreux Record. The Austra-

lian government's position is that Montreux listing is considered on a case-by-case basis under the guiding principle that Australia only lists sites on the record when all locally generated remedial actions have been exhausted and where there is a high probability that such a listing would assist in achieving improvements in the on-ground condition of the Ramsar site.

Senator SIEWERT—Mr President, I ask a supplementary question. The minister did not answer my question of whether the government were planning to list it under the Commonwealth Environment Protection and Biodiversity Conservation Act. Can I ask again: will they list under the Montreux listing? I know it has already been notified. I want to know whether it will be listed under the Montreux Record.

Senator WONG—Through you, Mr President, I thought I addressed the Montreux listing issue; in fact I gave an answer on that issue as to what the Australian government's position is. Let me put it this way: I will ascertain if there is further information in relation to the EPBC Act and come back to the senator. I have outlined the Australian government's position in relation to the Montreux listing.

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

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

Commercial Ready Program

Senator ABETZ (Tasmania—Deputy Leader of the Opposition in the Senate) (3.02 pm)—I move:

That the Senate take note of the answers given by the Minister for Innovation, Industry, Science and Research (Senator Carr) to questions without notice asked today relating to the Commercial Ready program.

Of all the decisions taken in the Rudd government's 2008 budget the one that has been labelled and is the saddest and dumbest, not surprisingly, is a decision that fell within Senator Carr's area of responsibility. The short-sighted and vindictive cut to the Commercial Ready program puts up in lights for all to see that Labor is about spin and not substance. Before the election Senator Carr ran around telling anyone who cared to listen that the Howard government was neglecting innovation and that he and Mr Rudd would revitalise the sector. In typical Orwellian spin, less now means more to Messrs Rudd and Carr. But can I tell the minister that the sector is telling me that it would prefer the so-called neglect of the Howard years to the so-called care of Mr Rudd and Senator Carr.

You see the Commercial Ready program was a scheme designed to assist innovators commercialise their inventions and get them out into the marketplace. The test to get funding was rigorous and robust. It funded literally hundreds of science graduates and engineers and helped commercialise many, many innovations right around the country—innovations as diverse as cancer cures, fuel-efficient cars and cutting the road toll. Mr Rudd has his education revolution—and today for the first time we were told about a national innovation revolution, which of course is led by a \$700 million cut to innovation; that is how we have a revolution. Senator Carr should know, with his extreme left-wing policies, that revolutions always come with a lot of blood on the floor. Of course that is what he has done in relation to the Commercial Ready program and innovation. There is a lot of blood on the floor. He has simply axed any program that has the word 'commercial' in it.

Mr Garrett warned, 'Don't listen to what we say; look at what we do.' Weren't those words prophetic? Senator Carr and Mr Rudd promised increase funding and increased

support to the innovation sector. Yet what did they do in the very first budget they could control? They slashed the CSIRO. They slashed the innovation budget. These cuts were both cruel and unnecessary. The minister's first attempt to justify this saddest and dumbest of decisions the day after the budget was to run the old class warfare line about not providing assistance to millionaires. Only one of the dumbest—and I had better be careful here; I cannot say one of the dumbest ministers, but can I say one of the most intellectually challenged of ministers—could take such a decision and then seek to justify it with this silly Marxist justification about not supporting millionaires. Australia's future—which is inextricably interwoven with innovation and doing things better, more cleverly and increasing our competitiveness and our productivity—is being jeopardised by a government that is in disarray and engaged in ad hoc decision making. Increasing productivity, for example, is one of the best ways to fight inflation, and that is what innovation is all about: increasing productivity. So what do those opposite say? 'We have to cut the budget for innovation, which will impact on productivity, to somehow fight inflation.' It just goes to show the adhocery that went into this current budget.

When you have even a former Labor science minister willing to condemn this decision, when you have got somebody like Sir Gustav Nossal willing to condemn the decision, when you have got the CEO of Cochlear saying it is the saddest and dumbest decision of the entire budget—and can I say, Mr Deputy President, the competition was very high to get the tag of being the saddest and the dumbest; it was a competitive process—I agree with the CEO of Cochlear: this decision to cut the CRP, the Commercial Ready program, was the saddest and the dumbest, and the government stands condemned. (*Time expired*)

Senator KIRK (South Australia) (3.07 pm)—I rise this afternoon to take note of answers given by Minister Carr in relation to questions directed to him by the opposition in relation to the Commercial Ready program. There was no question that the first budget delivered by the Rudd Labor government and by Treasurer Wayne Swan was going to be a tough one. We indicated that for some time, and everybody knew that it was going to be a tough budget. The reason for this is in part the inflation legacy that we inherited from the Howard government. People know that we have the highest inflation that we have had in 16 years. As a consequence of the legacy left to us by the Howard government it was necessary for the Rudd Labor government to take some very hard decisions, and that is what we did. People are very familiar with the range of savings measures that were outlined in the budget. These all demonstrate the fiscal responsibility and the clear commitment that the government have to modernising government spending in this country. It was necessary for us to take difficult decisions in order to secure Australia's long-term prosperity. The disciplined savings measures that were contained in the budget will help to put downward pressure on the inflation, which I mentioned earlier, that is the highest in 16 years, because we in the Rudd Labor government understand that inflation is real and is hurting working families.

Turning now to the Commercial Ready program and its closure, there is no question that the closure of the Commercial Ready program was a difficult decision. While it is regrettable that there are some applicants who spent time and resources in preparing applications, the government made the hard decision which has been implemented. This decision will allow us to get on with the job of implementing a new streamlined set of programs following the review of the na-

tional innovation system. It is important to note that all existing commitments under the program will be met. This is worth about \$200 million over four years. Also, it is important to emphasise that all of the regional AusIndustry offices originally established with the Commercial Ready funding will remain open, providing advice and support to regional small and medium sized businesses across the country. It is also important to remember that almost three-quarters of the savings from the Commercial Ready program in 2008-09 had already been earmarked in our election policy Clean Energy Plan to tackle climate change in order to offset the government's new \$240 million Clean Business Australia package that the Minister for Innovation, Industry, Science and Research mentioned here today in question time. We in the Rudd Labor government are meeting our election commitment to establish Clean Business Australia because we recognise just how important it is for governments to work in partnership with industry to meet the challenge of climate change.

The Rudd Labor government will continue to support Australia's innovative businesses through R&D tax concessions, the tax offset, the COMET program and a range of venture capital measures including the Innovation Investment Fund Program as well as new initiatives such as Enterprise Connect, researchers in business, Clean Business Australia, which I have already mentioned, and the Green Car Innovation Fund, about which a lot has been said in the last few weeks.

The Rudd Labor government is determined to get the policy settings and programs for innovation right, and part of this is making tough decisions when necessary about spending priorities. The closure of the Commercial Ready program is one of the tough decisions that needed to be made in order to ensure that we are spending in a fiscally responsible manner.

Senator EGGLESTON (Western Australia) (3.12 pm)—I must say that as a doctor I am very, very disappointed by the fact that this government in the last budget had a pattern of cutting funding to medical projects and medical research. The cutting of the funding to Commercial Ready is yet another example of this. Up to 20 per cent, I believe, of Commercial Ready grants went to the high-risk biotechnology sector, where it is very hard to get private capital funding because there are not necessarily quick returns. In some cases, companies in this sector depended very heavily on the Commercial Ready program to provide them with seeding funding so that they could raise private capital against that financial base, and by taking away the Commercial Ready program this government has demonstrated its disregard for quality medical research in Australia.

Senator Carr even spoke of Australia's high international reputation for innovation in the same breath as he was justifying the cuts to the Commercial Ready program. I find that incredible. Australia does have a very great reputation in medical research. We have had four or five Nobel Prize winners in medical research and, as Senator Abetz said in his speech today, Sir Gustav Nossal, one of Australia's most renowned medical scientists, has been quoted as saying the decision to axe the Commercial Ready program was very regrettable. That is just a very polite way of saying that it was a totally irresponsible decision by this government.

Some of the medical programs supported by Commercial Ready have included clinical trials for treatments of cancer. In fact there are 11 such clinical trials, including one for prostatic cancer, which is very debilitating to men of course. With a very high mortality rate, it is one of the most common causes of death in men. It is very important that we find a way of treating it; cutting the funding for that trial with the axing of the Commer-

cial Ready program is certainly not going to help realise that objective. Also gone is the development of an insulin nebuliser, which would have meant that diabetics, instead of having to have injections, could have had their insulin by inhaler. That would have been much easier and kinder for children in particular.

Senator Barnett—Hear, hear!

Senator EGGLESTON—I hear Senator Barnett agreeing with that. He would know from his own experiences how difficult it is to get children to accept needing injections for diabetes. Then there was the Sienna program, which was developing innovative tests for the diagnosis of cancer. There was a grant of \$120,000 over four years proposed for the Sienna program. Sienna were still negotiating in good faith with the government when this program was cut. They lost their \$120,000 and are now going overseas to find other partners to develop their innovative diagnostic test, so we have lost another important medical development because of cutting of this program.

Senator Carr said 75 per cent of the money secretly cut from the Commercial Ready program would go to climate change. I wonder how he then justifies the cutting of funding to the Permadrive program, which was seeking to commercialise a new engine that would reduce fuel consumption by up to 25 per cent. Senator Carr can be assured that the mothers of diabetic children in Australia and the relatives of those with cancer will not thank him for cutting the Commercial Ready program.

Senator WORTLEY (South Australia) (3.17 pm)—It is very encouraging to see those opposite showing such a keen interest in innovation these days, because they certainly did not when they were in government. They never showed much interest during their 11 years in government. Those 11

years saw Australia go backwards as our competitors forged ahead. Australia ranked eighth in the OECD for business expenditure on research and development as a share of GDP in 1995-96. By 2005-06 we had slipped to 15th—from eighth to 15th. Why? Because Australia was one of only three OECD countries to reduce its tax benefits for business research and development in the late nineties while 12 countries increased their level of support.

That was nothing compared to what those opposite did to our universities. Between 1995 and 2004, public funding for tertiary education rose 49 per cent on average across the OECD. In Australia, guess what? It fell four per cent. Australia was the only OECD country where the total level of public funding for tertiary education decreased during that time. Is it any wonder that the government's review of the national innovation system has attracted over 630 submissions from all quarters of the Australian community and all sectors of the economy?

The Minister for Innovation, Industry, Science and Research has said the decision to close the Commercial Ready program was not taken lightly. He has also said that the government will honour all existing contracts under the Commercial Ready program. The government will also continue to support Australia's innovative businesses through research and development tax concessions, the research and development tax offset, the Commercialising Emerging Technologies program and a range of venture capital measures, as well as new initiatives such as Enterprise Connect, including Researchers in Business, Clean Business Australia and the Green Car Innovation Fund.

The budget that delivered the closure of Commercial Ready is also the budget that delivered new directions for innovation, competitiveness and productivity. It has de-

livered significant changes in Australian government innovation policy aimed at ending the brain drain, working in partnership with Australian businesses to tackle climate change and providing more effective support to small businesses and innovative companies.

Initiatives for the Innovation, Industry, Science and Research portfolio include: a \$326.2 million investment over four years in Future Fellowships to attract and retain the best and brightest midcareer researchers; \$240 million over four years for new Clean Business Australia initiatives; \$42 million over four years to provide funding to over 30 business enterprise centres, providing business advisory services to small businesses; the introduction of a small business advisory committee to help monitor regulation; a range of saving measures aimed at contributing to the Australian government savings plan and fight against inflation; \$251 million to establish Enterprise Connect innovation centres to connect businesses with new ideas and new technology; \$209 million to double the number of Australian postgraduate awards for PhD or masters-by-research students; and \$500 million for the Green Car Innovation Fund to encourage the development and manufacture of low-emission vehicles in Australia.

The new innovation program to help make Australia climate ready is also significant—\$75 million for the Climate Ready competitive grants program as part of the Clean Business Australia election commitment. Climate Ready will encourage Australian businesses to develop and commercialise products, processes and services that save energy and water, reduce pollution and use waste products in innovative ways. This initiative demonstrates Labor's commitment to working in partnership with Australian industry to meet future challenges through innovations. Innovations supported by the

Climate Ready program could include new technologies for water recycling, waste recovery or small-scale renewable energy. The development of green building materials to make homes more— (*Time expired*)

Senator BARNETT (Tasmania) (3.22 pm)—I stand to take note of the answer from Minister Carr, and specifically to say that the scrapping of the Commercial Ready program is one of the worst decisions that this government has made. I think the underlying reason for the government's decision is its inclination—I will not call it a hatred—towards not supporting, helping and encouraging small business and entrepreneurs in this country. The fact is that the coalition has been a friend of small business. We have been a friend and supporter and encourager of entrepreneurs throughout Australia in each state and territory of this great country. They are the backbone of our country, particularly in the rural and regional parts of this nation, and they need and deserve our support.

The Commercial Ready program was working. It had the runs on the board. It started in 2004 and has provided about \$200 million per year in individual grants, from \$250,000 to \$5 million, to small companies, small businesses and entrepreneurs to assist them to bring new and innovative products to the market. It is not easy. This is a tough part of the business cycle. You get your plans ready and you do the research. Getting it to market is another matter. What this program has done is to get those products to market. It has worked. Since the program began there have been hundreds of successful businesses getting these products to market. It helps them to leverage extra venture capital, so for every dollar that goes in they get further funds invested by venture capital outfits and support for these private sector initiatives.

In fact, 20 per cent of the Commercial Ready grants went to the often high-risk bio-

tech sector, where it is harder to get private venture capital. Insulin infusion products are very important for people with type 1 diabetes. It is hard, particularly for families with young kids who have type 1 diabetes, to get those injections and inject each day—up to five times per day in some instances. I had five injections per day for many years. Through medical technology I am now using an insulin pump, but I think of so many young Australians who potentially are missing out on this new intervention as a result of this mean-spirited approach by the Rudd Labor government.

The minister did acknowledge that there were many Australians who were very disappointed by his decision, and I am pleased he acknowledged that. What he did not do was apologise to them for the decision. In particular, he has not apologised to Mr Jimmy Seervai, who is an award-winning inventor, is financially supported by others and is working on solutions to Australia's obesity epidemic. He is coming up with solutions; he is an innovator; he has won awards for this. Sadly, he, together with others, was described by the minister as 'a millionaire'. Earlier I quoted from the *Hansard*, and the minister did not seem to recall what he said on 14 May—

Senator O'Brien—He didn't say it.

Senator BARNETT—I will quote it again, because Senator O'Brien is querying it. He said:

We had this expectation that we should go on providing assistance and various other measures to millionaires ...

We can place on the record for the Senate today that Jimmy Seervai is not a millionaire. Nothing is further from the truth. I think the minister should come back into the chamber and apologise to all those small business owners and operators and those entrepreneurs who, as a result of this misinter-

pretation—that is the best way I can put it—from Senator Carr, have been maligned in that way.

Underneath all this, you can see that this is a government with no theme, no rationale, no narrative behind its programs and actions. Yes, it might be implementing some of its government measures but, in this case, it said before the election there was no promise to scrap this program, so in that sense it has broken an election promise as well. There is no heart in it from the government, no heart in what it is doing. There is no rationale to it and it does not, in my view, support the small business sector. (*Time expired*)

Question agreed to.

Zimbabwe

Senator MURRAY (Western Australia) (3.27 pm)—I move:

That the Senate take note of the answer given by the Special Minister of State (Senator Faulkner) to a question without notice asked by Senator Murray today relating to Zimbabwe.

Mr Deputy President, you will recall that I asked, with respect to Zimbabwe, whether the minister accepted my thesis that the Zimbabwean government is no longer a legitimate government. I said that it was no longer a legitimate government because the Mugabe regime has violated the rule of law, created millions of desperate refugees, inflicted starvation on its own people, inflicted grievous harm on its citizens and thrown aside basic democratic principles by declaring war if the MDC are victorious at the ballot box. To add to those, it has, of course, done many other things.

My thesis is that once a government moves into illegitimacy—and to date the international community have given Zimbabwe the benefit of the doubt; they continue to have normal diplomatic relationships with it, despite there being some sanctions on that government worldwide—it is then possible

for the international community to up the ante. The essential decision that the Australian government has to take is whether it, along with other members of the international community, will indeed up the ante. You then have to ask: 'How do you do that and what are the guidelines?' One of the policy areas where there is assistance in this matter is outlined by the International Crisis Group, which has established the Responsibility to Protect principles. On its website, it says:

The world's heads of state and government unanimously accepted the concept of R2P at the UN World Summit in September 2005. The Security Council has also accepted the general principle.

So these matters are already accepted as a foundation for action. What the Responsibility to Protect principles say—and this is Basic Principles (1)(B)—is:

Where a population is suffering serious harm, as a result of internal war, insurgency, repression or state failure, and the state in question is unwilling or unable to halt or avert it, the principle of non-intervention yields to the international responsibility to protect.

The Responsibility to Protect principles say that, if prevention fails, you are required to institute whatever measures, economic, political, diplomatic, legal, security or—the last resort—military, become necessary to stop mass atrocity crimes occurring.

I was in southern Africa at the time the Smith regime was forced to the negotiating table. People wrongly think that they had finally been defeated in war. They were certainly in real strife. But what really forced the Rhodesian government—as it was then—and Ian Smith to the negotiating table was the South Africans. The South Africans applied immense financial, trade, export, energy and fuel pressure by denying, delaying or obstructing landlocked Rhodesia from getting supplies or getting rid of exports.

They were forced to the negotiating table. So far, the South African government and the surrounding governments which form the SADC have engaged in quiet diplomacy, and they have absolutely failed. The failure now is hurting their own countries and destabilising their own countries very badly. So it is in the interests of the Australian government and in the interests of other governments around the world, and in the interests of the southern African governments, to start to up the ante and to apply real pressure on Zimbabwe on the economic, political, diplomatic, legal and security levels—right now. They have now the grounds for doing so.

The purpose of my question was to bring that proposition forward to the Australian government so that they can stop wringing their hands and saying, 'There's nothing more we can do' and recognise that because of the now—

The DEPUTY PRESIDENT—Order! The time for the debate has expired.

Question agreed to.

PETITIONS

The Clerk—A petition has been lodged for presentation as follows:

Climate Change

We request the Senate to refer this Petition to its Committee on Environment, Communications, Information Technology and the Arts for enquiry and report, and to draw the Petition to the attention of the Senate Minister representing the Minister for the Environment and Water Resources.

Scientists warn that CO2 emissions cause global heating, which at 2 degrees above pre-industrial levels will reach the tipping-point for catastrophic climate change.

We are uniting to call on our governments to show leadership in the face of our climate crisis. Our call reflects and adds support to the many existing calls to action from our leading environment, health, welfare, and community groups.

Without decisive action from our elected leaders, Australia faces a bleak future of severe bush fires, crippling droughts and extreme economic hardship—a reality for many rural communities already.

To halt the devastating impact of climate change on our common wealth—Australia's environment—we ask our national government to take 10 steps that are widely agreed as essential to ensure a secure and healthy future for us all. We ask our Government to take these steps NOW:

- (1) Sign the Kyoto Protocol and cooperate with United Nations climate change initiatives.
- (2) Set mandatory targets to effectively reduce greenhouse gas emissions.
- (3) Regulate for deep cuts to greenhouse gas emissions in all sectors through improved energy efficiency.
- (4) Provide incentives for a massive take-up in the development and use of renewable energy.
- (5) Halt public funding and tax benefits to fossil fuel and other polluting industries.
- (6) Phase out coal-fired power stations
- (7) Protect native forests and vegetation as carbon sinks, and tackle environmental repair.
- (8) Develop and accelerate national measures to return water use to sustainable levels of extraction and increase long term water and food security for all.
- (9) Provide incentives for efficient water use by households and all sectors of industry.
- (10) Invest in better public transport — not more freeways.

by **Senator Allison** (from 1,009 citizens)

Petition received.

NOTICES

Withdrawal

Senator WATSON (Tasmania) (3.30 pm)—by leave—Before withdrawing a disallowance notice, I would like to make a short statement on that matter. In making my decision to withdraw this notice of motion in relation to the class order, I take this oppor-

tunity to thank the Minister for Superannuation and Corporate Law, Senator Sherry, for ordering a joint Treasury and ASIC consultation paper that provides a new framework for cross-border financial recognition. This detailed document is a positive step in addressing other aspects of the regulation that were of concern to me. Knowing that a great number of people have an interest in this, I seek leave to table that document.

Leave granted.

Senator WATSON—This consultation paper has identified some scope for improvement in the administration of the existing regime, including a new framework for mutual recognition. As a result of putting this notice down—which really started some time ago—we have made considerable progress. However, I do have strong views that dealings of this nature between national governments should be legislated rather than regulated, in that the parliament should be the prime originator of such arrangements as in double tax treaties, not the bureaucracy. Such significant outcomes should not be finalised during caretaker periods. Pursuant to notice given yesterday, I now withdraw business of the Senate notice of motion No. 1 standing in my name for today.

Presentation

Senator Mark Bishop to move on the next day of sitting:

That the Foreign Affairs, Defence and Trade Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 26 June 2008, from 4 pm, to take evidence for the committee's inquiry into the review of reforms to Australia's military justice system by the Australian Defence Force.

Senator Heffernan to move on the next day of sitting:

That the following matter be referred to the Select Committee on Agricultural and Related

Industries for inquiry and report by 27 November 2008:

Food production in Australia and the question of how to produce food that is:

- (a) affordable to consumers;
- (b) viable for production by farmers; and
- (c) of sustainable impact on the environment.

Senator Minchin to move on the next day of sitting:

That—

- (a) the Senate notes that:
 - (i) the response from the Minister from Defence, the Honourable Joel Fitzgibbon MP, of 16 June 2008 to a Senate order for production of documents advised that ‘the documents in question are “Restricted” and “Commercial in Confidence” and as such I will not be making them available to the Special Minister of State for tabling in the Senate’, and
 - (ii) the procedural order of continuing effect relating to accountability provides that ‘The Senate...shall not entertain any claim to withhold information...on the grounds that it is commercial-in-confidence, unless the claim is...accompanied by a statement setting out the basis for the claim, including a statement of any commercial harm that may result from the disclosure of the information’; and
- (b) there be laid on the table by the Minister representing the Minister for Defence, no later than 3.30 pm on Wednesday, 25 June 2008, a statement of the commercial harm that will result from the disclosure of the commercial-in-confidence information in the red folder relating to defence procurement projects.

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

That the following bill be introduced: A Bill for an Act to amend the law relating to migration,

and for other purposes. **Migration Legislation Amendment Bill (No. 1) 2008.**

Senator Abetz to move on the next day of sitting:

That the Senate—

- (a) notes the critical role of the former Howard Government’s Commercial Ready program in fostering innovation, leveraging private sector capital, creating jobs and developing new ideas and medical solutions for Australians;
- (b) condemns:
 - (i) the Rudd Labor Government for its foolish and short-sighted decision to cut this program,
 - (ii) the Rudd Labor Government for preempting the outcome of the National Innovation Review, and
 - (iii) the Minister for Innovation, Industry, Science and Research (Senator Carr) for describing the Commercial Ready program as assistance to ‘millionaires’; and
- (c) calls on the Rudd Labor Government to:
 - (i) fund all projects approved between 28 April and 13 May 2008,
 - (ii) compensate individuals and companies who spent money preparing grant applications in good faith, and
 - (iii) at least restore the Commercial Ready program for the 2008-09 financial year.

Senator Ellison to move on the next day of sitting:

- (1) That a select committee, to be known as the Select Committee on Fuel and Energy, be established to inquire into and report on:
 - (a) the impact of higher petroleum, diesel and gas prices on:
 - (i) families,
 - (ii) small business,
 - (iii) rural and regional Australia,
 - (iv) grocery prices, and

-
- (v) key industries, including but not limited to tourism and transport;
 - (b) the role and activities of the Petrol Commissioner, including whether the Petrol Commissioner reduces the price of petroleum;
 - (c) the operation of the domestic petroleum, diesel and gas markets, including the fostering of maximum competition and provision of consumer information;
 - (d) the impact of an emissions trading scheme on the fuel and energy industry, including but not limited to:
 - (i) prices,
 - (ii) employment in the fuel and energy industries, and any related adverse impacts on regional centres reliant on these industries,
 - (iii) domestic energy supply, and
 - (iv) future investment in fuel and energy infrastructure;
 - (e) the existing set of state government regulatory powers as they relate to petroleum, diesel and gas products;
 - (f) taxation arrangements on petroleum, diesel and gas products including:
 - (i) Commonwealth excise,
 - (ii) the goods and services tax, and
 - (iii) new state and federal taxes;
 - (g) the role of alternative fuels to petroleum and diesel, including but not limited to: LPG, LNG, CNG, gas to liquids, coal to liquids, electricity and bio-fuels such as, but not limited to, ethanol;
 - (h) the domestic oil/gas exploration and refinement industry, with particular reference to:
 - (i) the impact of Commonwealth, state and local government regulations on this industry,
 - (ii) increasing domestic oil/gas exploration and refinement activities, with a view to reducing Australia's reliance on imported oil, and
 - (iii) other tax incentives; and
 - (i) the impact of higher petroleum, diesel and gas prices on public transport systems, including the adequacy of public transport infrastructure and record of public transport investment by state governments.
- (2) That the committee report to the Senate from time to time on any related matters, and present its final report by 21 October 2009.
 - (3) That the committee consist of 8 members, 2 nominated by the Leader of the Government in the Senate, 4 nominated by the Leader of the Opposition in the Senate, 1 nominated by the Leader of Family First in the Senate and 1 nominated by any minority group or groups or independent senator or independent senators.
 - (4)
 - (a) On the nominations of the Leader of the Government in the Senate, the Leader of the Opposition in the Senate and minority groups and independent senators, participating members may be appointed to the committee;
 - (b) participating members may participate in hearings of evidence and deliberations of the committee, and have all the rights of members of committee, but may not vote on any questions before the committee; and
 - (c) a participating member shall (not) be taken to be a member of the committee for the purpose of forming a quorum of the committee if a majority of members of the committee is not present.
 - (5) That the committee may proceed to the dispatch of business notwithstanding that not all members have been duly nominated and appointed and notwithstanding any vacancy.
 - (6) That the committee elect an Opposition member as its chair.
 - (7) That the committee elect a Government member as its deputy chair who shall act as chair of the committee at any time
-

when the chair is not present at a meeting of the committee, and at any time when the chair and deputy chair are not present at a meeting of the committee the members present shall elect another member to act as chair at that meeting.

- (8) That, in the event of an equally divided vote, the chair, or the deputy chair when acting as chair, have a casting vote.
- (9) That the quorum of the committee be 5 members.
- (10) That the committee have power to appoint subcommittees consisting of 4 or more of its members and to refer to any subcommittee any matter which the committee is empowered to examine.
- (11) That 3 members of a subcommittee include a quorum of that subcommittee.
- (12) That the committee and any subcommittee have power to send for and examine persons and documents, to move from place to place, to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives, and have leave to report from time to time its proceedings and the evidence taken and interim recommendations.
- (13) That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.
- (14) That the committee be empowered to print from day to day such documents and evidence as may be ordered by it, and a daily Hansard be published of such proceedings as take place in public.

Senator Ellison to move on the next day of sitting:

- (1) That a select committee, to be known as the Select Committee on the National Broadband Network, be established to inquire into and report on:
 - (a) the Government's proposal to partner with the private sector to upgrade parts

of the existing network to fibre to provide minimum broadband speeds of 12 megabits per second to 98 per cent of Australians on an open access basis; and

- (b) the implications of the proposed National Broadband Network (NBN) for consumers in terms of:
 - (i) service availability, choice and costs,
 - (ii) competition in telecommunications and broadband services, and
 - (iii) likely consequences for national productivity, investment, economic growth, cost of living and social capital.
- (2) That the committee's investigation include, but not be limited to:
 - (a) the availability, price, level of innovation and service characteristics of broadband products presently available, the extent to which those services are delivered by established and emerging providers, the likely future improvements in broadband services (including the prospects of private investment in fibre, wireless or other access networks) and the need for this government intervention in the market;
 - (b) the effects on the availability, price, choice, level of innovation and service characteristics of broadband products if the NBN proceeds;
 - (c) the extent of demand for currently available broadband services, what factors influence consumer choice for broadband products and the effect on demand if the Government's fibre-to-the-node (FTTN) proposal proceeds;
 - (d) what technical, economic, commercial, regulatory and social barriers may impede the attainment of the Government's stated goal for broadband availability and performance;
 - (e) the appropriate public policy goals for communications in Australia and the nature of regulatory settings that are

- needed, if FTTN or fibre-to-the-premise (FTTP), to continue to develop competitive market conditions, improved services, lower prices and innovation given the likely natural monopoly characteristics and longevity of the proposed network architecture;
- (f) the possible implications for competition, consumer choice, prices, the need for public funding, private investment, national productivity, if the Government does not create appropriate regulatory settings for the NBN;
 - (g) the role of government and its relationship with the private sector and existing private investment in the telecommunications sector;
 - (h) the effect of the NBN proposal on existing property or contractual rights of competitors, supplier and other industry participants and the exposure to claims for compensation;
 - (i) the effect of the proposed NBN on the delivery of Universal Service Obligations services;
 - (j) whether, and if so to what extent, the former Government's OPEL initiative would have assisted making higher speed and more affordable broadband services to areas under-served by the private sector; and
 - (k) the cost estimates on which the Government has based its policy settings for a NBN, how those cost estimates were derived, and whether they are robust and comprehensive.
- (3) That, in carrying out this inquiry, the committee will:
- (a) expressly seek the input of the telecommunications industry, industry analysts, consumer advocates, broadband users and service providers;
 - (b) request formal submissions that directly respond to the terms of reference from the Australian Competition and Consumer Commission, the Productivity Commission, Infrastructure Australia, the Department of the Treasury, the Department of Finance and Deregulation, and the Department of Infrastructure, Transport, Regional Development and Local Government;
 - (c) invite contributions from organisations and individuals with expertise in:
 - (i) public policy formulation and evaluation,
 - (ii) technical considerations including network architecture, interconnection and emerging technology,
 - (iii) regulatory framework, open access, competition and pricing practice,
 - (iv) private sector telecommunications retail and wholesale business including business case analysis and price and demand sensitivities,
 - (v) contemporary broadband investment, law and finance,
 - (vi) network operation, technical options and functionality of the 'last mile' link to premises, and
 - (vii) relevant and comparative international experiences and insights applicable to the Australian context;
 - (d) advertise for submissions from members of the public and to the fullest extent possible, conduct hearings and receive evidence in a manner that is open and transparent to the public; and
 - (e) recognise the Government's NBN proposal represents a significant public sector intervention into an increasingly important area of private sector activity and that the market is seeking openness, certainty and transparency in the public policy deliberations.
- (4) That the committee consist of 7 senators, 2 nominated by the Leader of the Government in the Senate, 4 nominated by the Leader of the Opposition in the Senate, and 1 nominated by minority groups or independents.
- (5) (a) On the nominations of the Leader of the Government in the Senate, the Leader of the Opposition in the

- Senate and minority groups and independent senators, participating members may be appointed to the committee;
- (b) participating members may participate in hearings of evidence and deliberations of the committee, and have all the rights of members of the committee, but may not vote on any questions before the committee; and
 - (c) a participating member shall be taken to be a member of the committee for the purpose of forming a quorum of the committee if a majority of members of the committee is not present.
- (6) That the committee may proceed to the dispatch of business notwithstanding that all members have not been duly nominated and appointed and notwithstanding any vacancy.
 - (7) That the committee elect as chair one of the members nominated by the Leader of the Opposition in the Senate.
 - (8) That the quorum of the committee be 4 members.
 - (9) That the chair of the committee may, from time to time, appoint another member of the committee to be the deputy chair of the committee, and that the member so appointed act as chair of the committee at any time when there is no chair or the chair is not present, at a meeting of the committee.
 - (10) That, in the event of an equally divided vote, the chair, or the deputy chair when acting as chair, have a casting vote.
 - (11) That the committee have power to appoint subcommittees consisting of 3 or more of its members, and to refer to any such subcommittee any of the matters which the committee is empowered to examine, and that the quorum of a subcommittee be 2 members.
 - (12) That the committee and any subcommittee have power to send for and examine persons and documents, to move from place to place, to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives, and have leave to report from time to time its proceedings and the evidence taken and such interim recommendations as it may deem fit.
 - (13) That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.
 - (14) That the committee be empowered to print from day to day such papers and evidence as may be ordered by it, and a daily Hansard be published of such proceedings as take place in public.
- Senator Johnston** to move on the next day of sitting:
- (1) That the Save Our Solar (Solar Rebate Protection) Bill 2008 [No. 2] be referred to the Environment, Communications and the Arts Committee for inquiry and report by 15 August 2008, together with the following matters:
 - (a) the impact of the means test threshold of \$100 000 on the \$8 000 solar rebate per household on the solar industry;
 - (b) the effect on the uptake of solar panels by Australian households, comparing state-by-state results;
 - (c) the impact on the number of applications for the \$8 000 since the budget decision to impose the means test;
 - (d) the impact on jobs in the solar industry, comparing state-by-state results;
 - (e) the impact on emissions reductions as a consequence of this decision, comparing state-by-state results;
 - (f) the consultation that occurred within government, including departments and agencies, prior to the decision and the input of each department and agency on the measure;

- (g) the economic and environmental modelling underpinning the decision to impose the means test;
 - (h) the extent of the discussion prior to the decision with the solar panel industry on the impact of the decision;
 - (i) the future viability of, and effects on, the solar industry as a result of the means test;
 - (j) the impact on the Solar Cities programs at various sites around Australia and other related programs; and
 - (k) other relevant matters.
- (2) That, as a minimum, the committee hold hearings in all Australian capital cities and hears evidence, inter alia, from Australia's solar industry.

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

That the Senate requests the Government to explain, by Thursday, 26 June 2008, its opposition to general business notice of motion no. 102 from the Leader of the Australian Democrats (Senator Allison).

Senator LUDWIG (Queensland—Minister for Human Services) (3.35 pm)—I give notice that, on the next day of sitting, I shall move:

That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

Governor-General Amendment (Salary and Superannuation) Bill 2008

Governance Review Implementation (AASB and AUASB) Bill 2008.

I also table statements of reasons justifying the need for these bills to be considered during these sittings and seek leave to have the statements incorporated in *Hansard*.

Leave granted.

The statements read as follows—

GOVERNOR-GENERAL AMENDMENT
(SALARY AND SUPERANNUATION)
BILL 2008

Purpose of the Bill

The bill sets the salary of the next Governor-General and removes references in the *Governor-General Act 1974* (the Act) to the Superannuation Surcharge.

Reasons for Urgency

The Prime Minister has announced that Her Excellency Ms Quentin Bryce AC will be sworn as Governor-General on 5 September 2008.

The salary of the Governor-General is laid down in the Act and, by operation of the *Constitution*, cannot be varied during the term in office.

In line with convention, the Governor-General's salary has been calculated to exceed moderately the estimated average salary of the Chief Justice of the High Court of Australia over the notional term of the appointment (in the case of Ms Bryce, five years). In calculating the salary, regard was had, in line with precedent, to the pension that Ms Bryce expects to receive from the Commonwealth.

To enable the salary to be set in time, the Governor-General Amendment (Salary and Superannuation) Bill 2008 must pass both Houses and receive Royal Assent before Ms Bryce assumes office on 5 September 2008.

GOVERNANCE REVIEW IMPLEMENTATION
(AASB AND AUASB) BILL

Purpose of the Bill

The bill amends the Australian Securities and Investments Commission Act 2001 to establish two agencies under the Financial Management and Accountability Act 1997. These agencies will support the operations of the Australian Accounting Standards Board and the Auditing and Assurance Standards Board. Consequential changes will also be made to the functions of the Financial Reporting Council.

Reasons for Urgency

Introduction and passage of the bill in the 2008 Winter sittings will enable passage prior to 30 June 2008, thereby ensuring that the enhanced

governance arrangements for both Boards are implemented from 1 July 2008.

The new governance arrangements involve the transfer of financial assets and liabilities and reporting obligations which need to commence from the start of a financial year. If the bill is not passed during the 2008 Winter sittings, the new arrangements will not be able to commence until 1 July 2009.

Withdrawal

Senator WORTLEY (South Australia) (3.35 pm)—Pursuant to notice given at the last day of sitting, I withdraw business of the Senate notices of motion Nos 2, 3, 8 and 9 standing in my name for 12 sitting days after today.

Presentation

Senator WORTLEY (South Australia) (3.36 pm)—On behalf of the Standing Committee on Regulations and Ordinances, I give notice that, 15 sitting days from today, I shall move:

That the Film Certification Advisory Board Rules 2008, made under subsection 376-260(1) of the *Income Tax Assessment Act 1997*, be disallowed.

I seek leave to incorporate in *Hansard* a short summary of the matter raised by the committee.

Leave granted.

The statement read as follows—

Film Certification Advisory Board Rules 2008

This instrument establishes the Film Certificate Advisory Board and specifies rules for membership and proceedings of the Board.

Sub-rule 12(1) of this instrument permits the Minister to terminate the appointment of a Board member for 'misbehaviour'. The scope of this term is not defined and the sub-rule thus appears to give the Minister a very broad discretion. Similarly, it is not clear what rights of review or appeal a Board member has against such a decision.

The committee has written to the minister seeking further information on the intended operation of this provision.

BUSINESS

Rearrangement

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (3.36 pm)—by leave—I move:

That—

- (a) the sitting of the Senate be suspended from 6.30 pm to 7.30 pm today; and
- (b) the Senate meet on Wednesday, 25 June 2008 at 9.30 am.

Question agreed to.

COMMITTEES

Rural and Regional Affairs and Transport Committee

Extension of Time

Senator O'BRIEN (Tasmania) (3.37 pm)—by leave—At the request of the Chair of the Senate Standing Committee on Rural and Regional Affairs and Transport, Senator Sterle, I move:

That the time for the presentation of the report of the Rural and Regional Affairs and Transport Committee on the 2008-09 Budget estimates be extended to 25 June 2008.

Question agreed to.

NOTICES

Postponement

The following items of business were postponed:

General business notice of motion no. 103 standing in the name of the Leader of the Australian Democrats (Senator Allison) for today, relating to Western Sahara, postponed till 25 June 2008.

General business notice of motion no. 123 standing in the name of the Leader of the Family First Party (Senator Fielding) for today, relating to an amendment to the reporting date for the Joint Standing Committee on Electoral Matters inquiry into the

Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008, postponed till 25 June 2008.

COMMITTEES

Foreign Affairs, Defence and Trade Committee

Reference

Senator O'BRIEN (Tasmania) (3.38 pm)—At the request of the Chair of the Senate Standing Committee on Foreign Affairs, Defence and Trade, Senator Bishop, I move:

That—

- (a) the following matter be referred to the Foreign Affairs, Defence and Trade Committee for inquiry and report by 30 May 2009:

The major economic and security challenges facing Papua New Guinea and the island states of the southwest Pacific, with particular reference to:

- (i) the implications for Australia, and
 - (ii) how the Australian Government can, in practical and concrete ways, assist these countries to meet the challenges; and
- (b) the inquiry include an examination of the following:
- (i) employment opportunities, labour mobility, education and skilling,
 - (ii) barriers to trade, foreign investment, economic infrastructure, land ownership and private sector development, and
 - (iii) current regional organisations such as the Pacific Islands Forum and the Secretariat of Pacific Community.

Question agreed to.

Education, Employment and Workplace Relations Committee

Reference

Senator FIFIELD (Victoria) (3.39 pm)—I move:

That the following matter be referred to the Education, Employment and Workplace Relations

Committee for inquiry and report by 11 November 2008:

The current level of academic freedom in school and higher education, with particular reference to:

- (a) the level of intellectual diversity and the impact of ideological, political and cultural prejudice in the teaching of senior secondary education and of courses at Australian universities, including but not limited to:
 - (i) the content of curricula,
 - (ii) the content of course materials,
 - (iii) the conduct of teaching professionals, and
 - (iv) the conduct of student assessments;
- (b) the need for the teaching of senior secondary and university courses to reflect a plurality of views, be accurate, fair, balanced and in context; and
- (c) ways in which intellectual diversity and contestability of ideas may be promoted and protected, including the concept of a charter of academic freedoms.

Question agreed to.

SAVE OUR SOLAR (SOLAR REBATE PROTECTION) BILL 2008 [No. 2]

First Reading

Senator JOHNSTON (Western Australia) (3.40 pm)—I move:

That the following bill be introduced: A Bill for an Act to make provisions for the better operation of the solar rebate scheme.

Question agreed to.

Senator JOHNSTON (Western Australia) (3.40 pm)—I present the bill and move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator JOHNSTON (Western Australia) (3.40 pm)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

Mr President, the Save Our Solar (Solar Rebate Protection) Bill is a Private Senators' Bill which seeks to overturn the Rudd Labor Government's decision to means test the Solar Rebate of up to \$8000 per household.

The previous Coalition Government raised the existing solar rebate from \$4000 per unit to a maximum of \$8,000 per unit as a Budget measure in 2007.

Demand for solar panels under the rebate has subsequently tripled.

On 9 May 2007, then Prime Minister John Howard stated on Sunrise that:

"As many households as want it can have it ..."

On Budget night 2008, the Rudd Labor Government issued a non-reviewable Administrative Order which introduced an immediate means test with a maximum threshold of \$100,000 income per household as the cut off point to qualify for the solar rebate.

The Rudd Labor Government's own modelling indicates that this will reduce demand for the rebate by two-thirds. The general industry experience has been in line with the Rudd Labor Government's expectation of a two-thirds drop in demand.

There are two effects:

- First, small business has already begun to lose both business and jobs; and
- Second, as a system generally costs between \$15,000 and \$20,000 per household, this outlay is beyond the reach of most households.

The decision was in breach of Labor's election promise to maintain the rebate and there was no consultation with or warning to industry. The

decision has created anger within the small business sector and has already led to job losses.

Importantly, it has undermined the Rudd Labor Government's climate change credentials, its standing with small business and confidence in the Minister for the Environment, Heritage and the Arts, Peter Garrett.

Mr President, it is against this background, that the Save Our Solar Bill has been introduced as a Private Members Bill designed to remove the means test on solar panels by making the Government's Administrative Order a disallowable instrument.

Mr President, I commend the Save Our Solar (Solar Rebate Protection) Bill 2008 to the Senate.

Senator JOHNSTON—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

CARBON SEQUESTRATION

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.41 pm)—I move:

That the Senate requests the Government to report by 1 September 2008 on:

- (a) the total amount of carbon sequestered in Australia's:
 - (i) native forests and woodlands,
 - (ii) plantations, and
 - (iii) planted and non-planted regrowth; and
- (b) the rate of loss of these stores.

Question agreed to.

COMMITTEES

Foreign Affairs, Defence and Trade Committee

Extension of Time

Senator O'BRIEN (Tasmania) (3.41 pm)—At the request of the Chair of the Senate Standing Committee on Foreign Affairs, Defence and Trade, Senator Bishop, I move:

That the time for the presentation of the report of the Foreign Affairs, Defence and Trade Committee on Australia's involvement in peacekeeping operations be extended to 31 July 2008.

Question agreed to.

GOVERNMENT APPOINTMENTS

Senator KEMP (Victoria) (3.43 pm)—At the request of Senator Minchin, I move:

That—

- (1) There be laid on the table, by each minister in the Senate, in respect of each department or agency administered by that minister, or by a minister in the House of Representatives represented by that minister, by not later than 7 days before the commencement of the budget estimates, supplementary budget estimates and additional estimates hearings:
 - (a) a list of all appointments made by the Government (through Executive Council, Cabinet and ministers) to statutory authorities, executive agencies, advisory boards, government business enterprises and all other Commonwealth bodies including the term of the appointment and remuneration for the position; and
 - (b) a list of existing vacancies to be filled by government appointment to statutory authorities, executive agencies, advisory boards, government business enterprises and all other Commonwealth bodies.
- (2) If the Senate is not sitting when a statement is ready for presentation, the statement is to be presented to the President under standing order 166.
- (3) This order is of continuing effect.

Question agreed to.

COMMONWEALTH GRANTS

Senator KEMP (Victoria) (3.43 pm)—At the request of Senator Minchin, I move:

That—

- (1) There be laid on the table, by each minister in the Senate, in respect of each department or agency administered by that minister, or by a minister in the House of Representatives represented by that minister, by not later than 7 days before the commencement of the budget estimates,

supplementary budget estimates and additional estimates hearings:

A list of all grants approved in each portfolio or agency, including the value of the grant, recipient of the grant and the program from which the grant was made.

- (2) If the Senate is not sitting when a statement is ready for presentation, the statement is to be presented to the President under standing order 166.
- (3) This order is of continuing effect.

Question agreed to.

CLIMATE CHANGE

Senator ALLISON (Victoria—Leader of the Australian Democrats) (3.44 pm)—I move:

That the Senate—

- (a) notes that on 11 June and 12 June 2008 citizens and scientists came together in Canberra for the 2008 Manning Clark House Conference ‘Imagining the Real Life on a Greenhouse Earth’, in honour of former federal Minister, the Honourable Dr Barry Jones, AO, and concluded that:
 - (i) global warming is accelerating,
 - (ii) the Arctic summer sea ice is expected to melt entirely within the next 5 years, decades earlier than predicted in the Fourth Assessment Report of the Intergovernmental Panel on Climate Change (2007),
 - (iii) scientists judge the risks to humanity of dangerous global warming to be high,
 - (iv) the loss of the Great Barrier Reef now seems likely,
 - (v) extreme weather events, such as storm surges adding to rising sea levels and threatening coastal cities, will become more frequent,
 - (vi) there is a real danger that we have reached or will soon reach critical tipping points and the future will be taken out of our hands – the melting Arctic sea ice could be the first such tipping point,

- | | |
|--|---|
| (vii) beyond 2°C of warming seems inevitable, unless greenhouse gas reduction targets are tightened, and we risk huge human and societal costs, and perhaps even the effective end of industrial civilisation, | Ayes..... 9 |
| | Noes..... 48 |
| | Majority..... 39 |
| AYES | |
| (viii) we need to cease our assault on our own life support system and that of millions of species, and that global warming is only one of many symptoms of that assault, | Allison, L.F. Bartlett, A.J.J. * |
| | Brown, B.J. Fielding, S. |
| | Milne, C. Murray, A.J.M. |
| | Nettle, K. Siewert, R. |
| | Stott Despoja, N. |
| NOES | |
| (ix) peak oil, global warming and long-term sustainability pressures all require that we reduce energy needs and switch to renewable energy sources and many credible studies show that Australia can quickly and cost-effectively reduce greenhouse gas emissions through dramatic improvements in energy efficiency and by increasing Australia's investment in solar, wind and other renewable sources, | Adams, J. Barnett, G. |
| | Bernardi, C. Birmingham, S. |
| | Bishop, T.M. Boswell, R.L.D. |
| | Boyce, S. Brandis, G.H. |
| | Brown, C.L. Bushby, D.C. |
| | Chapman, H.G.P. Colbeck, R. |
| | Collins, J. Cormann, M.H.P. |
| | Crossin, P.M. Eggleston, A. |
| | Ellison, C.M. Faulkner, J.P. |
| | Ferguson, A.B. Fierravanti-Wells, C. |
| | Fifield, M.P. Fisher, M.J. |
| | Hogg, J.J. Humphries, G. |
| | Hurley, A. Hutchins, S.P. |
| | Johnston, D. Joyce, B. |
| | Kemp, C.R. Kirk, L. |
| | Ludwig, J.W. Lundy, K.A. |
| | Macdonald, I. Marshall, G. |
| | McEwen, A. McLucas, J.E. |
| | Moore, C. O'Brien, K.W.K. |
| | Parry, S. * Patterson, K.C. |
| | Payne, M.A. Ronaldson, M. |
| | Stephens, U. Sterle, G. |
| | Troeth, J.M. Trood, R.B. |
| | Watson, J.O.W. Wortley, D. |

* denotes teller

Question negatived.

FALUN GONG

Senator NETTLE (New South Wales) (3.52 pm)—I seek leave to amend general business notice of motion No. 127 standing in my name by adding Senator Bartlett's name to the motion and to ensure that the end of the motion reads 'that the Senate expresses its support for an end to the persecution of Falun Gong practitioners in China.'

Leave granted.

Question put.

The Senate divided. [3.48 pm]

(The President—Senator the Hon. Alan Ferguson)

Senator NETTLE—I, and also on behalf of Senator Bartlett, move the motion as amended:

That the Senate—

- (a) notes that:
 - (i) the International Covenant on Civil and Political Rights applies to the treatment of Falun Gong Practitioners worldwide, and
 - (ii) the practise of religion should not form the basis of the incarceration of any individual;
- (b) appreciates the commitment by the Prime Minister (Mr Rudd) to being a zhengyou, or a ‘true friend’, to the Chinese leadership and his willingness to raise challenging human rights issues; and
- (c) expresses its support for an end to the persecution of Falun Gong practitioners in China.

Question agreed to.

TEMPORARY RETIREMENT VISAS

Senator ELLISON (Western Australia) (3.52 pm)—I move:

That the Senate—

- (a) notes that:
 - (i) currently persons who reside in Australia on a temporary Retirement Visa (subclass 410) are unable to apply for permanent residency, and
 - (ii) this is a small group of people with a high commitment to Australia who are restricted in the contribution they can make to our nation as a result of being unable to apply for a permanent visa;
- (b) recognises that:
 - (i) many 410 visa-holders are highly skilled, yet they are restricted to just 20 hours of work per week due to the restrictions on their temporary visa,
 - (ii) if 410 visa-holders were able to apply for permanent residency, then as permanent residents there would be no restrictions on their workforce participation and this would be of benefit to the

labour market, the Australian economy and the individuals concerned, and

- (iii) a number of these visa-holders have a strong involvement in community and volunteer activities and that, again, the nature of the visa restricts the number of hours that the individual can commit;
- (c) believes that these individuals should not be subject to the uncertainty and requirement to comply with visa renewal requirements;
- (d) recognises:
 - (i) the additional cost in taxation and health insurance that these visa-holders are subject to as a result of being on a temporary visa, and
 - (ii) that these visa-holders have a strong commitment to the community and should not be restricted in the contribution they can make;
- (e) believes that it is fitting that Australia acknowledge the commitment of many of these visa-holders to our nation; and
- (f) calls on the Government to enable temporary retirement 410 visa-holders to apply for permanent residency.

Question agreed to.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.53 pm)—by leave—Mr President, I ask that the Greens’ support for this motion, general business notice of motion No. 129, be recorded.

TIBET

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.53 pm)—I move:

That the Senate—

- (a) notes the statement in Lhasa on 21 June 2008 by Tibet’s Communist Party Secretary General Zhang Qing Li, that ‘we will certainly be able to totally smash the split-talist schemes of the Dalai Lama clique’;

- (b) calls on the Minister for Foreign Affairs (Mr Smith) to ascertain if Mr Li was reflecting the policy of the People's Republic of China and, if so, how that policy is being carried into effect; and
- (c) asks the Minister to find out how many Tibetan citizens, arrested since violence erupted in Lhasa in March 2008, remain in custody and, as of 23 June 2008, how many have been brought to trial.

This motion asks the Minister for Foreign Affairs for an explanation from the Tibet Communist Party about its claim that it will 'totally smash the Dalai Lama clique'.

Question put.

The Senate divided. [3.54 pm]

(The President—Senator the Hon. Alan Ferguson)

Ayes.....	9
Noes.....	<u>47</u>
Majority.....	<u>38</u>

AYES

Allison, L.F.	Bartlett, A.J.J.
Brown, B.J.	Fielding, S.
Milne, C.	Murray, A.J.M.
Nettle, K.	Siewert, R. *
Stott Despoja, N.	

NOES

Adams, J.	Barnett, G.
Bernardi, C.	Birmingham, S.
Bishop, T.M.	Boswell, R.L.D.
Boyce, S.	Brandis, G.H.
Brown, C.L.	Bushby, D.C.
Chapman, H.G.P.	Colbeck, R.
Collins, J.	Cormann, M.H.P.
Crossin, P.M.	Eggleston, A.
Ellison, C.M.	Faulkner, J.P.
Ferguson, A.B.	Fierravanti-Wells, C.
Fifield, M.P.	Fisher, M.J.
Hogg, J.J.	Humphries, G.
Hurley, A.	Hutchins, S.P.
Johnston, D.	Kemp, C.R.
Kirk, L.	Ludwig, J.W.
Lundy, K.A.	Macdonald, I.
Marshall, G.	McEwen, A.
McLucas, J.E.	Moore, C.

O'Brien, K.W.K. *	Parry, S.
Patterson, K.C.	Payne, M.A.
Ronaldson, M.	Stephens, U.
Sterle, G.	Troeth, J.M.
Trood, R.B.	Watson, J.O.W.
Wortley, D.	

* denotes teller

Question negatived.

Senator FAULKNER (New South Wales—Special Minister of State and Cabinet Secretary) (3.58 pm)—by leave—It is possible that the opposition will also be making a statement on the same matter. The government is concerned that this complex policy issue cannot be reduced to a three-paragraph motion. In the motion Senator Brown asked whether comments by the Communist Party secretary in Tibet reflected Chinese government policy. The simple answer to that is that yes, they do, but of course the issue is much more complex than that.

Senators are aware that China sees the question of Tibet as an issue of national and political survival. It considers the Dalai Lama and the Tibetan government in exile as separatists bent on undermining the central government's sovereignty. It does not recognise the issue as one of ethnicity, religion or human rights. I think senators are also aware of the Tibetan grievances which go to restrictions on Tibetans' religious, civil and political rights, adequate protection of their cultural and environmental heritage and ongoing patriotic re-education, which requires the denunciation of the Dalai Lama. They also have grievances about the lack of access to some of the economic benefits flowing from increased investment in Tibetan areas.

That is that background, but I want to just briefly turn to the issues raised in the motion—the situation on the ground and the status of the detainees. I do this to explain why the government has voted as it has on this particular motion because, as I have said so many times, these motions on foreign pol-

icy are a blunt instrument. I have expressed, over many years—and I think all senators know this—my concerns about this manner of dealing with such motions and I do not want, in any way, the view of the government to be misinterpreted in relation to this particular motion. The hard reality is that we do not have a good picture of what has happened since March and what is happening on the ground now. That is why we have urged China to allow access to Tibet for independent observers, journalists and diplomats, including our own ambassador. We have signalled our concerns about reports of ongoing detentions of monks and nuns, lack of access to judicial process and ongoing patriotic re-education. It is difficult to provide a clear picture of the numbers of detainees. We have heard from the official Chinese media that 30 people were found guilty and sentenced in April on charges including arson, robbery and attacks against the state in relation to the unrest in March. A further 12 were sentenced this week on similar charges—116 remain in custody awaiting trial and 1,157 have been arrested. I can say to the Senate that we have instructed our mission in Beijing to seek clarification of these numbers, though we expect the results to be very similar to those carried by the official Chinese press.

In conclusion, Australia has a strong record of raising human rights concerns, including in Tibet. The Prime Minister and the Minister for Foreign Affairs are both on record raising these issues with the highest levels of the Chinese government. We engage China through our human rights dialogue and on an ongoing basis through diplomatic channels in Beijing and Canberra, most recently on 11 June in Canberra, and in Beijing on 12 June. As I have said, we have signalled our strong support for the continuation of talks between China's government and the Dalai Lama's representatives. In communicating our position, we recognise

the importance of keeping our channels of communication open with the government in China while, at the same time, delivering a very clear message about our concerns in relation to these issues. I thank the Senate for the leave to make this statement.

Senator PAYNE (New South Wales) (4.03 pm)—by leave—In addition to the remarks made by the minister, I want to indicate to the chamber that in some ways the opposition does share concerns expressed by the minister about the use of the process of notices of motion, on matters as serious as this, as a relatively blunt instrument. The difficulty we have is distilling the very complex issues, both diplomatically and in human rights terms, into a single motion that comes before this chamber for one vote, no matter what the clauses say, no matter what the clauses seek.

The chamber has previously had an opportunity to discuss in debate the recent violence perpetrated on the people in Tibet and to raise concerns through that process. As an opposition and, indeed, as a chamber, we obviously share very significant concerns about the restrictions imposed on the people of Tibet, particularly in relation to freedom of religion and belief. It would be preferable to have adequate access to information about recent events in Tibet. It would be preferable to be able to deal in a more comprehensive fashion with our concerns, but the process of the motion in this context does not necessarily allow that. I know that a number of members in this chamber in recent times have had the honour and privilege of meeting with His Holiness the Dalai Lama on his recent visit to Australia and hearing at first hand some of the concerns that he has raised with the Australian community. We also have, because of the nature of our democracy, the opportunity to discuss those and talk about them publicly and raise them with the representatives of China in this country. I am sure many people

do. I know that my colleagues, Andrew Robb, the member for Goldstein, and Dr Nelson, the Leader of the Opposition, have also taken up those opportunities. Indeed, Dr Nelson took up the opportunity to meet with His Holiness the Dalai Lama, on his most recent visit.

It is important that we consider in depth these issues and examine the challenges that dealing with them in a single motion presents, and I share some of the concerns that Senator Faulkner has raised in his remarks. I thank the chamber for the opportunity to place these brief remarks on the record.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (4.06 pm)—by leave—The contribution from both the government and the opposition is right off course. There has been objection in the past to motions being voted on here without full debate, calling on overseas governments to do something. But this motion does not do that. It calls on the Minister for Foreign Affairs to get information from China on two matters. The first matter is a statement by the Secretary General of the Tibetan Communist Party, Zhang Qing Li, that, ‘We will certainly be able to totally smash the splittist schemes of the Dalai Lama clique.’ That comment was made when his total sham of the Olympic torch through Lhasa was being staged by the communist government in Beijing last Saturday.

The second thing was to ask the Minister for Foreign Affairs to find out how many Tibetan citizens are still under arrest but have not been brought to trial since March. Senator Faulkner, on behalf of the government, said he could answer both those questions. Senator Payne seemed satisfied that, as the government indicated, we should do anything we can to avoid approaching the communist authorities in Beijing to answer these questions. That is the function of the Minis-

ter for Foreign Affairs, and it is not only the right but the responsibility of this Senate to, through the government, seek information about matters of great interest to the Australian people. The comments indicating the potential assassination of the Dalai Lama went right around the world. Australians are interested to know whether that is government policy. Senator Faulkner said, ‘Well, it is China’s policy.’ That is an assumption by the Australian government which may well be disputed by the authorities in Beijing. We should have the gumption in government to approach Beijing to get the answer to both those questions. It shows obsequiousness and tremulousness from both the government and the opposition that they have not supported this motion seeking that information from Beijing.

MIDDLE EAST

Senator NETTLE (New South Wales) (4.08 pm)—I ask that general business notice of motion No. 128 standing in my name for today, relating to tensions between the US, Israel and Iran, be taken as a formal motion.

Senator STOTT DESPOJA (South Australia) (4.08 pm)—by leave—On behalf of the Democrats, I would like to say that our support for this motion is predicated on the fact that we believe the notion of a unilateral military strike is implicit in this motion. Our support for the motion is based on that notion; otherwise, we will not be supporting the motion.

The PRESIDENT—I am afraid I cannot help you there. All I am going to do is ask: is there any objection to it being taken as formal? There being no objection, I call Senator Nettle.

Senator NETTLE (New South Wales) (4.09 pm)—I move:

That the Senate—

(a) notes:

- (i) the growing tension between the United States of America (US), Israel and Iran, including recent military exercises by Israel,
 - (ii) the recent statement by Israel's Deputy Prime Minister Shaul Mofaz that Israel would attack Iran if it continued with its nuclear program, and
 - (iii) that US intelligence bases in Australia are likely to be used in any US military strike on Iran; and
- (b) calls on the Government to:
- (i) support a diplomatic resolution to the crisis, and
 - (ii) rule out Australian support for a military strike on Iran.

Question put.

The Senate divided. [4.14 pm]

(The President—Senator the Hon. Alan Ferguson)

Ayes.....	8
Noes.....	<u>49</u>
Majority.....	41

AYES

Allison, L.F.	Bartlett, A.J.J.
Brown, B.J.	Fielding, S.
Milne, C.	Murray, A.J.M.
Nettle, K.	Siewert, R. *

NOES

Adams, J.	Barnett, G.
Bernardi, C.	Birmingham, S.
Bishop, T.M.	Boswell, R.L.D.
Boyce, S.	Brandis, G.H.
Brown, C.L.	Bushby, D.C.
Chapman, H.G.P.	Colbeck, R.
Collins, J.	Conroy, S.M.
Cormann, M.H.P.	Crossin, P.M.
Eggleston, A.	Ellison, C.M.
Faulkner, J.P.	Ferguson, A.B.
Fierravanti-Wells, C.	Fifield, M.P.
Fisher, M.J.	Hogg, J.J.
Humphries, G.	Hurley, A.
Hutchins, S.P.	Johnston, D.
Joyce, B.	Kemp, C.R.
Kirk, L.	Ludwig, J.W.

Lundy, K.A.	Marshall, G.
McEwen, A.	McLucas, J.E.
Moore, C.	O'Brien, K.W.K.
Parry, S.	Patterson, K.C.
Payne, M.A.	Ronaldson, M.
Stephens, U.	Sterle, G.
Troeth, J.M.	Trood, R.B.
Watson, J.O.W.	Webber, R.
Wortley, D.	

* denotes teller

Question negatived.

Senator FAULKNER (New South Wales—Special Minister of State and Cabinet Secretary) (4.17 pm)—by leave—I will briefly outline the reasons for the government voting against Senator Nettle's motion. The government could not support the motion, which has just been voted against, given the form that it was in. I would like to place on the record, as I have so many times before, our objection to dealing with complex international relations matters such as this one by the use of formal motions. I will not bore the Senate by repeating the comments that I have made on so many occasions about such motions being blunt instruments, but I do commend the Senate to consider, after the change in the Senate's composition on 1 July, looking again at the fact that we are all forced into black-and-white choices on these motions to support or oppose. They do not lend themselves to the nuances which are so critically necessary to many areas of policy, none more important than in relation to foreign affairs policy. Furthermore, as I have said on many occasions, I think they are far too easily misinterpreted by some audiences as statements of policy by a national government.

In relation to the specific issue that was the subject of the motion, I can say that of course Australia supports diplomatic efforts to resolve the issue of Iran's uranium enrichment activities. Australia implements, in full, all decisions of the United Nations Security Council in resolutions which impose

sanctions on Iran's nuclear program. These resolutions prohibit the provision to Iran of goods and technology which could contribute to Iran's uranium enrichment, heavy water related and reprocessing activities, or the development of nuclear weapon delivery systems, as well as of any assistance related to these goods.

Australia supports further measures by the international community that would bring greater pressure to bear on Iran to suspend its uranium enrichment program and other proliferation sensitive nuclear activities prohibited by the UNSC. We welcome news that the European Union agreed on 23 June to new financial sanctions aimed at pressuring Iran to halt uranium enrichment. The government is considering what additional measures Australia, together with the international community, could take.

The International Atomic Energy Agency report of 26 May confirms that Iran is continuing with its uranium enrichment activities in violation of binding UNSC resolutions. According to the report, Iran has again refused to answer questions about possible nuclear weapon related activity and the involvement of military related entities in its nuclear program. Without answers the IAEA concluded it could not verify the peaceful nature of Iran's nuclear program. We would say that Iran should act now to remove all doubt about its intentions by immediately suspending its uranium enrichment and reprocessing activities, as required by successive UN Security Council resolutions, by cooperating fully with the IAEA on all outstanding matters, especially those pertaining to possible weapons research, and by implementing the IAEA's additional protocol and providing early information on new nuclear facilities, without which the IAEA cannot provide credible assurances about the nature of Iran's nuclear program. I commend the government's approach on this matter.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (4.21 pm)—by leave—I appreciate Senator Faulkner's statement. It is informative. Senator Nettle's motion has come forward at a time in which there is international alarm about a possible pre-emptive strike on Iran to destroy its nuclear facilities. I might state here that the IAEA head, Mohamed ElBaradei, has said he would resign because that would effectively turn the Middle East into an incendiary. The matter is hugely important and it ought to be debated. I asked the question: how do the Greens or other concerned citizens raise this matter in here if it is not by motion? And how do we ask the government to seek information or to take action, if not through motion in this Senate? This does not ask some other government to do anything. It asks this government to take action and to state its position. Senator Faulkner did that in every way except whether Australia would support a strike or not.

I might note here that this government has decided to allow the export of Australian uranium to Russia, which has provided technology to Iran. It is a complex matter, but the government is directly and indirectly involved in international matters and ought to be restraining Israel, which last week held a mock exercise for an attack on Iran over the Mediterranean ocean. It is an extremely grave matter that is being debated here, and Senator Nettle had not only every right but also great responsibility to bring this motion before the Senate.

**KOKODA TRACK CAMPAIGN AND
RECOGNITION OF THE KOIARI
PEOPLE**

Senator BARNETT (Tasmania) (4.23 pm)—I seek leave to amend general business notice of motion No. 130 standing in my name and the name of Senator McGauran.

Leave granted.

Senator BARNETT—I move the motion as amended:

That the Senate—

- (a) recognises the importance of the Kokoda Track campaign in World War II in stopping the overland Japanese advance to Port Moresby, which would have given the enemy a beachhead into Australia;
- (b) acknowledges the courage, endurance, mateship and sacrifice demonstrated by the Australian Defence Force personnel during the Kokoda battles;
- (c) pays tribute to the contribution of the Papua New Guinea (PNG) nationals, specifically the Koiari people, affectionately known as 'Fuzzy Wuzzy Angels', in carrying supplies and equipment for Australian soldiers in the Kokoda campaign as well as the carriage of wounded to safety;
- (d) notes that the Kokoda battles were fought in PNG from July 1942 on Australian soil; and
- (e) in recognition of this contribution, urges the Australian Government to:
 - (i) acknowledge the service of the PNG nationals affectionately known as Fuzzy Wuzzy Angels,
 - (ii) direct the new Defence Awards and Honours Tribunal to promptly determine the most appropriate form of medal or recognition for the remaining Fuzzy Wuzzy Angels or their surviving families,
 - (iii) consider any other appropriate initiatives including making a small ex-gratia payment to each Fuzzy Wuzzy Angel, in recognition of their contribution over and above the call of duty, and
 - (iv) examine and where appropriate fund initiatives to upgrade the health and education status of the PNG people in the isolated villages along the Kokoda Track.

Question agreed to.

MINISTERIAL STATEMENTS

Asia-Pacific Economic Cooperation

Drought

Small Business

Senator FAULKNER (New South Wales—Special Minister of State and Cabinet Secretary) (4.24 pm)—I present three ministerial statements, relating to the Asia-Pacific Economic Cooperation forum, drought and small business.

COMMITTEES

Corporations and Financial Services Committee

Report

Senator CHAPMAN (South Australia) (4.25 pm)—I present the report of the Parliamentary Joint Statutory Committee on Corporations and Financial Services entitled *Better shareholders—better company: shareholder engagement and participation in Australia* together with the *Hansard* record of proceedings and submissions received by the committee.

Ordered that the report be printed.

Senator CHAPMAN—by leave—I move:

That the Senate take note of the report.

Good corporate governance needs meaningful engagement between shareholders and company boards so that boards can be held to account by the informed decision of shareholders. Effective shareholder engagement is dependent on clear communication and transparent voting. A problem for companies wishing to engage with institutional shareholders is the difficulty of identifying beneficial share owners behind complex ownership arrangements. The committee recommends an amendment to the Corporations Act to allow owners to be more easily traced.

Some companies also seem reluctant to engage with shareholders on sustainability issues, concerned about their continuous disclosure requirements. The committee recommends that the Australian Stock Exchange clarify the scope of the continuous disclosure requirements as they relate to discussing these matters. A major barrier to engagement is incomprehensible company reports. Companies should be encouraged to voluntarily provide easily understandable, short reports for shareholders. This should replace the current mandatory concise report, which is no longer concise and is difficult to understand. The committee recommends that Australian Securities and Investments Commission establish best practice guidelines for company reporting.

The committee has also recommended that ASIC establish best practice guidelines for company annual general meetings, which could be more shareholder-friendly by being held at convenient times, allowing proper opportunity for discussion and using technology to reach a greater audience. Predatory share purchase offers are also detrimental to shareholder engagement, and the committee recommends that access to share registers be restricted to proper purposes. Previously I have raised this issue in relation to Mr David Tweed and his nefarious activities seeking from shareholders the sale of their shares at much less than their market value, so I welcome this particular recommendation from the committee.

The disclosure rules applying to short-selling and margin-lending activities also require improvement. Covered short sales should be required to be disclosed to the market, and institutional investors should disclose their stock-lending policies to members. The uncertainty over when director-shareholder margin loans are of material significance needs to be disclosed to the market, and this should also be clarified. The integ-

rity of voting systems could be improved via electronic proxy voting systems to provide an audit trail and the prohibition of vote-renting and cherry-picking proxy votes. Direct voting would help overcome proxy voting flaws, and the committee recommends that the stock exchange encourage its uptake with an 'If not, why not?' provision in its corporate governance principles and recommendations. To assist shareholders in making informed voting decisions, the committee also recommends that shareholders be able to vote on the basis of AGM discussion by postponing voting until after the close of the meeting. The committee also recommends that director-shareholders be prevented from voting on their own remuneration packages.

The tabling of this report fulfils my final task with this committee, which I had the privilege of chairing for nearly 12 years—the life of the Howard government—and which I have continued to serve on as deputy chairman since early this year. I urge the government to take up these recommendations to enhance shareholder engagement, which I believe will become increasingly important in the years ahead. I thank Geoff Dawson, the secretary of the committee, and the committee staff for their work in supporting this particular inquiry.

In the valedictories for departing senators last week Democrat Senator Andrew Murray was kind enough to comment very favourably on the contribution I have made to Corporations Law and financial services regulation as chairman of this committee for so long. I thank him for that encouragement. Equally, Senator Murray has himself been a valued and thoughtful member of this committee through his contributions over the past 12 years and I want to thank him for the first-class work that he has done to enhance its deliberations.

Following the conclusion of my Senate term next Monday, 30 June, I will certainly continue to observe the work of this committee from afar with keen interest. Its work has probably been my key policy interest for these past 12 years and I certainly will not lose the interest that I have developed in that regard. So I wish its continuing members and staff well in their future work as I commend this report to the Senate.

Senator MURRAY (Western Australia) (4.30 pm)—I initiated this reference to the Parliamentary Joint Statutory Committee on Corporations and Financial Services, but the committee was very pleased to take it up. I want to commence my remarks by thanking the previous chair of the committee for his wholehearted support and members of the previous opposition, the Labor Party, for their support for this inquiry. The essential understanding was that our markets and our corporations have grown so large and have become so complex that we need to find mechanisms which support improvements in accounting standards and governance practices in Corporations Law and market law with a better ability for very large companies to interact and relate to their shareholders.

One of the difficulties we have of course is that shareholders are often represented indirectly; they are either hidden behind nominee companies—and I do not mean that in the sense that they hide but rather that that is the vehicle they invest in—or hidden behind superannuation trust funds and other funds. It is important we recognise that these intermediaries between the ultimate beneficiary owners of the shares and the company themselves need to be given facilities and the ability to engage on behalf of the ultimate beneficiary shareholders and that the mechanisms for engagement should be as modern, as helpful and as technologically up to date as possible.

Essentially, if I were to capture one theme that emerges from the committee's report *Better shareholders—better company: shareholder engagement and participation in Australia*, it would be that we do not want too much more black-letter law in this area but we do want much better practice. That is best facilitated through regulatory intervention and the development of a cross-sectoral understanding of how best to advance better engagement, better shareholder engagement and better participation in Australian companies. We had very much in mind a couple of good examples of how well things could be facilitated. The first was the committee's strong endorsement, after interviewing the Chair of the Panel on Takeovers and Mergers in Great Britain, of the ability of bodies to develop practice which actually facilitated market acquisition and activity. This did not need too much of a change in law—obviously the law had to allow for the takeover panel themselves to be constituted but the actual practice was developed on a flexible basis. The second, and probably more directly relevant, example was the development of corporate governance principles by the ASX, ASIC and selected and representative members of the corporate community. That has been very effective indeed in keeping up to the mark on corporate governance.

We as a committee felt, and the recommendations clearly indicate this, that shareholder engagement was not up to the mark, and there are a number of areas, which Senator Chapman mentioned in his tabling remarks, which need further development. I think this is a particularly useful report not just because I originally motivated it but because I think its directions and its conclusions are intelligent and insightful. I think that if these recommendations were to be accepted then they would considerably improve shareholder engagement, not least of all through the processes for constituting

boards that were in the past more effective in general than they are at present. Obviously there are some superb boards at present, but the ones at the other end of the spectrum are pretty ordinary. We in the committee hold to the view that, as far as possible, you want to not just weigh up the evidence but also come to a conclusion which most people are comfortable with, because if you can do that within the committee structure then you can start to anticipate that it can be done in the corporate world because it is not overly contentious.

One of the things which, unfortunately, characterised the Howard government was that its reaction time to the committee's previous reports and recommendations was often abysmal. It took far too long and in our view did not facilitate the quick and efficient development of new law, new regulation or new or better practice in these areas. I would hope that the new government will take a shine to answering these reports quickly. I am deliberately addressing my remarks—through you, Madam Acting Deputy President—to the members of the Labor Party present. I have seen a huge improvement in how quickly questions are being answered on notice from estimates—a great improvement on previous practice. Let's extend that improvement to answering committee reports as quickly as is reasonably possible.

Personally, I tend to take a more advanced view on shareholder engagement matters than do most of my colleagues. I think there are considerable opportunities for greater lateral thinking, and people who are acquainted with my arguments on corporate law will recognise that I have supported the idea of a corporate governance board for many years—that is, of course, a small board with a very limited remit, principally in the governance area, which is elected by shareholder and is not shareholding. I have always thought the main board has to remain elected

by shareholding and must concentrate on the main job of the company, which is to do well and to advance the interests of the shareholders, but I have long thought that a separate corporate governance board, which a couple of writers think of as a corporate Senate, would be a considerable advance on corporate practice in Australia. And of course it is possible; it is not prohibited in law. You can do it in your own constitutions. So, in my very last speech with respect to corporate law matters, I would encourage the new committee to keep testing the boundaries to make sure we continue to be as proud of Australian companies as we should be.

Senator WATSON (Tasmania) (4.39 pm)—I would like to take the opportunity on the presentation of this report of the Parliamentary Joint Statutory Committee on Corporations and Financial Services entitled *Better shareholders—better company: shareholder engagement and participation in Australia* to congratulate Senator Murray for originating this very important reference, focusing on shareholders. It is an appropriate time to recognise 12 years of outstanding service that have been given by the past chairman, Senator Chapman from South Australia. During his time, Senator Chapman raised a range of very significant issues, many of which have been adopted, and he has been recognised in the corporate community as a person promoting high ideals. At a time of such turbulence in the stock markets, as currently, there is always the opportunity of a knee-jerk reaction. To the credit of the committee, they presented a very balanced and objective report, rather than reacted to the particular issues of the moment.

Today company directors indeed face a lot of challenges. Australia, and Australian law and its enforcement, have stood up well in the face of this turmoil. We have not had the degree of volatility or difficulties that overseas countries have experienced. Corporate

directors are facing increasing pressures in terms of corporate governance—risk management; changing accounting standards; meeting new international requirements; constant taxation issues; and also keeping an eye on the prospects and activities of a sudden appearance of hedge funds on their share register and the consequences that that can have, particularly when employing short selling. I was particularly pleased, Senator Chapman and Senator Murray, that you addressed this issue of short selling. It is a question of how best to regulate that in a meaningful manner. As you know, short selling in Australia is prohibited; however, I think there are about five or six exemptions under which it can operate, and it is in these areas that we ask the government and the regulator, particularly ASIC, to focus attention. Certainly, if they apply the skills within ASIC together with the expertise within Treasury, I believe we could get a good outcome in order that Australian companies can move forward to give directors the confidence to take manageable risks, whilst ensuring that their companies operate in an appropriate manner to the satisfaction and benefit of shareholders. I thank the Senate.

Question agreed to.

AUDITOR-GENERAL'S REPORTS

Report No. 43 of 2007-08

The ACTING DEPUTY PRESIDENT (Senator Troeth)—In accordance with the provisions of the Auditor-General Act 1997, I present the following report of the Auditor-General: Report No. 43 of 2007-08: *Performance audit - third tranche sale of Telstra shares: Department of Finance and Deregulation*.

MILITARY MEMORIALS OF NATIONAL SIGNIFICANCE BILL 2008

First Reading

Bill received from the House of Representatives.

Senator CHRIS EVANS (Western Australia—Minister for Immigration and Citizenship) (4.44 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 CHRIS EVANS (Western Australia—Minister for Immigration and Citizenship) (4.45 pm)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

MILITARY MEMORIALS OF NATIONAL SIGNIFICANCE BILL 2008

It is my great pleasure to present legislation that will further honour those Australians who have suffered as prisoners of war and recognise the efforts of the people of Ballarat to commemorate Australia's Prisoners of War.

This Bill will carry through the Government's election commitment to recognise the Australian Ex-Prisoners of War Memorial in Ballarat as a Military Memorial of National Significance.

The Australian Ex-Prisoners of War Memorial was dedicated in Ballarat in February 2004.

The memorial was the result of an outstanding effort by the Ballarat RSL, the Ex-Prisoners of War Association and the City and people of Ballarat, to recognise the bravery and sacrifice of more than 35,000 Australian Prisoners of War held during the Boer War, the two World Wars and the Korean War.

They built this magnificent memorial with fundraising appeals and their own hard work. They

sought, and rightly received, significant funding from the previous Government in support of their project.

But, to the lasting frustration of the people who made the Ex-Prisoners of War Memorial possible, the previous Government refused repeated requests to recognise it as a national memorial.

The previous Government's position was that it could not be legally done. They argued that national memorials were located here in Canberra and that the ordinance did not allow national status to be given to memorials established outside the Australian Capital Territory.

The Australian Labor Party, and particularly here I would recognise the efforts of the Member for Ballarat, insisted that it could be done, if the Government was willing.

And so, in the lead-up to the 2007 federal election, we promised that, if we were elected to Government, it would be done.

Today, with this legislation, this Government keeps that promise.

This legislation will enable the Australian Ex-Prisoners of War Memorial in Ballarat to be declared a Military Memorial of National Significance.

This Bill will also establish a process, separate to the National Memorials Ordinance 1928, to recognise other Military Memorials of National Significance.

The Bill will apply to eligible memorials located outside the Australian Capital Territory and specifically will not apply to the establishment of national memorials in the National Capital.

The legislation will enable the Minister for Veterans' Affairs, with the written approval of the Prime Minister, to declare a memorial to be a Military Memorial of National Significance.

The Commonwealth will not be responsible for funding or maintaining a memorial that has been declared a Military Memorial of National Significance and so the memorial must also be owned or managed by an authority at the State, Territory or local government level.

The responsibility for ongoing maintenance or any refurbishment of a declared memorial will

remain with the authority that owns or manages it.

I want to make it very clear that the purpose of this Bill is to provide an appropriate mechanism to recognise Military Memorials of National Significance, and not to allow for any provision or appropriation of financial support to be provided by the Commonwealth.

National memorial status should not be something that is taken lightly. To ensure this is the case, the Bill sets out clear criteria that must be met before a Military Memorial of National Significance can be declared.

The criteria to be met will not be easy for any memorial to achieve and include that the memorial:

- must be of an appropriate, scale, design and standard, as well as being dignified and symbolic, in keeping with its purpose as a war memorial;
- must be a memorial for the sole purpose of commemorating a significant aspect of Australia's wartime history;
- must have a major role in community commemorative activities; and
- must observe Commonwealth flag protocols.

These criteria will ensure that the declaration of Military Memorials of National Significance is managed appropriately. A further measure will enable the Minister for Veterans' Affairs to revoke a declaration, should a memorial cease to meet the legislated requirements.

This legislation will support the strong tradition of commemoration in Australia's communities, recognising significant memorials that are worthy of being declared as nationally significant.

Debate (on motion by **Senator Chris Evans**) adjourned.

GOVERNOR-GENERAL AMENDMENT (SALARY AND SUPERANNUATION) BILL 2008

First Reading

Bill received from the House of Representatives.

Senator CHRIS EVANS (Western Australia—Minister for Immigration and Citizenship) (4.46 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 CHRIS EVANS (Western Australia—Minister for Immigration and Citizenship) (4.46 pm)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

This bill will set the annual salary to be payable to the next Governor-General and remove references in the Governor-General Act 1974 to the superannuation surcharge which was discontinued in 2005.

On 13 April it was announced that Her Excellency Ms Quentin Bryce AC would be appointed as Australia's next, and first female, Governor-General following the retirement of His Excellency Major General Michael Jeffery AC CVO MC (Rtd). Ms Bryce will be sworn in on 5 September 2008.

Salary

Section 3 of the Constitution precludes any change to the salary of a Governor-General during the term of office. Therefore, whenever a Governor-General is to be appointed, changes to the salary of the office must be made by way of amendment to the Governor-General Act 1974 prior to the appointment.

The salary needs to be set at that time at a level that will be appropriate for the duration of the appointment. Although the appointment is at the Queen's pleasure, a five-year term is considered usual.

The salary proposed in the bill is consistent with the convention applying since 1974 under which the salary of the Governor-General has been set with regard to the salary of the Chief Justice of the High Court of Australia. The Government forecast the Chief Justice's salary over the next five years using wages growth projections. I note

that the Chief Justice's salary is determined annually by the Remuneration Tribunal, a body that is independent of government.

In setting an appropriate salary, regard was also given to the Commonwealth funded pension that the Governor-General Designate will be entitled to receive during her term in office. This is at the request of the Governor-General Designate and is in line with the precedent established by Sir William Deane in 1995 who asked that his salary as Governor-General be set to take account of the non-contributory pension he received under the Judges' Pensions Act 1968 after retiring from the High Court. Major General Jeffery in 2003 took the decision to donate his military pensions to charity during his term of office as Governor-General.

The proposed salary of \$394,000 per annum, combined with Ms Bryce's existing pension, will maintain the traditional relativity between the Chief Justice and the Governor-General.

Superannuation

In amending the Act to set a new salary, the Government has taken the opportunity to remove references in the Act to the superannuation surcharge. Section 4 of the Governor-General Act 1974 was amended in 1997 to implement the superannuation surcharge and amended again in 2001 to bring the application of the surcharge into line with community standards.

The superannuation surcharge was subsequently discontinued in 2005. The bill to give effect to the abolition of the surcharge, the Superannuation Laws Amendment (Abolition of Surcharge) Bill, amended a number of Acts, but not the Governor-General Act 1974.

While this bill amends the Act to remove the superannuation surcharge for future Governors-General, it does not affect the continued application of the surcharge to those former Governors-General to whom the surcharge applied.

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.

**DENTAL BENEFITS BILL 2008
TAX LAWS AMENDMENT (2008
MEASURES No. 2) BILL 2008
WHEAT EXPORT MARKETING
BILL 2008**

**Returned from the House of
Representatives**

Messages received from the House of Representatives agreeing to the amendments made by the Senate to the bills.

BUDGET

**Consideration by Estimates Committees
Reports**

Senator STERLE (Western Australia) (4.47 pm)—Pursuant to order and at the request of the chairs of the respective committees, I present reports from all standing committees, except the Rural and Regional Affairs and Transport Committee, on the 2008-09 budget estimates, together with the *Hansard* record of the committees' proceedings and documents received by committees.

Ordered that the reports be printed.

COMMITTEES

**Community Affairs Committee
Report**

Senator MOORE (Queensland) (4.48 pm)—I present the report of the Senate Standing Committee on Community Affairs *Ready-to-drink alcohol beverages*, together with the *Hansard* record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator MOORE—by leave—I move:

That the Senate take note of the report.

In speaking to this report, I want to particularly put on record my thanks to the other members of the committee, to the people who provided evidence and witness statements to our committee and most particularly to the secretariat of our committee be-

cause of the ridiculous time frame that was presented to our committee to present this report. This is a particularly complex issue. On that, the whole committee was agreed—there was no doubt about the process. However, we were presented with a time frame which meant that we needed to present this document today. I think that caused a degree of stress on all those who were engaged in the process, because we think this is an important issue. I think we would require more time to fully consider the range of the terms of reference with which we were provided. However, the terms of reference came down, in part, to whether the government's decision to impose a higher tax on ready-to-drink beverages was an appropriate thing to do at the time. Other terms of reference looked at much wider issues of alcohol in our society. I do not think in the time given to us we were able to fully contemplate those other terms of reference.

In terms of the importance of the increased taxation on ready-to-drinks, the majority report has come down in favour of the government's decision, unsurprisingly. We say that the government's decision, which has been clearly enunciated by Minister Roxon and the Prime Minister, who has taken a personal interest in these issues, has been an important step in the ongoing consideration of the issues of alcohol, particularly with young people in our community. No-one denies that there is a problem. In the process of the committee we were absolutely drowned with data, graphs and statistics. However, there was one key issue: regardless of what the data and the statistics said about trends or processes, there is a problem—there is no doubt about that. We heard evidence from a range of people who work in the public health area, we heard evidence from people who have been studying this issue for many years and there is a consensus

that there is a problem with alcohol, particularly with young people in our community.

Pleasingly, this issue has been taken up in the media. For a long time, it seemed like it was a sleeping issue and only appeared from time to time. But over the last few months there has been increasing coverage of these issues in the media. Partly in response to what is going on, which includes the horrific programs and data that have come to the committee's attention, the government has decided that amongst a range of other issues—and it is important to absolutely concentrate on this point—there is no single response. Certainly the taxation issue and cost issue are but one response. But they are an important response. That has been borne out by information that we have received from other countries and by talking with young people about what they are doing with alcohol in their communities. This alone will not solve the issue—that certainly came out consistently. We refer throughout the report to the COAG process because this has been an issue on the agenda of COAG, which is looking at this issue across the country.

I think the term 'binge drinking' has been overused and I know that in the last couple of weeks there has been a move away, particularly in the national health and medical research area, from the term 'binge drinking'. What we are talking about is use of alcohol to a risky level. That is a very important concept to keep before all of us. We need to consider the way people in our community view alcohol. We are not saying that people should not drink. I want to put that clearly on the open agenda. This is not a prohibitionist response to the issue of alcohol. What we are talking about is people working together to come up with solutions to the levels of violence, harm and misuse that have been identified in the community. There has been a response from all levels of government, from people who are working in

the medical profession and from people who are researching in the public health area, and one solution amidst all of those actions will be the increase in cost for ready-to-drink alcohol beverages.

We know—and, again, I do not think there is any particular question about this either—that some of the ready-to-drink beverages mask the taste of alcohol and, as such, are more attractive to young people. The committee heard evidence that people were not even aware of how many drinks they were consuming or whether in fact they were alcoholic. We have limited data on underage drinking, and an area that must be considered more fully into the future is the way we collect data. Certainly, one of the key issues for our committee was the introductory phase—when people begin their journey with alcohol. Doing that in a way that is responsible and safe sets people up for better and more responsible use of alcohol throughout their lives. But if young people are caught up in irresponsible drinking at a young age, that is a recipe for future health issues. It is also a recipe for getting people into situations which are clearly unsafe.

This discussion will go on; this is not the end of the debate. However, we on this side of the Senate strongly believe that an important step has been taken in this taxation response. It is only one part of a wider need, but it is a start and it should not be delayed or dismissed for political purposes or because of arguments about whether it in itself is enough. It is not; it is a step in the right direction.

Senator HUMPHRIES (Australian Capital Territory) (4.54 pm)—The Chair of Senate Standing Committee on Community Affairs has quite rightly said that we have a problem. Australia clearly does have a write-off culture, where it is acceptable in many quarters to go out of an evening and get blind

drunk. The reasons for that are hard to understand in full, but the nature of the problem it presents to Australians in terms of cost and health impacts is very clear. We need to act on the problem that that write-off culture presents to us as a community.

The committee agreed that we have a problem. What the committee did not agree on is whether this solution, the imposition of an excise increase of some 70 per cent on ready-to-drink alcoholic products, was the solution to that problem. The fact is that if there were measures in this debate which were clearly directed, on an empirical basis, towards the solution of the problem then they would have the strong and unquestioning support of the opposition. But it is not clear that this measure does that. This measure imposes a \$3.1 billion tax burden on Australian consumers, most of whom drink alcohol responsibly—at least, under present definitions. A \$3.1 billion tax imposition on those drinkers has downstream effects which are very serious and which needs to be brought into account in this debate. It has an impact on employment levels in the alcohol and hospitality industries and it has the potential to change people's behaviour in ways which are not anticipated and which may actually be damaging to public health measures that try to prevent people from drinking dangerously. Of course, there are simply those pressures on the ordinary Australians who consume alcohol responsibly. The cost of that recreational pastime is greater as a result of this tax burden.

It is therefore the contention of the Liberal senators who took part in this inquiry that the onus that must fall on the federal government to demonstrate that this measure will be effective—that it will make a difference in reducing levels of risky drinking in Australia, particularly amongst the young—has not been discharged. They have not demon-

strated that this measure will actually achieve its goal.

One of the key reasons for that view was that it was acknowledged widely in evidence given to the inquiry that there will be significant substitution going on between ready-to-drink alcoholic products and other forms of alcoholic beverage, and possibly substitution of other substances altogether. There was evidence that already we are seeing a significant drop in ready-to-drink product sales. We are also seeing significant increases in spirits sales. If a young person is going to go out and drink, one needs to ask oneself: is it better to have the same amount of alcohol consumed through standard drinks or bottles of a ready-to-drink product or is it better to have it being poured directly out of a spirit bottle into a glass, perhaps with mixers added, with the potential for an incapacity to count the standard drinks that are being consumed and with the potential for drink spiking and other problems that might flow from that? We are not convinced that this measure will not result in considerable substitution and, in fact, people consuming other things in other, more dangerous ways.

The report *Ready-to-drink alcohol beverages* makes clear that Australia has not experienced an explosion in alcohol consumption in recent years and, on the evidence, it is not clear whether the problem with Australians, particularly young Australians, abusing alcohol is actually getting worse or better. Figures presented by the Australian Institute of Health and Welfare demonstrate that the drinking patterns of Australians have in some ways moderated in recent years. For example, when the institute surveyed drinking status in the years between 1991 and 2007 it found that the number of people aged over 14 drinking daily in Australia had dropped from 10.2 per cent of the population to 8.1 per cent of the population. The number of people drinking weekly had risen from

30.4 per cent to 33.5 per cent—perhaps an indication of some moderation. The number of those who had never had a full serve of alcohol rose from 6.5 per cent to 10.1 per cent of the population.

That figure, which is reproduced on page 59 of the report, shows very clearly that there have been some quite significant changes in alcohol consumption in Australia, but overall levels have come down quite dramatically since the early 1970s. The consumption of wine has increased since that time but has been fairly stable over the last 20 years. The consumption level for beer has dropped quite dramatically—by about two-thirds—over that period of time. Spirits have remained fairly static—in fact, they have dropped somewhat in that time—but what has happened within that market is that ready-to-drink products have become much more popular. Is that the basis for a knee-jerk reaction or for a rushed response that is not based on clear evidence as to its positive effect on people's drinking habits? I simply do not think that it is.

The fact is that there is every hallmark that this measure is all about increasing government revenue and very little about reducing the harmful effects of drinking in our community. As I said, there is a \$3.1 billion hit on Australian drinkers in this measure. You might expect that the government's focus in this development was on reducing the harm caused by alcohol and that you would see a significant slice of that \$3.1 billion over four years redirected into measures to reduce the harmful effects of alcohol. In fact, it apparently is the case that none of it—not one cent of that \$3.1 billion—will be directed in that particular way. There is a national binge-drinking strategy which attracts the grand investment of \$53 million over four years, but even that is to be funded not by this revenue from alcohol but by a cut to the other programs operated by the Depart-

ment of Health and Ageing—that is, an internal saving made by that agency. We are told that there are other measures being contemplated and that other things will be developed as part of the preventative health strategy of the Australian government. I welcome that focus; I think that is extremely important. But my fear and the fear of the Liberal senators who took part in this inquiry is that we are seeing the cart put before the horse. We are seeing a grab for money, and the thinking about how it will be used to reduce alcohol consumption will occur at some point in the future. In the meantime, we see the potential for very dangerous behaviour taking place.

Many of the parties who supported this measure before the committee's inquiry said that they wanted to see Australia move to a volumetric approach to the taxation of alcohol products. This means that, no matter how you consume alcohol, the amount of taxation you are paying on each standard drink you are consuming and each millilitre of alcohol is the same so that people are not tempted to migrate to other products to escape taxes or because their taxation levels are lower than others. That was a well-supported—though not universally supported—contention. It would certainly attract some support, I think, from many people. The problem with the approach the government has taken is that it does not form the basis of a first step towards a volumetric approach to alcohol taxation. In fact, the committee was told that, if there were a revenue-neutral volumetric approach to the taxation of alcoholic products, the tax on an RTD would be 47c for each standard drink. In fact, as a result of the decision made in March this year by the federal government, the level of taxation is \$1.25—2½ times the level it ought to be if you were taking a volumetric approach. This is clearly not the first step towards a volumetric approach to taxation. I think that the government needs

to explain exactly what broader strategy it sees this measure achieving.

I repeat: the opposition is not opposed to strong, directed, well-researched and empirical measures to reduce the toll that alcohol takes in this country each and every year, particularly amongst young Australians. But we are not convinced that this measure is such a step, and we are not convinced that it will be effective. (*Time expired*)

Senator MURRAY (Western Australia) (5.04 pm)—I will speak briefly. I must say with respect to this inquiry that I would urge all those interested in this topic to read not only the majority report—which is a very interesting report, I might say—but also the dissenting report from the Liberals and the additional comments from both myself, for the Democrats, and Senator Siewert. I think that, when you read all of those together, you get a very good picture of where we should go and how we should advance this cause. There is one thing in the remarks of both the chair and the deputy chair that I agree with: universally, all senators recognise that there is a problem and it needs to be addressed. There is no doubt about that.

Once you have accepted there is a problem, you have got to come, of course, to the solution. I say with respect to the measures that are in the policy which is the subject of this report that the Democrats have no issue with the price of alcohol being increased via excise if the social intent is to reduce the harmful consumption of alcohol. We support measures, including price measures, that will significantly reduce the harm caused by the excessive consumption of alcohol. We have no set level of excise or alcohol tax in mind that will achieve this goal. The level at which excise is set for those purposes is always going to be a matter of judgement—a behavioural guess—and the Treasury is as good at that sort of estimate or guess as any. What

we do take issue with is excise actions in one alcohol category—in this case RTDs—in isolation from action in other alcohol categories which are capable of being easily substituted for the targeted category. The behavioural logic is easy: price affects consumption; raising the price should lower consumption. However, if there are easy substitutes, no significant fall in consumption will occur, so you have to raise the price of all substitutes too.

What was disturbing at both the June Senate budget estimates and at the committee inquiry was that the question of substitution seems to have been swept aside or diminished in importance. Yet it is central to the question of whether a premixed drink excise increase will work at all in reducing the harmful consumption of premixed drinks, particularly by young people.

At the time of the announcement of this excise increase for premixed drinks, the Democrats said that it must be matched by other action. That is exactly what the chair has said; it is exactly what the deputy chair has said. Despite helpful reform in the last decade, for which they should get credit, the federal government's alcohol tax policy lacks integrity and consistency.

The Democrats essentially say that alcohol is alcohol whatever its source, yet the alcohol-pricing regime is selective between and within alcohol categories, not on rational grounds but on random grounds. The detrimental effect of alcohol comes from the amount consumed, not from its type, its packaging or its flavour. Accordingly, the Democrats put forward two recommendations. Our first was that the Henry tax review examining alcohol taxation have regard to these three general principles: all products in the same product category should be taxed at the same rate; all products with the same alcohol level should be taxed at the same

rate; and the lower-alcohol and mid-strength beer excise should be matched with a lower-alcohol and mid-strength RTD excise rate.

Our second recommendation followed on from the Senate's unanimous call, agreed on 13 March 2008, for a full review of alcohol policy—and by 'full' I mean very comprehensive. Our second recommendation was that the government comply with the Senate motion of 13 March 2008 calling for a comprehensive, holistic review of all aspects of alcohol. If there is anything that this inquiry has shown, it is that you cannot address this matter in isolation. You cannot just deal with the RTD issue. The government, I think, would be delinquent not to heed the Senate's unanimous call for a comprehensive inquiry.

Senator SIEWERT (Western Australia) (5.09 pm)—The Greens tabled additional comments to the Senate Standing Committee on Community Affairs report entitled *Ready-to-drink alcohol beverages*. We have expressed for quite some time our concern about alcohol and alcohol abuse in our community. We consider that it is a waste of time arguing about whether or not some drinking rates have gone up. The fact is that we have a \$15 billion plus problem in this country that we need to start dealing with. As I have just said, it is a waste of time arguing about how much risky drinking has increased or decreased. However, very fortuitously during the inquiry, a report by Michael Livingston was published in the *Australian and New Zealand Journal of Public Health*. The report showed very clearly that instances of alcohol related harm had definitely gone up. It also pointed out that it is very difficult to measure risky drinking behaviour because many of the groups that display this behaviour are hard to survey. But the fact is that alcohol related harm has gone up in this country, and the statistics clearly show that.

While the inquiry focused on ready-to-drink alcohol for a specific reason, it is important to note that the Greens very strongly believe that a comprehensive strategy is needed to deal with this issue. While RTDs, or ready-to-drinks, are a particular issue, they need a comprehensive strategy to deal with them. One of the reasons that RTDs are a particular focus is that there has been a shift towards drinking those types of alcoholic beverages. Anecdotal evidence and, I think, increasingly research evidence shows that RTDs are a focus because they encourage young people to drink. The milk and sweetness in RTDs cover the flavour of the alcohol. I will just diverge here to point out that, during the inquiry, an industry person who was questioned about this said that they did not add sugar to RTDs because there is cola in them. If you look at the make-up of cola, you will see that it contains a great deal of sugar; hence, you do not need to add sugar because the cola adds the sugar. The fact is that these drinks are sweet and attractive to young people. The theory being put forward is that these beverages are encouraging young people to drink because, when you are young, your body rejects the taste of alcohol, whereas milk, sugar and cola mask the taste of the alcohol.

As the opposition pointed out, the government's proposed changes to the alcohol excise regime will raise a substantive amount of income. If the government is genuine in saying that that measure is part of a strategy to address alcohol abuse and harm in this country, it needs to be hypothecating a great deal of that money to effective public education and social marketing programs.

The committee heard some very strong evidence on what is needed for a comprehensive strategy to address this issue, and people who work in this area have established a bit of a hierarchy on how to do that. It starts with regulating price. Experts consider that

using price as a mechanism with RTDs should be part of the strategy. Other mechanisms include lowering speed limits for all drivers, enforcing liquor-licensing laws, limiting availability of alcohol, restricting hours of alcohol sales, limiting the density of alcohol outlets, community mobilisation, workplace interventions, curbing alcohol sponsorship in sport, and social marketing. These are the areas that experts say should be part of a comprehensive strategy.

The Greens have made our policy on advertising quite clear. We believe that there should be a ban on alcohol advertising. We believe that there should be a ban on the advertising of alcohol through sports sponsorships and promotional activities. We have had two inquiries into alcohol in the past month, and the issue of advertising to young people and what appeals to them was raised. When the free-to-air television people were asked about the percentage of young people watching sport, they said it was only 3.7 per cent. If you look at the percentage of young people in our population—guess what?—it is around 3.7 per cent. In other words, advertising is actually getting to a large percentage of the population's young people.

In our additional comments to the report, the Greens have listed 10 recommendations. We begin with support for well-resourced and targeted, evidence based public education and social marketing campaigns that are focused particularly on at-risk groups. Then we look at inquiring into a volumetric tax. Very strong evidence was presented to the committee about the usefulness of a volumetric tax. However, I probably differ from some of my opposition colleagues on this issue. The nature of drinks like RTDs that appeal particularly to young people and to at-risk groups need to be looked at, because a volumetric price signal will not work with RTDs, although the evidence clearly shows that price does work as a limiting factor.

There was evidence from overseas presented to the committee about the usefulness of price signals. There was some evidence presented to the committee that clearly showed that in some countries in Europe substitution had not occurred, that in fact it was working as part of a comprehensive approach. So the Greens are urging the government, and we have put on record, that along with this initiative on RTDs they need to be presenting a comprehensive strategy but also need to be allocating significant resources to an evidence based—that is very important—public education and social marketing campaign.

Senator COLBECK (Tasmania) (5.15 pm)—I would also like to make a contribution to the debate on this report and acknowledge those who have made submissions. I think the work that people and organisations put into their reports and their submissions to the committee was quite significant. They perhaps did have the benefit of having another inquiry a few weeks earlier, which did assist with the research, but, regardless of that, a lot of good work was put into submissions and evidence presented. To the secretariat I note that, as Senator Moore said, it was a very tight time frame. I will note that the government could have had some influence over that, but we did not know what their tactics were going to be at the time with respect to the presentation of the legislation, so there lies the basis of that.

I would also like to acknowledge my colleagues on the committee for the way the hearings were conducted and the interactions that were part of that. I think we all came out of this with pretty strong agreement that, if we are going to address the issue of alcohol misuse—and I stay away from terms like 'binge drinking', as Senator Moore has said—then we do need a comprehensive approach. I think that is where the government has failed with this particular measure, which

is so narrowly focused that it is not going to, on its own, address any of the alcohol issues that we have. In fact, the evidence is that it will probably lead to some substitutions. There is some initial evidence from the industry that people are moving away from RTDs towards pure spirits and mixers. Although that is very early evidence, and the industry was very cautious in the way it presented that evidence, I think we need to acknowledge that.

There was also the anecdotal evidence. I spent Saturday night talking to a fairly large group of young people—I know that other members of the committee have similar interactions—and they know what is going on; they are not silly. If they want to go out and consume large quantities of alcohol, they know how to do it and they have the resources to do it. I think that is one of the issues that this measure, on its own, does not actually address. It is quite unfortunate that we are in a position to be debating what is one element, and a very narrowly based element, of this whole issue, an issue which every member of the committee acknowledges. I will take Senator Murray's point: I do not think there is a senator in this place who does not acknowledge that there are problems that we need to address with respect to alcohol use. But the very narrow focus of this measure on its own really does not address the problem. The concerns that were raised during—

The ACTING DEPUTY PRESIDENT (Senator Hutchins)—Order! The time for this debate has expired. Do you seek leave to continue your remarks?

Senator COLBECK—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

FAMILIES, HOUSING, COMMUNITY SERVICES AND INDIGENOUS AFFAIRS AND OTHER LEGISLATION AMENDMENT (2008 BUDGET AND OTHER MEASURES) BILL 2008

Report of Finance and Public Administration Committee

Senator WORTLEY (South Australia) (5.19 pm)—On behalf of the Chair of the Senate Standing Committee on Finance and Public Administration, Senator Polley, I present the report of the committee on the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2008 together with the *Hansard* record of proceedings and documents presented to the committee.

Ordered that the report be printed.

PASSENGER MOVEMENT CHARGE AMENDMENT BILL 2008

Report of Legal and Constitutional Affairs Committee

Senator WORTLEY (South Australia) (5.19 pm)—On behalf of the Chair of the Senate Standing Committee on Legal and Constitutional Affairs, Senator Crossin, I present the report of the committee on the Passenger Movement Charge Amendment Bill 2008 together with the *Hansard* record of proceedings and documents presented to the committee.

Ordered that the report be printed.

TAX LAWS AMENDMENT (BUDGET MEASURES) BILL 2008

Report of Economics Committee

Senator WORTLEY (South Australia) (5.19 pm)—On behalf of the Chair of the Senate Standing Committee on Economics, Senator Hurley, I present the report of the committee on the Tax Laws Amendment (Budget Measures) Bill 2008 together with

the *Hansard* record of proceedings and documents presented to the committee.

Ordered that the report be printed.

**TAX LAWS AMENDMENT (2008
MEASURES No. 1) BILL 2008**

Second Reading

Debate resumed.

Senator MILNE (Tasmania) (5.20 pm)—I rise to first of all say how distressed I am with the way this legislation has been handled by the government. Schedule 3 to the Tax Laws Amendment (2008 Measures No. 1) Bill 2008 relates to the establishment of carbon sink forests, and there was an expectation that that is how it would be dealt with. It is still in this bill as schedule 3 except that, in the House of Representatives, the legislation was amended and the schedule was inserted into another tax bill, which was passed in the Reps, came to the Senate and, because exactly the same schedule was in two tax bills at the same time, and the government whip did not notify the Senate that that was the case, that tax bill passed last week with an expectation from those of us who had been dealing with it that it would be in this bill this week. I think that is very bad because now it means that those of us who might have wished to oppose that schedule have been denied the opportunity to do so. The best we can do is amend this legislation. I want to make the point that, had the government not done that, I would have opposed the schedule—however, now it is law in Australia; it went through last week. So it is now my intention in the committee stage of this bill to introduce a new schedule 7 which amends the legislation that went through last week. I would particularly ask the government in future, if it is your intention to put schedules in two or more bills simultaneously, to at least let the whips alert the other people in the Senate to that; otherwise, it could be seen as pulling a swiftie on the Sen-

ate, particularly in relation to this, which is highly contentious.

It is contentious because managed investment schemes in Australia have already distorted the way that agricultural land is managed. Throughout the country, farmers are up in arms because the forest industry has been able to move in and displace crop land because of the incentives being offered by the government through tax-deductibility. For example, there was a recent article in the press about how cane farmers in the Tully area are complaining that, once again, the forest industry has moved in there and displaced many cane growers to the point where they are running out of the critical mass needed to provide the mill. In Tasmania, the managed investment schemes have displaced a number of dairy farms and have effectively destroyed whole districts by taking out the social infrastructure. Preolenna, in the north-west of Tasmania, for example, was a vibrant small rural community which had its own postal service, community hall and school bus run, but it now has none of those things. It is covered in plantations—plantations that have been established to distort the market in agricultural areas, in my view. All of those services have been lost and dairy farmers have essentially been driven out of the district.

What this legislation purports to do is establish carbon forest sinks. But this shows the wrongheadedness of the government. If you were serious about reducing emissions, the first thing you would do is protect the existing stores of carbon. The first thing you would do, therefore, is stop the logging of native forests and stop land clearance in Australia. You would be offering incentives for people to protect the sinks that are already there because, especially in the case of native forests, they are high-value carbon stores. But, instead of that, the government is giving massive subsidies to the logging industry to

log native forests and to burn them—sending millions of tonnes of greenhouse gases into the atmosphere—and now wants to pay people at exactly the same time to put in tree farms using managed investment schemes.

They say, ‘Oh, they are carbon sink forests.’ How are they carbon sink forests? A forest is a much more complex ecosystem than a monoculture plantation, and yet this bill provides for the establishment of plantations. Secondly, if it were a carbon sink forest, you would require the trees to be in the ground for a length of time so that you established a carbon store. But, instead of that, you will be able to get a tax deduction for the full amount in the first year. There is no requirement for these so-called carbon sinks to be in the ground for any length of time and you can cut them down. There is no prohibition on cutting them down. If you cut them down, you do not have to pay back the tax deduction you got in the first year. So once you have your tax deduction in the first year, you can choose to leave those trees in the ground, if indeed they grow. They may not grow because, as with many of the managed investment schemes, they were put in for the tax-deductibility for the management of those schemes. The poor old people who invested will lose out in the long run, but the companies that run the schemes will have made a fortune because they established managed investment schemes in areas without sufficient rainfall to maintain the plantation.

In this case we have exactly the same thing. We have this possibility because it says in the bill that the people establishing these plantations, or so-called sinks, do not have to have any relationship to the land or the industry on the land. That means the energy companies, the large coal sector generators, the cement companies and so on will go out there and buy or lease agricultural land. They are already cashed up and they will get

the irrigation rights and take the water from the farmers as well. They will establish these plantations and get their tax-deductibility in the early years. If they choose to deduct it over 14 years, which is another option, they get the tax deduction over 14 years—coincidentally, the maturation life of one cycle in a plantation. But, if they do that and the plantation burns down halfway through, let us say, they not only get to keep the tax-deductibility that they have already got; they also get a one-off bonus payment plus the insurance money. So it is a beautiful thing! It is all about cash incentives for people who want to offset their income, or offset their emissions in the case of the large emitters, but it is not about increasing the carbon store in the ground permanently.

The issue here has to be permanence. There is no permanence with this legislation. There is no requirement for mixed species. There is no requirement for hydrological assessment of the area in which these so-called carbon sink forests are going to be planted. There is no requirement to assess the socioeconomic impact in rural and regional Australia of cashed-up companies coming and displacing farmers from the land, and that is inevitably what is going to occur here. What is even more extraordinary is that the government is doing this in the lead-up to Professor Garnaut’s emissions-trading report. This immediately distorts the market because on the one hand you are saying we are putting a cap on emissions, and these large carbon-emitting companies—the coal companies, for example—will have to meet their cap and buy permits, but at the same time you are giving them a tax deduction for going off and planting offsets when there is no guarantee of the volumes of carbon that will be in the ground after any length of time. It will be a lot cheaper for them to go and push farmers off the land than it will be to reduce their emissions at the power station.

So this legislation should never have been brought in ahead of an emissions-trading scheme, because it distorts the market in terms of the actual costs associated with it. But, more particularly, as I said, if you were serious about reducing emissions from land use, land use change and forestry, you would create a tax-deductibility for people to protect existing carbon stores, whether they be in forests, complex native forest systems, savannas or other types of native vegetation. This legislation says that, whilst you will not get a deduction for draining a wetland, you will get a deduction if you have already drained the wetland and then put the trees on it. So you can work out the costs of that. There are no biodiversity considerations, no water considerations, no diverse species considerations and essentially no length of time that these trees have to be in the ground. That is an absolute requirement if you are going to consider a carbon sink.

The PRESIDENT—Order! Pursuant to the order of the Senate of 17 June 2008, debate is now interrupted and I call on Senator Murray to make a valedictory statement.

VALEDICTORIES

Senator MURRAY (Western Australia) (5.30 pm)—I want to commence my valedictory, nearly my last speech here, with a phrase I have often used: I thank the Senate. I thank the Senate for allowing my valedictory tonight. I set this date some time back, believing it to be the date that the Senate would do valedictories and because it suited the travel arrangements for my family—and then the Senate changed its dates. So thank you for understanding and accommodating my needs tonight.

I thank the Senate for what it has done for me and for what it has meant to Pam and me—for the opportunities and privileges it has afforded me; and for the friendships, the passion, the laughs, the drama, the great

deeds and the humanity of it all. I thank the parliament—its members, senators and ministers, committee chairs and members—for the courtesies and consideration shown to me, my wife and staff. I thank the many very professional, sometimes amazingly insightful, politicians and people. I thank the wonderful Senate and committee staff, the superb Parliamentary Library, security officers, cleaners, caterers and attendants—all the friendly, helpful and able souls everywhere. In particular, I want to recognise the Clerk of the Senate and his deputy: we owe Harry and Rosemary a great deal—and you sit big in our hearts.

I am grateful that we have a free press. The best of you are clever, thorough, insightful, fair, learned and original, and those journalists do Australia proud. I was not one for doorknocking or schmoozing the gallery much, but I did do my share of pestering to be heard. I will try to drop a note to those who found my policy and politics occasionally of interest. I particularly thank those journalists from my state who were interested in my doings.

I thank the Australian Democrats for all they have done for me. I thank the WA members and senators, who have shown me such consideration. I leave of my own volition, but I do leave with regret—not at my decision but because I came to love the place and the people, and I will miss it and them.

It was a slow start for me. I loathed the ugly, intrusive, personal side of politics. I was horrified whenever my privacy was invaded. I never accepted anyone thinking I was now their servant. I could not understand the sneering, carping cynicism directed at those in public life. I was astonished by the haters. Those with good hearts and motives lifted me up, and I tapped into the rich vein of the Australian character. Many do give you credit for doing your best—and a

little more credit if you do it well. I was born to a conscience and a conscience vote. Outside politics, by which I mean the business of being a politician, never appealed that much to me. I am not good at gladhanding. I did think of just giving it all away and being a one-termer. In contrast, inside politics appealed vastly—the issues, the negotiations, the bright intensity of the lobbyists and advocates, the quality input from the public sector, the best of the media minds, the best of the political minds, the committee work and helping those who really did need a hand.

I cannot escape the historic nature of this valedictory. This speech of mine is one-quarter of the Senate valedictory for the Australian Democrats themselves. Each of the four Democrat senators is very conscious that we are the last of 26 Australian Democrat senators that have served the Senate continuously over the last three decades. I suspect that history will judge the 26 well and not just for remarkable policy and advocacy consistency and constancy but because, as parliamentarians and legislators, we have left a much bigger mark than is presently believed to be the case on the political history of our Commonwealth—in the conventions and culture of the Senate, in legislation and not least in having so many of our causes eventually accepted as good policy, such as in the accountability, environmental and social justice fields.

Several journalists have asked me, 'Is this the end of the Democrats?' and I have answered, 'I don't know'—and in the same breath, answering their own question, they have asked, 'Why did you die?' There may be other Senate Democrats in the future; who can tell? But in this Senate it is the end for us four. For those who think it cannot or will not happen to them: nothing and no-one is immortal. If you know anything about history, you know that political death will come

to the other political parties in Australia sooner or later too, when it is their time.

Political parties are vehicles that may cease running, but the great streams of human aspiration and philosophy within them do not die. The philosophy goes on, even if the party fails. With respect to both the media and the voters—who led who, I have never worked out—we Democrats lost their interest and were no longer valued enough. That is political life. Either you are in or you are out. I will leave it to the political and academic commentariat to do the post-mortem. The Democrats lasted three decades in the Senate because they had substance and some powerful party and political minds and personalities. They were also the carriers of one of the three strongest political philosophies in the Western world: liberalism—the other two being conservatism and socialism.

Among other things, we Democrats have held true to a reasoned argument; to individual rights, property rights and natural rights; to the protection of civil liberties; to accountability, responsibility and good governance; to constitutional and parliamentary limitations and restraint; to republican ideals; to the rule of law; to the virtues of a civil society; to free but fair markets; and to public goods and the public interest. I suspect that, if the conservatives and Labor socialists in Australia cover the majority of Australians, a fifth to a third of Australians broadly ascribe to what is known as a liberal or small 'l' philosophy. Yet even the great Janine Haines could not get us Democrats higher than 12.6 per cent in the lower house, and our maximum at any one time was nine senators. So the Australian Democrats, the political party, never realised its full potential, if you speak about the small 'l' liberal philosophy. We never won all the votes of our natural constituency. Not everyone who voted for us was a small 'l' liberal, but most small 'l' liberals voted elsewhere anyway.

So what has or is to become of those who did vote for us? They still need a home. Sooner or later one will need to be made for them, because people, Australian people, who hold to the great centuries-old Western liberal tradition are not conservatives, they are not socialists and they are not Greens—even though, like me, they find attractions in all those movements at times; they are liberals.

If a first speech is about where you have been, who you are, why you are here and where you are trying to go, a last speech might include where you want to go next, who you have become and why you no longer want to be here. What next? I honestly do not know. I am not retiring, even though I am old enough to. I have at least another good 10 years in me yet. I am just ending this Canberra stint and will be doing other things from my Perth base. First will be a bit of relaxation and more time with my family, particularly the grandies. I will get bored though. We will see!

Next: who have I become? Self-perception and others' perception are not the same, and people make their own judgments. When you ask, 'What was he like?' the sum of a man can be found in a word, a phrase or a sentence. Of my public self you be the judge. I will say this is a place that gives you experience you would never get elsewhere; it tempers you. You do not leave the same person who came in.

Of my private self: some of you know my work on institutionalised children and my own personal discoveries as a result, and they have changed me forever. The meaning of life is getting to know and understand your inner being. As a result of my Senate and electorate work on children harmed in care, I have been scarred by their stories and uplifted by their humanity but have also, personally, discovered much that makes me as I

am. In an almost contrary way, I am therefore more settled than I have ever been.

Why do I think it is time for me to leave the Senate? I never came for a job; I came for a calling. WA Inc. had incensed me; I felt the country was losing its way, so I entered federal politics. Since then I have done what I could, as best I could. It is time for me to do something else and let someone else have a go. It is time for me to be in Perth more, to be at home more, to be with my family more.

When I gave my first speech I spoke of Pam, my wife, but not of my children, Ashleigh and Paul. That was deliberate. I wanted to keep them private. They had not entered politics; I had. They had not walked onto the public stage; I had. I was determined that they should not be, and should not feel that they were, political handbags. But they were always in my mind. Politics is a pressured, opinionated business, and I knew they felt the heat when I did, even if they were standing back a bit. Their support never wavered, they kept the home fires burning, they phoned and emailed often, they kept me in their lives and they made me very proud. Then they married Graham and Kati—two more to love—and the four of them then produced Daniel and Julius, which gladdens my heart. So these are the people who matter to me: Pam, Ashleigh, Paul, my immediate family; Norah and Morgie back home; and my dear friends too—although dear little Bengy is now gone. Then there is a small diaspora of family all over the world, including sisters Rosemary and Jane, brothers John and Bill, and seeming legions of nephews, nieces, great-nephews and great-nieces. That is the other thing about getting older: you get more emotional. It will come to you all.

I have been politically engaged since my early teens but I think I finally came into formal politics, into parliament, at the right age and stage. For me, politics is best with

grown children, because you do not have to worry too much about them when you are away as much as I have been, and you can have your wife with you as much as possible. Pam was in Canberra for my first speech and she is in the gallery for my last. Today is our 36th wedding anniversary, so I will dedicate this speech to her. I and many others owe her a great debt. I feel for the pollies from far away—North Queensland, the Northern Territory or Western Australia. Frankly I would not have done this job without Pam being here as much as she has been; I would have given it away.

It is important to keep proper perspective when you think about your own contribution. There have been 519 senators since 1901, and I am just one of those—equal 455th with the nine that came in with me on 1 July 2006, 12 years ago, or just one of the 1,534 from both houses who have served in parliament. Politicians, like cricketers, keep score. Our whip's clerk gave me my performance statistics. I am not going to bore you with those, but what I did want to lead on to was power versus influence.

I think the biggest job a parliamentarian has is to try and influence outcomes—to persuade others. Many would disagree with me, but I find influence more satisfying than power, because it involves the acceptance over time of your position. You have to win votes through argument. You do not exercise raw power—you have to win those votes. I have tried to exert influence, and I thank all those who had to put up with my private and public entreaties, all my suggestions and input into reports and legislation, all the corridor, office and committee advocacy, and all the endless rabbiting around in policy matters.

There were some moments when we had the call. When we Democrats held the balance of Senate power it did mean that, over

the years, we—in my portfolios certainly—had the call on policy and money, including tens of consequent billions. It was a big call. I had a couple of accountability wins. One which I enjoyed became known as the Murray motion—the continuing Senate order whereby departments and agencies must publish on the internet lists of their contracts to the value of \$100,000 or more. I have had 305 individual and 178 joint amendments pass the Senate in my 12 years, out of over 1,300 moved. Probably some of you will be thinking, 'Only that few!' I suppose it is not that many when you are in the balance of power role for so many years. In my defence, I do know hundreds of government amendments were those we negotiated.

You do need endurance here. I remember the Senate punch-bag times, such as the A New Tax System debate, which was the third longest debate in the history of the Senate at nearly 69 hours. I also had carriage for my party of two other bills in the top 10 all-time longest ever debates—the 1996 and 2005 workplace relations legislation debates, at 48 hours and 32 hours respectively.

This world of politics is a hard, competitive world, and for all of us, unless you happen to be a celebrity politician or hold a vital role at a vital time, it is often hard to get heard outside, no matter how hard you work. Even if you are not suited to it, you have to get heard outside because media and getting noticed matter in gathering votes. That is why some of us have to step outside our personalities and act in a way which gathers those votes. It matters less in getting somewhere in policy. Inside parliament it is a different matter. Long, consistent, principled advocacy often does pay off in here, because parliamentarians in the chamber, in committees, in corridors, will absorb repeated messages that have merit.

If you think that is not so, think of all the Democrat causes that were once marginal and are now mainstream—for instance, on the environment and climate change; on women's, Indigenous and gay rights; and on accountability and good governance.

When journalists ask me what my biggest achievements are, as they do when you are leaving, I answer that it is up to them to judge, but I do tell them what has meant the most to me. That is my work, particularly helped by Marilyn and Pam, on children who were institutionalised last century. I fought for years to get the Senate Community Affairs References Committee's 2001 child migrants and 2004 'Forgotten Australians' inquiries up. The unanimous reports from those inquiries revealed that more than 500,000 Australians were either raised or spent time in institutional or other forms of out-of-home care last century.

Although there is so much more to be done, I have helped bring their cause onto the public stage, and I am very glad to have done so. I want to acknowledge Margaret, Joanna and Leonie among the many warriors in this cause. I want to recognise Leonie Sheedy and a number of the forgotten Australians who are in the gallery. And let me single out for the highest praise my adviser Dr Marilyn Rock, whose work on the child migrants and 'Forgotten Australians' issues has been above and beyond the call of duty.

Before I leave this topic, know this. I lay the parliamentary burden of this cause on all those continuing in federal politics, but especially Jason Clare, Richard Marles and Jenny Macklin in the House; and Gary Humphries, Claire Moore, Jan McLucas and Steve Hutchins in the Senate. Do not let me or them down.

My achievements and efforts have had terrific backing from the selfless and self-sacrificing members and supporters of the

Australian Democrats, past and present, particularly in WA, who have stood for me and by me. I am not all that easy to know or understand but they have forgiven me my shortcomings and rewarded me with their loyalty and support. I salute them, past and present. In particular I honour the durable, loyal, wise and supportive Jack Evans. I thank him and Margaret for so much.

To the voters of WA, I have done my very best for you and I thank you for giving me the opportunity of this rich and fulfilling parliamentary experience. To my electorate staff and advisers over the 12 years—I have already mentioned Pam, Marilyn and Jack—I want to pick out for special mention smart Emma and Damen and the very talented Jeff; loyal Julie and Mary; the clever Eli and Tim; fabulous Ainslie; and volunteers like Bill and dear Ellen Cook. I will mention just some of my portfolio advisers—the simply amazing John Cherry; clever Kellie; Lee, Victor and Karen—but my sincere thanks go to the others, especially Schuie and long-serving Jene, Sam and Stephen.

To my Democrat colleagues past and present, I salute you—cumulatively and individually people of great talent, ability, humanity, application, hard work and diligence. We have been through a great deal together, and I thank you. I shall say more about you tomorrow.

To the Labor, Liberal, National and Green senators who leave on 30 June, very good luck and thank you for being good company—some of you excellent and naughty company! I have discovered I have many more friends here, in the House and abroad than I realised. Thank you for your recent messages of thanks and respect—they have buoyed me enormously. I will mention only two senators by name tonight, though. Blessings to you, Alan and Lyn.

I will conclude with the wonderful TS Eliot, from *The Love Song of J Alfred Prufrock*. Some of it will remind you of political life. I will just quote the first quarter but, if you like it, you can ask that the rest of it be incorporated at the end because I do have it here. It goes like this:

LET us go then, you and I,
 When the evening is spread out against the sky
 Like a patient etherised upon a table;
 Let us go, through certain half-deserted streets,
 The muttering retreats
 Of restless nights in one-night cheap hotels
 And sawdust restaurants with oyster-shells:
 Streets that follow like a tedious argument
 Of insidious intent
 To lead you to an overwhelming question ...
 Oh, do not ask, "What is it?"
 Let us go and make our visit.
 In the room the women come and go
 Talking of Michelangelo.
 The yellow fog that rubs its back upon the win-
 dow-panes,
 The yellow smoke that rubs its muzzle on the
 window-panes
 Licked its tongue into the corners of the evening,
 Lingered upon the pools that stand in drains,
 Let fall upon its back the soot that falls from
 chimneys,
 Slipped by the terrace, made a sudden leap,
 And seeing that it was a soft October night,
 Curled once about the house, and fell asleep.
 And indeed there will be time
 For the yellow smoke that slides along the street,
 Rubbing its back upon the window-panes;
 There will be time, there will be time
 To prepare a face to meet the faces that you meet;
 There will be time to murder and create,
 And time for all the works and days of hands
 That lift and drop a question on your plate,
 Time for you and time for me,

And time yet for a hundred indecisions,
 And for a hundred visions and revisions,
 Before the taking of a toast and tea.

... ..

I thank the Senate.

Senator CHRIS EVANS (Western Australia—Minister for Immigration and Citizenship) (5.51 pm)—by leave—I would like to make a few remarks on the retirement of Senator Andrew Murray from the Senate. His contribution again highlighted what a remarkable place the Senate is. We go from question time and the hurling of insults—a gladiatorial contest—to having a senator read us a poem on his retirement. You have just got to go with the flow in this place. To Andrew and Pam, who I know has been very much a part of the effort, and to the Murray clan, it gives me great pleasure, on behalf of the Labor Party, to acknowledge Andrew Murray's contribution to the Senate and public life in this country.

I was not expecting to give this speech until tomorrow, but it is not hard to think of a few things to say about Andrew. His personal history is remarkable; it is like one of those old *Boy's Own Annual* stories in terms of his life experiences. His is another great Australian migrant story; first, as an Englishman, he migrated to Africa and then he migrated to Australia and gained Australian citizenship. I am very pleased that Andrew's career ended by his own hand rather than by that of an angry dog owner, which looked for a while to be his fate. It is a good reason to never own a dog, Andrew; it might end your political career!

Andrew has made a tremendous mark as a parliamentarian. Kim Beazley always remarks to me how he wished he had been in the Senate because that is where real parliamentarians and real legislators operated, and that capacity was not really available in the House of Representatives because one party

had the majority and forced through its legislation. I think it is fair to say that in recent years some of the most expert parliamentarians or legislators have been from the minor parties. It is partly a function of where they have been in terms of having to hold the balance of power or having to contribute to legislation as an individual much more than those of us in a larger party have to. Parliamentarians from larger parties tend to have areas of speciality and handle certain sections of bills, but those parliamentarians from independent or small parties have to get across a much wider range of legislation, and, as a result of that, in many ways, they become better legislators and parliamentarians. I think it is true to say that Andrew has become one of the best. I think Senator Brian Harradine was probably still the best in my time, but Andrew Murray has certainly been a very effective parliamentarian as well. I think Senator Harradine is a bit more wily than you, Senator Murray. He was a master at it. Senator Murray, you are a bit too up front!

The thing that has marked Senator Murray's career is that he has been a person of substance. He has been very committed to his role and has always worked hard at being a member of the Senate and of the Australian parliament. He has put an enormous effort into committee work. One downside of being from a minor party is that one does not get the chance necessarily to move to a ministerial office. The upside is that people from minor parties with careers in the parliament get to concentrate on some of the committee work and their contribution to committees. Senator Murray has made a huge contribution to that work of the Senate. As he mentioned, his work, along with other Senate colleagues, with the forgotten Australians is a tremendous compliment to him. It is also a compliment to the Senate that we are capable of doing that sort of work, putting issues on

the agenda and using what is often a bipartisan approach to promote issues that governments have to confront—issues which might otherwise have been ignored. I think that is when the Senate is at its best. Andrew's work with the forgotten Australians is one area that will not slip off the agenda.

The government clearly recognises the capabilities that Senator Murray has brought to this place. Minister Tanner is very keen to use him in his post-parliamentary life in the review of government budget and finance reporting. Andrew had an interest in those things for many years. Personally, I do not understand it. We have never discussed it because the things that excite him, quite frankly, do not do anything for me at all. But, Senator Murray, it is important that somebody cares. I know that you and Senator Wong, and a few others, get off on it, and I am glad for you. It is important work, but I cannot provide any commentary on your contribution in that area other than that you have been persistent and consistent in your interest. It is important that we have senators who have a range of interests which they pursue doggedly. I know that your interest in those matters and, more broadly, the accountability function of the parliament has been very important. Your contribution in that area will be long recognised.

In terms of your party experience, you have been through some very difficult times. Those of us in political parties all go through those times, particularly in opposition, as I hope Senator Minchin is finding out. Obviously, in small parties those problems are sometimes accentuated. I know that there have been some real difficulties within the Democrats and it is often harder to manage those internal conflicts in a party of small numbers. One advantage of a larger party is that, while sometimes the conflict is as severe, the breadth of the organisation and numbers means that it is not necessarily quite

as personal, or at least people are able to continue to operate in that organisation. I know the Democrats had difficult times in that regard. Obviously, when one is losing political support, that adds particular pressures. I will leave others to write the history of the Democrats; there has been a lot of analysis of that. I might have a bit more to say to that tomorrow night.

Senator Murray, I note that at one stage you were the only one who had not been the leader of the Democrats and, as I recall, the only one not running to be leader. At one stage I thought you would probably get the job because you were the only one who was not running for it. But I understand that at that stage you needed a second vote to win and you could not get one. Mind you, neither could the others. I guess you must have been the swinging voter; you were the only non-candidate. I think a lot of people thought that perhaps you should have had a leadership role in the Democrats because of your capabilities and reputation in this place. I think you suffered from the fact that, like me, you just looked like another ageing, grey politician. One of the advantages in marketing the Democrats was that they had a series of women as leaders, which provided a point of differentiation from the major parties.

The other thing that is probably true is that you were seen by many as being a bit right-wing for the Democrats; anyone who is interested in financial regulation matters must be right-wing by definition—that is the view most people took. In my experience, you are far more complex than that and are seen as very progressive on a whole range of issues and always very much focused on the rights of the individual and the right to equality of access and opportunity. That is to your great credit.

As I say, you probably provided a set of skills and interests that the Democrats did

not have in their other senators. The other senators brought other interests and skills, and you provided a strength for the Democrats in areas that had not traditionally been seen as their strength. Although you have always assured me that you have all the small business support, I have never quite believed it, but I have heard the argument and respected it.

On a personal note, Andrew, you have been very well regarded and respected around the parliament because of the way you handle yourself. The fact that you have been strong on issues without being personal with your opponents has always been a great strength. It has allowed you to maintain strong relationships around the chamber so that the Liberals think you are a Liberal and we think you are a Labor bloke, and you have been quite successful in managing relations with all of us. I think that shows your professionalism, and the way that you have conducted yourself is a credit to you. You are always polite and considerate but determined and persistent. As someone who has been through a number of committee stages of bills with you, I know you are nothing if not persistent. As you say, that persistence has borne some fruit not only in terms of amendments but also in putting issues on the agenda and getting governments to take seriously issues that you have advanced.

On a personal level, I will miss your conversations about a much more important matter than corporate regulation—that of rugby union. Senator Murray and I are members of the ageing props club and each year we are remembered as being much better at the game than we were the previous year. I think we both now consider we are unlucky not to be internationals! I would have played tighthead and you could have played loosehead, and it would have been a very good combination. I have enjoyed the personal contact with you and I pay tribute to you by

taking over your office—and thank you for facilitating that; I still have not been inside it. I understand you have got the best office in Perth, so I hope to take that over.

Seriously, on behalf of the Labor senators, I indicate that we have enjoyed your contribution to the parliament. We respect the contribution you have made. You are held in very high regard here as being a very professional and effective parliamentarian. Whatever you do in the future, we wish you the best of luck and hope you continue to contribute to public policy in this country.

Senator MINCHIN (South Australia—Leader of the Opposition in the Senate) (6.03 pm)—by leave—I am pleased to have this opportunity to join with Senator Evans in paying tribute to the magnificent career of Senator Andrew Murray, and I endorse and support almost everything that Senator Evans has said. Indeed, it has been a magnificent career. If you think about it, Senator Murray, in his 12 years here, has probably contributed more than many do in twice that time to the work of this chamber and the parliament. I would hazard a guess that there is no other non-coalition senator who commands more respect on our side than Senator Andrew Murray. You have earned that respect by the work that you do. Not only that—you have earned at the same time, and it is not easy to do, the friendship of senators, certainly on our side and I dare say around the chamber. Your obvious intelligence, your incredible capacity for hard work—you mentioned your job of handling the new tax system in this chamber; that would have been extraordinarily onerous for you—and your dedication to your task have been evident to all of us.

The other thing that really marks you is that you have brought to your role here extraordinary life experience. Senator Evans made mention of that, but it does single you out. We like to think that on our side coali-

tion senators bring considerably more life experience than those from the other side, but you really do bring to this place—

Senator Chris Evans interjecting—

Senator MINCHIN—I do not, of course; I am just another party hack like Senator Evans. But you have seen life, and that is evident in the work that you have done in this chamber.

The thing that stands out on our side is that Senator Murray has been, as far as we are concerned, in all our time in this place, the only Democrat who really understands economics and business. We know that the Democrats are a broad church and have a number of issues which mean a lot to them, but it is our experience that Senator Murray really is the only one who fundamentally understands economics and business. Of course that has meant that Senator Murray has had an enormous workload in carrying legislation that deals with the budget taxation expenditures and industrial relations. I want to say that I congratulate the new government on recognising that expertise by honouring Senator Murray with the responsibility of preparing a report for the new government on budget transparency issues. I commend my successor as finance minister, Lindsay Tanner, on asking Senator Murray to conduct that review. I look forward to seeing Senator Murray's review and I think that it will have a bearing on our policy positions.

As finance minister, of course, I had to juggle a Prime Minister and Treasurer who were not necessarily all that enthusiastic about undue transparency and, no doubt, Mr Tanner might find that his Prime Minister and Treasurer in the reality of government are not quite as enthusiastic as they might have been in opposition. But I am sure your report will be very instructive and well thought through.

Certainly my own former department of finance had enormous respect for Senator Murray. I used to have estimates briefings with my department before every series of estimates and there would always be a session dedicated to: what is Senator Andrew Murray going to pursue at this Senate estimates; are we prepared for the series of questions which he will no doubt bring to bear? So the respect that Senator Murray earned not only exists in this chamber but I think is widespread, certainly in the financial departments of the government.

The coalition of course extends its enormous gratitude to Senator Murray and his Democrat fellows who supported the new tax system. I will say something more about this tomorrow night. I guess it was the most difficult issue the Democrats have had to deal with in their 30-year existence. Senator Murray's dedication to good policy outcomes and to ensuring that good policy outcomes outweighed the politics of issues meant that in the end he did support what he, I and I think the nation now know was a very important change to our tax system. It is now almost unimaginable to think of having retained the old tax system in 2008. We would not have had it but for the courage of Senator Murray and a few of his Democrat colleagues who in the end supported the new tax system. I acknowledge his courage and commitment to that cause and the difficulty that it no doubt would have caused him in his party.

I was interested in Senator Evans saying that Senator Murray seems to have convinced those on our side that he is really a Liberal and those on the Labor side that he really supports Labor. I think that the truth is that his Liberal tendencies are pretty strong, and I guess in the true sense of the word they would be small 'l' liberal tendencies, but we on our side like to think that we are the custodians of the two great British liberal tradi-

tions: conservatism—which I guess I am a disciple of—and small 'l' liberalism. Many of my esteemed colleagues of course are dedicated exponents of the virtues of small 'l' liberalism, and I think Senator Murray is one of the great exponents of the virtues of that great British tradition of small 'l' liberalism.

Indeed, on that score I think he would have graced our party. I am sorry we were never able to persuade him to see the light and join the Liberal Party. I think he would have graced our side of politics and that it would have given him the opportunity to serve as a minister and be part of executive government. As Senator Evans properly said, one of the problems of being in a minor party in this place is that you are denied the opportunity of being part of the executive, but he has more than made up for that by being one of the great legislators this parliament has seen—an absolutely outstanding legislator. But, as I said, I am sorry that he has not had the opportunity to be part of an executive.

Senator Evans also made the point that, when we look to that corner, we notice that Senator Murray is the only one to have not been the leader of his party. I do not mean any offence to his three esteemed colleagues, but I certainly want to say that I think he would have been an outstanding leader of his party. I think his party failed in not giving him that opportunity.

The other thing that really stands out about Senator Murray is just how personable a human being he is. Senator Murray is one of the most personable, pleasant and agreeable people to deal with, in my experience. Those are not necessarily common attributes in this place. Senator Murray is one of the most determined negotiators that you could encounter. He certainly knows what he wants in a negotiation but does it with courtesy and

grace, which is, as I said, very rare in this business.

Tonight we also saw that Senator Murray is quite a philosophical fellow. It reminds me of when I was 20 and first went to the temple at Delphi and learnt about the inscriptions at each end of that temple which gave rise to the notion of the Delphic oracle. At one end the inscription is 'Know thyself' and at the other end the inscription is 'Moderation in all things'. While I might aspire to achieve both of those things, I have failed miserably so far, but it can truly be said of Senator Andrew Murray that he has achieved those great attributes which the Greek philosophers thought we should all aspire to. He can leave this place knowing that he has achieved that level of fulfilment.

Tonight we also saw on display Senator Murray's emotion. I am not old enough of course to know whether he is right about getting more emotional as you get older—I say that tongue in cheek! I recall that one of the last questions I answered in this place as a minister was from Senator Murray and it was on the subject to which he has dedicated much of his parliamentary life: the welfare of children. I recall in answering that question that I became emotional in a fashion which is rare for me in this place, but it really did strike me as a father of three children, knowing Senator Murray's dedication to the cause and knowing the great work that remains to be done in that area. I certainly hope that those with whom he has charged that task undertake it and carry it out. I place on the record my enormous commendation to Senator Murray for his dedication to that cause.

I close by congratulating Andrew and his wife Pam on their 36th wedding anniversary today. Make it a great night! I wish Senator Murray many, many years of happiness ahead.

Senator ELLISON (Western Australia—Manager of Opposition Business in the Senate) (6.13 pm)—by leave—I certainly endorse the comments made by Senator Minchin in relation to Senator Murray. I take this opportunity to wish Senator Murray and his lovely wife, Pam, every success in the future. Due to the constraints of time, I seek leave to incorporate the remainder of my remarks.

Leave granted.

The incorporated speech read as follows—

Mr President, in this final week of winter sittings, we farewell Democrat Senators from the Senate. One of them from Western Australia, my home state, is Senator Murray who was first elected at the 1996 election, winning the Democrats' first West Australian Senate position since the 1987 election. Not only is Senator Murray one of the longest serving Democrat Senators, he is the longest serving non-ALP and non-Liberal Senator for Western Australia.

Andrew had extensive experience before entering the Senate. Born in the UK, Andrew was raised in Rhodesia as a child migrant at Fairbridge and subsequently studying at the University in South Africa and becoming a Rhodes Scholar. Indeed he was subsequently deported from that country for resisting apartheid. As well as this, Andrew also managed to have extensive experience in small business. This extensive experience enabled him to bring a good deal of integrity and common sense to the many debates in which he has participated in the Senate. In particular, he has made an outstanding contribution to the Senate Committee process, and in particular has been a member of the Scrutiny of Bills Committee since 1996. I think during that time he has only missed one meeting of that Committee!

As well as this, a subject close to his heart has been the Senate Inquiry into child migration and of course he has always championed the cause of democracy in Zimbabwe.

Senator Murray, with the support of his charming wife Pam, can be proud of his time in the

Senate. We shall miss the company of them both, and I wish them every success in the future.

The PRESIDENT (6.14 pm)—Senator Murray, I was able to express some words at a function we had for retiring senators only last week but I have had time to reflect on many of the things that have been said tonight and I cannot help but think what an amazing life's journey you have had to this stage: a childhood as a Fairbridge boy, at four years of age going to Rhodesia; becoming a Rhodes scholar; being successful in business; running a pub in Bournemouth so you could get to Australia; and then after five or six years becoming a senator in this place.

I first met Andrew Murray in about July 1996 at a Senate committee hearing into a package of industrial relations laws. I thought: 'Well, here's this bloke who hasn't even been sworn in yet. What's he going to know about this new piece of legislation that is going to be difficult enough for us to handle at committee stage anyway?' How mistaken was I? Andrew knew the legislation backwards—better than I did—and he had not even been sworn into the parliament. That was typical of the man.

If I can say one thing in particular, Andrew Murray is a most admired legislator in this place. People come here for different reasons. Some like to make their mark in a variety of ways; some like to do good committee reports; some relish the other positions that are available in the parliament. But Andrew, like a couple of his colleagues in the Democrats, has excelled as a legislator. When you come in to take a bill through the committee stage in this place, it requires an understanding of the legislation that is before you. It is all very well for somebody on either side to go backwards and forwards to an adviser wondering what questions should be asked and then, when they get the answer, to go back and find out what the next question should be. But Andrew and some of the other

colleagues I have mentioned were able to do that standing in their seat because they knew the legislation backwards, they knew what they wanted to do and they knew what they wanted to achieve. Those of us who have never been in a minor party will never understand how much work it took to cross so many portfolios and to understand every piece of legislation that came in. So Andrew impressed me right from the first minute.

Before long, we became firm friends, as we were on the same committee for so many years. I have to say that, in the time since, Andrew has become one of two or three of the best mates that I have ever had in this place. I had written down some notes about the qualities of Andrew Murray, the qualities that we all admire. I looked down and I saw 'integrity', 'loyalty to his beliefs' and 'fundamentally honest with himself and to all those things he believed in', and Andrew has stuck by that through his entire career in this place. Andrew and I also shared a love—which is not one not many people know about, of course—and that is the love of a good single malt, treated in moderation of course. Our paths have meant that we have had the odd chance to share a single malt—usually in his office, sometimes in mine—with Pam there keeping an eye on us to make sure that we only had one.

Andrew's journey through this place has left a mark that he can be extremely proud of and that Pam can be extremely proud of because, as he said right at the start of his speech, he did not need to come to the Senate; he came here because he wanted to and because he wanted to contribute. That was evident in everything that he has ever done in this place. I think the best tribute that can probably be paid to Andrew is to say: you will long be remembered by those that you have served with in this place.

Senator CHAPMAN (South Australia) (6.18 pm)—by leave—I came to know Senator Murray extremely well through our shared experience on the Parliamentary Joint Committee on Corporations and Financial Services and the Senate Legislation Committee on Economics. I referred briefly to that in my own valedictory remarks last Thursday and again in the tabling of the final report, which both Andrew and I were involved in, of the joint committee earlier today. I simply want to extend those remarks a little with some comments about Senator Andrew Murray.

In my experience, he demonstrated high intellect, high integrity, as the President mentioned, diligence and thoughtfulness in the contributions that he made to both of those committees. They were applied when we were discussing the committee's issues for investigation, and often Andrew came up with the issues that needed inquiry and investigation by those committees. It was again evident in the way he questioned witnesses and also evident in the work of those committees in finalising their reports and drafting the recommendations. I think that intellect, diligence and thoughtfulness were clearly evident in his valedictory speech tonight.

As I say, I came to know him extremely well through work on both of those committees but I valued very greatly his contribution to the work of the statutory Parliamentary Joint Committee on Corporations and Financial Services, which we were both on for the 12 years that I was chairman of that committee. Apart from those qualities I have already mentioned, he was generally cooperative in the work of the committee and, while remaining firm to his own principles—and that has already been referred to tonight—always tried to find common ground when the committee was finalising its reports and drafting its recommendations. I certainly owe him a debt of gratitude for that and for the contri-

bution he made in all of the work of this committee, which, as he said last week, has been very beneficial to the Australian business community over the last 12 years. Without a doubt, his contribution to those committees and to the Senate itself will be sorely missed in the years ahead. I certainly look forward, as we both leave on Monday, to keeping in touch with him over the years ahead. I wish him all the best.

Senator HEFFERNAN (New South Wales) (6.21 pm)—by leave—It is not often that I get up in this place but, Andrew, I could not let this night go by without some recognition of living proof that it does not matter where you come from or what the circumstance are that you have come from; every individual can make a difference to their community and, in your case, to the great nation of Australia.

I am unaware of what everybody else has said but I just want to put on the record part of your journey, and you can tell me which bits are wrong. Andrew was born in the UK in 1947 and at the age of four—this is my information—was sent from England to Zimbabwe and then southern Rhodesia as a child migrant. I would have thought that was a statement in itself. He then attended numerous schools in South Africa before going to university. His academic talents were recognised when he was awarded the prestigious Rhodes scholarship, going on to earn a BA from Oxford University. I am a wool classer and a welder, mate, so there is a bit of a mixture in this place!

In 1968 Andrew was deported from South Africa for opposing the apartheid policies of the National Party of South Africa. The deportation order was removed some nine years ago. Andrew served in the Rhodesian Air Force from 1969 to 1977. He went on to become a businessman, managing and own-

ing his own businesses across a number of industries. He is also a published author.

This is a little kid that was sent from England as a four-year-old into no-man's-land. You certainly have been tireless, Andrew. There has been a lot said about the trust that everyone has in you as a parliamentary person and as a committee member in parliament. We could trust Andrew. I have to say that any political party would have been proud to have had you as a member. I can certainly say that for the Liberal Party. I am damned if I know how the Democrats got you, but we would have loved to have got you.

So after 12 years it has come to this. As I said to Kay Patterson, don't think you've peaked, mate; you haven't peaked yet. I am looking forward to your after-parliamentary life and your contribution to keeping Australia the great country that it is. In his first speech Andrew quoted—and this is very unlike me but very like him—William Butler Yeats, in *The Second Coming*, saying, 'Things fall apart, the centre cannot hold.' To me, that was Andrew's way of saying that, if the lives of enough individuals begin to fall apart, the great society to which they belong will fall apart too. Mate, you have been a great protector of our society, particularly in your commitment to those kids—which, as you know, is a passion I share with you. Every child should have an unconditional safe passage through their years of innocence—and I am quite happy to get myself into a lot of trouble in that cause.

Mate, it is not often that you can say, 'I can trust you with everything I've got,' but with you I would. I am just bloody sorry that the Liberals did not get you and that the Democrats did. But good luck to the Democrats. Everyone in this chamber and in this parliament who has got to know you and the integrity that you absolutely exude and the re-

sponsibility to tasks that you took on is mightily privileged to have known you and to have worked with you. And you have not peaked, mate, because we want to work with you in the future. My best wishes to your family, and your children and grandchildren. You have got a good one.

Senator FIELDING (Victoria—Leader of the Family First Party) (6.25 pm)—by leave—Before getting to this red chamber, I, like many Australians, probably saw the Democrats through Don Chipp, and I had the privilege of getting to know him. But, until I got here, Andrew, I really did not understand how much work goes into getting work done around here. From what I have seen, you have served here extremely well, and the Senate should be thankful to you, the parliament should be thankful to you and all Australians should be thankful for the work that you have done tirelessly here.

You were probably thrilled, and I was thrilled for you, to see that an amendment that you had put up so many times in this place—an amendment on merits based appointments—yesterday, historically, got through. You got one through! The coalition supported you, and I am hoping that that was because, out of their graciousness, they really wanted to make sure that you went out seeing that achieved on at least one piece of legislation. Credit to you for sticking to it and consistently putting that amendment forward. I think that speaks of the tenacity that you have had in tirelessly continuing to believe in what you are on about. It was a credit to you to see that win yesterday.

As I as saying before, the Senate is grateful, the parliament is definitely grateful and Australia is grateful for your work. I wish you and your family very well in your next endeavours.

Senator SCULLION (Northern Territory—Leader of the Nationals in the Senate)

(6.27 pm)—by leave—It has been a great privilege to work alongside Andrew Murray. Whilst I have not been as privileged to be as close to him as many, I would consider him a friend. I would certainly describe him as a very serious man. He takes his work in this place extremely seriously, but that does not completely describe a very complex character, with a great sense of humour and such a willing and adopting attitude to listen to everybody, to give everybody a hearing.

On a personal note, I have been very lucky as he has always been very generous with his advice to me. On one particular occasion I travelled to Perth to seek some advice from him, and, as noted in many of the very important amendments to this piece of Northern Territory legislation, his advice was reflected in them. I share Senator Evans's views on taxation—it is not really my bag—but it is tremendous to see someone like Senator Murray with such dedication. I think you only become a great legislator if you focus specifically on one issue, and I think that will probably be a trend. The great legislators who come to this place cannot afford to tinker with everything; you have to be somebody who is absolutely fair dinkum and make an incredible contribution in one area—and Andrew has certainly done that. That is certainly reflected in his successes in that area.

The work that he has done with institutionalised children will indeed, as Bill so articulately put it, be a real legacy in this place. I am quite sure that the work that he started and the great work that he has accomplished will be seen as a beacon to others who come to this place, and the issues that he fought so bravely, courageously and determinedly to thwart will not be part of the future and we will forever see them as in the past.

Those in this place who have already spoken have spoken about the great respect that Senator Murray is afforded by all sides of the Senate. We in the National Party know that the Libs and Labor are both wrong: he belongs firmly on the side of the Nationals! Mate, I have really appreciated all the time that you have spent with me in this place. You have made a fantastic and unique contribution to public life and the wider Australian community. Thank you.

Sitting suspended from 6.30 pm to 7.30 pm

TAX LAWS AMENDMENT (2008 MEASURES No. 1) BILL 2008

Second Reading

Debate resumed.

Senator MILNE (Tasmania) (7.30 pm)—Before the dinner break I stood to address the Tax Laws Amendment (2008 Measures No. 1) Bill 2008 and the issue of what was schedule 3 and which will now be the subject of my new amendment for proposed schedule 7. If rural Australia was already worried about managed investment schemes then it should also be worried about this legislation, which is about managed investment schemes on steroids. That is the only way I can describe it.

Let me explain again why this is such a bad idea. It is supposedly to establish forests that will be of long-term use in absorbing excess carbon dioxide from the atmosphere. The *Bills Digest* says in its conclusions:

... the proposed deduction encourages the rapid establishment of these forests during the next few years.

That means the rapid establishment of plantations—yet more plantations on the backs of taxpayers and, in forgone revenue, they are going to cost \$25.3 million in the forthcoming three years. This is the National Association of Forest Industries getting yet another

major boost for plantation establishment around the country and starting up yet another whole raft of managed investment scheme types of companies, which will be out there getting 100 per cent tax-deductibility in the first year for establishing plantations.

As I said before, there is no requirement for these plantations to be biodiverse. There is no requirement for a hydrological study to look at the impact of these plantations on catchments, yet we already know that plantations are drying up catchments and destroying the water supplies of many towns around Australia. There is no requirement to look at the impact on existing land uses. As I mentioned earlier, the cane growers in Tully are a classic case. Well, on the north-west coast of Tasmania we are taking good food-growing land out of food production and putting it towards plantations, not because it is justified but so Collins Street investors can get up-front tax deductions to minimise their own incomes and maximise their own wealth, at the cost of food production and at the cost of local farmers.

Why is this the case? What is so horribly wrong with this? First of all, the federal government is meant to be taking a whole-of-government approach to climate change. This is a taxation measure which in theory ought to be assisting, not undermining, the effort on climate change. Why isn't it? The reason is this. The IPCC report shows that, on all the science analysis, climate change is getting worse by the minute. We have not even until 2015 to significantly reduce our emissions. Bali's starting negotiation point was 25 to 40 per cent reductions below 1990 levels by 2020. So the aim of the exercise should be to maximise the carbon store we have now got in the ground and keep it there and protect it, because we have huge volumes of carbon in our standing native forests, and in our savannahs and in our native

vegetation around the country. If we subsidise the knocking down of those forests, we are putting into the atmosphere millions of tonnes of carbon dioxide. On the other side of the ledger, if we then give tax-deductibility for these schemes to plant plantations, it will take up to a hundred years, if those plantations survive, for us to be able to store as much carbon as can be stored in the forests that we are currently knocking down. And we do not have 80 to 100 years—we have only until 2015 at the maximum—to reduce these carbon dioxide emissions.

The problem with this whole legislation is it is based on Kyoto accounting. By that I mean that what we get credit for is afforestation and reforestation—that is, planting so-called forests, being plantations, on land that was cleared before 1990—but we do not get penalised for the emissions that we put into the atmosphere from the logging of forests. So all of those forests in Tasmania that are being logged, those dense old-growth forests, are regarded as being neutral for the purposes of Kyoto accounting, because, as long as the land use does not change and as long as you put in a plantation on private land or you regenerate on public land, it is regarded as neutral, because over hundreds of years it would be. But we are not doing this over hundreds of years. We do not have hundreds of years. So it is complete madness to give out taxpayers' money to knock down carbon stores and put hundreds of millions of tonnes into the atmosphere and then give tax deductions to try to take a small fraction of those out of the atmosphere in the next 10 years. But that is what the government is doing.

What the minister has to explain here tonight is why the government is giving a tax deduction for planting plantations that are not biodiverse and are not required to be in the ground for any length of time and is providing subsidies to knock down carbon stores. If there were a whole-of-government

approach the first thing you would do to reduce your emissions would be to protect your carbon stores by protecting your native vegetation. If you were going to go for establishing carbon sinks you would look at restoration forestry in areas that have been degraded and, again, look at building up mixed species. You would look at protecting more standing forest rather than displacing people off farms. Furthermore, this is yet another example of the destruction of the integrity—if there ever will be any in the end—of a supposed emissions-trading scheme. Instead of making the coal industry, in particular the coal-fired electricity generators, compete on an even playing field, you are giving them a tax deduction to go out and plant plantations in order to offset their emissions, rather than forcing them to reduce their emissions at the power station. There is no attempt by the government to do that by forcing them to implement the easiest energy efficiency opportunities which they are forced to identify but not forced to implement.

Today's *Greenhouse Gas Inventory* clearly makes this point: transport emissions are going up, energy generation emissions are on the way up, fugitive emissions from coalmining are on the way up and coal accounts for 70 per cent of the increase in our emissions. And what is this bill doing? It is saying to rush out and plant out rural Australia with plantations to try to mop it all up, rather than saying: deal with the issue at the source. But, even more ridiculously, it is about subsidising more emissions into the atmosphere from logging than will be absorbed from these plantations for which you are driving the farmers of Australia off their land to actually establish.

I would like to know from the minister what the justification is for there being no time frame in this legislation requiring the length of time for these so-called forests to be in the ground. What is the justification for

them not being mixed species—local native mixed species? What is the justification for no hydrological assessment and no assessment of the impacts on existing industries in that area—whether it is dairies, cane or whatever else? Rural Australia is already up in arms. And it is no use Senator Boswell rushing around Queensland saying, 'Oh dear, the MISs have been terrible for cane,' because he is about to vote for something that will be worse. It will make the situation far worse.

I am really appalled by the fact that, if the plantation that you plant burns down in a bushfire, not only do you not have to make good—you do not have to pay back the tax deduction you got for establishing it—but you get the rest of your tax deduction paid out, plus a bonus, plus your insurance money. So there are no worries! You can get a 100 per cent tax deduction up front or you can take it over 14 years, which is coincidentally the life of a plantation. And, if it burns down after eight years, you get the tax deduction paid out up to the eight years, plus a bonus, plus your insurance. This is yet another mechanism for investors to make money out of the government—and it will be \$24.3 million out of the government—minimise their incomes, invest in reducing their own mortgages or whatever, drive farmers off the land and do nothing for climate change.

There will be a net loss of carbon, as there is right now, and the only reason forestry pretends there is not is that there is not yet full carbon accounting. Native forest logging is regarded as neutral and, until we get proper accounting, we will have this distorted, ridiculous pretence about the level of emissions coming out of the forest sector in Australia. I foreshadow that I have amendments which will require mixed species, which will require the trees to be in the ground a hundred years and which will re-

quire information on hydrological and other ecological impacts as well as impacts on surrounding land uses. As I said before, I would have been voting against this schedule but, in what can only be seen as a sleight of hand, the government switched the schedules. (*Time expired*)

Senator RONALDSON (Victoria) (7.40 pm)—I want to say a couple of words, albeit briefly, in relation to the Tax Laws Amendment (2008 Measures No. 1) Bill 2008. The opposition is concerned that at the eleventh hour we were given some quite considerable amendments. We will be supporting the government in relation to those and we will be opposing the bill, which will come as no surprise to anyone. But we are a little surprised, quite frankly, that it took them until the eleventh hour. This bill has been around for a long time. There are very detailed amendments to this bill, but I will address those when we get into committee.

I want to speak tonight about schedule 1. Schedules 2 to 6 were effectively dealt with last week, so the remaining matter that we have is schedule 1. I refer to the Joint Standing Committee on Electoral Matters advisory report on the Tax Laws Amendment (2008 Measures No. 1) Bill 2008, and I would draw the honourable senators' attention to the minority report tabled on behalf of Mr Morrison and Mr Scott from the other place, Senator Birmingham and me. I will not go into great detail, but what the minority report effectively indicates is that there is no reason for this legislation to proceed in light of the quite detailed reference that is presently before the joint standing committee. We have asked on numerous occasions, and the minor parties have asked on numerous occasions, for the Senate to agree to deferring these bills until we can look at this whole political donation issue.

Honourable senators have heard me talk about my view of the rationale for this bill and also for the political disclosure bill, and we believe it is to address the political imperatives of the government and it is not addressing the real issue, which is political financing and donations. The committee tried, along with the Nationals, the Liberals and Senator Brown, to oppose it. I read from page 45 of the minority report:

Coalition Party members of the Committee, together with Senator Bob Brown of the Greens, have opposed this inquiry proceeding in isolation, preferring that the matters referred by the Senate in relation to the Bill, be taken up as part of the committee's broader inquiry. This position was rejected by Government members of the committee on the casting vote of the Government Chairman.

For the honourable senators who were at this inquiry, it became very clear—as is articulated in the minority report—that there is no reason for this bill to proceed now. The evidence given by Treasury quite clearly shows that the Senate cannot rely on the figures that were given during that inquiry to substantiate the government's claims in relation to revenue savings. They do not support the position of the government, and we believe that is the first reason.

I will read the first recommendation of the minority report:

That consideration by the Senate of the proposal by the Government for the removal of tax-deductibility for contributions and gifts made to political parties be deferred until such time that the committee has had the opportunity to conclude its broader inquiry into the 2007 federal election, including the extensive review of issues relating to campaign finance reform, furthermore no consideration should be given to the Bill until the Government makes its Green Paper public.

I refer the Senate back to the terms of reference lodged by me and supported by the Senate. This was lodged by me on 11 March and referred to the committee on 12 March.

The inquiry, and, again, it was supported by the minor parties, was to be an exhaustive inquiry by the Joint Standing Committee on Electoral Matters. I will read the start of the motion I moved on 12 March:

That the following matter be referred to the Joint Standing Committee on Electoral Matters for inquiry and report:

All aspects of the 2007 Federal Election and matters related thereto, with particular reference to ...

The motion goes on to refer in part (a) to the level of donations. The second part, part (b), refers to political fundraising. The third part, part (c), says:

(c) the take up, by whom and by what groups, of current provisions for tax-deductibility for political donations as well as other groups with tax-deductibility that involve themselves in the political process without disclosing that tax-deductible funds are being used ...

The Senate, quite rightly in my view, made that referral. Part of that referral was for JSCEM, as the committee is known by honourable senators, to look at all these matters in conjunction with its inquiry into the 2007 election. There was no grey area here; it is quite clear. Those terms of reference, and everything involved in those terms of reference, including tax-deductibility and disclosure, were to be covered in the context of the committee's inquiry. I am a member of that committee. We have substantial inquiries coming up right throughout Australia. I saw from the committee's schedule that Senator Brown will be coming to a large number of those inquiries. That 2007 federal election inquiry takes into account, because of the motion passed by this chamber, a large number of matters, including tax-deductibility.

As the minority report says, there are some real issues in relation to equity. It is interesting that equity has been used by some to defend this legislation. I will go to page 48 and quote the minority report. It says:

The arguments for inequity were not raised unprompted in the hearing undertaken by the committee, and were raised only by the Chair late in the hearing, quoting from the submission received after deadline by Mr Sempill and Dr Tham as follows:

the current provisions are inequitable on several counts. They discriminate against those who do not have to pay tax. Job seekers, retirees without income, full-time parents and students not engaged in paid work who make small contributions or take out party membership are denied the benefit of the current system ...

The report then goes on:

In response to questioning by the Chair—that is, Mr Melham from the other place; he was the chair of the committee—in relation to this statement, Professor Orr—from the Democratic Audit of Australia—put this issue in its proper perspective:

As I said, you might as well say that any form of tax-deductibility, including donations to charity, discriminate against such people ...

The report goes on to say:

The only real argument advanced for this initiative in the majority report is an argument for the abolition of tax deductions in general. Coalition Party members of the committee do not believe such an argument can be accepted to justify the isolated progression of the measure contained in this Bill.

In further response to the Chairman's comments regarding inequity, the advantage to Members of Parliament over members of the community was highlighted in evidence given.

This is the second point I want to raise. I find it quite extraordinary that this chamber would allow members of parliament to have effectively unlimited tax-deductibility to guarantee their own preselection or to curry favour within their own political party, yet if a member of the public wants to make a contribution to the process they will be denied that. I find that an extraordinary notion, and I find it extraordinary that this chamber would

actually allow that to occur. Why would we allow members of parliament to curry favour within their own parties to achieve preselection but not be prepared to allow a citizen of this country the opportunity to participate and receive a tax deduction for a contribution to a political party? It beggars belief. I honestly do not believe that you can allow such a system, where members of parliament are in a privileged position and members of the community are denied even the smallest tax-deductibility for the smallest donation, to remain. That is why this should be considered in the context of these exhaustive terms of reference.

I think it was bitterly disappointing that Mr Melham from the other place used his casting vote on that committee when he had a very clear indication—in fact, I would say a bipartisan indication—from the Nationals, the Liberals and the Greens in relation to what we believed should happen with this legislation. Given everything that has gone on in relation to this, to actually allow members of parliament a privileged position I think is unacceptable—and I hope it is unacceptable to others in this chamber, apart from the Australian Labor Party, which I understand will be insisting on this legislation being put to the vote.

As I said earlier, the Australian Taxation Office were actually not in a position to justify the government's estimation of revenue gained and expenditure saved. They were simply not able to. In fact, if you read the transcript, it is quite clear that they were, at best, guesstimates. No doubt I will hear from Senator Conroy about the budget and other matters, but I say to Senator Conroy through you, Madam Acting Deputy President, that it is incumbent upon any government to ensure that when they make political points about savings they can actually justify them. Anyone who cares to read the transcript of the evidence given by Treasury will understand

very quickly that, despite their very best endeavours, they were unable to justify and substantiate the figures that the government has claimed in relation to savings.

In conclusion, I want to talk about the ALP's past support for tax-deductibility for political donations. In its submission to the JSCEM report on the 1987 election and 1988 referendums, the ALP claimed: 'The additional funds raised by political parties with tax-deductibility advantage would alleviate any pressure for increased levels of public funding, encourage political parties to continue to seek direct support from the public and help them more adequately fulfil their social functions.'

In December 1991, the Hawke government voted along party lines and introduced tax-deductibility for political donations of up to \$100. The Political Broadcasts and Political Disclosures Bill 1991, assented to on 19 December, gave effect to the introduction of tax-deductibility for political donations of up to \$100. That bill was introduced by the then Minister for Transport and Communications, Kim Beazley. The ALP in government, making up the majority of JSCEM, had nothing to say about the issue of tax-deductibility of contributions to political parties in the reports on the 1990 and 1993 elections. The JSCEM report on the 1996 election included a recommendation to make donations of up to \$1,500 annually to a political party, whether from an individual or a corporation tax-deductible. And, in the same report, the ALP nominated \$1,500 as the maximum level for tax-deductibility. The JSCEM report on the 1996 election was unanimous in recommending:

... that donations to a political party of up to \$1500 annually, whether from an individual or a corporation, are tax-deductible.

Membership of that committee, which unanimously recommended tax-deductibility

for donations of up to \$1,500 for both individuals and corporations, included Senator Stephen Conroy, who was the deputy chair, Mr Robert McClelland, from the other place, and Mr Laurie Ferguson, from the other place. And I do not need to remind honourable senators that Senator Conroy is now a cabinet minister, that Mr McClelland is now the Attorney-General and that Mr Ferguson is now a parliamentary secretary—or he is at the moment; we will see what transpires over the next couple of months.

You cannot talk about the benefits of tax-deductibility and then turn around, with no justification at all, and go ahead—not supported by Treasury, not supported by evidence given to the committee, where the majority of people who gave evidence, irrespective of their views about whether there should or should not be tax-deductibility, viewed it as inappropriate for the matter to be dealt with at that moment. Indeed, they viewed it as appropriate for it to be discussed in the context of potential further, substantial changes.

I refer to comments I made the other day about the disclosure bill. They were matters that are going to be part of the green paper. How can you put through legislation that is going to be part of a green paper? How can you put forward a bill in relation to tax-deductibility that is also going to be part of a green paper? Senator Brown is in the chamber tonight. I believe that Senator Brown genuinely wants to discuss appropriate reform. We are quite happy to sit down with the government and discuss appropriate reform, but was the opposition part of the green paper negotiations or discussions? No. Wouldn't you think, if this was such an important issue for the Prime Minister, that he would have said to Dr Nelson, the Leader of the Opposition, 'Why don't you and I sit down and have some discussions about what we are going to put into this green paper so

that we can get an appropriate outcome?' Rather than speak to the opposition about this, the discussions were with the state premiers. We saw the impact of that recently. We saw the impact of the New South Wales committee, which actually put out a very significant and substantial report, but we did not see anything from Premier Iemma, who was part of the consultative process about what was going to be in the green paper.

I will end where I started. The only reason that you can possibly insist on this piecemeal cherry picking involving disclosure and tax-deductibility is that you want to be seen to be doing something, and the only reason the government wants to be seen to be doing something at the moment is Wollongong. We are absolutely convinced that Wollongong has driven this piecemeal approach. We are convinced that this cherry picking is driven by the Wollongong sex and bribery scandal, and again we say to the government: if you want to sit down and talk about this sensibly, we will participate. I believe the Australian Greens want to sit down and participate properly in moving forward. We most certainly do, and I would be surprised if the Independents did not as well. We have said it before; we will say it again: we want this done holistically. We are not prepared to sit back and watch the government cherry pick parts of reform for their own cheap political purposes and we will be opposing this bill tonight.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (7.59 pm)—I am obliged to Senator Ronaldson for that contribution, and I will come back to it in a moment. I firstly want to say that the Australian Greens will be supporting the Tax Laws Amendment (2008 Measures No. 1) Bill 2008. But let me explain that. There were six parts to this bill; there is essentially now one—that is, a measure to remove tax-deductibility for donations towards election

campaigns. That is what Senator Ronaldson was largely talking about a moment ago. But another part of the bill, which was dealt with last week in the main, is to allow tax-deductibility for the establishment of plantations as carbon offsets, and Senator Milne has explained that. So we have two things: one about election spending, and the other about tax-deductibility for people who put in trees under specified conditions to offset greenhouse gas emissions.

Let me deal with the first first. As Senator Ronaldson indicated, the Greens are very keen to get public input on tax-deductibility for election campaign spending. I understand that the government is going to be working on this quite a bit over the coming months. We favour the abolition of tax-deductibility for donations for electoral purposes. We have to vote on that measure tonight, and we will vote for it. Senator Ronaldson pointed out an anomaly for people who make donations to political parties, if this bill passes—and it sounds like it may not because the opposition, the coalition, still has the numbers and therefore can block the passage of that bill up until Thursday of this week, and then we will see what happens when we come back at the end of August.

The anomaly Senator Ronaldson spoke about is that MPs will still be able to tax-deduct their contribution for their own re-election or for their party's re-election. It raises the interesting possibility—doesn't it?—of us doing what Senator Ronaldson wants but in reverse, which is to abolish the tax-deductibility for spending which comes from members themselves towards their election campaign or their party election campaign. Let's be the same as the rest of the public and let's ensure that money that we get as servants of the public, as elected members of parliament, goes to the purpose of servicing our electorate. But, where we cross over and put money into election cam-

paigns, let's—and I am indebted to Senator Ronaldson for this thought—explore the possibility of removing tax-deductibility for that as well. I will certainly speak with my colleagues about making a level playing field in that way.

I want to go to the tax concessions which the government had adopted with the support of the opposition for the planting of trees—and they are wonderful indeed. If you plant more than 0.2 hectares, a fifth of a hectare, of trees which are to grow in their maturity to cover more than 20 per cent of the land in which they stand, as far as their canopy is concerned—in other words 80 per cent of the land need not be covered by tree canopy—you get whacking big tax deductions for that, and you only have to maintain the plantation for 14 years. As Senator Milne pointed out, indeed there is a fairly handsome compensation program: if on the 15th year the whole plantation is burnt to the ground, you can get your insurance for that and then retain the tax-deductibility you got way back 14 years earlier when you put into this scheme.

How can it be that we have a government putting this forward and an opposition supporting it in an age where there is a need to be scrupulous in addressing the matter of climate change? We are dealing with a piece of legislation which says, 'You'll get a tax reward if you plant trees, and you'll be able to hang on to that even if they're burnt to the ground 15 years later and all that greenhouse gas goes into the atmosphere.' There is no penalty clause; there is no need to ensure that you have fire procedures to prevent that from happening. In fact, one could see an incentive built into this legislation for there to be more bushfires than we have seen in a long, long time coming down the line. Then presumably you can plant the same area of ground again and, if the intent of this legislation is followed through, get all the tax-deductibility again and put in another planta-

tion. Fifteen years later you have all that tax-deductibility and you do not have to maintain it any further—it can be burnt to the ground again.

Senator Milne—Or logged.

Senator BOB BROWN—Or logged, as Senator Milne said. It is irresponsible legislation. We are talking about taxpayers' money, because this is tax forgone. It does not go into the exchequer; it is not available for tackling climate change or for assisting public schools or hospitals. It is going to, and it will obviously go to, big corporations, coal corporations, aluminium corporations—polluters—because they are the people with the money to buy up vast amounts of land, including food-producing land, and get a huge windfall through this scheme to put in plantations for which they have no responsibility 15 years down the line. Incredible!

Senator Milne proposes a new schedule, which says, 'You will have to keep those trees for a hundred years; you will have to see them through to maturity,' and the government says, 'We're not going to support that.' And the opposition says, 'We won't support that either.' I will tell you what has happened here. The very, very powerful coal and logging industries at the front of the queue, at the open doors of the ministry of this new government, have handed across this legislation. It has not been thought through. It is now being dumped on the Senate and will perhaps be passed, and later on we will have newspaper articles about what an absolute rort it was. It has taken Senator Milne to pick up on it, and it will take the Greens to question the government carefully in committee about the various components of the program through the new schedule that Senator Milne has brought forward.

One thing that I will be asking the government about is the definition of a forest. They have invented a new definition. The

government can get up and tell me if I am wrong, but the logging industry had a big hand in this legislation; it is written all over it. As I said, the definition of a forest for this planet-saving plantation forest through which taxpayers are going to be able to avoid millions of dollars in tax, this ill thought out scheme, is one where it can be reasonably expected that when these trees grow to maturity—and remember trees do not grow in 15 years; in the main, they take a century or more and most of the trees in our eucalypt forests go on to live for centuries—the canopy of the planted trees will cover 20 per cent of the land on which they stand. Hey bingo, you have a forest!

Mr Acting Deputy President Barnett, we are from Tasmania. I sought out the accepted definition of a forest according to the Forestry Industries Association of Tasmania. Here it is:

The term forest is used to define areas of land where trees exceeding five meters in height (current or potential) dominate an area, and where the tree canopy shades more than thirty percent of the ground surface.

The forest industry itself defines a forest as having a canopy that covers 30 per cent of the ground, but we look into this legislation and suddenly find that the definition of a forest for the purposes of this legislation is one that covers 20 per cent. Marvellous, is it not, that millions of dollars in tax deductions are going to be taken out of public moneys by already wealthy organisations planting trees to make forests that do not qualify under the definition of forests? Even when they grow to maturity, they will cover two-thirds of the land that the industry itself says they would need to cover to qualify as forests.

Moreover, you will note from that definition that the trees, if they are in a forest, are destined to be at least five metres in height. Have a look at the definition in this tax avoidance legislation—they have to grow to

only two metres. Suddenly the whole world's definition of forests, worked out by the experts, is dropped by the industry itself and by the corporate sector, which have written this legislation to allow tax-deductibility for a plantation that is never going to be in the region of what has always been defined as a forest.

Under the legislation, you need to make sure that the land you are planting did not have a forest on it on 1 January 1990—that is the Kyoto protocol basic measuring date—which could have grown to be a forest two metres high or covering 20 per cent of the land. In other words, the land needs to have been cleared. You can put your forest on that land and you will get the tax-deductibility. But, if somebody planted a plantation on that land in 1991 and by now it has grown or would have grown into a forest much bigger than this definition, you can flatten it, you can burn it down, you can do what you like. You can release tonnes of greenhouse gas into the atmosphere and replace it with a much inferior forest that is going to meet only the two metres and 20 per cent canopy definition—a much inferior forest in terms of holding back carbon—and get tax-deductibility for it. You are going to be rewarded for destroying an established plantation which has a greater planet-saving capability than the one defined in this legislation. You will get no reward for the plantation that stood there.

Money runs these things, so flatten that, destroy the wildlife and destroy the biology of that piece of country and this government—and that includes the Minister for Climate Change and Water, Senator Wong; the Minister for the Environment, Heritage and the Arts, Peter Garrett; and the Prime Minister, the Hon. Kevin Rudd—will reward you for doing the wrong thing, by any measure, to reduce the carbon load in the atmosphere. In fact, by increasing it you will be

rewarded; you will get massive tax deductions under this scheme. How poorly thought out is this? What a rort it will be! Here is a reward system for doing the wrong thing by the environment.

I have circulated an amendment which will at least deal with that last matter, because it says that, if there was existing, in 1990 or at any time since, a forest which measured up to the 20 per cent canopy and two metres high rule, you cannot claim tax-deductibility for that land. That is plain common sense. I gave that amendment to Minister Wong this afternoon. I know that the experts in the government are looking at it. I would expect that the government, and indeed the opposition, will support that amendment.

This is very serious legislation, which requires very serious amendment. Senator Milne and I have put forward amendments. Senator Milne has a new schedule which, in one go, says that these forests are going to have to be dinkum and are going to have to be there for at least a hundred years. Why would you not say that if you expect to protect the welfare not just of the corporations now but of the planet into the future? In other words, these trees that are planted now to offset dangerous climate change will need to be there for our children and our grandchildren to see, and they will be the custodians.

I cannot believe that this legislation is as it is. I will be astonished if the government does not support these amendments and I will be astonished if the opposition does not support them either.

Senator HEFFERNAN (New South Wales) (8.16 pm)—I have not brought any notes, but I can speak because I have a full understanding of the implications of what has been a serious oversight by this parliament with the Tax Laws Amendment (2008

Measures No. 1) Bill 2008. We need to fix it. I presume that the government will not support the Greens amendments, but I am hopeful that the government will come up with their own solution, because we need a solution. This legislation was switched from the No. 1 tax bill to the No. 2 tax bill and it was non-controversial. It is seriously, seriously flawed.

The fact is that this bill for carbon sinks will open up, for all those adventurous people and likeable lads in the community, a rort. With great respect to anyone who thinks that it is not the case—I am happy to have a private conversation with them—this bill is absolutely and fundamentally flawed. It allows a person for the first four years, till 2010 or 2011—I have not got notes before me—to cop a tax deduction up-front which is predominantly for the planting of trees for a carbon sink. There is a whole lot of technical advice around that. That would be fair enough if it had a covenant and some sort of easement security around it, but what will happen—and I am a farmer and I concede that we are all likeable rogues in the bush; as Kerry Packer said, why pay more tax than you need to?—is that this bill will become a fundamental tax rort.

I concede that the government, in its generosity to me and others, has looked at this and has got advice from the department. I am hopeful that, not necessarily tonight but in the future, the government will solve this issue. But what will happen in practice is that a farmer—take me, for instance—will lease a paddock, as long as it is 0.2 of a hectare or greater in size, to someone who will come along and say: ‘I’ll plant trees there for a carbon sink and I’ll cop the tax deduction up-front. I’ve got a big income this year. I’m not going to go for the write-off over 14 years.’ Then the next year I might have a heart attack and sell the farm. The next bloke that comes along might say: ‘Who was the

silly bugger that planted all those bloody trees down on that beautiful food-producing flat? I could be growing corn or something there.’ He could then plough them in. And there is nothing in the legislation to prevent that. There is absolutely nothing in the legislation to prevent that, and I defy anyone to stand up in this chamber and say there is.

Also, as probably has been pointed out, if you are a likeable lad you can plant this carbon sink and, if you have some sort of natural disaster—it does not rain and the trees all die—you still get the tax deduction. You have got no trees. You could have a fire and cop the insurance money plus the tax deduction and have nothing to show for the environment. Surely to God this parliament in its wisdom will fix this very seriously flawed legislation.

Senator WATSON (Tasmania) (8.20 pm)—I wish to take part in this debate on the Tax Laws Amendment (2008 Measures No. 1) Bill 2008 very briefly in relation to the difficulties of carbon sinks. Carbon sinks will cause competition problems for managed investment in forests because there will be another competitor forcing up the price of a scarce resource—that is, the land. Carbon sinks will put challenges before primary producers because a lot of pastoral land, in particular, will go under carbon sinks. In my state, we are becoming increasingly conscious that good, arable land suitable for prime crops is going under trees. Anybody who is a botanist must surely be worried about an increasing lack of diversity in our forests, which is a problem. In a few years time, nature being what it is, there will be a huge risk of fires and disease outbreak problems.

Tonight I was talking to an actuary in Parliament House. His focus is increasingly being directed towards risk assessment in terms of fires wiping out huge areas in not only

Tasmania but also other parts of Australia, as a result of the perhaps inappropriate manner in which plantations have been put in in terms of their density, proximity to buildings, roads and so on. We all know, particularly in Tasmania, the climatic conditions are such that, in the months of February and March, a dry understorey and huge winds can cause the sorts of problems that we saw here in Canberra a few years ago, when plantations were just the other side of the road from residential allotments.

I am very concerned because the people who are going to seek the benefits from this legislation are those with very, very deep pockets—pockets far deeper than those we have had with MIS and pockets far deeper than the farmers'. This is a difficult issue for the farmers because older farmers, upon their retirement, naturally regard obtaining a high price for their land as their superannuation. On the other hand, young farmers who want to come into the industry are finding that the cost of competing with the MIS and the new carbon sinks is making it so much more difficult for them to have a place in agriculture.

In my state of Tasmania, agriculture is certainly facing some very severe challenges. We used to be called the horticultural food bowl of Australia, but I can see us losing that title over the years. This comes at a time when the world is getting short of food. We need as much agricultural land as we can get to put in sustainable crops et cetera. We have got the water and the land. Although we may not have the scale of operation, we have got the factories to produce and further add value to the crops. Organisations such as the CSIRO and other far-sighted scientists should be brought in to this whole issue to see what impact carbon sinks will have on food, food prices, sustainability, the problems with monoculture and the difficulties that we are likely to face with fire. There are certainly challenges.

I will not be voting against the legislation, but I think it is time we woke up and acknowledged that agriculture does have some challenges—challenges that very few people have foreseen. In my closing days of being here in the Senate I draw to the attention of the chamber that I think we have to look very carefully at the nature of the legislation and the entitlements in it because, as my colleague Senator Heffernan and others indicated, there are flaws to this legislation; it is not fail-safe. Look at the ecological issues, the food issues and the risk of what it could be doing to our state. I thank the Senate.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (8.26 pm)—I would like to thank those senators who have taken part in the debate on the Tax Laws Amendment (2008 Measures No. 1) Bill 2008. This bill honours the government's election commitment to remove tax-deductibility for donations made to political parties, candidates and members. This commitment was made as part of Labor's \$3 billion savings plan, which was announced by the Minister for Finance and Deregulation on 2 March 2007. Currently, deductions are allowed for donations to political parties, members of parliament and candidates, including Independents, of up to a maximum of \$1,500. Prior to 2006, donations and membership fees were deductible up to a lower \$100 threshold, when the former government implemented an increase up to the current \$1,500 and expanded the deduction of donations to independent candidates and members and to donations by business.

The proposal to remove deductibility of political donations has the support of the majority of members of the Joint Standing Committee on Electoral Matters. This measure will save Australian taxpayers about \$10 million per annum. Amendments to this bill are to be moved by the government in the

committee stage of the debate. The amendments will in part omit schedules 2 to 6 to this bill. These schedules have been incorporated into the Tax Laws Amendment (2008 Measures No. 2) Bill 2008, which passed the Senate on 17 June 2008.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (8.28 pm)—I table a supplementary explanatory memorandum relating to the government amendments to this bill. The memorandum was circulated in the chamber today. I seek leave to move government amendments (1), (2) and (3) on sheet QG466 together.

Leave granted.

Senator CONROY—I move:

- (1) Clause 2, page 1 (line 7) to page 2 (line 6), omit the clause, substitute:

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

- (2) Schedule 1, page 3 (before line 4), insert:

A New Tax System (Goods and Services Tax) Act 1999

1A Amendments of the *A New Tax System (Goods and Services Tax) Act 1999*

The provisions of the *A New Tax System (Goods and Services Tax) Act 1999* listed in the table are amended as set out in the table.

Amendments			
Item	Provision	Omit:	Substitute:
1	Paragraph 38-250(1)(a)	*gift-deductible entity	*concessional entity
2	Paragraph 38-250(2)	*gift-deductible entity	*concessional entity

Amendments			
Item	Provision	Omit:	Substitute:
	(a)		
3	Subsection 38-250(3) (example)	gift-deductible entity	concessional entity
4	Subsection 38-250(4)	*gift-deductible entity	*concessional entity
5	Subsection 38-250(4) (note)	gift-deductible entities	concessional entities
6	Paragraph 38-255(1)(a)	*gift-deductible entity	*concessional entity
7	Paragraph 38-255(1)(b)	gift-deductible entity	concessional entity
8	Subsection 38-255(1)	gift-deductible entity (last occurring)	concessional entity
9	Subsection 38-255(2) (example)	gift-deductible entity	concessional entity
10	Subsection 38-255(3)	*gift-deductible entity	*concessional entity
11	Subsection 38-255(3) (note)	gift-deductible entities	concessional entities
12	Paragraph 38-270(1)(a)	*gift-deductible entity	*concessional entity
13	Subsection 38-270(2) (example)	gift-deductible entity	concessional entity
14	Subsection 38-270(3)	*gift-deductible entity	*concessional entity
15	Subsection 38-270(3) (note)	gift-deductible entities	concessional entities
16	Paragraph 40-160(1)(a)	*gift-deductible entity	*concessional entity
17	Subsection 40-160(2) (example)	gift-deductible entity	concessional entity
18	Subsection 40-160(3)	*gift-deductible entity	*concessional entity

Amendments			
Item	Provision	Omit:	Substitute:
19	Subsection 40-160(3) (note)	gift-deductible entities	concessional entities
20	Subparagraph 48-15(1)(e)(iii)	*gift-deductible entity	*concessional entity
21	Subsection 48-15(1AA) (example)	gift-deductible entity	concessional entity
22	Paragraph 63-5(2)(aa)	*gift-deductible entity	*concessional entity
23	Subsection 63-5(3) (example)	gift-deductible entity	concessional entity
24	Paragraph 111-18(1)(a)	*gift-deductible entity	*concessional entity
25	Subsection 111-18(1)	gift-deductible entity (second, third and fourth occurring)	concessional entity
26	Subsection 111-18(2) (example)	gift-deductible entity	concessional entity
27	Subsection 111-18(3)	*gift-deductible entity	*concessional entity
28	Subsection 111-18(3) (note)	gift-deductible entities	concessional entities
29	Section 129-45 (heading)	129-45 Gifts to gift-deductible entities	129-45 Gifts to concessional entities
30	Subsection 129-45(1)	*gift-deductible entity	*concessional entity
31	Subsection 129-45(2) (example)	gift-deductible entity	concessional entity
32	Subsection 129-45(3)	*gift-deductible entity	*concessional entity
33	Subsection 129-45(3) (note)	gift-deductible entities	concessional entities
34	Section 157-1	gift-deductible entity	concessional entity

Amendments			
Item	Provision	Omit:	Substitute:
35	Subsection 157-5(1)	*gift-deductible entity	*concessional entity
36	Subsection 157-5(2) (example)	gift-deductible entity	concessional entity
37	Subsection 157-5(3)	*gift-deductible entity	*concessional entity
38	Subsection 157-5(3) (note)	gift-deductible entities	concessional entities
39	Subsection 157-10(1)	*gift-deductible entity	*concessional entity
40	Subsection 157-10(2) (example)	gift-deductible entity	concessional entity
41	Subsection 157-10(3)	*gift-deductible entity	*concessional entity
42	Subsection 157-10(3) (note)	gift-deductible entities	concessional entities

1B Section 195-1

Insert:

Australian legislature has the same meaning as in the *Income Tax Assessment Act 1997*.

1C Section 195-1

Insert:

concessional entity means:

- (a) an entity, gifts or contributions to which can be deductible under Division 30 of the *Income Tax Assessment Act 1997*; or
- (b) a political party that is registered under Part XI of the *Commonwealth Electoral Act 1918* or under a corresponding *State law or *Territory law; or
- (c) an *independent candidate; or
- (d) an *independent member.

1D Section 195-1 (definition of gift-deductible entity)

Repeal the definition.

1E Section 195-1

Insert:

independent candidate: an individual is an **independent candidate** at a time if, at that time:

- (a) the individual's candidature in an election for members of an *Australian legislature has been declared or otherwise publicly announced by an entity authorised under the relevant electoral legislation; and
- (b) the individual's candidature is not endorsed by a political party that is registered under Part XI of the *Commonwealth Electoral Act 1918* or under a corresponding *State law or *Territory law; and
- (c) the earliest of these has not occurred:
 - (i) the time when the result of the election is declared or otherwise publicly announced by an entity authorised under the relevant electoral legislation; and
 - (ii) the time (if any) when the individual's intention to no longer be a candidate for the election is publicly available; and
 - (iii) the time (if any) when, after the election is taken to have wholly failed under the relevant electoral legislation, candidates for the replacement election are declared or otherwise publicly announced by an entity authorised under that legislation.

1F Section 195-1

Insert:

independent member: an individual is an **independent member** at a time if, at that time:

- (a) one of the following applies:
 - (i) the individual is a member of an *Australian legislature;
 - (ii) the individual's election as a member of an Australian legislature (including as a result of an election that is later declared void) has been declared or otherwise publicly announced by an entity authorised under the relevant electoral legislation, in a case where the individual has not yet started serving as such a member;
 - (iii) the individual has ceased to be a member of an Australian legislature because the legislature, or a house of the legislature, is dissolved or has reached its maximum duration, because the individual comes up for election or because the relevant election has been declared void, in a case where candidates for the resulting election have not yet been declared or otherwise publicly announced by an entity authorised under the relevant electoral legislation; and
 - (b) the individual is not a member of a political party that is registered under Part XI of the *Commonwealth Electoral Act 1918* or under a corresponding *State law or *Territory law.

The government also opposes schedules 2 to 6 in the following terms:

- (3) Schedules 2 to 6, page 6 (line 1) to page 23 (line 21), **to be opposed.**

Government amendments (1) and (3) remove schedules 2 to 6 from the bill and revise the commencement table to reflect these changes. These schedules were inserted into the Tax Laws Amendment (2008 Measures No. 2) Bill 2008 as a House amendment on 14 May 2008. The amendments are necessary to ensure that certain measures in the Tax Laws Amendment (2008 Measures No. 1) Bill 2008, which are of benefit to taxpay-

ers, are passed before the end of the income year.

Senator HEFFERNAN (New South Wales) (8.29 pm)—I do not think there is anyone who disagrees that there is a fundamental flaw in the carbon sink part of this legislation. Is there some way it can be extracted and sorted? I realise it has passed through, but there has to be some way parliament as a whole could do it. There is no one to blame; it has just been an oversight. This is fundamentally flawed. Is there some way we can retrace our footsteps and fix it?

Senator RONALDSON (Victoria) (8.29 pm)—The comments from Senator Heffernan were in relation to, I think, some matters that the Greens have some amendments on later on. I want to address this first amendment. We will of course, as I said before, be opposing this at the third reading. There may be a question about why we would let the second reading proceed to this stage. We need to do that to make sure that schedules 2 to 6 are removed from this bill because, if we were not to do so, clearly there would be two competing pieces of legislation. I am no constitutional lawyer. I am sure the clerks, as always, have a far better idea of these things than I do, but we would have had two bits of conflicting pieces of legislation on the books. That is why we are enabling this matter to go into committee—to address these issues.

The interesting part is that we had the amendment yesterday because the government had not even realised what was being done. So we had an amendment prepared yesterday and, about half an hour before this bill was due to be debated, the government realised what had happened and tried to move the amendments which we support.

As I said earlier, this has been quite extraordinary. This bill has been around for a long, long time now and, at the eleventh hour, this government is showing its inexperience

and its incompetence by not having been able to address these matters earlier. They are quite substantial issues. While we do not agree with this bill, it would be churlish for us not to support amendments (2) and (3). In relation to amendment (1), clearly the opposition supports the removal of schedules 2 to 6 because there is already now legislation on the books which supports that, in the Tax Laws Amendment (2008 Measures No. 2) Bill 2008.

Why the government, when we had flagged it very early on, waited until the eleventh hour to address this is quite frankly beyond us. They actually, quite rightly, got squeezed by people who were going to suffer if schedules 2 to 6 were not implemented before 1 July. So, at the eleventh hour, these changes were made. A lot of people went through a lot of pain for a long period of time before this decision was made. Why did it take until last week for this measures No. 2 bill to come in to address a situation that the government was acutely aware of? It has been shambolic. This week has been shambolic. The left hand and the right hand, quite frankly, have not even been introduced—let alone forgotten what each other looks like. This government have got a lot to learn and they need to learn it very quickly because this place will become shambolic if they do not so.

The TEMPORARY CHAIRMAN (Senator Barnett)—I will put the questions separately. The question now is that schedules 2 to 6 stand as printed.

Question negatived.

The TEMPORARY CHAIRMAN—The question now is that government amendments (1) and (2) be agreed to.

Senator RONALDSON (Victoria) (8.34 pm)—As I said earlier, I think the minister needs to trust the judgement of everyone, including the clerks, in relation to how this is

best dealt with. I can assure him that the decision that was made was indeed the right decision, Senator Conroy, so your heart fluttering need continue no further. But, in relation to these two amendments, we will not be opposing them. It is done to address what we believe is fundamentally a bad piece of legislation in principle, but we will not be opposing these particular amendments.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (8.35 pm)—Amendment (2) amends schedule 1 to the bill; schedule 1 removes income tax-deductibility for political donations. Without this amendment, the bill has the consequence that political parties, independent members and independent candidates no longer meet the definition of gift-deductible entities in the A New Tax System (Goods And Services) Tax Act 1999. As a result, political parties, independent members and independent candidates are unable to utilise certain GST concessions in the GST legislation that are available to gift-deductible entities. Amendment (2) restores these GST concessions for political parties, independent members and independent candidates and will prevent increased GST compliance costs for political entities. Full details to the amendments are contained in the supplementary explanatory memorandum.

Senator RONALDSON (Victoria) (8.36 pm)—Can I just reinforce the point I made earlier that these are very substantial amendments. This bill has been around for a long, long time. What is going on with this government, where they cannot get these most basic of amendments correct? Why is it, Minister, through you, Mr Temporary Chairman, that it has taken month upon month to address these particular issues? This government is, quite frankly, out of control. It has lost control of the legislative process. I do not know where it is getting its advice from, but it is bad advice. And it

needs to start moving very quickly to stop putting people who are quite innocent in this whole process at some sort of risk. That is what bad legislation and bad advice will do.

Question agreed to.

Senator MILNE (Tasmania) (8.37 pm)—I move Greens amendment (1) on sheet 5489:

(1) Page 23 (after line 21), at the end of the bill, add:

Schedule 7—Safeguards on the establishment of carbon sink forests

Income Tax Assessment Act 1997

1 After paragraph 40-1010(2)(c)

Insert:

- (ca) the trees are a mixture of species that approximate the local native vegetation or, if not available, from an ecologically similar location;

2 After subsection 40-1010(3)

Insert:

- (3A) The guidelines provided for in subsection (3) must ensure that:
 - (a) any property claiming a carbon sink forest expenditure has an environmental management system audited to conform to ISO14001 in place; and
 - (b) forests over 100 Ha require an ecosystem evaluation to develop recommendations for appropriate planting; and
 - (c) the owner is required to enter into an easement agreement with the Department of Climate Change preventing any development or modification of the property which would result in the property no longer meeting the conditions specified for a carbon sink forest; and
 - (d) an easement agreement entered into in accordance with paragraph (c) remains in force for a period of not less than 100 years, or until the Commonwealth determines that the

forest no longer requires protection, whichever is the earlier.

3 After section 40-1015

Insert:

40-1016 Ecosystem evaluation

Ecosystem evaluation means an ecological assessment and report prepared by a suitably qualified person which includes, but is not limited to:

- (a) an assessment of impact of the carbon sink forest on the hydrology of the catchments within which it is situated;
- (b) an assessment of the local and regional linkage and connectivity values of the site, including potential links in relation to any other remnant vegetation areas;
- (c) identification of constrained areas such as steep land and land adjacent to waterways which are likely to have particular management requirements;
- (d) an assessment of fire risk within the site and in relation to adjacent premises including areas of native forest;
- (e) identification of any other environmentally sensitive areas which may potentially be impacted by the proposed use;
- (f) identification of any likely conflicts between the proposed carbon sink forest use and any adjacent or nearby premises or places;
- (g) identification of a selection of suitably benign species for planting.

As I said in the second reading debate, there is no requirement that these so-called carbon sink forests are a mixture of species. You can put in a monoculture and call that a forest under this legislation. That is quite wrong, if the proposal is supposed to be sequestering carbon for a long period of time. Surely, if you were going to put in a carbon sink forest you would be putting in mixed species that approximate the local native vegetation or

that from an ecologically similar location. And you would be doing that by having an ecosystem evaluation to look at issues such as the impact of the carbon sink forest on the hydrology of the catchment; an assessment of the local and regional linkage and connectivity values of the site; identification of constrained areas, such as steep land and land adjacent to waterways; an assessment of the fire risk; identification of other environmentally sensitive areas which may be impacted by the proposed use; identification of any likely conflicts between the proposed carbon sink forest or any adjacent or nearby premises or places; and identification of a selection of suitably benign species for planting.

If you were really serious about trying to put in a biodiverse forest that had benefits for habitat as well as sequestering carbon then you would have some of these specifications. You would also have a stipulation that it could not be cut down. Instead of that there is nothing. As I have said before, and as Senator Heffernan has now agreed, there is nothing at all in this particular legislation that requires these trees to be in the ground for any length of time. You can get a 100 per cent tax deduction up-front. Then they can be cut down, and you do not forfeit your tax deduction once you have achieved it. What is the point of that? Without a requirement that they stay in the ground for any length of time, you do not have a sequestered forest; you have another plantation. That is absolutely the point. And if you choose to tax-deduct it over 14 years, which is your other option, that happens to coincide with one rotation of a plantation. So you can tax-deduct it over 14 years and then you can cut it down at the end of that. If, however, you could tax-deduct it and have it there as a carbon sink and sell the credits from it, then I would need to know that there was some scheme in place that required you to make good. Presumably that will occur under some

emissions trading scheme, but it is not there now. We are being asked to forgo \$24 million worth of revenue to the Commonwealth: \$24 million for the public hospital system, \$24 million to implement public transport, \$24 million for public schools—whatever you want to spend it on. We are forgoing \$24 million, as yet another rort, to establish forests. As I said, it is like a managed investment scheme on steroids.

You can also drain a wetland and still get a tax deduction. It says there, 'Oh no; you can't'—but no; it does not. What it says is that you cannot tax-deduct the costs of draining the wetland. It does not say that after you have drained it you cannot get the tax deduction for planting whatever you like on it. So, depending on the costs associated with draining a low-lying-area wetland, you can just do that and then claim the tax deduction for the establishment of the plantation. And what about clearing savanna across Northern Australia, which does not meet the current definition of what can be on the land before? Why can't you just clear that, lose all the carbon from it and put in a teak plantation, a mahogany plantation or something like that, not use the MIS but use this, then say, 'I wanted it as a carbon sink,' and then, in 14 years time, when you have deducted it, work out whether there is more value for you in flogging the carbon credits from it or in cutting it down for sawn timber or whatever other use you might have?

This is not about a carbon sink. I have some particular questions for the government that we should have answers to. How much carbon is stored in one-fifth of a hectare of native tall eucalypt forest in southern Tasmania? How much carbon is stored in that standing forest? And how long will a monoculture plantation take to store the same volume of carbon, once it has its 100 per cent tax deduction? The government is paying people to cut down one and lose all that car-

bon to atmosphere, lose all the soil carbon and burn the residue, and then at the same time paying people to put in these plantations that will never, ever—in 15 years, 20 years or even 50 years—sequester the same volume of carbon as is released. It will take hundreds of years for the take-up of carbon to get the equivalent of what you are cutting down now. If you were serious about reducing greenhouse gas emissions, you would give a tax rebate right now for purchasing standing native forests, standing stored carbon in vegetation, and pay people to protect it and covenant it. You would then have it permanently and you would not be taking agricultural land out of production. If you were serious, that is what you would do.

To actually pay people to cut down carbon stores and burn them, simply because Kyoto accounting does not count the emissions from doing that now—whereas you can get counted sequestering, or taking up, under the convention—is a complete distortion of reality. The atmosphere does not understand the niceties of clever little accounting system tricks. The atmosphere understands volumes of carbon going into atmosphere now and volumes of carbon being taken out of atmosphere now and the time frame is everything. If you had hundreds and hundreds of years for the plantations to catch up with what you are logging, then it would ultimately be in balance. But we do not have hundreds of years; we have less than till 2015. We have to get real on reducing carbon emissions to atmosphere, and all this is going to do is provide another nice little rort.

So the particular thing I would like to ask the minister is: where in the legislation does it say you cannot cut down or remove the vegetation that you are getting tax-deductibility to establish? Firstly, where does it say that? Secondly, where does it say the trees have to be in the ground for any length of time at all? Where does it refer to that at

all? Thirdly, what are the volumes of carbon on a fifth of a hectare of Tasmanian old-growth forest compared with a fifth of a hectare of plantation established under this? What volumes of carbon are we talking about within a decade? My amendment seeks to do the things that government ought to have done to stop this being a rort. As it is, it is a rort. As I said, it is going to drive farmers off their land. I can see coal companies going in and buying the water rights from the whole of the Murray system or any other system. They have got the money to buy up the rights, take on the land, put in their offset whilst doing nothing at the power station to reduce their emissions but trying to say, 'I have put in so many thousand hectares of plantations to offset the emissions,' and we have driven people off the land and we have lost food security.

These are real issues that have to be dealt with here. I am more dedicated than just about anybody in this place to reducing emissions. If I seriously thought this was going to get anywhere in terms of reducing emissions, I would be supporting it. But, the way it stands, it is a rort. It is an absolute rort and will guarantee more carbon is lost to atmosphere than is sequestered because of the perverse reality that you pay people, you subsidise people to cut down and destroy carbon stores and you are now going to subsidise people to put in trees which are not guaranteed to be there for any length of time. So I am anxious to hear what the government has to say on that.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (8.47 pm)—The government will not support the amendment moved by Senator Milne of the Australian Greens in relation to carbon sink forests. I note that the carbon sink forests measure was passed by the Senate on 17 June 2008 as it was incorporated into the Tax Laws Amendment (2008

Measures No. 2) Bill 2008. I am advised that this amendment is unworkable. For example, it is impractical to guarantee that the carbon sink forests will remain for 100 years, considering there could be multiple changes in ownership over time. Enforcement would place an unrealistic burden on the tax office and effectively result in an unlimited period of review for tax affairs, which conflicts with the situation for the majority of taxpayers, who will have their tax affairs for a particular income year finalised within four years. It also adds a further compliance burden to the businesses who seek to claim a deduction in relation to eligible expenditure. The legislation already requires that carbon sink forests align with the relevant criteria under the Kyoto protocol, and the government will shortly produce a green paper outlining the proposed arrangements for an emissions trading scheme. It is premature to legislate requirements of one type of abatement activity ahead of the release of the green paper.

Senator JOYCE (Queensland) (8.48 pm)—It is very rare, to be honest, that I would agree with the Greens. But tonight is going to be one of those nights. This is a peculiar piece. I am a little old bush accountant. I can assure you that an idea where you plant a crop, get an up-front tax deduction and get a turbocharged MIS that gets planted in prime agricultural land will drive out the local hardware store, drive out the local agronomist, drive out the local schoolteacher and drive out the local sugarcane producer. And we are going to sit here and let you plant this on us because of some little quirk that you have stitched up with someone? This is a load of rubbish, and the duty of any senator here tonight is to call it for what it is. This is a load of rubbish and you have to be pulled up for this. I cannot work out, for the life of me, how you have managed to get this far without this being pulled up. Now you have got some foreshadowed amendment in

the future, in the never-never, where you are going to fix this up. I will remain a sceptic on the whole environmental issue but, I tell you what, I know dead set what you are up to with this. What you are up to with this is the stitch up of a whole heap of agricultural farm area and also the stitch-up, for whatever purposes, of a piece of legislation that is out there to help certain vested interests in certain corners get a turbocharged MIS.

Senator Heffernan interjecting—

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (8.50 pm)—Senator Joyce—and I know Senator Heffernan keeps interjecting from afar—there is only one problem; this is your bill, which is actually unamended. This is your bill that you tabled, and we have not changed it. I do not mind Senator Milne having a go because Senator Milne would have raised this no matter who was standing here moving this bill. I absolutely understand. Senator Joyce, Senator Heffernan and Senator Boswell are muttering up the back about what an evil plot this is. It is your bill: you tabled it, you moved it. It was your bill to start with, so if you have a problem you should have had the courage to stand up in your own party room when it was first—

Senator Joyce—Mr Temporary Chairman, on a point of order: the statement was made ‘You did nothing about this,’ and I want to draw to your attention that there was quite an abundant amount being done about this.

The TEMPORARY CHAIRMAN (Senator Barnett)—There is no point of order.

Senator CONROY—I appreciate Senator Milne legitimately raising what would always have been the concerns of the Greens on this matter, but for those opposite to sud-

denly be decrying this is really a little entertaining.

Senator HEFFERNAN (New South Wales) (8.52 pm)—There are some times in democracy when we have to put aside the politics. We are talking about the future. Do not roll your eyes, Senator Conroy. I was away last week, through circumstances out of my control. I was unaware of this legislation. This legislation is fundamentally flawed, and I know that the advice to the government agrees with me on that.

Senator Jacinta Collins—What about last year?

Senator HEFFERNAN—I am not interested in that. I am saying that collectively we have made a mistake with this legislation and I am appealing to the government of the day to forget about the politics. You can slag me as much as you like and I will take the blame for the stupidity of the previous government that put this legislation together. The previous government would have been advised by the same department that is advising you today that there is a flaw in this legislation, but because of a complication with the tax act from now until 2011 they do not have a solution. I appreciate the fact that the Assistant Treasurer’s office talked to me today. I am appealing that we put aside the politics and find a mechanism to deal with what is a fundamental flaw. I agree with Senator Joyce, the Greens and the department that we have to fix it, because this will become a disgrace. It will become an absolute flaw.

As you know, Senator Conroy, we are going to look into the future at how a farmer that is viable can produce food that is affordable for the consumer and sustainable to the environment. This legislation flies in the face of all that logic. It allows a bottom-of-the-harbour type of tax rort to be put in place with the full knowledge of the government and the opposition. The opposition obviously

did not think this through when they were in government because it is a complete mess. I am appealing that we put aside all the bloody bullshit of politics—

The TEMPORARY CHAIRMAN—Order! Senator Heffernan, I ask you to withdraw that.

Senator HEFFERNAN—I withdraw that. I ask that we put aside the baloney of politics and sort it out, because this will become an entrenched rort which will act against the best interests of the community. It will act against the best interests of food production. It will just become an accountants' goldmine. There is absolutely no way in this legislation, Minister, that you can prevent me from planting trees and, the year after I collect the tax deduction, ploughing them in. It will be a national disgrace if we allow this parliament to pass this legislation in the full knowledge that it is completely and fundamentally flawed. Put aside the politics, put your thinking caps on and let us fix it.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (8.55 pm)—The fact is that this legislation, which Senator Conroy now says was the legislation of the previous government, and which is so seriously flawed, is now the legislation of the Rudd government—this government. And the best that Senator Conroy can do is say: 'We essentially didn't look at it, or at least we didn't find anything wrong with it. We've brought it into the Senate without having had any decent review of it.' But, as members contributing from the opposition benches and the crossbenches are pointing out, it is seriously flawed. This legislation is effectively opening up a rort whereby millions of dollars of tax deductions are going to be spent, including the takeover of food-producing land in Australia—

Senator Heffernan—It's got to be. It's part of the legislation.

Senator BOB BROWN—Absolutely! The tax deductions are not available to food producers. They do not get it. Corporations based in cities are going to get an offset and a massive windfall from the tax department for a program that is not going to achieve the aim of storing carbon. As Senator Heffernan has been saying, there is no guarantee, once you have planted the trees with the intention of getting the massive tax deduction, that those trees are going to grow to maturity, or grow at all. You do not have to grow them. The legislation is seriously flawed whichever way you look at it. There is a serious debate taking place in the chamber and it is enlightening. I think we all need to take a breath here. I think we need to take the time to at least have a look at how we can solve the inherent problems in this. Therefore I move:

That the committee report progress and ask leave to sit again.

I think that would give us the time, tonight, to at least get further counsel, and for this to be talked about by the various entities, including—and this is essential—the government. One of the problems here is that the opposition, which has the numbers, wants to oppose this bill on the matter of tax-deductibility but is caught in the position—and so are the Greens—that it therefore knocks out the amendments which would fix the problems of the tax-deductibility. We need to be able to find a mechanism to get around that problem and I suggest that we take overnight to do it.

The TEMPORARY CHAIRMAN (Senator Barnett)—Order! Senator Brown, I have a question for you. Were you moving to report progress? If you were, then no further discussion can be had on that particular motion.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (8.58 pm)—That is correct. I was waiting for you to pull me on up on that.

The TEMPORARY CHAIRMAN—Well, you have done that; you have moved to report progress. There is a motion before the chair. There can be no further speakers. That motion must now be put. The question is that the motion be agreed to.

Question agreed to.

Progress reported.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (8.59 pm)—I move:

That the committee have leave to sit again on the next day of sitting.

Question agreed to.

FAMILIES, HOUSING, COMMUNITY SERVICES AND INDIGENOUS AFFAIRS AND OTHER LEGISLATION AMENDMENT (2008 BUDGET AND OTHER MEASURES) BILL 2008

Second Reading

Debate resumed from 16 June, on motion by **Senator Faulkner**:

That this bill be now read a second time.

Senator BERNARDI (South Australia) (9.00 pm)—When introducing the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2008 in the lower house, the Minister for Families, Housing, Community Services and Indigenous Affairs, Ms Macklin, said that it involved \$55 billion worth of support for families. We agree with that figure. But I would like to echo the sentiments of Mr Abbott, in the other place, who said that that \$55 billion simply would not have been available without the strong financial and economic management of the former Howard government. In fact, this package would

have been much bigger than \$55 billion under a coalition government because the coalition would not have imposed a means test on payments like the baby bonus and family tax benefit part B. The Howard government knew how to take care of Australian families. It erased the burden of \$96 billion worth of debt left by the Keating government. It provided hope, prosperity and optimism for the families of Australia. It built Australia's economy and Australia had the lowest unemployment rate in over 30 years. It provided an environment of economic prosperity that allowed Australians to reap the benefits. The Labor Party are reinventing history, claiming credit for all that is right in the economy and denying any responsibility for that which is not right. Whereas the former government created an era of prosperity and optimism, Australian families are being let down by the government because they are facing bleak times.

This bill is very important because it does support families. In this age of increasing fragmentation and breakdown of social relationships, it is important that families do receive support and, in this particular instance, financial support. However, it is important to point out that the government did not inform the Australian people before the election that they intended to means test these payments. This is a critical issue. Thousands of families will be less well-off than they expected because of these means tests and because of a sneaky ploy by a desperate opposition to claim the government treasury bench.

This is not what Australians need, quite frankly, especially during this time of increased costs of living and soaring petrol and grocery prices, all of which the Rudd Labor government promised to bring down and all of which they have failed to do. But they have not stopped there. The government intend to continue to pursue means tests as a way of limiting support. How do we know

that? The *Sydney Morning Herald* reported on 15 May that the Treasurer had said there were more plans in the pipeline to means-test other benefits. In fact, I stumbled upon this myself during Senate estimates hearings. I asked a departmental official what considerations had been taken with regard to the autism early intervention package. This departmental official said that they had considered means-testing autism programs but this had been scrapped because it would not have excluded enough families. What sort of heartless government would even consider means-testing a desperately needed early intervention autism package or program? The government are bent on means-testing as many programs as possible, taking money out of the pockets of Australian families and putting it into the Treasury coffers.

Let us turn to the substance of this bill. For the first time the income of primary income earners in partnered families will be tested and will need to be \$150,000 or less for them to get access to family tax benefit part B. It maintains the current requirement that the income of the lowest income earner needs to be below \$22,302 per annum for the person to qualify for some payment. The current accessibility is not altered in the bill. The income limit, though, of \$150,000 will also be applied to sole parent families for the very first time. Minister Macklin has said that this means test will affect about 40,000 families—so 40,000 Australian families will be less well-off than they expected; so 40,000 families will lose some benefit that would have helped them to meet the high and rising costs of living, costs of living that Mr Rudd and the Labor Party had promised to address. Out of these 40,000 families, 12,700 are set to lose access to family tax benefit parts A and B. How do we know this? Not because the Rudd government have volunteered it, but because at the Senate Standing Committee on Finance and Public Ad-

ministration inquiry into this bill the government were forced to provide the information after the questioning of Senator Boswell.

If we go back a little bit, the Australian Labor Party, before it was in government, originally suggested that family tax benefit part B be subject to a means test set at \$250,000, up to where it said ordinary Australians could be struggling. So how does this coincide with a means test at \$150,000? Clearly, this government is changing its mind at every turn. Someone in the Prime Minister's office wakes up and says, 'Let's just change the rules of the game.' It is playing with people's finances as if it is playing a game of Monopoly. Australians simply deserve better. It is the same story with the baby bonus. If you earn over \$150,000 a year, you are no longer eligible for it. As my colleague Mr Abbott said:

Mothers do not get the baby bonus because they need it; mothers get the baby bonus because they deserve it.

Minister Macklin has said that 16,000 families will no longer receive the baby bonus due to this means test. Again, thousands of families will be less well-off than they expected, all because the Labor government was not honest with the Australian people before the election.

There are many problems with this particular measure. First among these is that the baby bonus means test lacks what has been described as a taper, which means that a single extra dollar of income can be the difference between receiving a needed baby bonus and receiving absolutely nothing. Evidence presented to the Senate Standing Committee on Finance and Public Administration shows that the government did not commission any modelling on tapering this particular means test. They did not look at the potential benefits for families. They just said, 'No, let's whack it in—\$150,000—and be done with

it.' Mr Lachlan Harris probably woke up in a bad mood that day, and Australian families are much worse off.

Senator Parry—He might wake up tomorrow in a good mood.

Senator BERNARDI—Perhaps tomorrow he may wake up in a good mood and Australian families may receive something more, but it is unlikely. What we have also learned is that people may get around this threshold by organising their benefits or their salary to be paid after the six-month deadline so that they can receive the baby bonus and still earn in excess of the cap.

Minister Macklin has stated that, if the income estimate is incorrect and the household actually earns over \$75,000 in the six months subsequent to having a baby, then families do not have to worry that a debt will be raised against them because their income changes. However, if they provide false or misleading information then the usual welfare sanctions will apply. I think Minister Macklin is having a bob each way. It demonstrates that the new baby bonus measure will be very difficult to administer and almost impossible to police, yet the new criteria are going to cost a further \$22.6 million to administer.

Importantly, this measure was not mentioned by the ALP prior to the election. In fact just before the election, the Labor Party stated in an email from the ALP campaign unit that they 'have no plans to make any other changes to the way that the baby bonus is structured either in terms of eligibility or payment methods'. What has the government done? It has altered the terms of eligibility and payment methods. It is a case of Mr Garrett being proved right: 'Don't worry about what we say before the election; we'll change it all when we get into government.' It is simply not good enough. The families of Australia deserve better. They deserve a gov-

ernment that does not go back on its word, a government that tells the truth.

But it does not stop there. This bill also makes changes to voluntary family income management. This measure will allow individuals to volunteer to have their welfare payments placed under an income management regime payment arrangement. This is an important initiative, because it is one that was pioneered by the Howard government during the Northern Territory intervention last year. It has worked pretty well. This is another case of Labor saying 'me too'—something that occurred many times in last year's election—and so this measure is in principle a good thing. But I believe—and the coalition believes—that we need to be provided with more detail as to who this will affect and what the scope of the measure will be. In the other place, Mr Abbott suggested that this voluntary income management will only apply to the Kimberley region in northern Western Australia and the Cannington region of outer metropolitan Perth.

This bill will also make it a requirement for claimants of the Commonwealth seniors health card to provide a tax file number when they claim the Commonwealth seniors card. The main aim of this provision is to identify those with income from a superannuation income stream from a taxed source. The opposition is concerned that this measure may adversely affect many older Australians. We are told that about 27,000 people will lose the Commonwealth seniors health card between 1 July 2008 and 30 June 2010. It is also worth noting that the tax file number requirements could be seen as a de facto means test. But 27,000 older Australians are going to be disadvantaged by this requirement.

Whilst the changes to an adjustable taxable income test are not specifically dealt with in this bill, it is worth noting for the

Senate that a further 22,000 people will no longer be eligible for the Commonwealth seniors health card under the provisions of a different bill. These people will miss out on much-needed benefits like pharmaceutical benefits, bulk-billing and other allowances because doctors quite often require a Commonwealth seniors health card before they will bulk-bill. It is also likely that more people will be affected by this legislation in the future, given that the department has not modelled—I repeat, it has not modelled—how many people will not be eligible beyond the forward estimates. This is another case of the ALP not showing its hand before the election. The question will always remain how many marginal seat members of the Labor Party and how many other candidates went out there and said, ‘We’re going to start means testing or implementing measures that will further restrict access to Commonwealth seniors health card’? My suggestion is none. The ALP failed to tell the Australian people, especially senior Australians, that this change would take place if they won government. I am happy to be proved wrong on that but I suspect I will not be.

There is another change in this legislation, and that is to the partner service pension. This measure seeks a reduction in access to the partner service pension for partners from the current age of 50, raising the access to the age service pension qualifying age, which is just over 58 years of age for men. The coalition is of the view that veterans and their wives should be treated under the veteran system and not under the social security system. We are concerned that about 930 partners of veterans will be affected by the proposed changes. Nine hundred and thirty people will have their planning and their financial future placed in peril by a heartless Labor government. The savings from this measure are minuscule, but the savings will affect enormously the lifestyle and viability

of so many people—930 partners and their families. The government is targeting a very small section of the population. They are altering the benefits to save a few dollars and all the while they are pork-barrelling in their marginal seat electorates, which we have all heard about so much in this chamber. It is simply unreasonable to increase the age limit of this pension so dramatically.

When the Howard government, responsible economic managers, implemented changes to the age pension to lift the age from 60 to 65 it did so gradually. That way people could factor this into their forward planning themselves rather than having their payments, which they rely on, removed quickly and with very little warning. Evidence from the Senate Standing Committee on Finance and Public Administration states that the government did not consult ex-service organisations about these changes. Once again, this was a measure that was not mentioned by the ALP before the election.

This bill also contains the government amendment to repeal the 2006 legislation that allowed for gross fringe benefits amounts to be counted as income for family payments. This legislation was to come into effect on 1 July 2008. When this was introduced into and passed by parliament in November the ALP supported the package of changes that included this measure. In 2006, FaCSIA, the department, was only aware of the general impact of the changes rather than the impact on particular groups. It must be noted that the government’s current proposed changes to family payments in this 2008 bill actually complement the 2006 changes, because this bill also seeks to increase income that is used to calculate payments and benefits. The coalition will support the government’s intention to introduce amendments to repeal elements of the 2006 legislation to ensure that workers in charitable organisations are not adversely affected by the

changes to the treatment of fringe benefits for the purpose of calculating assistance payments.

This legislation will affect thousands of Australians and thousands of Australian families. The recent Senate committee on finance and public administration inquiry discovered that 22,000 Australian families will lose eligibility for the Commonwealth seniors health card, 2,100 will lose access to other pensions or allowances, 12,700 will lose access to family tax benefit A and B, and 18,800 will lose some childcare benefit. The Australian people deserve better than a government that claims to provide them with better benefits and then, once their vote has been cast, seeks to reduce these benefits. Whilst the coalition believe that support for Australian families is of paramount importance, we believe that this government has been dishonest and this will result in fewer benefits for the people who most need them. Accordingly, I move the second reading amendment standing in my name:

At the end of the motion, add:

“but the Senate:

- (a) condemns the Rudd Government for its failure to provide a taper rate with the introduction of the means test on the baby bonus; and
- (b) records its concern at the government’s decision to impose a means test on the family tax benefit Part B”.

Senator MARSHALL (Victoria) (9.17 pm)—I seek leave to incorporate Senator Polley’s second reading speech.

Leave granted.

Senator POLLEY (Tasmania) (9.18 pm)—*The incorporated speech read as follows—*

Mr President I rise to speak on the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2008, and more

specifically to the Amendments to this bill introduced by the Government.

I should firstly thank the various charitable organisations such as Catholic Social Services Australia, Uniting Care Australia, the Salvation Army as well as the Australian Services Union, the Charities Tax Advisory Service and the Australian Council of Social Services who came forward to speak to the Finance Committee last week at short notice, when matters in this bill were referred to the Committee.

Thanks must also go to the Department of Families, Housing, Community Services and Indigenous Affairs and the Department of Veterans Affairs for being available also at short notice for the hearing on matters pertaining to this bill last Friday. I would like to think that the priority that all these organisations placed on appearing before us at the Committee perfectly illustrates how important this issue is to those working in the not for profit industry.

The purpose of the Amendments that I referred to earlier has been to rectify the situation created by the previous Howard Government which resulted in people in public benevolent institutions losing out as a result of changes to the assessment of adjusted taxable income for Fringe Benefits Tax.

It should be noted how quickly the Rudd Government acted once this problem had been discovered. The Treasurer, Wayne Swan and the relevant Minister Jenny Macklin were able to present a solution to the public within a very short period and that is something for which they should be commended.

The Treasurer and the Ministers acted swiftly and decisively to ensure that the old system, which used the net value of fringe benefits, would remain in operation if these amendments are passed. This is strong, decisive governance.

It is a measure of how serious the issue is considered that Minister Macklin and Minister Ludwig were also able to quickly develop a thorough communication and notification strategy through Centrelink for those who would have been affected.

As I understand it, Centrelink will be able to implement a change in their computer system as soon as these amendments are passed to help

workers who are affected. As well, they will endeavour to contact those who had already received notification of the proposed changes to the fringe benefits system to assure them that they will not be worse off under the Governments amendments.

The Government has also realised that these are complex changes that is why I am pleased to see that the Henry review on taxation has been asked to examine the existing fringe benefits tax system and to recommend long term changes that will provide a more equitable system for all.

I call on the Opposition to support this bill and these amendments. It is now in their hands whether these workers are able to keep the status quo with regard to their entitlements.

I hope they are not as obstructionist as they were last week.

The solution that was announced by the Treasurer and the Families Minister last Thursday will change the system back to the 2006 implementation, and help protect those working in public benevolent institutions. It is these people who faced financially losing out under the changes to the law, and indeed the terms of reference of our inquiry reflected this.

Over the course of my work in my state of Tasmania, I come across a number of people who work in the non profit or charitable sector. For the most part these people are the kind of selfless individuals who are willing to put themselves forward in order to help the less fortunate members of the public.

They will often forego the higher salaries that they could receive in other jobs in order to make a difference for the destitute and the struggling. It would be unconscionable for us not to act to help these people, and ensure that they don't lose what little monetary rewards they do receive.

During the course of the hearings we heard from Frank Quinlan from Catholic Social Services Australia who gave us a very informative account of how important these amendments are to those employed in the non profit sector. His comments painted a picture for the Committee of how difficult employees would find it if these amendments did not go through this sitting week. I quote them from the *Hansard* proof:

“The charitable and not-for-profit sector is currently reliant upon these special taxation arrangements to attract and retain staff and deliver services. In effect, these fringe benefits arrangements, which were originally designed for the top end of town, have been extended to the charitable and not-for-profit sector specifically for this purpose. To explode a particular myth in relation to the charities and not-for-profit sector, when we are talking about fringe benefits tax we are not talking about expensive cars, flash holidays or expense accounts. We are talking about fringe benefits acquired by salary packaging, which is usually contributed in terms of mortgages, rents, household expenses and so on. There is a paucity of data available about the actual impacts, but I can give you figures from at least one of our agencies, our largest metropolitan agency, where recent data suggest that 80 per cent of the staff currently utilising salary packaging arrangements are earning \$50,000 or less.”

His comments were backed up by Mr Bicknell from UnitingCare, and again, I quote from proof *Hansard*:

“UnitingCare Wesley Port Adelaide has 872 staff and we employ staff in a wide range of areas—aged care, mental health, youth work, family work, homeless young people, and a number of other areas such as that throughout South Australia. Of the 872 staff we employ, 820 have a gross pay of less than \$50,000, so we are really talking about people who are on the lower income levels. Of those, 390 salary sacrifice. Salary sacrifice is really important for a lot of people who work for us in making up their total package. For example, if we have a worker who has a spouse with no income and two children and earns \$35,000 a year, salary sacrifice, as it has been operating now, would typically add \$110 per fortnight to their salary package. If the proposed changes had gone ahead, that person would have lost \$59 per fortnight, and \$59 per fortnight on that sort of income is a very significant cost.

It is to help people who are in this situation that I call on the Opposition to support this bill, and the

amendments that have been put forward by the Rudd Labor Government to fix the situation.

As the Treasurer said, it is a great injustice that the changes put forward by the previous Government treat these people in the same way as the executives who are the intended target of the changes.

The other measures present in this bill are all about providing fairer and more targeted family assistance. It is indeed pleasing to see that the Government has honoured all its election promises - the first Government to do so I believe. To look at just one such measure, by increasing the eligibility of the baby bonus to parents who adopt children under the age of 16, adoptive parents will be able to access the full amount of the baby bonus, even if the adopted child has previously received the bonus.

This change recognises that a significant percentage of children are over two years of age when adopted and that adoptive parents will have the same set of set up costs and will also incur additional expenses during the adoption process.

Of course they may also need to spend time out of the workforce to welcome and settle in their child. These changes will help an estimated additional 130 adoptive families each year including over 100 intercountry adoptions.

Our Government believes that the expected increased cost of \$3.2 million over four years is a small price to pay to create a fairer system and treat all new parents the same. This is another election promise that the Rudd Labor Government has delivered on.

Before I end though I must point out the sterling work done by Stephen Palethorpe and all the members of the Finance and Public Administration Secretariat in not only setting up the hearings for the inquiry related to this bill at two days notice last week, but helping the Committee present this report with such a quick turnaround.

In addition to their usual workload, this has certainly been a hectic fortnight for them and I want them to know that their efforts are certainly appreciated.

I commend this bill, and the Governments amendments to the Senate.

Senator SIEWERT (Western Australia) (9.18 pm)—I rise tonight to speak on the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2008 and specifically on issues relating to fringe benefits and employment in the charitable and not-for-profit sector. The issue of fringe benefits tax arose in relation to this bill, due to concerns about the serious impacts on not-for-profit organisations of changes relating to how fringe benefits were to be calculated for the purposes of family tax benefits and childcare benefits. The Australian Greens note that our main concern originally—and, as I understand it, that of charitable organisations and other not-for-profit non-government organisations—related to changes made in 2006 by the previous government. These changes altered the income test for family tax benefits so that fringe benefits were grossed up, where they had previously been calculated on a net basis. The impacts of these proposed changes on the community sector were of such concern that I referred the matter to the Senate Standing Committee on Finance and Public Administration for inquiry. In the course of the inquiry a further issue in relation to fringe benefits tax in the not-for-profit sector was raised—namely, the cap on tax-free benefits. It is this specific issue that I would like to address tonight. The other main issue that came up is the viability of the not-for-profit sector.

The community sector—which is also called the not-for-profit sector or sometimes the third sector—is a vital part of our civil society. It plays a crucial role in that society. I was pleased to note that the Parliamentary Secretary for Social Inclusion and the Voluntary Sector, Senator Ursula Stephens, put out a media release on Friday. On her website she acknowledged:

As part of the Federal Government's Social Inclusion agenda, we are dedicated to a new era of partnership with the not-for-profit sector.

The Government will continue to find new ways to support and promote the crucial work of the staff and volunteers within the sector in helping disadvantaged Australians.

She went on to explain that the government was in fact moving to reverse the changes that were going to come into effect on 1 July that were causing such concern to the not-for-profit sector. I will go into that in a moment.

The value of the community sector to the Australian economy is conservatively estimated to be in the order of \$50 billion per year. I believe that is a highly conservative figure. This figure consists of \$20 billion in expenditure, which the not-for-profit sector spends on these issues, and at least another estimated \$30 billion in unpaid voluntary work. Again, I think that is a highly conservative estimate. Wages and conditions within the community sector are substantially below those offered in both the public and private sectors. If there was a decision by government to attempt to provide the services that are provided by the not-for-profit sector—which, for a start, I do not think the government could do—the cost of delivering the same level of services would be substantially more than \$50 billion a year. And that is even thinking that they could provide the level of service that these organisations provide. However, the fact is the community sector cannot compete with public sector employment or private enterprise on wages and conditions, and this gap, alarmingly, continues to widen. As a result, the community sector relies on employees voluntarily forgoing the possibility of higher wages elsewhere for the opportunity to make a difference and to do some good within the community.

However, with the rising cost of living and other financial pressures, there are limitations on the degree of sacrifice employees are able to sustain and still be able to meet their living and family commitments. A survey of the community sector that the Australian Council of Social Services conduct every year, which was just released this month, found that 68 per cent of agencies which responded had experienced difficulty in attracting staff in the last year, and 43 per cent of them named staffing as one of the three most important issues facing their services. A significant proportion of respondents expressed concern about wage levels and indicated that they had considerable trouble attracting and retaining staff. Skilled occupations which obviously require appropriately qualified staff such as psychologists, social workers and accountants are becoming increasingly difficult to fill as skills shortages in these areas continue to bite and the salary gap with the public and private sectors continues to widen.

Employees within the community sector are in fact predominantly middle-aged women on low incomes. While many have strong personal commitments to their work and their organisations, we are now seeing increasing numbers approaching retiring age. On the whole, younger workers are less inclined to take on these lower paid and relatively stressful roles, and the sector potentially faces a looming crisis, particularly as younger people, even if they are inclined to take on these roles, find it quite difficult to sustain them and there is more churn through the sector. To this extent, both the use of adjusted fringe benefits totals and the capped exemption on fringe benefits taxes for public benevolent institutions, charities and other not-for-profit organisations have played an absolutely pivotal role in the capacity of these types of organisations to recruit and retain staff.

The unintended consequences of the change that would have come into effect on 1 July—that is, to use reportable rather than adjusted fringe benefits totals for family benefits—would act to effectively reduce the disposable income of many families of community sector employees, especially those in the \$40,000 to \$80,000 income range, where the primary income test for family tax benefit is applied. The reason that this change is such a concern to the Australian Greens is the likely impacts that it would have on the ability of a wide range of community service organisations to attract and retain suitably qualified and motivated staff, on their ability to deliver services efficiently to their disadvantaged clients and on the ongoing viability of the wider community sector. That is why we were particularly pleased when the government announced that they would introduce an amendment to deal with this issue. The Greens had already drafted an amendment, and I am pleased to see that the government are moving exactly the same amendment. However, the issues around the cap on the tax-free exemption and the viability of the community sector that came to light when this issue was raised in the public arena still apply to the community sector. There are many serious issues that the sector still has to deal with.

During the committee hearings, representatives of the community sector raised a number of other issues relating to the funding and ongoing viability of the sector. These include the need to raise the current tax-free ceiling on fringe benefits for public benevolent institutions, charities and not-for-profit hospitals and other relevant not-for-profit organisations. These tax-free fringe benefits allow those organisations I have just mentioned which qualify for this exemption to effectively offer higher salaries than they otherwise would be able to, while at the same time reduce the cost to the purchasers

of these services, whether those purchasers are governments, fee-for-service clients or those of us who make donations to these charitable causes. The committee heard that the current tax-free ceiling for public benevolent institutions and other charities of \$30,000 is not indexed and has not been increased since it was first introduced in 2000—in other words, for eight years. Our calculations indicate that if the current ceiling had in fact been indexed to the Consumer Price Index it would now be around \$38,500 and if it were indexed to average weekly ordinary time earnings it would now be \$43,000.

Given the importance of this benefit to the ability of charitable organisations to attract and retain staff and deliver services, the Australian Greens believe that the ceiling should be immediately lifted to \$40,000 and indexation introduced into the legislation. A proposed new tax-free ceiling of \$40,000 is, for those who are listening to the maths, between the two measures for indexing. We believe that this is a fair figure, given the current cap has not moved in eight years. The public or not-for-profit hospitals or ambulance services currently have a different fringe benefits tax-free ceiling of \$17,000, which also is not indexed and has not changed in eight years. Our calculations indicate if the current ceiling had been indexed to CPI it would now be close to \$22,000 and if indexed to AWOTE it would now be \$24,000. Given the importance of this benefit to the ability of not-for-profit hospitals to attract and retain staff and deliver services, we believe the ceiling should be immediately lifted to \$23,000 and indexation introduced into the legislation.

Once the issue of reducing the gap created by eight years without indexing the fringe benefits tax-free threshold has been addressed, it still leaves open the issue of indexation. The Australian Greens support in-

dexation to average weekly ordinary time earnings, AWOTE. This is because the issue at hand is a benefit directly related to employment and wages; hence, AWOTE is, in our opinion, the appropriate indexation reference. Since the issue of the cap was raised in the committee last week, numerous people have contacted my office to indicate that increasing the tax-free threshold from \$30,000 to \$40,000 would be of huge benefit to their organisations. For example, one aged-care provider indicated the impact on their staff who are earning up to \$45,000—and many of course are earning a lot less—would be an extra \$883 in their hands per annum. This is a significant amount of money for those families that are not earning a lot of money.

The aged-care sector is having a particularly tough time at the moment. Aged-care service providers are struggling to survive due to a shortage of people to undertake work, rapidly rising cost structures across all essential items and services and an unprecedented demand for services. Any loss of staff due to a sudden decline in a worker's take-home pay or access to government supports will further increase staff vacancies and reduce levels of service. In the current environment it is unlikely such organisations will be able to recover lost staff.

This situation is being experienced by all community and welfare service organisations and providers across the sector. I have been inundated with comments from people expressing concern around the current situation. Given the immense value of the not-for-profit sector, the Greens believe the impact on the government of increasing the tax-free limit is minimal compared to the benefits of ensuring continued quality service provided by qualified and appropriate personnel.

The capped exemption from fringe benefits tax for public benevolent institutions cost the government \$250 million in forgone

taxes in 2005-06. Even with the percentage increase in this figure that would occur—I will be positive—when the cap is lifted to \$40,000, this is a small amount compared to the billions of dollars the community sector contributes to our economy and our society. Frank Quinlan from Catholic Social Services gave evidence to the inquiry last Friday on this issue. He stated:

... then we also have to do a further analysis about the merits of that cap on its own. I think there would be a strong argument to suggest that an upwards movement of the cap, even beyond indexing, would be welcomed and would provide a further tool available to us again to both deliver more services and deliver some compensation to low-paid workers. I emphasise that a shift in that cap actually has a multiplier effect, not just on the dollars that government gives us but also on the dollars that we raise from other sources. If we raise \$100 from other sources, by packaging that in salary we can turn it into more than \$100 worth of services. It is important that we are talking not just about government funding either from state or federal government. It is a way in which policy can actually deliver us a benefit that we draw from other sources of funding, whether it be philanthropy, fundraising or others.

Given the value of the sector to the government as discussed above, particularly in the provision of much needed services far cheaper than government could ever hope to provide or source them, we do not believe that the extra cost of this measure is a great impost on government or that that provides any reason for them to reject it. To this end, I will be moving amendments to increase the cap on the exempted level of fringe benefits tax for those two groups and to introduce annual indexation.

The Australian Greens agree with the wider principle put forward in the submission from the Australian Council of Social Services: our tax and social security systems need to be both fair and consistent in the way they confer benefits and attribute costs. We

also note that relying on tax exemptions to remedy the poor remuneration offered by the community sector is a poor substitute for a properly costed and resourced welfare system. On that basis, we welcome the proposed Henry review of Australia's tax system and hope that it will provide fair and consistent remedy to the existing inequities of our tax system and to the wider issue of sustainable funding for the community sector.

However, in the meantime we believe it is imperative to deal with the current viability crisis in the sector, brought on by these potential changes to the assessment of fringe benefits tax—the government is doing this—and also to deal with the ongoing reduction in real terms of the cap on allowable benefits, because that will deliver real outcomes to those working in the community sector now, not in a couple of years time when the Henry committee reports. We urge both the opposition and the government to support the Greens' amendments that will bring real, meaningful changes to those working in the community sector now.

Senator FIFIELD (Victoria) (9.33 pm)—I rise to speak on the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2008. The bill introduces a means test for family tax benefit part B and the baby bonus. Additionally, the bill makes a number of changes to the administration of the baby bonus. Payment is changed from a lump sum to 13 fortnightly instalments and the baby bonus will be indexed once yearly rather than twice yearly. The age limit at which an adoption gives access to the baby bonus will be increased from the current two years to under 16 years of age. The bill introduces a requirement for claimants of the Commonwealth seniors health card to provide a tax file number and reduces access to the partner service pension for partners, raising the ac-

cess age from the current age of 50 to the age service pension qualifying age. The bill also contains changes relevant to the issue that arose in the public domain last week in relation to changes to fringe benefits tax and charities.

I will come to the other matters later; first I would like to deal with the issue of the charities. Last Friday, the Senate Standing Committee on Finance and Public Administration conducted a hearing into this bill as part of its inquiry. As deputy chair, I begin by thanking the representatives of the charitable organisations, who generously gave of their time at short notice to present evidence to the committee. It seems giving up their time is something that comes naturally to these individuals, and the committee was very grateful to them for it. At issue was the fact that from 1 July 2008 more fringe benefits would be included in the income that is used to calculate payments to families of family tax benefit A and B and the child care benefit. This would have a significant impact for employees of some charities.

The coalition implemented this change in response to a report in 2006 by experts on the Ministerial Taskforce on Child Support, chaired by Professor Patrick Parkinson. That report recommended that calculations of income for child support should include all fringe benefits to ensure that parents could not avoid their child support obligations by converting normal income into fringe benefits. The report also recommended that the method for calculating child support be extended to the method for calculating family tax benefits, to ensure consistency. It was argued that it would be complex to have different methods for calculating child support and family payments. The coalition accepted both of these recommendations and implemented them in legislation in 2006. At the time, the Labor Party supported the package of legislation that included this change. In its

response to this issue, the government has sought to blame the former coalition government. That is dishonest.

The facts are that Labor supported this measure. On 12 October 2006, the relevant shadow minister, Senator Evans, issued a media release that indicated Labor's support for the package of changes the coalition introduced. The piece of Labor legislation that we are now debating supports the 2006 change. The explanatory memorandum to the Labor bill discusses the change to the calculation of income for family payments, explicitly states that the change will result in higher calculated incomes for some people and gives a worked example of how the change produces a higher income for the calculation of family payments. The Labor legislation allows Centrelink to use this higher income to determine family payments. Without this change by Labor the payments to some families would have been higher. Labor cannot therefore claim that this change was all the former government's doing. Whilst it is true that the coalition's 2006 change broadens the income that is used to calculate family payments, Labor's changes in the 2008 budget do the same thing.

The government is proposing to include salary sacrifice into superannuation and investment losses in the calculation of income for family payments. The government therefore cannot argue that its 2008 changes are completely separate from the coalition's changes in 2006. In particular, any charity worker who salary sacrifices into superannuation or has losses on investments will be affected by Labor's changes in the 2008 budget.

Labor's measures will result in a much larger reduction in family payments than the coalition's changes from 2006. It is very concerning that Labor is reducing support for families in the 2008 budget, in contrast with

the dramatically increased support for families delivered by the coalition in office.

It was also interesting to hear the evidence at the inquiry into this bill that the Minister for Families, Housing, Community Services and Indigenous Affairs, Ms Macklin, cleared the explanatory memorandum for this bill prior to its presentation to the House on 29 May 2008. Apparently the minister's awareness of the impact of the 2006 legislation was not aroused by her clearance of the memorandum prior to 29 May, which mentions that notification letters to recipients of family tax benefit and childcare benefit were being issued in April.

The committee also heard evidence that no officers of the Department of Families, Housing, Community Services and Indigenous Affairs were aware, prior to May 2008, of the extent of the impact of the legislated, but not yet operative, provisions relating to the treatment of fringe benefits for the purpose of calculating family assistance payments. It was further acknowledged by the department that no analysis was ever conducted to determine whether any particular sectors, such as the charity sector, would be disproportionately affected. Mr Hazlehurst of the department acknowledged that:

... we did not at that time do an analysis sector by sector of how many people would be affected.

And later:

... we did not do any sector-specific analysis. We did not look at how employees in different sectors would be affected.

During the inquiry we also learned that Minister Macklin's office was provided an oral briefing on the impacts on employees in charitable organisations on 29 May 2008; yet neither the minister nor the Treasurer made any attempt to raise the matter publicly until the publication of an article in the *Australian* newspaper on 18 June, prompting a joint

press conference that day and an announcement on 19 June 2008.

It remains unclear whether, if the issue had not received considerable public interest following the media coverage on 18 June 2008, the minister or the Treasurer intended to act on this issue before 1 July, or at all. All we can conclude is that, through her attempts to deny having supported these changes, the minister does not understand her own legislation. To provide certainty to workers in the charity sector, the coalition will support the government's announced amendments.

Let me turn now to the rest of the bill. This is a bill of cold hearts and broken promises. It is a bill that seeks to act upon the nasty surprises Australian families found were in Labor's first budget delivered some six weeks ago. I note that Labor senators are saying that they hope the opposition will not be obstructionist in relation to this bill. What hypocrisy and what contempt for Senate processes! Labor senators well know that when the coalition came to government in 1996 we had been left a \$10 billion budget deficit and a \$96 billion debt. That was a real crisis, not a false and constructed crisis of the sort that Labor are inventing at the moment. What happened when the coalition set about repairing the damage caused by 13 years of inept Labor government? As we know, Labor opposed every single measure we introduced to balance the budget and pay off their debt.

At the same time, it is very interesting to see Labor now demanding respect for mandate. Unfortunately, this new Labor paradigm has arrived 12 years too late. When we were in government we took numerous policies to the Australian people and were successfully elected on our platforms only to have Labor vote against them time and time again. To come in here now and throw the word 'obstructionist' around and lecture this side of the chamber on mandate theory is the

height of Labor hypocrisy. But the point about this bill is not that the coalition will not respect Labor's mandate because they never respected ours. The point here is that there is nothing in this bill for which Labor sought a mandate. Labor never once put to the Australian people that they would set a means test of \$150,000 for the baby bonus or the family tax benefit part B. Labor never once flagged their intention to slash entitlements to the Commonwealth seniors health card or the partner service pension. There is no mandate here, only broken promises.

The committee heard evidence that the government's decision to introduce the requirement for tax file numbers to be provided by claimants of the Commonwealth seniors health card will result in loss of eligibility for at least 27,000 people in the next two years. This is not a compliance measure; this is a de facto means test that will strip older Australians struggling under cost-of-living pressures of their entitlements to assistance such as the seniors concession allowance and the telephone allowance. What is equally concerning is that the department has not modelled how many people will lose their entitlement to the card beyond the forward estimates. It seems that the true number of people to lose entitlement to this important assistance for seniors will be much, much higher.

All of this is against the backdrop of the complete neglect of pensioners in Labor's first budget. Even more heartless is the government's decision to strip away entitlement to the partner service pension from some 930 Australian partners of veterans. These are people who in many cases act as carers for their partners. And these are not just any partners. They are veterans who have served the nation in the defence forces. How insulting for veterans that the Prime Minister, when asked about this matter in the House on 19 June, confessed he had no idea about

it. And the Minister for Veterans' Affairs—what was his description of this proposal? How did he characterise the government's decision to punish the partners of veterans? He said it was a 'minor' change. Labor rip away the entitlements of vulnerable people who are caring for veterans, and the minister says it is only 'minor'. I wonder which Labor MP or candidate went to their local RSL in the lead-up to the last election and said, 'By the way, we're going to slash the partner service pension—just so you know.' I do not think anyone would have.

I would like now to turn to the baby bonus. Add this to the list of Labor's broken promises. As Senator Bernardi referred to earlier, when a constituent contacted the ALP via the Kevin07 website to ask whether Labor was going to make any changes to the baby bonus, they were told:

We have no plans to make any other changes to the way the Baby Bonus is structured, either in terms of eligibility or payment methods.

And this year the *Australian* of 14 March 2008 stated:

... Wayne Swan this week ruled out any change to the baby bonus and said Australia's middle class did not receive too much welfare.

Well, his tune has sure changed. That was a complete and utter falsehood uttered by Mr Swan. Perhaps that constituent who contacted Kevin07 voted Labor as a result of the response they received. That constituent has now been completely short-changed by Kevin08.

Not only have Labor broken their promise not to fiddle with the baby bonus; they are seeking to apply the ultimate blunt instrument in a means test with no taper. So, if someone has a child on 1 January 2009 and earns \$75,000 in the following six months, they will receive the full bonus. But if they earn \$75,001 they will get nothing. One dollar extra means sudden death. Tapering was

not even considered by Labor. Evidence to the committee revealed that no modelling had been conducted on tapering of the baby bonus means test.

Labor's means test is an odd beast. Labor are asking people to estimate their income in the six months after the birth of a child and will pay the bonus based on the information provided to them. However, if someone provides information that they will earn income under the means test threshold but then actually earns income that exceeds the threshold, they will not be compelled to pay back the bonus. This means test is therefore completely vulnerable to fraud and dishonesty. Labor's means test will be almost impossible to police, despite the fact that more than \$22 million will be sunk into administrative costs.

Finally there is the family tax benefit part B. Labor promised prior to the election that they would means-test this payment at \$250,000. Senator Chris Evans, then the opposition spokesman, announced this policy in a press release of 28 March 2006. Yet, just as Mr Garrett prophesied, once Labor got in, they just changed it all. So now families get hit with a \$150,000 means test, again with no taper. The Treasurer has confirmed that around 40,000 families will lose their entitlement to family tax benefit part B as a result of this change.

We have heard much from Mr Rudd over the past 18 months about working families being under financial pressure. So what is Mr Rudd's remedy in this bill for that? To strip those very same families of entitlements. And, while he is at it, he is hitting pensioners and partners of veterans too. We on this side of the chamber will not be bullied by Labor's rhetoric on obstructionism and mandate theory. We have shone a spotlight on this bill and its litany of broken promises. This bill targets families, pension-

ers and veterans. For that, Labor stands condemned.

Senator STOTT DESPOJA (South Australia) (9.49 pm)—As much as I would like to get into a ‘my mandate is bigger than your mandate’ philosophical discussion with the senators in the chamber, my pleasant task tonight is to talk about one aspect of the legislation before us in the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2008 which is something that the Democrats have been campaigning for for a long time, and that is the extension of the baby bonus to adoptive parents who happen to adopt a child over the age of two years.

I would like to commend the government on that change. I know that when the baby bonus was first introduced the Democrats made it clear that we were concerned at the then only 26-week period in which adoptive parents were eligible to claim the baby bonus. We campaigned and were successful, thanks to the efforts of the previous government and, I believe, particularly Minister Patterson at the time. We saw that extended in 2005, as I recall, to two years. But, if anyone here is familiar with some of the issues, expenses and rules involved in adoption, particularly intercountry adoption, they will know that the two-year period was not really satisfactory, given the number of adoptions that take place. So I am really glad to see that the government has adopted this particular measure—no pun intended.

I did in fact introduce a private member’s bill to this effect in March this year, and I was getting a little concerned that I had not received any feedback from the office of the Minister for Families, Housing, Community Services and Indigenous Affairs. I had urged them to support the legislation. That was met

with stony silence. Now I know why. Again, I commend them.

I think it is worth reminding members of the community and members of this place of some of the issues involved in the adoption process. I was looking at some statistics from the Australian Institute of Health and Welfare which illustrate that the number of children adopted from overseas countries has more than doubled over the last 25 years and, as an overall proportion, accounts for seven of every 10 adoptions. Yet, despite the increase in intercountry adoptions, the overall number of adoptions in Australia has plummeted from almost 10,000 children 35 years ago to 568 children in 2006-07. There were 568 adoptions last financial year—slightly less than the 576 children adopted the previous year. Nationally, three-quarters of the children taken into new homes last financial year were aged under five, with more than 55 per cent being female. These figures which I put on record tonight highlight the relatively small number of parents who adopt. Therefore, the inclusion of this group in the baby bonus legislation is quite inexpensive, relatively speaking, but will provide much-needed financial support.

Some senators may be aware of the fact that in some states—for example, Victoria—there are requirements for those parents who adopt a child to stay home for 12 months following the placement of that child in their new home to ensure that that child settles into family life. Many of us who are biological parents do not face those same policy requirements or that stipulation, and yet we are entitled to the baby bonus. Many of these adoptive parents and their families have been missing out, and, arguably, in many cases, have quite onerous additional financial and other issues with which to deal. So this is a very positive and relatively inexpensive measure.

In relation to the age range, I place on record that in the 2005-06 financial year, 118 children aged over two years were adopted from overseas. That gives you an idea of the statistics—just how many children are actually over that two-year age level and whose parents, therefore, have missed out on the baby bonus previously. As a consequence of their children's age, these parents have been unable to access any form of financial assistance in that sense.

There is one 'but' I might add. As honourable members would be aware, the proposed change in relation to adoptive parents claiming the baby bonus does not come into effect until 1 January 2009, along with the means testing, of course. In that respect, I think it would have been nice to give this additional measure immediate effect—or at least effect from the date of assent. Wouldn't it have been nice to give that measure and that assistance to these families that little bit earlier?

Tonight I received an email. Madam Acting Deputy President, you find when you are leaving this place that you get a lot of nice and kind emails. This was another one of those. It stated as a reminder:

... the delay in bringing in the change to the baby bonus until 1 January still means that families will miss out. We are in the ... position now of almost not being concerned by our ongoing wait (21 months this week) for allocation as we know our child will be over 2 and to miss out twice—

this is from someone who missed out last time because their child was not eligible—

will be a hard pill to swallow. No doubt, as soon as—

it is quite moving—

we see a photo of our new child, not even the frustration of missing out on the payment again will be enough to stop us from wanting to get to—

name of country—

as quickly as possible to bring him/her home.

This has been an ongoing campaign. It has been one that the Democrat senators have been particularly committed to. We have been glad to have had a couple of wins along the way. Might I say it is really nice when leaving this place to be speaking to this bill—I hope this is my final bill; I think four bills today is possibly enough—and having a win for the party. I think this is indicative of the kind of work that we have successfully done over many years. It does not always happen immediately, but it can happen. If I may implore the government ministers and parliamentary secretaries on duty, wouldn't it be nice to bring this measure up a little sooner?

Senator BOSWELL (Queensland) (9.56 pm)—The Senate is debating the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2008. My interest in this bill relates to the government proposed amendments which repeal aspects of their treatment of fringe benefits. Following questions I raised in estimates and complaints from the community sector, the government was alerted to the severe impact the changes would have on the community sector. It is strange that no-one, from the department to the minister, even thought to be across the details of the impact on so many Australians who stood to lose some \$50 a week in family payments because of the fringe benefits changes. I note for the record that these changes to reportability are actually made properly workable by the bill before us in its original state.

The need for new amendments reflects an unforgivable oversight in the Minister for Families, Housing, Community Services and Indigenous Affairs' ability to handle her portfolio. At best, it is an oversight of huge proportions. It reflects little interest from the current administration in monitoring and evaluating the system they are entrusted to

deliver. Once the election bells ring, it is the new government who is responsible. That responsibility certainly extends to letters that have gone out in the Rudd government name advising working families that they are about to lose a heap of family benefits. I do not know whether anyone in the department was aware that thousands of letters were going out advising mums and dads that their family benefits were about to be gutted. I do not know why that did not ring a bell with anyone. Was anyone there looking after the interests of Australian working families, or was it just a posture? Consequently, the Treasurer and the families minister fronted up to a press conference last week to say they would fix the problem, and so we come to today's bill and amendments.

The questions raised by this sequence of events are very disturbing and go to the heart of the style of operation of this government. Here we have a budget bill that originally included changes to the fringe benefits tax treatment. It is therefore the Rudd government's bill and they are fully complicit with the impact of the grossing up salary sacrifice of contributions on not-for-profit-sector workers' access to family benefits.

The government now bring in more amendments to fix up the mess they have voted for and presided over. Most importantly, they were the ones that sent out the letters. They were in charge when the letters were sent out. The Rudd government own this chaos. At 10 seconds to midnight, Labor are rushing in amendments to stop thousands of families from being deprived of their well-deserved family benefits. This chaotic way of running the country begs the question: what else has gone unnoticed or been overlooked?

I turn to the closely related issue of the government's proposal to make other changes to the definition of 'taxable income'

as announced in the budget. The Australian Services Union estimated that the bill we are now dealing with, with complications arising from the government's misunderstanding of how a change of the definition of income would affect thousands of working families from July 2008, would hurt 200,000 charity workers. I am very worried about what has been overlooked in the expanded definition of income for 2009. I have been pursuing the minister and the department in estimates and in this chamber, and I am still waiting on a promised briefing from the minister representing the families minister in the Senate, Senator Evans.

We know from this work so far that there are a whole range of government support programs and assistance delivered through the tax system that are to be affected by the expanded definition of income. From July 2009, income will be grossed up with items that previously were not considered, such as salary sacrifice and net investment losses. This adds to the paper income of working Australians so they have reduced access to benefits. They lose money which they are currently entitled to under the existing system. That is why there are no little cameo moments in the budget papers telling families what they will get from July 2009—because the goodies are only for this year. Those are our tax cuts. Next year the rules are going to change, and the average Australian working family will not be able to claim the same rate of benefits as now. Their eligibility will be reduced because their income for the purpose of claiming the benefits will have gone up. I am sincerely worried that the government has another fringe benefits crisis on their hands, except magnified many times.

In the Treasurer's press conference, where he confessed to the huge problems for community sector workers, he also said that the 2009 changes would be all right because

there was still plenty of time to work them through. But that is what a Treasurer does. The Treasurer works all the sums through before he puts them in the budget; otherwise, what use is the budget? He could just make up anything and put it in there. If you have a budget in black and white and you deliver it to the parliament, you are accountable for everything in it. You cannot just wait around and hope that everything works out in the end.

We have seen over the last week a government that does not understand what it has done. Fancy putting 200,000 charity workers up for a pay cut! I believe I found out before the government because people started to ring me when they received the letters to ask what it was all about. That is when I started to inquire. That led to discovering the salary sacrificing which was going to affect about another 100,000 people—I do not know how many it will affect; I cannot find out. The Treasurer said that he was not aware of how many, but I think he was disingenuous because Treasury has done the modelling on these changes. Senator Bernardi and I were told this last Friday at the committee hearings. If the Treasury has done the modelling, why can't the Treasurer and his ministers tell us what the impact of these expanded definitions of income are going to be? What is he holding back? Why is he holding back? If he is going to take income away from people in 2009, then surely they are entitled to know what they are going to lose. Why can't I get an answer to questions I have asked half-a-dozen times at least? How many Australians will lose some or all of their benefits or assistance through the tax system as a result of the expanded definition of income? How much are they going to lose? How many of them are going to lose?

I will go through the programs that we have discovered, after much pulling of teeth, are going to be affected. They include—there

could well be more but I cannot find out—family tax benefit part A plus family help income support payments; the childcare benefit; the baby bonus; the senior Australian tax offset, the Medicare levy surcharge; exceptional circumstance relief payments and exceptional circumstances interim income support; dependency tax offsets; income support payments under the Social Security Act; the parental income test on Youth Allowance; Abstudy; the Assistance for Isolated Children Scheme; Veterans' Affairs support; the Commonwealth seniors health card; and dental benefits. That is going to amount to a lot of people. I can see the parliamentary secretary sitting there with a very worried look on her face, saying, 'What am I getting myself into?' I can assure you, Senator Stephens, that you have been handed the biggest hospital pass of your life.

Of these 16 or so affected measures, we also know, after last Friday's hearing into this bill, that 22,000 Australians will lose eligibility for the seniors health card. I think Senator Bernadi enunciated that. And 18,800 will lose some childcare benefits as a result of the expanded definition of income. These figures are only two of the 16 areas but should cause significant concern. There are 22,000 senior citizens of this country who are going to get a letter in the mail in the next 12 months telling them that they will no longer get the seniors health care card from July 09. That means no \$500 concession allowance, no discounts on pharmaceuticals, no telephone allowance and reduced access to bulk-billed Medicare services. I do not believe the government has done its homework on this. It certainly has not come clean with the elders in our community about the fate that awaits them just around the budget corner. Has the Rudd government come clean about the 18,800 who are going to lose childcare benefits? That is on top of the higher petrol costs, food costs and housing

costs. Families are going to be slugged in their childcare benefits—unless they are older Australians, and then they are going to be slugged in their health care cards. They get it either way.

Is there more? Yes, there is more. I was told in estimates that these changes to income definitions will cost 74,400 Australians some of their family tax benefits A and B and 12,700 Australians all of their family tax benefits A and B. So there are cuts to childcare benefits, health care cards and family tax benefits A and B. But could there be more? Yes, there is more. There are a dozen or so other categories—we are still waiting for information on how many and how much, but the government will not tell us. I hope the parliamentary secretary will tell us tonight. She has always been someone who is prepared to tell the truth. They cannot say they do not know, because we have heard evidence from the families department that the Treasury has done modelling.

I call on the government, the minister and the parliamentary secretary again to produce the figures. Tell us how many more tens of thousands—or could it be hundreds of thousands?—of working families are going to be slugged due to the expanded definition of income to apply from July 2009. Are the envelopes being printed in massive forward orders to tell all those affected that they are going to lose some or all of their family tax benefit A, family tax benefit B, childcare benefits, seniors health care card, baby bonus, exceptional circumstances funding for drought, isolated children funding, teen dental services and so on? When are you going to tell the people how many of them are going to be affected and what the effect will be on them? They are going to have to tighten their belts, make allowances in their budgets or do something to offset the loss of income. If they do not, we will be returning to this place again and again to try, like today, to fix

up the chaotic mess presided over by the Rudd government.

The Rudd government are good at watching. They have a FuelWatch, a 'grocery watch', a 'strike watch', an 'Iguana watch' and a 'state debt watch', and now there is a 'budget watch'—that is, watch the budget roll out and watch the casualties line up. The Rudd government like to watch. They like to watch working families lose their benefits, their assistance measures and their tax offsets. Even their Veterans' Affairs entitlements will be affected by these expanded definitions of income. The Rudd government are making it harder to access all these programs. I say in closing: you have been a great friend to the hardworking families of Australia!

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (10.12 pm)—In summing up the second reading debate can I thank members for their contributions. I know that we are going to move into the committee stage in a moment and deal with some of the amendments that are before the Senate, but if I can reiterate what this legislation is about. The Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2008 amends a series of Commonwealth acts to give effect to some of the government's 2008 budget measures. This year's budget, the first delivered by the Rudd government, gave more than \$55 billion in support for working families, seniors, carers and people with disability.

This bill in particular delivers several critical measures in the government's program of responsible economic management for Australia. In these challenging economic

times it is vital that government payments are properly targeted so that assistance is directed to those who need it most. This bill is an important step towards this targeting, with new income levels for the baby bonus and family tax benefit part B and the complementary dependency tax offsets. The \$150,000 limit will be indexed each year in line with movements in the consumer price index. Other changes will also be made to the baby bonus, including indexation annually on 1 July and payment by 13 instalments. And, as Senator Stott Despoja so rightly noted, adoptive parents will receive fairer treatment through this bill, with the age limit in relation to adoption being increased.

The bill also allows for the collection of tax file numbers for Commonwealth seniors health card holders to ensure that they remain eligible for the card after it is issued. Although Senator Fifield was feisty in his commentary about the Commonwealth seniors health card, there is currently no mechanism in place to determine ongoing eligibility for the card, unlike with other concessions and benefits in the social security system. I think it is important for us to note that in 2006 the previous government conducted a clean-up of the Commonwealth seniors health card, checking incomes against eligibility—the same effect as the tax file number collection in this bill. And in 2006, under the previous government, 28,000 cardholders had incomes over the limit and had their cards withdrawn. Under this measure we anticipate around 13,000 card holders will have their cards withdrawn because they are ineligible. There is no link to the change to the Commonwealth seniors health card income test. This is a compliance measure only and it will impact on those people who are receiving the Commonwealth seniors health card inappropriately.

The bill also makes changes to the income management arrangements in the social security law so a person will be able to enter voluntarily into an agreement to be subject to income management. There are many circumstances where individuals would opt to be voluntarily part of the income management regime.

The bill will align the minimum eligible age for partner service pension paid under the Veterans' Entitlements Act with the veterans service pension age. This measure will increase the eligible age for partner service pensions for men from 50 to 60 years of age and for women from 50 to 58½ years of age as currently set under the age equalisation rules. I know Senator Bernardi was keen that there should be a gradual introduction of this but, in fact, the age increase for the partner service pension has not been introduced on a gradual basis as with the age pension, age service pension and age equalisation measure because the age pension and the age service pension are retirement pensions and, frankly, we do not believe that 50 is a retirement age in this enlightened environment. As someone who has touched that threshold, I would certainly like to think that I would not be needing to retire at that age. However, the measure will as I say increase the eligible age for partner service pensions.

The bill also makes some minor policy and technical amendments to portfolio legislation. Most importantly, as announced last week, the government will be moving amendments to this bill relating to the treatment of reportable fringe benefits in determining the adjusted taxable income for the purposes of family assistance law. Senator Siewert was quite vocal in both her support for this amendment and also understanding just how complex this whole issue is. It comes about because there is an intersection of the social security legislation and taxation legislation introduced by the previous gov-

ernment which now comes into effect. I think it is a pretty poor show that opposition senators are now trying to distance themselves from the previous government's decisions which are now coming into effect.

Senator Boswell—You are the government.

Senator STEPHENS—This is absolutely true, Senator Boswell. The previous government at the time that it introduced these measures did not understand the impacts because, as we heard at the Senate inquiry last week, there was no sectoral analysis of the previous measure either. So this is an unintended consequence of something that we have inherited and which we are now looking to address and we will address. I am very pleased to hear that the opposition is supporting those amendments.

The government's amendments to the bill will now ensure employees in the charitable and not-for-profit sector are not affected by the previous government's 2006 budget measure related to the third stage of the child support reforms that are due to come into effect on 1 July 2008. The government's amendments will restore the use of the net value of reportable fringe benefits in the definition of adjusted taxable income of family assistance. This will ensure that staffing not-for-profit organisations will not suffer a loss of family tax or childcare benefits after 1 July 2008 if the circumstances have not otherwise changed.

We all acknowledge that these are very complex issues with flow on effects to employees far beyond the not-for-profit sector receiving family assistance. Therefore, we think that the most appropriate way of getting a very clear, precise, thorough and appropriate assessment of the impacts used to refer this issue to the Henry commission to examine the complexity of existing fringe benefits arrangements and to make recom-

mendations to improve equity and simplicity in the longer term.

As a result of the government's amendment concerning the treatment of fringe benefits in determining adjusted taxable income, the government will be opposing two minor technical amendments originally included with this bill. These technical amendments were designed to help families avoid debts by taking into account the previous government's changes to the treatment of fringe benefits and obviously these amendments will no longer be needed.

Question agreed to.

Original question, as amended, agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (10.20 pm)—I table a supplementary memorandum relating to the government's amendments and a request for an amendment to be moved to this bill. The memorandum was circulated in the chamber today.

Senator BERNARDI (South Australia) (10.20 pm)—The opposition intends to support these amendments on the basis that they do make a meaningful impact on the lives of charitable workers and that this was indeed an unintended consequence. But in doing so I support the statement of Senator Boswell, that the government does need to take responsibility for this. They have had the full resources that come with the department, going through this process. There seems to be something quite disingenuous about the process in that we have been advised information was received in early May and yet nothing was really done about it until mid-

June. Whilst we do support these changes because they will benefit Australian workers and Australian families, we do so mindful that the government needs to improve its process and transparency. I seek leave to move opposition amendments (1) to (3) together.

Leave granted.

Senator BERNARDI—I move opposition amendment (1), which has been circulated:

(1) Page 4 (after line 8), after clause 3, insert:

4 Review of operation of amendments

- (1) The Minister must cause an independent review of the operation of the amendments made by this Act to be undertaken and completed by 30 June 2010.
- (2) The persons who undertake the review under subsection (1) must give the Minister a written report of the review.
- (3) The Minister must cause a copy of the report of the review under subsection (1) to be tabled in each House of the Parliament within 15 sitting days of the day on which the report is given to the Minister.
- (4) The review must be conducted by a panel of not less than 5 persons, of which at least:
 - (a) 3 persons must be nominated by relevant key stakeholder organisations; and
 - (b) 2 persons must be nominated by the Minister.

The opposition also opposes schedules 3 and 5 in the following terms:

- (2) Schedule 3, page 20 (line 2) to page 23 (line 24), **TO BE OPPOSED**.
- (3) Schedule 5, page 32 (lines 2 to 13), **TO BE OPPOSED**.

I was interested to hear Senator Stephens acknowledge that this is a very complex area. Accordingly, it needs continual moni-

toring and review. Amendment (1) moved by the opposition is for a review of the operation of the amendments that are contained in this bill. There is a particular delight in ensuring that by 2010 there will be some consideration of the effectiveness of the bill. It is a very important amendment considering that this bill was indeed cobbled together quite hastily and is going to have such a significant impact on Australians.

We have heard that there has been no modelling done by the government. This has been acknowledged not only in the senate committee hearing but in the speeches in the second reading debate here today. It quite clearly needs to be looked at. There does need to be effective modelling done on the impact on families. We have had a number of different numbers circulated both by the minister and in the reference to the Senate committee. We need to ensure that the bill does not have adverse effects and continuing adverse effects. This simple amendment, our first amendment, will enable parliament to monitor exactly how the amendments in this bill will affect Australians.

The other two simple amendments are pretty straightforward. This is about a government that did not go to the Australian people fully disclosing what they intended to do. There was no mention of changes to the Seniors health card. There was no mention of changes to the partner service pension. In fact, for a leader of a government who is widely purported to be a control freak, Mr Rudd, the Prime Minister, was not even aware that he was cutting the entitlement to the partner service pension for spouses of Australian veterans who can no longer work. How do I know this? Mrs Bronwyn Bishop, the member for Mackellar, asked this of the Prime Minister. His answer was quite simply:

I am unaware of the measure to which the honourable member refers.

This is an appalling state of affairs. Even though members of the government may say only 930 people or thereabouts will be affected by this measure, it has an enormous impact on the individuals concerned and it is amazing that the Prime Minister does not know what is in his own budget.

The third amendment that we are moving is in relation to the seniors health card. Once again, the government did not go to the Australian people with a full and open acknowledgement of the changes they were intending to make to the Commonwealth seniors health card. These are permanent changes; they are not a one-off review to clean a list or anything like that. There are 27,000 people expected to be affected over the next two years. It could be considered a de facto means test. It is a means test that was never talked about. People are going to be affected in a whole range of areas. The Pharmaceutical Benefits Scheme, as we have talked about, bulk-billing and other allowances will all be affected by this decision.

I make the point once again: we cannot support this because the Labor Party simply were not straight with the Australian people. The ALP did not show their hand before the election and it is likely that many more people than we have already indicated will be affected by this legislation in the future. We are a country that should be looking after seniors. We should be acknowledging their contribution to our country, to building our nation, just as we should veterans and their families. These two measures actually undermine that. They undermine the very substance of what a good government is meant to be. It is meant to look after those who have served the nation so well and those who are amongst the most vulnerable in our community.

In moving these amendments, I stated quite clearly what the coalition's position is

and I would hope that the government will look at them favourably in the interests of Australian families, Australian veterans' families and Australian seniors.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (10.27 pm)—I just want to respond to the concerns of the opposition in relation to these things and seek a little bit of clarity on these amendments that are being proposed by the opposition. Certainly we really need to think about what is being proposed in these amendments and the impact that they will have on this bill. I will take this opportunity to tell Senator Bernardi, who has proposed these amendments of behalf of the opposition, that it is a little unclear the extent to which the review of operation in these amendments will actually apply and whether the intention is that the review of the amendments should apply to the fringe benefits issue or to all of the amendments proposed in this bill.

Senator BERNARDI (South Australia) (10.28 pm)—The intention of the opposition is that this review would apply to all the amendments, to all the changes effected by this bill.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (10.29 pm)—This actually poses a slight dilemma for us, because I think we need to understand what the consequence of this is. Certainly the government is not supporting this particular amendment. Consider the way in which the Senate will have to deal with this amendment. If we deal with it now, the bill, as amended, will then have to go back to the House of Representatives and then it will

have to come back to the Senate so we can ensure that we support those people whom we are all furiously supporting by correcting the issue as to the fringe benefits tax, and that issue will need to be resolved before the Senate rises. So I want you to understand the broader implication of dealing with your opposition amendments in this way.

I come to the issue that Senator Bernardi has raised in amendment (2) in relation to his concerns as to the seniors card. Senator Bernardi has suggested that this is a de facto means test. I want to go to that issue quite specifically, first of all, and then go to the issue of the numbers. This is not a means-testing regime; this is a compliance regime. It affects all new Commonwealth seniors health card claimants and existing Commonwealth seniors health card holders. The purpose of this is that from July 2008 the Commonwealth seniors health card will be included in data-matching regimes with state and territory governments' registers of births, deaths and marriages, for death notification, and with the Department of Immigration and Citizenship, to identify overseas absences longer than 13 weeks. Centrelink will review the adjusted taxable income of and collect the tax file numbers for all cardholders over the six-month period, commencing September 2008. The majority of reviews are expected to be conducted in February 2009, but the legislation is actually required to enable the collection of the tax file numbers. From September 2008 all new claimants for the Commonwealth seniors health card will be required to provide a tax file number as part of the claims process and that will allow Centrelink to data match by tax file number with the Australian Taxation Office as required. From July 2009 Centrelink will commence data-matching customers with the Australian Taxation Office to check taxable incomes on an ad hoc basis. From July 2009 Centrelink and FaHCSIA will develop a pro-

filing tool for Commonwealth seniors health card holders that will target reviews for cardholders who have used taxable income that was assessed more than five years in the past and for those Commonwealth seniors health card holders and their partners, if applicable, whose adjusted taxable income is close to the relevant income limits.

Senator Bernardi has made a point about the number of people who are affected. I need to correct his additions. It is estimated that around 13,000 Commonwealth seniors health card holders will lose their eligibility in 2008-09 and that will increase to 14,000 in 2009-10, not by another 14,000. So a total of 14,000, not a total of 27,000, are expected to be affected by this measure.

The system is intended to make it fair for everyone, and no-one who is eligible for the card will lose the card as a result of this amendment. Only those people who are ineligible for the card, because their income is too high, will have their card withdrawn. The amendment will not take the card away from anyone who is eligible and whose income is below the income limits of \$50,000 for singles and \$80,000 for couples. It ensures equity in that only those eligible retain the use of the card and remain eligible for the associated benefits, including the seniors concession allowance and the telephone allowance.

As I said earlier, the previous government also conducted a data-matching exercise between the Australian Taxation Office and Centrelink on card eligibility in 2006. That was actually a cleansing of the database. It identified around 11 per cent of cardholders with income above the qualifying income limits and subsequently cancelled their cards. This is the same approach. There is nothing sinister in what is being proposed in the legislation. It really is clearing the decks, ensuring that those who are eligible for and entitled to the card will be able to retain it and

those who are ineligible for the card, because their income is too high, will have their card withdrawn. I hope that clarifies the situation as to the two issues, the number of those people who will be affected and the process by which it will actually occur.

Senator BERNARDI (South Australia) (10.35 pm)—In responding to Senator Stephens's comments, I say this is really a question of trust. It is not a personal distrust of you, Senator Stephens, and I hope you understand that. This is a question of how we can trust a government that are implementing measures that are going to have a negative impact upon thousands of people which they did not disclose during an election campaign. The first of our amendments is designed to ensure that the parliament and the Australian people will be able to rely upon an effective reporting mechanism, so that we are not going to see a government, any government, hide and cover up the true impact on people of their sneaky legislation. Whilst we could play tit for tat about numbers and how many people are affected, I think it is fair to say that if your figures are indeed correct the reason that incorrect figures have been suggested in this chamber is that there was a lack of clarity in the hearing on Friday. But, irrespective of who is right, it is a simple matter of what is right.

You have 14,000 people who, by your own estimates, are going to be negatively impacted by this legislation. It is 14,000 people too many, quite frankly. And it is too many, because you did not telegraph your punches. No member of this government went out there and said, 'We are going to remove your seniors health card.' No-one went out there and said, 'We are going to remove your access to partner service pensions.' If you had done that, and veterans and their families and seniors had gone along and voted for you, then perhaps you could have claimed that this is a genuine, reasonable

piece of legislation to implement—but you cannot. You are cobbling it together, you are trying to take advantage of vulnerable people and you are trying to take away their benefits and entitlements to save a few dollars. It is really not the right thing to do. That is why we want those two provisions removed from this bill.

Senator BOSWELL (Queensland) (10.38 pm)—I would like to know from the advisers who represent FaHCSIA, apart from the seniors health card, how many other programs does this legislation on fringe benefits tax affect?

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (10.38 pm)—Senator Boswell, I am advised that it affects the family assistance measures, so it is the family tax benefit A, family tax benefit B, baby bonus and the childcare benefit.

I need to respond to two issues. As I emphasised, Senator Bernardi, this is a compliance measure which was actually taken by the previous government in 2006. There is nothing sinister about this. You talk about people losing benefits that they are supposedly entitled to; this is a system that will be fairer for everyone, and those people who will lose the Commonwealth seniors health card through this measure are those people who are not entitled to the card. They are not entitled to the card for a circumstance—

Senator Boswell—They are eligible for the card.

Senator STEPHENS—No, they are ineligible for the card because their income is too high. This data-matching process is part and parcel of the compliance regime that is a regular occurrence within the department. This legislation is about enabling tax file

numbers to be collected. That is what this is all about.

In relation to the second issue concerning the partner service pension that has been raised by Senator Bernardi, I would like to put very clearly on the record what this measure is all about. The qualifying age for the age partner service pension will be raised from the current age of 50 to a qualifying age that is the equivalent of the veteran pension age for new claims made from 1 July 2008, subject to age equalisation. First of all, the change will not apply to a claimant who has a dependent child or who is the partner of a special rate pensioner—that is a TPI pensioner—nor will it apply to existing partner service pension recipients while they retain their current eligibility. Partners of veterans will still be able to claim the partner service pension five years earlier than the general population, who access income support on the basis of age at Centrelink. And no-one currently receiving a partner service pension—that is, at 30 June 2008—will lose their payment as a result of this change. However, if their pension is cancelled for any other reason, a subsequent new claim will be subject to the new age requirement. The kind of reason that it might be is if they enter into a new relationship, and are married to someone else and are therefore no longer eligible. The change reflects community expectations that people should participate in the paid workforce where possible rather than calling on taxpayer funded income support.

I note that the discussion that occurred in the Senate inquiry on Friday went to the issue of people remaining in the workforce beyond the age of 50. Encouraging the partners of veterans to retire at age 50 conflicts with everything we know about community standards and may contribute to long-term health, financial and social isolation problems for those people, who would end up

spending several decades in retirement. As Senator Siewert so rightly pointed out, people over 50 have a significant earning capacity. And for women, most often the partners of veterans, the idea of building up their superannuation savings by continuing in the workforce until their retirement age would contribute in the order of \$45,000 to their employment savings. That is a significant amount of savings for the future, which they would need to have. The change removes an anomaly where partners can access their service pension up to 10 years before the veterans themselves can. These types of pensions have been phased out progressively since 1995 by both Labor and Liberal governments.

Some parts of the veteran community have interpreted this change as demonstrating a lack of respect for veterans and their partners, but it is merely rectifying an anomaly which encourages premature departure from the workforce by those who are very capable of increasing their private savings, superannuation, health outcomes and contribution to the nation. Being very clear about what the impact of the partner service pension amendment does is very important. It is certainly not a hidden agenda within the FaHCSIA bill, and I need to advise both Senator Bernardi and Senator Boswell that the shadow minister has been briefed twice on all of the impacts of this legislation and understands them quite clearly.

Senator BERNARDI (South Australia) (10.44 pm)—Just briefly, Senator Stephens can dress up this argument however she would like but the simple facts are these: the government are stripping away entitlements from seniors against the backdrop of a very uncharitable budget for elderly Australians and the backdrop where rising prices for fuel and groceries, amongst many other things, are causing great difficulties for those on fixed incomes. They are stripping away those

entitlements. With regard to partner service pensions, we are talking about 930 partners of veterans—930 people who are being disadvantaged by a mean-spirited, undisclosed change which was not pre-empted and of which they were not forewarned before the election. Quite simply, how can anyone trust the government to look after the interests of Australian seniors or Australian veterans?

On the issue of Australian veterans, we have to make the point that these people receive special entitlements because of the special service that they have given our country. The Labor Party, under their legislation, just want to lump them in with other welfare recipients. I say: that is not good enough. Let us think about the people who are caring for veterans who are struggling in our society. The only firm figures we have received reveal that 930 people and their dependants and those they care for are going to be affected by this. The government are so intent on squeezing every last dollar out of the Australian public that they are prepared to put forward this sort of heartless legislation. It drives a stake through the very heart of those who have served our country so well, and their carers.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (10.47 pm)—Perhaps I did not make myself very clear, Senator Bernardi, but I want to tell you quite specifically that the change will not apply to a claimant who has a dependent child. The change will not apply to anyone who is currently eligible for the partner service pension. The amendment to this legislation has the effect of raising the current age of 50 to qualifying age—the equivalent of the veterans pension age—for new claims made from 1 July. That means that the 900-odd people you are talking about as being affected by

this are people who are 50 and who are able to actually participate in the workforce for quite some time. We do not believe that this is an unreasonable request.

Senator SIEWERT (Western Australia) (10.48 pm)—I have sat here trying to bite my tongue but, given some of the comments which have just been made by the opposition, I have to make some serious comments about this. This is the opposition who when in government brought in Newstart and who decreased the income of thousands of single mums. Not only that, this is the opposition who when in government changed the child support formula and then would not do any modelling to find out the impact that it would have when you combined it with Welfare to Work changes, which had already dropped people's income by \$29 a week. Some of those changes were just a couple of years ago; some of the other changes were made just last year.

This is the same opposition who changed the back pay for carers, the same people the opposition now suddenly care about. They reduced it by half. This is not to mention a litany of other changes the opposition brought in which affected hardworking Australians. Do not get me started on Work Choices. This is ridiculous. All of a sudden they are picking on two small issues, particularly the seniors card. If I understand the legislation correctly, it is actually only enforcing existing rules—all it is asking for is a tax file number. Do I understand it correctly? I thought I did. So if you are going to have a bleeding heart then can you have it bleed for something proper, please.

Senator BOSWELL (Queensland) (10.49 pm)—The Greens have to understand that the government has changed and what happened in the past is in the past. We are in a brand-new—

Senator Siewert interjecting—

Senator BOSWELL—Your defence of the Labor Party is touching. You are so far to the left of the Labor Party that you—

Senator Siewert interjecting—

The TEMPORARY CHAIRMAN (Senator Bartlett)—Order!

Senator BOSWELL—I do not want any emotion in this. I want to know about these programs. I have been told about the programs. Could you nominate those programs again that you just enunciated to me with the number of people that are affected?

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (10.50 pm)—When I answered your question I said it was those programs that were part of family assistance. I do not have the numbers with me. I understand that Senator Evans, who is representing the minister in this chamber, has been working on getting a briefing together for you and will be in contact with your office about that. I am sorry that I do not have the numbers here tonight to answer your question.

Senator BOSWELL (Queensland) (10.51 pm)—You may not have the numbers, but you do have eight people in the advisers box there who should have the numbers. I would be very surprised if they did not have the numbers.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (10.51 pm)—I have some information for you, Senator Boswell.

Senator Boswell—Ask and you shall receive.

Senator STEPHENS—That is true. In relation to the amendments that are in this bill it is estimated that 85,000 people will be affected and will benefit.

Senator BOSWELL (Queensland) (10.51 pm)—I want to know what programs are going to be affected and which people are going to lose benefits. You have just enunciated four of them, I think. You have told me what those programs are. I did not write them down. I would like to know what they are again, together with the numbers of people who are affected on those various programs.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (10.52 pm)—Senator Boswell, I have some additional information that might assist you. In relation to the baby bonus and the means testing, 16,000 families will be affected. In relation to family tax benefit B, it is anticipated 40,000 families will be affected, and 85,000 people will benefit from the measures that are within this bill. I hope that that helps.

Senator BARNETT (Tasmania) (10.53 pm)—To follow on from Senator Boswell, who most astutely asked that question—and I do thank Senator Stephens for her answer—I wonder if she could provide a breakdown of those figures on a state-by-state and territory basis, because I think that would be most informative, certainly as far as Tasmania is concerned. I think Senator Boswell has noted that there will be thousands upon thousands of people affected. You have given us the numbers, and if one of your eight advisers could provide the details on a state-by-state and territory basis I think that would be most informative.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (10.54 pm)—Senator Barnett, that is a big ask at this time of the night. I am sorry, I will have to take that on notice. The advisers do not have that information breakdown, but we will try to provide it to you at some time in the future.

Senator BERNARDI (South Australia) (10.54 pm)—It is a very good question that Senator Boswell has just approached me about. How are 85,000 people actually going to benefit from this legislation if indeed this is about taking away people's access to benefits?

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (10.54 pm)—Senator Boswell has been very diligent and astute in his querying of the unintended consequence of the fringe benefits tax issues. He spoke quite passionately about that in the second reading debate, and that is where 85,000 people are expected to benefit from the fringe benefits tax measures in the bill.

Senator BERNARDI (South Australia) (10.55 pm)—With regard to that, I believe that that figure of 85,000—and I will check—was raised by the minister in her second reading speech.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (10.55 pm)—Yes, it was.

Senator BERNARDI (South Australia) (10.55 pm)—And yet the amendments for the changes to the fringe benefits tax have

only come in after that second reading speech.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (10.55 pm)—Let me correct the record, Senator Bernardi. It was not raised in the second reading speech; it was actually raised in her press release.

The TEMPORARY CHAIRMAN (**Senator Bartlett**)—The question is that opposition amendment (1), moved by Senator Bernardi, be agreed to.

Question agreed to.

The TEMPORARY CHAIRMAN—The question now is that schedule 3 stand as printed.

Question negatived.

The TEMPORARY CHAIRMAN—The question now is that schedule 5 stand as printed.

Question negatived.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (10.56 pm)—I move:

That the House of Representatives be requested to make the following amendment:

Schedule 6, page 34 (after line 16), after item 9, insert:

9A Paragraph 2(1)(b) of Schedule 3

Omit “reportable fringe benefits total”, substitute “adjusted fringe benefits total”.

9B Clause 4 of Schedule 3

Repeal the clause, substitute:

4 Adjusted fringe benefits total

An individual's *adjusted fringe benefits total* for an income year is the amount worked out using the formula:

$$\text{Reportable fringe benefits total} \times \left(1 - \text{FBT rate} \right)$$

where:

FBT rate is the rate of tax set by the *Fringe Benefits Tax Act 1986* for the FBT year (as defined in the *Fringe Benefits Tax Assessment Act 1986*) beginning on the 1 April just before the start of the income year.

reportable fringe benefits total is the amount that the Secretary is satisfied is the individual's reportable fringe benefits total (as defined in the *Fringe Benefits Tax Assessment Act 1986*) for the income year.

9C Application

The amendments made by items 9A and 9B apply in relation to the 2008-09 income year and later income years.

Statement by the Clerk of the Senate pursuant to the order of the Senate of 26 June 2000—

Amendment (3)

The Senate has long followed the practice that it should treat as requests amendments which would result in increased expenditure under a standing appropriation.

On the basis that this amendment would result in increased expenditure under the standing appropriation in the *A New Tax System (Family Assistance)(Administration) Act 1999*, it is in accordance with the precedents of the Senate that this amendment be moved as a request.

Question agreed to.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (10.57 pm)—I move government amendment (1) on sheet PD342:

(1) Clause 2, page 3 (after table item 15), insert:

15A. Immediately after the 1 July commencement of 2008 items 1 and 2 of Schedule 2 to the *Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006*.

Question agreed to.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (10.57 pm)—The government opposes items 12 and 14 of schedule 6 in the following terms:

(4) Schedule 6, item 12, page 34 (line 24) to page 36 (line 21), **TO BE OPPOSED**.

(5) Schedule 6, item 14, page 36 (line 25) to page 38 (line 17), **TO BE OPPOSED**.

The TEMPORARY CHAIRMAN—The question is that items 12 and 14 in schedule 6 stand as printed.

Question negatived.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (10.58 pm)—I move government amendment (2) on sheet PD342:

(2) Clause 2, page 3 (table items 17 and 19), omit the table items.

Question agreed to.

Senator SIEWERT (Western Australia) (10.59 pm)—I move Greens amendment (2) on sheet 5503 revised:

(2) Schedule 6, page 42 (after line 27), after item 20, insert:

*Fringe Benefits Tax Assessment Act 1986***20A Subsection 5B(1E) (method statement, step 2)**

Omit "\$17,000" (twice occurring), substitute "\$23,000".

20B Subsection 5B(1E) (method statement, at the end of step 2)

Add:

Note: The dollar amounts mentioned in step 2 are indexed under section 124AA.

20C Subsection 5B(1E) (method statement, step 3, paragraph (b))

Omit "\$30,000", substitute "\$40,000".

20D Subsection 5B(1E) (method statement, at the end of step 3)

Add:

Note: The dollar amount mentioned in paragraph (b) is indexed under section 124AA.

20E Subsection 65J(2B) (method statement, step 2, paragraph (b))

Omit "\$30,000", substitute "\$40,000".

20F Subsection 65J(2B) (method statement, at the end of step 2)

Add:

Note 2: The dollar amount mentioned in paragraph (b) is indexed under section 124AA.

This amendment relates to issues that I referred to in my speech in the second reading debate around the fringe benefits tax. As I articulated during my speech, the issue around the cap on fringe benefits tax came up at the inquiry held just last Friday. It has been an issue that has been of concern to the not-for-profit sector for some time. I will remind the chamber very briefly that at the moment there is a cap in place. It has been in place for eight years.

Progress reported.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Bartlett)—Order! It being 11 pm, I propose the question:

That the Senate do now adjourn.

Mr Dally Messenger

Senator TROETH (Victoria) (11.00 pm)—I rise tonight to speak of the case of a constituent in my home state of Victoria, Mr Dally Messenger, who has had a most unfortunate experience with the ACCC. Mr Messenger is a funeral celebrant. As the Senate would know, funeral celebrants emerged in around the 1970s from the institution of marriage celebrants. Celebrants of both marriages and funerals try to negotiate a reasonable fee. While marriages are usually a very happy affair, funerals of course are in a different category, with most of the relatives being in a very bereaved state, and funeral directors need to deal very carefully with them.

Historically, funeral directors, who have charge of the mechanics of a funeral, and mainstream churches agreed on a fixed fee for officiating a funeral ceremony. In the past, this fee was traditionally low because of the high church-going population of the era. In many cases, funeral celebrants do a great deal of work leading up to a funeral by discussing the deceased with the family, preparing a eulogy and so on. Sometimes their work can take up to between 20 and 30 hours per funeral. Celebrants nowadays get a small fee for their service from the funeral directors, usually in the vicinity of \$150 to \$400. When a person dies, people usually go to a funeral director, not a funeral celebrant. The director will charge between \$6,000 and \$10,000 for the funeral and the celebrant's fee comes from that figure.

In Victoria, the funeral directors agreed to pay a little more to celebrants on the strict condition that, like the clergy, it was a fixed

fee. Over the years, the celebrants have always tried to have their fee increased in line with inflation and CPI. There was usually resistance, but the fixed fee did rise. In 1997, Mr Messenger was the President of the Australian Federation of Civil Celebrants, and he wrote the usual letter to funeral directors asking for a rise in fees. Mr Messenger at that stage received a letter from the ACCC saying his letter could be in violation of the Trade Practices Act. He responded to that by saying the funeral directors fix the fees and usually work it out quite openly with the churches, the celebrants and each other. Mr Messenger asked the ACCC to properly investigate the matter. He was then ordered by the ACCC to write the following sentences into the constitution of the Australian Federation of Civil Celebrants: 'The celebrant should individually determine the fees to be charged for his or her services. In doing so, he or she may wish to consult the fee scale recommended by the college association.' Mr Messenger did so in 1997 and the matter was dropped.

Because the fee was still very low, in 1997 Mr Messenger demanded and took the personal stance that the only way to fairly pay a celebrant was by an hourly rate. Unfortunately for him, this resulted in him not being given any funerals at which to officiate by any funeral company. At a Best Practice Funerals conference in 2005, he opposed the directors fixed fee in his keynote speech. The majority of the people at that meeting thought the directors were far too powerful to oppose. But on behalf of the conference Mr Messenger wrote a two-part letter. The first part asked for a raise in the fixed fee and the second part asked the directors to consider an hourly rate. Unbeknown to him, somebody sent this letter to the ACCC. The ACCC at that stage did not take into account any of the evidence they would have needed to see. They focused on the first part of the

letter and, without interviewing Mr Messenger, issued legal proceedings in the Federal Court.

Senator Boswell interjecting—

Senator TROETH—I beg your pardon! Mr Messenger's senior counsel demanded mediation. At mediation they fined Mr Messenger \$46,000; legal fees cost \$18,600—a total fee of \$64,600. Mr Messenger is a 70-year-old pensioner. He lives with his wife in Melbourne. Obviously he is in no position whatever to pay this money, and I find it extremely ironic that the ACCC, which is supposed to encourage competition, discourage monopoly and look after the small trader, the small businessman, and protect them from big monopolies, is forcing this gentleman to pay this money, which he can certainly not afford. I understand there are collections being taken up and so on. But I felt it only fair to raise this matter in the Senate because his efforts to raise it in other places have not met with much success. I sincerely hope that the ACCC finds reason to take up this case again, look at it again and consider what its true responsibilities are.

Abortion

Senator BARNETT (Tasmania) (11.07 pm)—Most Australians agree that we have too many abortions and most would be surprised to learn that in 2005 some 47 babies out of 309, or 15 per cent of the post-20-week abortions in Victoria, were actually born alive and then simply left to die. Data on late abortions performed in Victoria in 2005 shows that not a single abortion was performed because of any danger to the mother's physical health. Late abortions are being done for 'maternal psychosocial reasons', which in reality means abortion on request.

Leah Bowlen was just 22 weeks old in her mother's womb when the brilliant surgical team at Monash Medical Centre operated on

her to remove amniotic bands from above her left ankle. This in utero surgery saved Leah's left leg. Amillia Taylor was born on 24 October 2006 in Florida at 21 weeks and six days gestation. By her first birthday she suffered from no major health problems. 4D ultrasound takes three-dimensional still ultrasound images and adds the element of time to the process. The result is live action images of the unborn child. These remarkable scientific developments compel us to see the child in the womb through new eyes.

Medicare currently funds abortions of babies as old as 26 weeks, which is well after the age when babies like Amillia Taylor are born alive and survive and at which little Leah Bowlen underwent surgery in the womb. Australian abortions involve the partial birth abortion method, which was banned by the United States congress some five years ago. In upholding the right of congress to ban this procedure, the Supreme Court observed:

It is self-evident that a mother who comes to regret her choice to abort must struggle with grief more anguished and sorrow more profound when she learns ... that she allowed a doctor to pierce the skull and vacuum the fast-developing brain of her unborn child, a child assuming the human form.

The latest available figures on late-term abortions in Victoria show that in that state alone in 2005 there were 108 abortions of babies aged between 23 and 27 weeks for maternal psychosocial reasons. Babies born at this stage of pregnancy obviously can survive and flourish. Zak Rowles:

... laughs a lot and really grizzles. It is a trait that is sure to serve him well in future, but his mother, Tracy, believes Zak's tendency to look on the bright side has already saved his life, sustaining him through a perilous beginning after he was born at 23 weeks of pregnancy (at Nepean Hospital in Sydney) weighing just 665 grams.

Eli, a baby born at Liverpool Hospital in Sydney in December 2005, at just 25 weeks gestation, was described by his parents just eight months later as a baby who has:

... the cutest smile, loves chewing his hands and looking at himself in the mirror and recently started rolling. We have been blessed with another very happy and content baby and are so very grateful for having him in our lives.

How can it be right to use government Medicare funding to intentionally end the lives of babies old enough to survive outside the womb? Nearly 60 per cent of all post-20-week abortions, or 180 out of 309, performed in Victoria in 2005 were for psychosocial indications. Of these, 112 were performed at 23 weeks gestation or later—that is, after foetal viability. Significantly, there were no recorded terminations for maternal physical health risks.

It is hard to believe that Australian taxpayers are happy funding such procedures. Indeed, a national survey conducted in 2005 by market research in Queensland found that two out of three Australians are opposed to Medicare funding of second trimester abortions. The Medicare item for late abortions refers to 'managing second trimester labour' for 'life-threatening maternal disease'. However, it has been revealed that this phrase is open to broad interpretation. The Medicare item refers to 'gross foetal abnormality'. This has no fixed meaning and, again, is open to interpretation. Conditions like missing fingers or dwarfism are not excluded. In 2003-04 at least three babies were aborted in Victoria solely because they had cleft lip or palate with no other disabilities. Cleft lip and palate, as I am sure most senators here tonight would be fully aware, are correctable by surgery.

Recent evidence demonstrates that abortion is harmful to women's wellbeing. A 13-year study of women in Finland found that the suicide rate among women who had

abortions was six times higher than that of women who had given birth in the prior year. A New Zealand study found that women who had abortions were twice as likely to drink alcohol at dangerous levels and three times as likely to be addicted to illegal drugs compared with those who carried their pregnancies to term. Women are human beings with emotions, but Medicare item 16525 suggests to these women that it is okay to claim funding of late-term and second trimester abortions on request, with little or no emotional consequences. This is utter nonsense.

I fully understand the arguments concerning cases where a woman is raped or where her life may be endangered by carrying the baby to term, and that ending Medicare funding for late abortions would discriminate against those in low socioeconomic circumstances. I also understand how women may be offended by male commentary on abortion and by all the insensitivities men seem to be able to muster in this debate. I am not so heartless as to think the abortion debate can be engaged solely by puritanical argument devoid of emotion but I am persuaded by the rights of the child and the right to live. I cannot and will not shake this sentiment.

The abortion debate is one of the most intimate and wrenching debates we will have, but I am confronted by the fact that late abortions are often done to eliminate unborn children with unwanted physical or intellectual disabilities. The Australian idea of a 'fair go' leads us to value the contribution that people with disabilities make to our national life. Using Medicare to eliminate children with disabilities before they are even born is wrong. It discriminates against such children by depriving them of any chance of life.

Since 1994 the Australian taxpayers have paid about \$1.7 million for more than 10,000 second trimester and late abortions. In 2007 alone the Australian taxpayers paid over

\$150,000 for nearly 800 late-term abortions. The law governing when and under what conditions abortion may be lawfully performed is a matter for the states and territories. However, the Commonwealth has clear responsibility for the Medicare scheme. Each year the new Medicare table which sets out which procedures are to be funded is tabled in the Senate as a regulation. This table contains item 16525, which provides for the funding of second trimester and late abortions. Medicare does not fund third trimester abortions.

By doing nothing, the Senate is effectively authorising these abortions to be funded and continue unchecked. The Senate has the power to disallow any regulation. In light of the evidence about late abortions, I was compelled by my conscience to move to disallow Medicare funding in the Senate last week. A briefing paper on this sensitive but important issue is included on my website, www.guybarnett.com, and it is my hope that this matter of conscience will be considered in a compassionate and thoughtful way by not only federal senators, who are expected to debate and vote on the matter in early September, but also the general public, who will no doubt express their views in the media, to each other and to senators. I thank the Senate.

Funeral Celebrants

Senator PARRY (Tasmania) (11.15 pm)—I rise simply to comment on my colleague Senator Troeth's contribution to the adjournment debate this evening. Senator Troeth admirably represented the views of her constituent, a pensioner who has difficulties financially with representing himself. Could I just place on the record that, as a past National President of the Australian Funeral Directors Association and also as a funeral celebrant, I have some intimate knowledge in relation to the matters that Senator

Troeth raised. It is pertinent to place in *Hansard* that funeral celebrants can charge, by and large, the fee that they wish to charge. That fee is paid to the celebrant from the funeral director. It is not just a determined fee that a funeral director would pay necessarily from the funeral director's receipts. Some funeral directors would encourage celebrants to negotiate directly with the family. At other times families have a funeral celebrant engaged through the funeral director.

In any event, each funeral celebrant has the right to determine a charge. In the state of Victoria, if it is the case that there is a fixed fee that is regulated, I can understand the ACCC having some concern. However, my experience has been that a funeral celebrant who is valued and highly regarded will charge a fee appropriate to their services, as do marriage celebrants, although marriage celebrants have regulation in various states that governs some of their activities.

I think it is important to note that the work of a funeral celebrant, as Senator Troeth rightly indicated, is lengthy, arduous and done under difficult circumstances. It has often been a puzzle to me and many of my previous colleagues that funeral celebrants are not regarded and not regulated in the same way as marriage celebrants, when funeral celebrants have an opportunity to affect positively, and occasionally negatively, the wellbeing and the lives of the families that they serve.

I think it is important to place on the record that funeral celebrants can charge a fee that they feel it is appropriate for them to charge. I suppose some funeral celebrants like to be linked to fees that are within the market, and that may be linked to a clergy fee or a fee for a member of a church denomination, which, as Senator Troeth rightly pointed out, has been traditionally lower than

fees that have been charged by celebrants in the marketplace who are not attached to a church or any particular congregation.

I know Mr Messenger and I know many celebrants throughout Australia who charge what they feel appropriate. I just feel it is important to place on record that funeral celebrants do have an opportunity to charge a fee that they feel appropriate. I again commend my colleague Senator Troeth for raising this important matter in the Senate.

Ready-to-Drink Alcohol Beverages Report

Senator COLBECK (Tasmania) (11.19 pm)—I thank the Senate for its indulgence in allowing me to finalise my comments on the *Ready-to-drink alcohol beverages* report that was handed down today by the Senate Standing Committee on Community Affairs. I will not hold the Senate too long. I just want to take the opportunity to finalise some comments that I was making. When my time expired this afternoon, I was making the point that the very narrow focus of the measure to increase tax on RTDs was not going to address the problem that the government has claimed that it would do.

I would like to go to the evidence that was provided in submissions. It would be fair to say that the public health groups that addressed the Senate committee welcomed the measure, but it was a qualified welcome, in that they saw any measure that needed to be taken had to be done with a comprehensive approach. I mentioned that in my comments earlier in the day. It had to include a range of measures. The concern was that this measure was too narrow and did not take into account, in particular, issues in respect of substitution.

There is no question that all of those that provided evidence saw the requirement to take a comprehensive approach to dealing with the issues that the community faces with respect to alcohol. They included issues

of education, issues of law and order, issues relating to the community and, particularly and importantly, issues to do with supporting families. There is a lot of research to demonstrate that the greatest influence on young people and their alcohol use is the family. I think it is quite fair to be critical of the government, especially at this point of time, for the fact that they have not addressed one particular measure towards that. I congratulate the DrinkWise program that was launched last week and looks at the intergenerational aspects of alcohol. In my mind, that is one of the real issues that needs to be addressed.

The public health lobby, also as part of their submission, called for a volumetric tax on alcohol, as did some other groups within the alcohol sector. The wine industry and some elements of the brewing industry were not keen on that volumetric tax. The Alcohol Education and Rehabilitation Foundation tabled an example of how a volumetric tax might work. The call for a volumetric tax was pretty common across all of the public health groups that addressed the committee. The impact of a volumetric tax would effectively return tax on RTDs of 1.5 standard drinks to an equivalent tax of a stubbie of beer that has 1.5 standard drinks—in other words, it would reverse the measure that the government has put into place.

That particular evidence from those groups demonstrates a real flaw in the logic and argument put forward by this government since announcing what they claimed was a health measure—the announcement of an increased excise on RTDs. On the evidence both through estimates and through the inquiry process Treasury took no account of substitution, when there is clear evidence that substitution occurs in a number of countries, and the Liberal senators' report provides a graph of a substitution that occurred in Germany. We are not saying that is exactly what is going to happen, because we ac-

knowledge that we cannot say that. We accept that each jurisdiction is different. The evidence is still to come in with respect to that. We understand that, but it is quite clear from the anecdotal evidence, and I think from the earlier evidence from the industry, that there will be substitution.

As I said earlier, young people are not silly. If they want to go out and have a skinful—if that is the way you want to put it—if they want to go out and get drunk, they know how to do it. That is one of the issues that this measure has not addressed. There was also no consultation with the health department. As Treasury said, we had all the data that we needed by talking to Customs and the ATO, so we did not talk to the health department. While the government calls this a health measure, from our perspective, it seriously can only be regarded as a health measure. It raises \$3.1 billion in tax. There are no allocations towards the other measures that all parties believe are critical in addressing in this issue; it is just a reallocation of Department of Health and Ageing funding of \$53 million within the budget.

This measure does nothing to address the underlying issue: the culture that seems to exist among young people these days, which is to write yourself off or get yourself drunk. Unfortunately, just changing the tax regime on one narrow band of alcohol does nothing to address those issues. If it were that simple, it would be fantastic. But the evidence is quite clear that it is not. It does nothing to address the risk-taking behaviour that underlies many of the problems that we are seeing. That was clearly demonstrated by the report shown on the ABC's *Four Corners* a couple of weeks ago, where the young people in that report were clearly out to get drunk. As disappointing and as frightening as that might be for many of us in the community and for parents, that is the reality.

The Liberal members of the committee believe sincerely that, while there is certainly an issue to be dealt with in respect to the abuse of alcohol, there is no question that this narrow approach is not going to deal with the problem. Unless the government has a much more comprehensive approach to dealing with this, we obviously cannot see our way to supporting it. We are concerned that there is quite a disturbing pattern developing here. The government has this process of setting up programs and reviews to deal with issues and then makes decisions completely outside those programs. There is the Ken Henry tax review to deal with taxation across the board and to which taxation of alcohol has now been referred, and the COAG process to deal with alcohol abuse. Here we have one narrow, finite decision that is made outside any of those processes. The government has talked about taking an evidence based approach, but there is no evidence that they are actually doing that. In fact, the evidence is that they are not. It is interesting to note the approach of both the Democrats and the Greens, who have also criticised the fact that this one individual measure is not going to work on its own and needs to be a part of an overall process. I thank the Senate for its indulgence with respect to allowing me to speak tonight.

Swan Electorate: Medicare Office

Senator MARSHALL (Victoria) (11.27 pm)—I seek leave to incorporate Senator Bishop's adjournment speech.

Leave granted.

Senator MARK BISHOP (Western Australia) (11.27 pm)—*The incorporated speech read as follows—*

I rise this evening to speak in support of a petition calling for a Medicare office to be opened in the suburb of Belmont. Belmont is located in the Electorate of Swan. I understand the previous member for Swan campaigned for such an office

for over 8 years with no success. But that will not deter me.

I was very pleased to receive the petition from members of the Belmont community. The petition is the work of members of the Belmont community who have kept faith with this project. Kept faith - despite appeals to the previous government falling on deaf ears. They kept faith because the establishment of a Medicare office in the suburb of Belmont is a priority. For the many in the community on low incomes or pensions

I would like to take the time to acquaint Senators with this part of Western Australia. The City of Belmont is on the eastern side of the Swan River. It's about five kilometres from Perth city. And it includes the suburbs of Ascot, Belmont, Cloverdale, Kewdale, Redcliffe and Rivervale. At its heart are the municipal buildings, urban street-scapes, recreation areas for young people and the Belmont Forum Shopping Centre

At night the retail focus shifts to that of entertainment. And local families can enjoy a variety of restaurants and entertainment venues including a cinema complex. It is in fact a hub of activity both day and night and it is truly the heart of the Belmont community. But also in this precinct are the services working families and the elderly rely on. Including - doctors, physiotherapists, dentists and other specialists. As well as banks, post office and bus port - which is the main public transport system operating in the city.

As a city - Belmont is in some ways unique. Although it is very close to Perth city, families and the elderly tend to use local services and facilities almost exclusively. I am aware of residents who will not venture as far as the City of Perth from one year to the next.

It is in some respects the very best model for a thriving local community where people work, live and recreate together. It has a population of almost 31,000 and there are some 14,000 residential properties. It is also a diverse city. Along with river front apartments there is a significant state housing presence. That means there are a significant number of families with low incomes. State housing provides over 500 aged pensioners residences in the city. And in total - ten percent of the city's population reside in low cost state sponsored housing.

This leads me to the importance of having a Medicare office located in the heart of Belmont. Because low income earners and pensioners don't have money sitting in bank accounts for emergencies. Pensioners and low income earners, in many instances, rely on Medicare cash refunds for GP services. They then use the refund to purchase the medicines their doctors prescribe. And Medicare offices can provide cash refunds to patients immediately following their doctor's appointment.

The nearest Medicare office is located in Cannington which is some 10 kilometres from Belmont. There is no direct public transport route. And, as we are all aware, pensioners and low income earners are more likely to rely on public transport systems to get around. So - to get to the Cannington Medicare office from the Belmont centre you are required to take a bus to Victoria Park. Then walk approximately 60 metres to another bus stop to transfer to a second bus that will complete the journey. There is a 60 metre walk between the stop of the first bus in Victoria Park and bus stop for the second to Cannington. And total travel time from Belmont to Cannington is estimated as 57 minutes. The same process this then repeated to return home.

So a round trip to claim money that you are entitled to claim will take in excess of 2 hours and 4 buses. There is also of course the additional expense of bus fares. This journey is being taken by the elderly and mothers with young children. They travel with prams and with infirmities. They travel on days when the temperature can reach 40 degrees Celsius and also through winter.

Medicare does offer easyclaim services through five pharmacies in the neighbouring suburb of Victoria Park.

But the easyclaim system offers clients a quick lodgement of claims - - not cash refunds. Medicare offices are an integral part of many communities.

This is not the first time a petition has been presented to the Parliament on this matter. In 2000 my former colleague Kim Wilkie also tabled a petition in the other house. Eight years later the call for a local Medicare office has increased. The petition that has now been tabled includes more than 10 times the number of signatories. And with almost 12,000 signatories it represents over one

third of the population of the City of Belmont. The petition shows the commitment of the people of Belmont to the establishment of a Medicare office in their city.

And I ask that the Minister give every consideration to supporting the opening of such a critical government service.

Human Rights

Senator MARSHALL (Victoria) (11.28 pm)—I seek leave to incorporate my adjournment speech.

Leave granted.

The incorporated speech read as follows—

I rise tonight to raise the issue of human rights abuses in Colombia and shed some light on what is happening in this country in the hope that some action is taken and that this does not become firmly entrenched into the future.

I'll start with a recent example.

In April this year an email was circulated to members of two NGOs, trade unionists and catholic priests in Northern Colombia, which read:

'your name is on a list of undesirable people...who must be eliminated'.

It accused them of being guerrilla auxiliaries or guerrilla members and told them they had been under surveillance.

'Going down the list, you will be killed one by one...'

It concluded by saying: "We won't hesitate to kill you; start getting your loved ones ready so that they can bury you"

It was signed by the paramilitary group 'Black Eagles, North Colombia Bloc'.

These so-called 'undesirables' mentioned in the email were;

- workers from the Magdalena Medio Peace and Development Programme, an internationally respected NGO which carries out economic and social development with vulnerable and displaced communities
- workers from Corporacion SEMBRAR, a human rights organization which

monitors the human rights situation in the region and which has repeatedly denounced human rights abuses.

- Unionists from the union which represents small-scale farmers and the interests of small-scale independent gold miners in the area. It had campaigned against the arrival of multinational gold mining companies in the area.
- Catholic priests working in the local municipalities of Bolivar.

These threats cannot be taken lightly—as they are more often than not followed up by targeted killings or forced disappearances. Many flee once they have received such threats.

Accusations of links with the guerrilla groups, such as the ones in this email, are a common thread and are often precursors to violent attacks.

These threats are the latest in a context of ongoing harassment and violent persecution of ordinary people in the Bolivar region. Trade unions, NGOs and the communities in the region have repeatedly identified paramilitary groups and the Colombian Armed Forces as responsible.

The common factor that links the victims of these crimes is that they have all been outspoken on issues of justice, poverty, workers' rights and human rights. They have advocated on behalf of the poor and oppressed in Colombia

Threats and attacks of this nature are by no means unusual in Colombia.

The 40 year old armed conflict results in a particularly serious human rights situation. Abuses are carried out by paramilitary groups, irregular armed groups, guerrillas and by the Colombian armed forces.

Targeted killings, forced disappearances, use of antipersonnel landmines, recruitment of child combatants, and threats against rural communities, trade unionists, human rights defenders, and journalists remain serious problems.

It is staggering to know that over 3.5 million people have been forced from their homes as a result of this violence, making Colombia the country with the second largest number of internally displaced people after Sudan.

Perpetrators of these crimes are almost never brought to justice, with an impunity rate in cases of human rights violations at over 90%.

In Colombia, trade unionists have particularly suffered in standing up for working people.

According to Human Rights Watch, Colombia has the highest rate of violence against trade unionists in the world.

The National Labour School, a Colombian labour rights group, has recorded over 2,500 killings of trade unionists since 1986. In March this year, following a mass rally, 4 trade unionists were killed in one week.

Trade unions in Colombia are active not only in defence of workers rights but also on issues around the operation of transnational corporations, who are attracted to Colombia's significant oil fields, gold, silver, platinum and iron ore deposits. The country has the largest coal reserves in Latin America.

Human rights organisations such as Amnesty International and Human Rights Watch have amply documented the connection that exists between areas with a high incidence of human rights violations and areas of economic interest, with the conflict providing a useful cover for those seeking to expand and protect these interests.

Over 60% of internally displaced people have been forced from areas of mineral, agricultural or other economic importance.

In the case of the South Bolivar region I mentioned earlier, the link between human rights abuse and the protection of these interests can be clearly seen.

The South Bolivar area has an active armed conflict between the guerrillas and state and paramilitary forces.

The civilian population has been subjected to a range of grave human rights abuses, including mass forced displacement, assassinations, rape and other forms of torture. Many of these abuses are committed by warring parties who claim their victims are sympathisers of their enemies.

Like much of the Colombian countryside, poverty levels are high, infrastructure is inadequate to non-existent, education and health services fall

far short of meeting needs, and unemployment and underemployment are commonplace.

This region is paradoxically rich in natural resources, being an area of large-scale cattle farming, African palm plantations, timber production as well oil and gold extraction.

All of these attract significant foreign investment to the area.

The rural communities have strongly opposed the gold mining operation of the South African company AngloGold Ashanti. They seek to retain control over the use of their lands, and protect against environmental degradation.

The trade union I mentioned earlier has been campaigning for the rights of the small-scale independent gold miners in the region for several years, which has pitted it against AngloGold Ashanti, and against those who protect the company's interests.

Alejandro Uribe Chacon, a mining leader and member of the union, was assassinated on September 19, 2006, by members of the Colombian army's Nueva Granada Anti-Aircraft Battalion. According to Amnesty International, witnesses reported that 'members of the Nueva Granada Anti-Aircraft Battalion have threatened to kill Union leaders. Soldiers have also reportedly told local residents that their operations aim to guarantee the presence of international corporate mining interests in the area. This is an area in which the gold-mining company AngloGold Ashanti has interests'.

The following year, in March 2007, members of the Nueva Granada Battalion arbitrarily detained 12 members of the Mina Piojo community in Santa Rosa, including a leader of the Union, under the accusation that they were guerrillas.

A few weeks later on April 26, 2007, union leader Teofilo Acuna was arbitrarily detained.

The situation in the South of Bolivar is just one example among many of the persecution of trade unions in Colombia, and of the links between human rights abuse and the presence of transnational corporations.

It also demonstrates how the perpetrators of this violence—in this case the Nueva Granada Anti-

Aircraft Battalion—are consciously acting to protect the interests of the mining company.

As I said earlier, there is a common thread when we look at those being punished and persecuted—it is generally ordinary people and those that seek to highlight their plight.

This makes Human rights defenders another group which are targeted. These are the people and organizations that work to ensure a respect for human rights in Colombia, including human rights monitoring, development organisations, associations of displaced people or other vulnerable groups, human rights lawyers, and women's groups, among others.

Like trade unionists, human rights defenders are a high-risk group, many have been assassinated, been forced into exile or remain in Colombia where threats, harassment and arbitrary detention are commonplace. While there have been some instances of attacks by guerrilla groups, the vast majority are committed by paramilitary and security forces who consider human rights work to be subversive.

Human rights defenders are regarded with suspicion and hostility by authorities who perceive any form of social organisation to be a mobilisation against them.

As they are active in advocacy at a national and international level, they frequently identify perpetrators of violations. Silencing human rights defenders therefore serves to cover up crimes and avoid prosecution of the authors of human rights abuses.

A method of silencing human rights defenders, gaining prevalence in recent years, is the use of malicious prosecutions based on false accusations. The way in which these malicious prosecutions work can be seen in the experience of the Inter-Ecclesiastical Commission of Justice and Peace (CIJP).

The CIJP is an NGO that works with victims of human rights violations, and in particular communities of internally displaced people who have organised themselves into self-denominated humanitarian zones.

In May 2003, the Office of the Attorney General opened a preliminary investigation against five CIJP members. They were charged with rebellion,

conspiracy to commit a crime as members of the FARC, and ordering murders and forced disappearances.

During a press conference in August 2003 convened by the then commanding general of the armed forces, those under investigation were accused of being responsible for corruption and for ties with the FARC.

At the beginning of 2005, these were dismissed by the Attorney General's Office after it was determined that the evidence was based on false testimony.

In 2004, in parallel to the previously described case, the Attorney General's Office opened another case implicating another 15 persons from the Humanitarian Zones near the Panamanian border. Several of the CIJP members, already investigated in the previous case, were newly implicated through false testimonies in these new proceedings.

The persons being investigated only learned of the case against them in 2006.

Both these prosecutions are based on statements by the same witnesses, statements proven to be false and centred on the fact that these people are working to restore those forcibly displaced 10 years ago to their lands.

Additionally, the Attorney General's Office has issued arrest warrants and criminal charges against 27 members of the CIJP and members of these same communities, which even includes international volunteers who accompany the communities.

These cases clearly demonstrate the arbitrary nature of many of these failed prosecutions.

Sadly, such cases are commonplace in Colombia. Most demonstrate similar irregularities such as false testimonies by paid witnesses or reintegrated combatants, obstruction to the access of defence, manipulated evidence, and sourceless intelligence reports, not to mention the questionable handling of the cases by the Attorney General's Office.

The consequences of malicious prosecutions are similar to those resulting from other methods of repression. They create a climate of fear, distrust and prejudice against human rights defenders, and also debilitate NGOs who must concentrate ef-

forts into fighting the charges at the expense of carrying out their work.

Unfortunately, Colombia is often represented in the international media as country in chaos, with so many warring parties that they become indistinguishable from each other. Yet this image does not hold up to close examination. While it is true that there are many actors in the conflict, they can be grouped —very broadly—into two main bands.

The first is made up of the left wing guerrilla groups, predominantly the FARC and the ELN, which formed in the 1960s. They originated from earlier guerrilla movements during the long-standing civil war between liberals and conservatives.

Both guerrilla groups continue to engage in abuses against civilians.

The FARC's widespread use of antipersonnel landmines has resulted in a dramatic escalation in new reported casualties in recent years, and they continue to engage in kidnappings, the most well-known being presidential candidate Ingrid Betancourt.

In opposition to the guerrillas is the State government and paramilitary groups. These paramilitary groups, whose predecessors also arose during the liberal-conservative conflict to protect large landowners' interests, were formalised in the 1990s under the umbrella of the AUC.

For the past two decades there have been numerous cases before the courts of paramilitary collusion with the Colombian Armed forces.

According to Amnesty International, between 1986-1993 alone an estimated 20,000 people were killed for political reasons, the majority of these by the armed forces and their paramilitary allies.

More recently, the links between paramilitaries and parliamentarians have also come to light.

Dozens of congressmen from President Alvaro Uribe's coalition, including the president's own cousin, Senator Mario Uribe, have come under investigation by the Supreme Court for their alleged collaboration with paramilitaries responsible for widespread atrocities.

One of them is the brother of former Foreign Minister Maria Consuelo Araujo, who resigned as a result. President Uribe's former intelligence chief from 2002 to 2005, Jorge Noguera, is also under investigation for links to paramilitaries.

In 2003, the Colombian government initiated a demobilisation process with the AUC, and claims that paramilitaries no longer exist.

The demobilization has been largely ineffective with the group I mentioned earlier - the Black Eagles - operating in many areas using the same structures and economic base as their AUC predecessors, and often with the same personnel.

Other paramilitaries have been effectively granted an amnesty for past crimes in return for demobilisation, who then again regroup under different names.

The failure of effective demobilisation, and the continuation of human rights violations, has had some repercussions for Colombia at an international level, most particularly in its relationship with the United States.

The United States remains the most influential foreign actor in Colombia.

In 2007 it provided close to US\$800 million to the Colombian government, mostly in military aid. Twenty-five percent of US military assistance is formally subject to human rights conditions and the United States also provides financial support for the paramilitary demobilization process.

In April 2007, the US Congress froze \$55 million in US assistance due to concerns over the increase in reports of extrajudicial executions by the military and lack of adequate progress in reducing impunity in major cases involving military-paramilitary links.

Similarly, although Colombia concluded free trade negotiations with the United States in 2006, US congress has indicated that it will not consider passing the Free Trade Agreement until there is "concrete evidence of sustained results on the ground" with regard to impunity for violence against trade unionists and others.

The relationship between Colombia and Australia is modest, but expanding.

There is cooperation on a range of international issues including agricultural trade reform, the

environment, transnational crime and disarmament.

Colombia's role in the Asia-Pacific has increased in recent years. Colombia is a member of the Cairns Group, of the Pacific Basin Economic Council and a member of two APEC working groups. It is seeking full membership of APEC. Like Australia, it also participates in the Forum for East Asia and Latin America Cooperation.

Australia and Colombia's commercial relations are strongest in the mining, energy and education sectors, with two-way trade between the two countries totalling A\$51 million in 2007.

Significant Australian investments in Colombia include BHP Billiton's refining plant and coal and nickel mining ventures. It has a 30% share in Cerrejon Norte, which is the largest open-cut coal mine in the world. Sedgman Coal is also involved in coal washing at the mine. Rio Tinto has interests in coal and aluminium extraction.

Given Australia's ties with Colombia, it is appropriate to ask how we can support the respect for human rights in that country.

Government, commerce and the public all have a role to play.

All Australians can pressure the Colombian Government to take decisive action to confront and dismantle paramilitary groups and investigate and break their links with the security forces in line with repeated UN recommendations.

We all need to press the Colombian State to respect civil and political rights such as the presumption of innocence, not initiating proceedings based on uncorroborated reports or manipulated testimony, and to ensure the right to defence.

We must urge the Colombian Government, in accordance with its international obligations, to actively recognize and support human rights defenders.

With regards to the individuals and organizations I have mentioned who have suffered threats, violence or persecution, the Colombian Government must take appropriate measures to guarantee their safety and to carry out full and impartial investigations into these threats and violence, the results

of which should be made public and those responsible brought to justice.

Commerce can play a vital role. As I stated earlier, the link between human rights abuses and the protection of commercial interests can be clearly seen.

Given that large commercial projects can play a destructive role in the way human rights abuses occur, through financial or security links given to these projects by Government and paramilitary forces, we must ensure that these companies take human rights seriously.

The importance of such large economic projects means we must do all we can to ensure that these are not leading to an 'anything goes' corporate mentality which takes advantage of weak and corrupt states.

One only need look at Ok Tedi and AWB to see two prime examples of how we can fail in this regard.

This is particularly true for companies operating in the resource sector, where this pattern has been replicated in places such as the Philippines, Indonesia and PNG amongst many other examples in Asia but also in Africa and Latin America.

Australian companies must respect the rights of members of the communities in which they operate.

I welcome the motion passed by the Senate this week which calls for exactly that and I note that it received support from all sides. Given this support, and the need for such action, I look forward to working on this issue to make sure action and results comes of these principles.

In closing, Colombia must move forward, and we can all play a part in making sure this happens.

Senate adjourned at 11.27 pm

DOCUMENTS

Tabling

The following government documents were tabled:

AusLink—Report for 2006-07.

Australian Institute of Health and Welfare—Report—Australia's health 2008—Eleventh biennial report.

Superannuation (Government Co-contribution for Low Income Earners) Act 2003—Quarterly report on the operation of the Government co-contribution scheme for the period 1 January to 31 March 2008.

Sydney Airport Demand Management Act 1997—Quarterly report on the maximum movement limit for Sydney Airport for the period 1 January to 31 March 2008.

Tabling

The following documents were tabled by the Clerk:

[*Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number*]

Aged Care Act—Residential Care Subsidy Amendment Principles 2008 (No. 3) [F2008L02172]*.

Charter of the United Nations Act—Select Legislative Instrument 2008 No. 109—Charter of the United Nations (Sanctions — Iran) Amendment Regulations 2008 (No. 1) [F2008L02097]*.

Civil Aviation Act—Civil Aviation Regulations—

Civil Aviation Order 40.1.0 Amendment Order (No. 1) 2008 [F2008L01477]*.

Instrument No. CASA EX26/08—Exemption – training and checking organisation, flight check system [F2008L01365]—Explanatory Statement [*in substitution for explanatory statement tabled with instrument on 16 June 2008*].

Customs Act—

Select Legislative Instruments 2008 Nos—

102—Customs Amendment Regulations 2008 (No. 4) [F2008L02025]*.

103—Customs (Prohibited Imports) Amendment Regulations 2008 (No. 4) [F2008L02066]*.

Tariff Concession Orders—

0800039 [F2008L02137]*.

0802156 [F2008L02138]*.

- 0802632 [F2008L02139]*.
 0802702 [F2008L02140]*.
 0802706 [F2008L02141]*.
 0802707 [F2008L02142]*.
 0802719 [F2008L02143]*.
 0802940 [F2008L02108]*.
 0803087 [F2008L02110]*.
 0803239 [F2008L02144]*.
 0803249 [F2008L02145]*.
 0803251 [F2008L02146]*.
 0803282 [F2008L02147]*.
 0803431 [F2008L02148]*.
 0803433 [F2008L01996]*.
 0803794 [F2008L02149]*.
 0803795 [F2008L02150]*.
 0803832 [F2008L02107]*.
 0803909 [F2008L02111]*.
 0803926 [F2008L02112]*.
 0803930 [F2008L02113]*.
- Environment Protection and Biodiversity Conservation Act—Amendment of list of threatened ecological communities, dated 29 May 2008 [F2008L02188]*.
- Family Law Act—Select Legislative Instrument 2008 No. 104—Family Law Amendment Regulations 2008 (No. 1) [F2008L02125]*.
- Future Fund Act—Future Fund (Crediting of Additional Amounts) Determination 2008 [F2008L02181]*.
- Health Insurance Act—
- Determinations HIB—
- 08/2008 [F2008L02176]*.
 09/2008 [F2008L02177]*.
 10/2008 [F2008L02179]*.
- Health Insurance (Allied Health Services) Amendment Determination 2008 (No. 1) [F2008L02167]*.
- Select Legislative Instruments 2008 Nos—
- 110—Health Insurance Amendment Regulations 2008 (No. 1) [F2008L01330]*.
- 111—Health Insurance (Diagnostic Imaging Services Table) Amendment Regulations 2008 (No. 2) [F2008L01395]*.
- 112—Health Insurance (General Medical Services Table) Amendment Regulations 2008 (No. 2) [F2008L01332]*.
- 113—Health Insurance (Pathology Services Table) Amendment Regulations 2008 (No. 2) [F2008L01331]*.
- 114—Health Insurance (Pathology Services Table) Amendment Regulations 2008 (No. 3) [F2008L01130]*.
- Motor Vehicle Standards Act—
- Vehicle Standard (Australian Design Rule 79/02 — Emission Control for Light Vehicles) 2005 Amendment 1 [F2008L02122]*.
- Vehicle Standard (Australian Design Rule 81/01 — Fuel Consumption Labelling for Light Vehicles) 2005 Amendment 1 [F2008L02123]*.
- Vehicle Standard (Australian Design Rule 81/02 — Fuel Consumption Labelling for Light Vehicles) 2008 Amendment 1 [F2008L02124]*.
- National Health Act—Select Legislative Instrument 2008 No. 116—National Health (Pharmaceutical Benefits) Amendment Regulations 2008 (No. 2) [F2008L01021]*.
- Protection of the Sea (Shipping Levy) Act—Select Legislative Instrument 2008 No. 120—Protection of the Sea (Shipping Levy) Amendment Regulations 2008 (No. 1) [F2008L02126]*.
- Social Security (Administration) Act—
- Social Security (Administration) (Declared relevant Northern Territory areas — Various (No. 22)) Determination 2008 [F2008L02182]*.

Social Security (Public Interest Certificate Guidelines) (DEEWR) Amendment Determination 2008 [F2008L02218]*.

Sydney Airport Curfew Act—Dispensation Report 08/08.

Telecommunications (Interception and Access) Act—Select Legislative Instrument 2008 No. 105—Telecommunications (Interception and Access) Amendment Regulations 2008 (No. 1) [F2008L02095]*.

Therapeutic Goods Act—Select Legislative Instruments 2008 Nos—

117—Therapeutic Goods Amendment Regulations 2008 (No. 1) [F2008L01367]*.

119—Therapeutic Goods (Medical Devices) Amendment Regulations 2008 (No. 1) [F2008L01366]*.

Therapeutic Goods (Charges) Act—Select Legislative Instrument 2008 No. 118—Therapeutic Goods (Charges) Amendment Regulations 2008 (No. 1) [F2008L01351]*.

Trade Practices Act—Determination under section 152AQA—Pricing principles for Integrated Services Digital Network [F2008L02180]*.

*Governor-General's Proclamations—
Commencement of Provisions of Acts*

Australian Energy Market Amendment (Gas Legislation) Act 2007—Schedule 1—Date of commencement of the National Gas (South Australia) Act 2008 [SA] [F2008L02164].*

Cross-Border Insolvency Act 2008—Parts 2, 3 and 4—1 July 2008 [F2008L02165].*

* Explanatory statement tabled with legislative instrument.

QUESTIONS ON NOTICE

The following answers to questions were circulated:

Mr Brian Peters
(Question No. 438)

Senator Allison asked the Minister representing the Attorney-General, upon notice, on 21 May 2008

With reference to the findings of the New South Wales Coroner's inquest into the death of Mr Brian Peters, killed at Balibo, East Timor in October 1975 that Mr Peters and his colleagues clearly identified themselves as Australians and as journalists, they were unarmed and dressed in civilian clothes, they had their hands raised in the universally recognised gesture of surrender, and they were shot and/or stabbed to death in a deliberate act by the Indonesian military: Is it the intention of the Commonwealth Director of Public Prosecutions to prosecute the perpetrators for violating the Geneva Convention by the deliberate killing of unarmed civilians; if so, when will the prosecution take place; if not, why not.

Senator Ludwig—The Attorney-General has provided the following answer to the honourable senator's question:

In January 2008, the NSW Deputy Coroner formally referred this case to me through correspondence to my Department. I have referred the matter to the Australian Federal Police (AFP), which will assess whether there is evidence to base a prosecution under any Commonwealth law. If the AFP determines that there is sufficient available evidence to base a prosecution under Commonwealth law, the AFP will provide that evidence to the Commonwealth Director of Public Prosecutions (CDPP). It is then a matter for the CDPP to determine whether to institute a prosecution.