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**RADIO BROADCASTS**

Broadcasts of proceedings of the Parliament can be heard on the following Parliamentary and News Network radio stations, in the areas identified.

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- **SYDNEY**: 630 AM
- **NEWCASTLE**: 1458 AM
- **GOSFORD**: 98.1 FM
- **BRISBANE**: 936 AM
- **GOLD COAST**: 95.7 FM
- **MELBOURNE**: 1026 AM
- **ADELAIDE**: 972 AM
- **PERTH**: 585 AM
- **HOBART**: 747 AM
- **NORTHERN TASMANIA**: 92.5 FM
- **DARWIN**: 102.5 FM
FORTY-FIRST PARLIAMENT
FIRST SESSION—NINTH PERIOD

Governor-General

His Excellency Major-General Michael Jeffery, Companion in the Order of Australia, Commander of the Royal Victorian Order, Military Cross

Senate Officeholders

President—Senator the Hon. Paul Henry Calvert

Deputy President and Chairman of Committees—Senator John Joseph Hogg


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

Deputy Leader of the Government in the Senate—Senator the Hon. Helen Lloyd Coonan

Leader of the Opposition in the Senate—Senator Christopher Vaughan Evans

Deputy Leader of the Opposition in the Senate—Senator Stephen Michael Conroy

Manager of Government Business in the Senate—Senator the Hon. Eric Abetz

Manager of Opposition Business in the Senate—Senator Joseph William Ludwig

Senate Party Leaders and Whips

Leader of the Liberal Party of Australia—Senator the Hon. Nicholas Hugh Minchin

Deputy Leader of the Liberal Party of Australia—Senator the Hon. Helen Lloyd Coonan

Leader of The Nationals—Senator the Hon. Ronald Leslie Doyle Boswell

Deputy Leader of The Nationals—Senator the Hon. Nigel Gregory Scullion

Leader of the Australian Labor Party—Senator Christopher Vaughan Evans

Deputy Leader of the Australian Labor Party—Senator Stephen Michael Conroy

Leader of the Australian Democrats—Senator Lynette Fay Allison

Leader of the Australian Greens—Senator Robert James Brown

Leader of the Family First Party—Senator Steve Fielding

Liberal Party of Australia Whips—Senators Stephen Parry and Julian John James McGauran

Nationals Whip—Senator Fiona Joy Nash

Opposition Whips—Senators George Campbell, Linda Jean Kirk and Ruth Stephanie Webber

Australian Democrats Whip—Senator Andrew John Julian Bartlett

Australian Greens Whip—Senator Rachel Siewert

Family First Party Whip—Senator Steve Fielding

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

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(1) Chosen by the Parliament of 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.

PARTY ABBREVIATIONS
AD—Australian Democrats; AG—Australian Greens; ALP—Australian Labor Party; CLP—Country Labor 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—H R Penfold QC
HOWARD MINISTRY

Prime Minister
Minister for Transport and Regional Services and
Deputy Prime Minister
Treasurer
Minister for Trade
Minister for Defence
Minister for Foreign Affairs
Minister for Health and Ageing and Leader of the House
Attorney-General
Minister for Finance and Administration, Leader
of the Government in the Senate and Vice-
President of the Executive Council
Minister for Agriculture, Fisheries and Forestry
and Deputy Leader of the House
Minister for Immigration and Citizenship
Minister for Education, Science and Training and
Minister Assisting the Prime Minister for
Women’s Issues
Minister for Families, Community Services and
Indigenous Affairs and Minister Assisting the
Prime Minister for Indigenous Affairs
Minister for Industry, Tourism and Resources
Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service
Minister for Communications, Information Technology and the Arts and Deputy Leader of the Government in the Senate
Minister for the Environment and Water Resources
Minister for Human Services

The Hon. John Winston Howard MP
The Hon. Mark Anthony James Vaile MP
The Hon. Peter Howard Costello MP
The Hon. Warren Errol Truss MP
The Hon. Dr Brendan John Nelson MP
The Hon. Alexander John Gosse Downer MP
The Hon. Anthony John Abbott MP
The Hon. Philip Maxwell Ruddock MP
Senator the Hon. Nicholas Hugh Minchin
The Hon. Peter John McGauran MP
The Hon. Kevin James Andrews MP
The Hon. Julie Isabel Bishop MP
The Hon. Malcolm Thomas Brough MP
The Hon. Ian Elgin Macfarlane MP
The Hon. Joseph Benedict Hockey MP
Senator the Hon. Helen Lloyd Coonan
The Hon. Malcolm Bligh Turnbull MP
Senator the Hon. Christopher Martin Ellison

(The above ministers constitute the cabinet)
HOWARD MINISTRY—continued

Minister for Fisheries, Forestry and Conservation and Manager of Government Business in the Senate  Senator the Hon. Eric Abetz
Minister for Small Business and Tourism  The Hon. Frances Esther Bailey MP
Minister for Local Government, Territories and Roads  The Hon. James Eric Lloyd MP
Minister for Revenue and Assistant Treasurer  The Hon. Peter Craig Dutton MP
Minister for Workforce Participation  The Hon. Dr Sharman Nancy Stone MP
Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence  The Hon. Bruce Frederick Billson MP
Special Minister of State  The Hon. Gary Roy Nairn MP
Minister for Ageing  The Hon. Christopher Maurice Pyne MP
Minister for Vocational and Further Education  The Hon. Andrew John Robb MP
Minister for the Arts and Sport  Senator the Hon. George Henry Brandis SC
Minister for Community Services  Senator the Hon. Nigel Gregory Scullion
Minister for Justice and Customs  Senator the Hon. David Albert Lloyd Johnston
Assistant Minister for Immigration and Citizenship  The Hon. Teresa Gambaro MP
Assistant Minister for the Environment and Water Resources  The Hon. John Kenneth Cobb MP
Parliamentary Secretary to the Prime Minister  The Hon. Anthony David Hawthorn Smith MP
Parliamentary Secretary to the Minister for Transport and Regional Services  The Hon. De-Anne Margaret Kelly MP
Parliamentary Secretary to the Treasurer  The Hon. Christopher John Pearce MP
Parliamentary Secretary to the Minister for Finance and Administration  Senator the Hon. Richard Mansell Colbeck
Parliamentary Secretary to the Minister for Industry, Tourism and Resources  The Hon. Robert Charles Baldwin MP
Parliamentary Secretary to the Minister for Foreign Affairs  The Hon. Gregory Andrew Hunt MP
Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry  The Hon. Sussan Penelope Ley MP
Parliamentary Secretary to the Minister for Education, Science and Training  The Hon. Patrick Francis Farmer MP
Parliamentary Secretary to the Minister for Defence  The Hon. Peter John Lindsay MP
Parliamentary Secretary to the Minister for Health and Ageing  Senator the Hon. Brett John Mason
SHADOW MINISTRY

Leader of the Opposition          Kevin Michael Rudd MP
Deputy Leader of the Opposition, Shadow Minis-
    ter for Employment and Industrial Relations
    and Shadow Minister for Social Inclusion
Leader of the Opposition in the Senate and
    Shadow Minister for National Development,
    Resources and Energy
Deputy Leader of the Opposition in the Senate
    and Shadow Minister for Communications and
    Information Technology
Shadow Minister for Infrastructure and Water and 
    Manager of Opposition Business in the House
Shadow Minister for Homeland Security, Shadow
    Minister for Justice and Customs and Shadow
    Minister for Territories
Shadow Assistant Treasurer and Shadow Minister
    for Revenue and Competition Policy
Shadow Minister for Immigration, Integration and
    Citizenship
Shadow Minister for Industry and Shadow Minis-
    ter for Innovation, Science and Research
Shadow Minister for Trade and Shadow Minister
    for Regional Development
Shadow Minister for Service Economy, Small
    Business and Independent Contractors
Shadow Minister for Multicultural Affairs,
    Shadow Minister for Urban Development and
    Shadow Minister for Consumer Affairs
Shadow Minister for Transport, Roads and Tour-
    ism
Shadow Minister for Defence
Shadow Minister for Climate Change, Environ-
    ment and Heritage and Shadow Minister for the
    Arts
Shadow Minister for Veterans’ Affairs, Shadow
    Minister for Defence Science and Personnel and
    Shadow Special Minister of State
Shadow Attorney-General and Manager of Oppo-
    sition Business in the Senate
Shadow Minister for Sport and Recreation,
    Shadow Minister for Health Promotion and
    Shadow Minister for Local Government
Shadow Minister for Families and Community
    Services and Shadow Minister for Indigenous
    Affairs and Reconciliation
Shadow Minister for Foreign Affairs
Shadow Minister for Ageing, Disabilities and
    Carers
    
Senator Christopher Vaughan Evans
Senator Stephen Michael Conroy
Anthony Norman Albanese MP
The Hon. Archibald Ronald Bevis MP
Christopher Eyles Bowen MP
Anthony Stephen Burke MP
Senator Kim John Carr
The Hon. Simon Findlay Crean MP
Craig Anthony Emerson MP
Laurence Donald Thomas Ferguson MP
Martin John Ferguson MP
Joel Andrew Fitzgibbon MP
Peter Robert Garrett MP
Alan Peter Griffin MP
Senator Joseph William Ludwig
Senator Kate Alexandra Lundy
Jennifer Louise Macklin MP
Robert Bruce McClelland MP
Senator Jan Elizabeth McLucas
Shadow Minister for Federal/State Relations, Shadow Minister for International Development Assistance and Deputy Manager of Opposition Business in the House

Robert Francis McMullan MP

Shadow Minister for Primary Industries, Fisheries and Forestry

Senator Kerry Williams Kelso O’Brien

Shadow Minister for Human Services, Shadow Minister for Housing, Shadow Minister for Youth and Shadow Minister for Women

Tanya Joan Plibersek MP

Shadow Minister for Health

Nicola Louise Roxon MP

Shadow Minister for Superannuation and Intergenerational Finance and Shadow Minister for Banking and Financial Services

Senator the Hon. Nicholas John Sherry

Shadow Minister for Education and Training

Stephen Francis Smith MP

Shadow Treasurer

Wayne Maxwell Swan MP

Shadow Minister for Finance

Lindsay James Tanner MP

Shadow Minister for Public Administration and Accountability, Shadow Minister for Corporate Governance and Responsibility and Shadow Minister for Workforce Participation

Senator Penelope Ying Yen Wong

Shadow Parliamentary Secretary for Foreign Affairs

Anthony Michael Byrne MP

Shadow Parliamentary Secretary for Defence and Veterans’ Affairs

The Hon. Graham John Edwards MP

Shadow Parliamentary Secretary for Environment and Heritage

Jennie George MP

Shadow Parliamentary Secretary for Treasury

Catherine Fiona King MP

Shadow Parliamentary Secretary for Education

Kirsten Fiona Livermore MP

Shadow Parliamentary Secretary to the Leader of the Opposition

John Paul Murphy MP

Shadow Parliamentary Secretary for Industrial Relations

Brendan Patrick John O’Connor MP

Shadow Parliamentary Secretary for Industry and Innovation

Bernard Fernando Ripoll MP

Shadow Parliamentary Secretary for Northern Australia and Indigenous Affairs

The Hon. Warren Edward Snowdon MP

Shadow Parliamentary Secretary to the Leader of the Opposition (Social and Community Affairs)

Senator Ursula Mary Stephens
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Tuesday, 19 June 2007

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

WORKPLACE RELATIONS AMENDMENT (A STRONGER SAFETY NET) BILL 2007

Second Reading

Debate resumed from 18 June, on motion by Senator Colbeck:

That this bill be now read a second time.

upon which Senator Wong had moved by way of amendment:

At the end of the motion, add “but the Senate condemns the Government’s lack of honesty about:

(a) its plans for extreme industrial relations laws before the last election;

(b) the impact of its inherently unfair Work Choices laws, including the way these laws have:

(i) caused the pay and conditions of individuals on Australian Workplace Agreements to be cut;

(ii) allowed good workers to be dismissed for no reason at all;

(iii) placed an unprecedented paperwork burden on small businesses; and

(iv) destroyed the independent industrial umpire;

(c) the cost of the taxpayer-funded polling research which apparently led the Government to dropping the term ‘Work Choices’ and bringing this bill to the Senate;

(d) the magnitude of the taxpayer-funded advertising campaign to promote the Government’s political spin on industrial relations;

(e) the fact that this bill leaves Australians still overwhelmingly exposed to the harshness of Work Choices; and

(f) its intention to legislate even harsher laws if re-elected”.

Senator STEPHENS (New South Wales—Parliamentary Secretary to the Leader of the Opposition) (12.31 pm)—Today I rise to contribute to the debate on the Workplace Relations Amendment (A Stronger Safety Net) Bill 2007; recognising that the fairness test proposed is flawed and ultimately will not protect low-income workers. The vain hope is that this bill may protect some workers and provide limited benefit. Following the introduction of Work Choices there were many examples of the impact of new industrial laws on individuals, families and groups. Initially the focus of the impact of Work Choices legislation was on the most vulnerable, but it is becoming much clearer now through academic research that the loss of basic protections is both widespread and substantial.

Over the past two decades there has been a massive encroachment of work into family time. Increasingly, workers are juggling the demands of work with their family commitments. Families struggling to meet rising costs of living and higher levels of household debt have not been well served by an economy and a labour market that have produced an increase in highly casualised jobs that are now low paying, insecure and involve irregular hours. Studies by the Relationships Forum Australia and the Human Rights and Equal Opportunity Commission show that after 15 years of economic prosperity many Australians are disappointed with the results and feel overworked, stressed out and unhappy. We are among the most overworked nations in the world, with a very high rating among 18 developed nations on key indicators of work intensification. With 22 per cent of the workforce working at least 50 hours a week, Australia’s average working hours run second only to Japan’s. Almost one-third of the labour force regularly works on week-
ends, making Australia second only to Italy. It is revealing that around two million Australians work on Sundays. Around 27 per cent of Australian workers are in casual employment, making us second to Spain in work that is often characterised by irregular hours and, as a result, an enforced dysfunctional family life.

For some workers, flexible working arrangements are a benefit. For many, however, the rhetoric of family-friendly workplaces has not been realised. This is particularly true for workers in the retail, hospitality and service industries, which historically have had the most unpredictable hours. Workers are often low paid and have little power to negotiate hours and conditions. This is a real problem for families with young children and those with caring responsibilities for elderly family members. People caught in the dilemma of having to work longer and harder in jobs that constantly disrupt and upset normal family routines are entitled to ask, ‘Where are the promised benefits of workplace flexibility?’

The studies confirm what many have experienced during two decades of labour market deregulation—that is, the demand to work longer and more irregular hours has upset the balance. There is less time for family functions, there is difficulty in maintaining networks of friends and there is little time for religious worship, community events and recreation. More alarming, though, is the direct damage to the family unit in the form of high levels of depression and stress; drug and alcohol problems; strained relationships, leading to separation and divorce; and reduced child welfare.

The Catholic Church in Australia has voiced concerns about workers’ rights and conditions under the Howard government’s Work Choices laws. In a pastoral letter issued for the Feast Day of St Joseph the Worker, 1 May, Bishop Christopher Saunders, Chairman of the Australian Catholic Social Justice Council, has called on the government to regularly release data on the terms and conditions of Australian workplace agreements. In a letter headed ‘Keeping time—Australian families and the culture of overwork’, Bishop Saunders said that over the past two decades there has been a massive encroachment of work into family time and that an increasing number of people are juggling the demands of work with their family commitments.

If Australia is to move forward and prosper as a nation, we need a modern industrial relations system that balances the flexibility required by business with the security needed by employees and their families. The government’s extreme industrial relations system has tipped this balance too far against working families by removing things such as overtime, penalty rates, leave loadings, rostering protections and redundancy pay for many. The amendments contained in this workplace relations amendment bill will not restore that balance. They will not restore sufficient basic conditions that Australian families rely on. They will not restore the faith of the Australian people, lost by a government that did not even see fit to consult them on its industrial relations laws at the last election. Work Choices is at the heart of why people no longer trust the Howard government.

There is nothing in these amendments that diminishes Labor’s resolve to repeal Work Choices and replace it with a system that delivers an appropriate balance between the flexibility needed by business and the security needed by employees and their families. A sensible and modern industrial relations system takes a middle path that balances the flexibility needed by business with the security needed by employees and their families. This bill does not achieve that—it goes no-
where near the middle path put forward by the Labor Party in this parliament. If we are to build prosperity into the future, beyond the mining boom, current policies need to be directed to lifting productivity and harnessing the talents and abilities of all our people. The government can dress up its industrial relations laws in all the taxpayer funded spin and propaganda that it likes but this will not alter the fact that the government’s Work Choices industrial relations laws will do nothing to boost productivity, which has gone backwards in relative terms on this government’s watch.

The government has been led by a narrow ideological agenda, and it has been increasingly forced to rely on desperate arguments to justify the benefits of Work Choices. The first of these desperate economics arguments that it puts is that Work Choices has been responsible for our recent jobs growth. This is one of the great cons of the Howard era.

The workplace laws were examined at a hearing last week into whether they comply with the international labour standards. A list of 25 alleged international labour rights offenders, including the Howard government’s workplace laws, was considered in Geneva by the International Labour Organisation, a special agency of the United Nations that monitors labour standards. It is the third year in a row that the Howard government’s workplace laws have been examined. The Howard government failed to provide information requested by the ILO within the required time frame last year and consequently the issue has now been referred to the ILO conference for further hearing.

Australia is a signatory to the international convention on fundamental labour rights and someone should be asking the Minister for Employment and Workplace Relations why his government’s workplace laws do not comply with international human rights laws to which it is a signatory. The Howard government is being taken to task because it is one of the few governments among advanced countries whose workplace laws are alleged to breach freedom of association and the effective recognition of the right to collective bargaining. This is Australia we are talking about. Australian working families already know that the Howard government’s Work Choices laws are grossly unfair, and they now should know that the unfairness of the laws has not escaped international attention.

The Prime Minister’s claim that the new industrial relations system is no different from the previous no-disadvantage test is incorrect. The latest changes are much weaker and provide fewer protections for workers than the previous no-disadvantage test in key ways. There is no role for an independent umpire to scrutinise workplace agreements. At least under the old system the AIRC was required to scrutinise all collective agreements in an open hearing, and AWA individual contracts could be referred to the AIRC if there was any uncertainty about whether it passed the no-disadvantage test. Under the new system, however, individual workers who are dissatisfied with the compensation they receive for losing their penalty rates, overtime and other conditions are forced to go to the High Court.

Changes to the government’s Work Choices industrial relations laws currently before parliament require the Howard government’s new Workplace Authority to rule whether each new AWA individual contract signed since 7 May this year passes the government’s new so-called fairness test. The Employment Advocate admitted that his office made a ‘cursory perusal’ of AWAs but has done no real analysis of the data.

Since November, Labor had asked the Office of the Employment Advocate—now known as the Workplace Authority—
questions on notice, none of which have been answered. The Office of Workplace Services, now known as the Office of the Workplace Ombudsman, has received 149 questions on notice and none have been answered. The government has employed 600 new officials to administer the changes and scrutinise the 1,000 AWAs that are being registered every day under the new IR laws.

Around 2½ million workers are not covered by the new fairness test and receive no protection. Unlike the no-disadvantage test, workers are not covered if they are on already registered AWAs and individual agreements, if they earn more than $75,000 a year, or are award free. The new fairness test does not take into account the full list of protected award conditions when determining the amount of compensation for the loss of award conditions. Redundancy pay, paid maternity leave and a say on rosters for workers were previously taken into account in the no-disadvantage test but are now not protected and can be abolished with no compensation to employees.

Under this new system AWAs are checked only after they start to apply. This means that workers lose their award conditions first and the fairness test is applied later. With the no-disadvantage test, workers were at least protected from the start and only lost award conditions after the test had ensured that they would not be disadvantaged.

The fact is that the Howard government’s IR changes do not give workers adequate protection from losing penalty rates, shift allowances, overtime or other award conditions, and the only way a worker can question a ruling on their AWA individual contract under this new fairness test would be to lodge an expensive appeal to the High Court.

As Darryl Kerrigan, the character played by Michael Caton in the famous film The Castle surely would say to revelations that workers would be forced to go to the High Court to challenge a compensation ruling under the new fairness test, ‘Tell ’em they’re dreaming.’

The Sydney Morning Herald reported last Wednesday that the Prime Minister ‘dares to dream’ and, from a leaked document, the ‘government has commissioned economic modelling to gauge the effect of extending its Work Choices legislation to cover all employees’. The government—if by chance it is re-elected—clearly intends to extend Work Choices to the 15 percent of the workforce not covered by the legislation. This figure accounts for 1.5 million workers including nurses, police, teachers and firefighters who, with the exception of Victoria, are currently on state award systems. The Australian Nursing Federation is seeking a guarantee from government that health funding in the 2008 Australian health care agreements will not force nurses onto AWAs since it learned of the revelation that the government is engaging in this economic modelling. The ANF is seeking a core guarantee that funding for hospitals will not be linked to AWAs, as has already occurred in the university sector.

The What women want report released recently by the National Foundation for Australian Women shows that under the Work Choices industrial relations system women are worse off in pay terms compared with men. This is so regardless of their occupation or education status and includes professional and managerial women as well as those in lower paid, less skilled work. The impact is worst for young women, with fewer bargaining skills, and for all women living in regional and country areas away from mining developments. The impact on Indigenous women and those from culturally and linguistically diverse backgrounds was also very negative.
The What women want report provides evidence that individual workplace agreements result in a growth in the gender wage gap. The gender wage gap is worse in casual and part-time employment, where wage levels have stagnated in sectors such as retail and hospitality, where women predominate, and women in professional and managerial occupations are also doing less well than their male counterparts.

The implementation of the Howard government’s wide-ranging policy and legislative changes in industrial relations, combined with its Welfare to Work reforms, is expected to further intensify the challenges faced by working families in balancing work and family life. If the Work Choices legislation is as good as the Howard government says it is, why did the Minister for Employment and Workplace Relations, Mr Hockey, visit car parts manufacturer Tristar to ensure that a dying employee was not denied access to a redundancy payment? Surely not because there is a problem with Work Choices? It is clear that Work Choices is emboldening employers to take mean and capricious action against their employees. Not all companies do it but many more do it now because Work Choices makes it possible.

Tristar was looking for ways to minimise the costs of its redundancy program. It would not agree to provide a payout to its account manager of 43 years, John Beavan, who was battling terminal cancer. Tristar rejected Beavan’s application for redundancy late last year after he acknowledged that he was ill with liver and bowel cancer. When his treatment by Tristar became public knowledge, voice of reason Alan Jones attacked the decision. This is what it took to get John Howard to take action to redress the indignities that John Beavan confronted at the end of his life.

The workplace relations minister at the time and the Prime Minister were missing in action when unions sought to meet them to seek a resolution to the Tristar dispute affecting Beavan and 30 or so other workers. The sad reality is that it took Alan Jones to make the Prime Minister listen. Just days after the announcement of the payout, John Beavan died. His fellow workers at Tristar are still waiting for their redundancy payments. What will it take to ensure that they get fair treatment?

The hardship that John Beavan and his fellow workers have faced at Tristar is not simply a product of corporate immorality; it is a manifestation of the Work Choices system, which fails to recognise that equality of bargaining power between individual workers and companies is illusory. The Tristar case illustrates this harsh reality. The Work Choices legislation enabled Tristar to put in place new arrangements that significantly reduced the level of redundancy entitlements available to employees under their enterprise agreement. The unilateral termination by Tristar of the agreement meant that redundancy entitlements were cut from four weeks pay for every year of service, to a maximum of twelve weeks pay.

Work Choices stripped away the capacity of the Australian Industrial Relations Commission to arbitrate and resolve the case in a fair way. It took intense media pressure on the government to persuade it to intervene. Any industry anywhere, especially in regional Australia, faces the same treatment. Workers in regional areas do not have the luxury of readily available alternative employment. What will the ‘fairness test’ do for these individuals?

Employees in industries like manufacturing feel the pressure of Work Choices more intensely because, unlike workers in the booming resource sector, they are experiencing the downside of the emergence of China and India as industrial giants. A shortage of
skills in the mining sector has boosted the bargaining power of mining workers, enabling them to command high salaries despite Work Choices. In other sectors, like manufacturing, the story is different. That industry is under intense global pressure from low-wage manufacturing countries relocating factories offshore and laying off thousands of workers. Car, whitegoods, textile, clothing and footwear manufacturing in Australia faces the threat of extinction over the next decade.

Workers’ bargaining power is greatly diminished. Under Work Choices they face a significant reduction in their entitlements if collective agreements expire or are terminated and replaced by inferior individual agreements. The choice for employees in depressed sectors is often to sign or resign. We have heard about that over the last couple of days in this debate on the Workplace Relations Amendment (A Stronger Safety Net) Bill 2007. The manufacturing sector is a microcosm of what it might be like for the majority of Australian workers under Work Choices during an economic downturn.

The Work Choices policy landscape is a Darwinian one. It encourages manufacturers to compete on a low-cost rather than high-quality basis with low-wage countries. This is a competition that Australia cannot win and should not even enter. It represents a race to the bottom over wages and conditions that ultimately will undermine our living standards and decimate our manufacturing sector.

The reality is that Work Choices is undermining the working conditions of thousands of Australian workers. The federal government’s Office of the Employment Advocate undertook a survey last year of 250 Australian workplace agreements lodged under Work Choices in April 2006. The survey revealed that the agreements excluded important protected award conditions—63 per cent excluded penalty rates, 52 per cent excluded shift loadings, 46 per cent excluded public holiday pay and 40 per cent excluded rest breaks. Professor David Peetz from Griffith University has demonstrated that this actually understates the problem because the number of AWAs that modified or reduced conditions has not been taken into account. Taking this into consideration, the proportion of AWAs that cut overtime rises to around 82 per cent.

The Howard government is swimming against the tide of community opposition to the Work Choices legislation. The industrial relations legislation is deeply unpopular according to a recent Newspoll undertaken for the Australian newspaper. Around 48 per cent of those polled described the changes as bad for the Australian economy, and around 45 per cent said that they were bad for creating jobs. One-third said that they would be worse off as a result of the changes while just 14 per cent said that they would be better off.

I conclude by saying this: Work Choices has to go. Even as amended by this bill, it is still a gross unfairness for Australian families. (Time expired)

Senator CROSSIN (Northern Territory) (12.51 pm)—I rise to contribute to debate on the Workplace Relations Amendment (A Stronger Safety Net) Bill 2007. I will begin by saying that on 3 April this year, the Prime Minister stated on ABC radio:

These workplace relations changes are very important to our economic future. That is my belief and that belief won’t change.

Yet here we are, two months and a string of negative polls later, debating amendments to the very legislation the government was so determined, two years ago, not to alter. The statement I just quoted was made prior to these proposed amendments. The Prime Min-
ister was of course referring to Work Choices—dare I say that name publicly again?—in its original form or, in the new term that we now know, workplace relations. It seems that the government has reverted to a tried and true brand name, seeing that the terminology ‘Work Choices’ has had such negative reaction from the voters. The Prime Minister made this statement on ABC radio on 3 April. Just four weeks later, on 4 May, he announced amendments to the act that he believed in so much. This was followed by a $5 million advertising blitz heralding the changes and an announcement that these changes would come into effect on 7 May, with the specifics only reaching parliament barely two weeks ago. So these amendments have been in force for six weeks, and they are not even law yet.

The Minister for Employment and Workplace Relations, Joe Hockey, said in his second reading speech:

It was never the intention that it may become the norm for protected award conditions such as penalty rates to be traded off without proper compensation.

That idea, coming from the minister for industrial relations, is not laudable; in fact, it is laughable. When you do not put protections in place, there will be the odd rogue employer that will abuse their new-found powers. Since the Work Choices laws came into effect 14 months ago, hundreds of thousands of Australians have lost award conditions that are supposed to be protected, a promise that the Howard government failed to keep. Even in the face of overwhelming evidence that Australians were being forced onto AWAs that stripped them of supposedly protected award conditions, this government refused to back down, time and time again, and declared that it would stand by this draconian legislation.

The aim of this backflip—very much a minor backflip, I have to say—is not to put in place an additional safety net to protect Australian workers, as the Howard government would want you to believe. These amendments have a sole purpose—that is, to protect the Prime Minister’s job. It is interesting that the government chose to use the words ‘simpler’ and ‘fairer’ in the propaganda they initially bombarded the Australian people with to promote Work Choices. Employers complained about the difficulty in implementing AWAs and abiding by the Work Choices legislation, originally over 1,000 pages long. Now, with an extra 100 pages to abide by, name changes, an ambiguous and fake fairness test that has been in place for six weeks without legislation detailing it, and no time line as to when AWAs would be assessed for the said fairness by the Workplace Authority, it seems that the Howard government need to be educated on what the term ‘simple’ actually means.

This whole debacle is indicative of the Howard government: tired and sloppy. No matter how much money you spend on advertising propaganda, no matter how many superficial amendments you make to this legislation, it is still an absolute shambles and absolutely unfair. A bandaid cannot cover a bullet hole, and that is what this latest amendment bill is attempting to do.

There is an alarming amendment in this legislation in regard to the fairness test. The proposed amendment, as it stands, is that the Workplace Authority will have the power to decide whether an AWA is fair, based on what has been traded off, and, if need be, can use information about the employee’s personal circumstances in order to make this decision. This in itself is an outrage. How is a bureaucrat in Canberra supposed to properly assess the personal circumstances, briefly noted on a piece of paper, of, for ex-
ample, Mr X in Tennant Creek? How can they justify a loss of penalty rates because Mr X prefers to work weekends and public holidays so that he is available to look after the children during the week while his mis- sus is at work?

Do Australians really want details of their personal lives, from family and childcare arrangements to details of personal relationships and financial situations, to be put on paper and handed to their boss to be forwarded on to a bureaucrat somewhere in this country, probably in Canberra? Employees such as Mr X, whose availability to work is restricted due to family responsibilities or in other situations, maybe related to personal circumstances, may be deemed to have no entitlement to penalty rates or other protected award conditions under this legislation, even after having their private lives on display for bureaucrats to pick over. It is absolutely appalling that it has reached this stage in Australia—that an employee’s personal life can be on display for complete strangers to analyse in order to decide whether or not a loss of a protected award condition is fair.

This also poses another question: how is the fairness test to be assessed? How does one assess the monetary or non-monetary value of a protected award condition? It appears that the government sees this as a minute detail, since there is no provision in this amendment bill for the Workplace Authority to provide reasons as to how they assessed the monetary or non-monetary value of whatever was provided to an employee. The Workplace Authority are under absolutely no obligation to give reasons for their assessments, whether an employee’s personal circumstances or work situation were even relevant in assessing whether or not the Australian workplace agreement passed this so-called fairness test—just one more thing that this government feels the Australian public does not need to know.

One step back from the fairness test itself—and I am sure this has been pointed out, but it seems to be falling on deaf ears, so I will reiterate it—is: what is the definition of ‘fair’? This government has not proposed a definition in the amendment bill before us, probably to give itself room to further rip off workers while waving around the term ‘fair’ in front of their faces. The term ‘fair’ is subjective. How can the Australian public trust that the person reviewing their AWA in accordance with the fairness test provisions will have the same view of ‘fair’ as they do? If these amendments are as fair as the government is claiming, why is there a need to employ a further 600 Work Choices policemen to stop workers from being ripped off?

The government has already failed in this so-called fairness test, and it is not even law yet. In what way has it failed? It has failed to protect and compensate those workers already on AWAs lodged prior to 7 May 2007. Those hundreds of thousands of workers have already signed unfair Australian workplace agreements which exclude award conditions such as penalty rates and overtime that were apparently protected under the original legislation. Workers such as the casualties at Darrell Lea, who were given AWAs that stripped conditions like penalty rates without the hourly rate being increased by even a single cent over the life of the AWA, have received no compensation that any office or authority has deemed ‘fair’ and will receive nothing from this legislation.

There are also those whose important award conditions—rostering predictions, redundancy or long service leave entitlements—will be affected because the government feels those conditions are not important enough to be protected. Try telling a single mother of two who works in a hotel
that rostering predictions are not important. This mother would have seven days notice of her roster under the Northern Territory’s current hotels and motels award. Such notice is sufficient time for her to organise child care for her children. Yet, under this so-called fairness test, rostering predictions could become a thing of the past, and this hardworking mother of two would not be compensated. It has been pointed out by the Human Rights and Equal Opportunity Commission in their report entitled It’s about time: women, men, work and family—final paper 2007 that employees with families would be most at risk under the Work Choices legislation and that the fairness test is only serving to highlight how unfair the Work Choices laws and their amendments really are.

These latest amendments still do not address the issue of unfair dismissal and how it is completely balanced in favour of the employer. On 14 May 2003, the Northern Territory News reported the case of a Darwin employee who worked for a small local business and was sacked when she returned to work following time off for a work related back injury. She was a full-time employee and, while she was having time off, her employer made her full-time position redundant and replaced it with a casual position. This hardworking woman was offered the casual position upon her return to work. She argued that her boss did not have the right to replace her full-time job with a casual one and filed a dispute notice with the Industrial Relations Commission. In the meantime, she took up alternative employment at a service station and worked night and early morning shifts to make ends meet, earning $9,000 to the end of March 2003. The Industrial Relations Commission ruled that her termination was unjust, harsh and unreasonable. However, based on the legislation that the Howard government had put in place, the commission is prohibited from awarding the maximum six-months compensation in cases such as this because it must take into account any income an employee earns from alternative employment. The legislation forced the IRC to take into account the $9,000 amount and reduce the compensation that could have been awarded to the worker. The commission ultimately awarded her only $3,200 in compensation. This is just one of the many examples of the Howard government failing to support workers with its farcical industrial relations laws.

The Prime Minister, the Treasurer and the rest of the coalition delight in quoting the unemployment figures across Australia. They say that these figures are directly related to the Work Choices legislation, while conveniently ignoring the fact that Australia has been enjoying its 16th year of economic growth, coupled with a resources boom. Would the government also like to take responsibility for the fifth consecutive monthly increase in unemployment in the Northern Territory? Last week, the Australian Bureau of Statistics released figures showing that unemployment in the Northern Territory is higher than the national average and is currently sitting at 4.6 per cent. The monthly unemployment figure climbed 0.3 per cent in May alone.

Senator Johnston interjecting—

The ACTING DEPUTY PRESIDENT (Senator Watson)—Order! Senator Johnston, it is disorderly to interject. As a minister, please desist.

Senator CROSSIN—Thank you, Mr Acting Deputy President. I will take that interjection, Senator Johnston, because it is a classic example. While unemployment is going down, as it is around the rest of the country, you say: ‘We’ll take all the glory for that. The Howard government and Work Choices will take a big gold star for that, and that will be the way that we push this ideol-
ogy on the rest of the country and make people believe that we are actually responsible.’ But when you look at the Northern Territory, where unemployment has gone up for a number of months and is sitting at a level higher than the national average—unemployment climbed 0.3 per cent in May alone—you say: ‘It’s not our fault. That’s not Work Choices. Things are bad in the Territory, so it cannot be us; it must be the state government’s fault.’ I see: when unemployment goes up, we blame the states; when unemployment goes down, it is our responsibility.

You have no responsibility in the Northern Territory. Is that correct? You have turned your back on the Northern Territory. Clearly, it is a major hole in your argument that unemployment figures are going down in this country as a result of Work Choices but in the Territory the unemployment figures have gone up—and we could have a massive debate about why that might be. If you look at the intersection of the import of 457 visa holders and what is happening in the industrial relations arena, you might arrive at some answers about that figure in the Northern Territory. Just as the Howard government takes credit for low unemployment in Australia, so too must it take responsibility for five consecutive monthly rises in unemployment in the Northern Territory. The government’s argument hits a seriously massive hurdle in terms of credibility when we apply it to the Northern Territory.

I notice the member for Solomon, Mr David Tollner, did not speak on this bill in the House of Representatives. Could it be that he does not believe in it? This would be a likely reason, as he stood before the people of Solomon and declared his pride in orchestrating the original Work Choices legislation. In fact, he said at a public forum that his fingerprints were all over it. He even agreed to a public debate on Work Choices in March this year. I clearly remember him saying outside his office that he would be happy to debate Work Choices with Ms Sharan Burrow, the President of the ACTU, in July of this year.

However, Mr Tollner has since backed down, for reasons known only to himself—although I notice in today’s Northern Territory News he cites that he would rather wait to have such a debate until the actual election starts so that we can hear from the minor parties. I never thought that the Greens and the Democrats would be on the mind of Mr Tollner when he wanted to justify his fingerprints being all over the Work Choices legislation. It could be that, no matter how proud of Work Choices he is, he is aware that it is a liability to his being re-elected later this year. I put it to you that that is more than likely the real reason.

Very possibly this is also the trend we are seeing with this government and is the very reason for the fake fairness test, which is a lame attempt to bring the Australian public onside prior to the federal election by creating a perception of fairness. Any reasonable person could not help but think, ‘Crikey, is it election time already?’ As with previous election years, we are seeing a flurry of activity from the Howard government, particularly this year, as it sees its pollsters returning negative feedback on the government’s beloved Work Choices legislation.

It was revealed in Senate estimates two weeks ago that the cost of the Howard government’s industrial relations advertising campaign is $4.1 million, averaging $585,000 per day or $25,000 per hour. This is above and beyond the call of informing the public of legislative changes; it is an outright public relations campaign to aid the government in getting re-elected later this year. Senate estimates also revealed that the full-page advertisements, which trumpeted these
latest amendments and appeared in national newspapers on Saturday 5 and Sunday 6 May, cost taxpayers $470,000. The Prime Minister claims that the ads were to inform the Australian public of changes to the legislation. These advertisements appeared in national newspapers less than 24 hours after the Prime Minister had announced such changes, before the details of the amendments had even been written—before, I suppose, the ink was even dry on the paper. Advertisements such as these are nothing more than blatant party political advertising under the guise of government advertising and are designed to protect only one job—the Prime Minister’s.

The bill before us today is farcical, to say the least. It seems that the government either is fascinated with name changes or has so many ideas for names within a department that it feels it must give each suggested name a turn in the spotlight. We had the Office of the Employment Advocate, now known as the Workplace Authority; there was the Office of Workplace Services, now known as the Workplace Ombudsman; and there was Work Choices, which is now being referred to by the government as workplace relations. One can only imagine how much money and effort will be put into changing the stationery and the business cards alone. But this matters not. We have already established that it is an election year, after all, and it seems that taxpayers’ money is no object when it comes to protecting the Prime Minister’s job, let alone the jobs of Australians in this country.

Senator KIRK (South Australia) (1.10 pm)—I rise today to join my colleagues in expressing my concern about the Workplace Relations Amendment (A Stronger Safety Net) Bill 2007, which adds yet another sad chapter to the sorry saga of Work Choices. We have before us today a bill that is a slippery concession by a worried and tired old government. In the same manner as the Deputy Leader of the Opposition, Ms Gillard, in her speech in the other place was struck by a sudden sense of deju vu, so too am I; I am painfully reminded of the comments I made when debating the original Work Choices legislation here in the Senate in November 2005. It was my intention then as it is today to highlight the obvious injustices and inequities that result from this extreme legislation and, in particular, the deceptive nature of this cumbersome amendment.

This bill, like the original Work Choices legislation, is, as I stated in 2005, a stab in the back for Australian workers. Labor’s longstanding opposition to this attack on workplace conditions has not diminished over time. But with this bill we see that the Howard government remains out of touch with the difficulties facing Australian families and that its disregard for Australian workers has only intensified. We are confronted here today by a bill that not only is fundamentally flawed in its operation but also is a clear testament to this government’s disregard for the workers of Australia. It highlights the government’s obvious attempts to manipulate and trick its way into winning the next federal election.

The focus of my remarks here in the Senate in November 2005 was that, under the Work Choices legislation, employees are placed in a take it or leave it situation—a situation where there is no choice or negotiation of workplace conditions, no practical consensus and no respite for disadvantaged workers. There is an inherent and deep imbalance in any workplace negotiation of an Australian workplace agreement. Under Work Choices, there is a lack of protection for the most vulnerable of Australian workers and, most damagingly, there is an incentive for employers to take advantage of these laws and cut the conditions of Australian workers.
That is where we stand under the existing Work Choices regime: there is no protection and no equity for Australian workers. Instead, there is an incentive to create inequity and there is an absence of workplace protections. This is the core of the Work Choices legislation and it has created a backlash in the Australian working community. But it is a backlash that has been ringing in the ears of the advisers and pollsters in the Prime Minister’s office. It is this backlash that has prompted the government to introduce this bill into the parliament. Maybe this is a good development. We might ask, ‘Shouldn’t the government listen to the people of Australia and legislate in accordance with their wants?’ The answer is that obviously it should. However, two problems arise in the current situation.

The first is that it is not as though there has been a sudden outcry from the community about the unfair and unjust nature of these laws. The workers of Australia did not wake up one morning and say, ‘Hold on—I don’t think we like these laws anymore’, when up until then they had welcomed their existence. No, this was not the case. The overwhelming injustice of these laws has been felt by Australian workers for the past 15 months, but it is only now that the Howard government is sitting up and taking notice. I should add that it is taking notice only in an election year and only a handful of months away from election day. Secondly, in my view, the most grievous problem with this reactionary legislation is that it is not a true reflection of what Australian workers are seeking. It is, as I mentioned before, a slippery concession, but it is clearly a concession that the government did not want to make and has not truly made.

Let me focus the Senate’s attention on some of the instances in this bill where the government has made changes but has not altered the fundamental inequity of Work Choices. I will begin first with the title of the legislation—‘Work Choices’. ‘Work Choices’ is now apparently an unspeakable name. Here we see the first of the government’s tricky ploys to confuse and disguise the injustice of this legislation. The Prime Minister himself, when asked in question time on 22 May this year by the Leader of the Opposition, Mr Rudd, whether the official name of the legislation was no longer ‘Work Choices’, responded:

The relevant piece of legislation is called the Workplace Relations Act.

It seems that we have to remind the Prime Minister that the Workplace Relations Act existed before the implementation of Work Choices and that the relevant legislation for this particular unfair system is in fact titled the Workplace Relations Amendment (Work Choices) Act. Through this devious word play, the government is trying to distance itself from the injustices that it knows are associated with its own legislation, formerly known as Work Choices.

Let me return to the particular bill before us today. I would like to reiterate an important point that was made by my colleague Mr Simon Crean in the House of Representatives debate. Mr Crean began his speech by noting that this bill is called the Workplace Relations Amendment (A Stronger Safety Net) Bill 2007 and pointed to the absurdity of the title of this legislation, particularly ‘A Stronger Safety Net’. These words imply that there was a reasonable safety net in place to begin with. The whole purpose of this legislation is to allow employees to have their conditions removed without the protection of a no disadvantage test and without the advantage of having any bargaining power whatsoever. Yet we see the government claiming that all it is doing is filling in some gaps in the legislation to correct some unexpected consequences. The consequences that have flowed from this legislation are not un-
expected ones. They are in fact the purpose and the unavoidable impact of this fundamentally unfair legislation.

The so-called fairness test has been promoted by the government as being about ensuring that workers will not receive anything less than fair compensation for the loss of working conditions. Yet, when one closely examines the bill, there is in fact no guarantee that this will always be the case. What is known as the exceptional circumstances clause in proposed section 346M(4) of the bill provides that, where it is deemed that an unfair agreement is necessary to the business, it becomes fair. Proposed section 346M(5) provides an example of a short-term economic crisis and dictates that the stripping of conditions is fair when it is a ‘reasonable strategy’. When can it be reasonable to impose on a worker an unfair agreement? How does the Workplace Authority, which is designed to uphold the fairness of workplace arrangements, determine that fairness means when it is advantageous to the employer? This is where the real attitude of this government to Australian workers and its disregard for them shine through. This bill is about giving the impression of a concession to Australian workers by way of changes to this legislation, but in reality it is no more than a slippery attempt to avoid giving any real relief from these laws to working Australians.

As has been stated many times by the Minister for Employment and Workplace Relations, Mr Hockey, the compensation is paid in lieu of the condition lost, generally as extra take-home pay. This does not protect conditions of workers; it only serves to compensate for their loss. Take for example an employee who wants public holidays off included in their agreement, which is quite a reasonable request. The employee asks their employer or potential employer, ‘May I have public holidays off as part of my AWA?’ The employer, knowing that there may be many times when they want the employee to work public holidays, could well respond, ‘No. We do not have public holidays off here. Do you want the job or not?’ An employee in that situation knows that public holidays are a protected condition, but they also know that if their salary is slightly adjusted with ‘fair’ compensation paid to them then they cannot argue with the employer. They may want public holidays off to spend time with family instead of receiving the small extra amount of money that might be paid to them as compensation, but this employee is in a situation where they will not get the public holidays off because of the inequitable position they find themselves in where the employer is able to offer what is described as fair compensation in lieu of the time off for public holidays. This simple example highlights the slippery nature of the government’s concession that this bill represents. Conditions will continue to be stripped and workers will continue to find themselves in a ‘take it or leave it’ situation. There is no real change to the inequity of Work Choices as a consequence of this bill.

I will now discuss in more detail the operation of the so-called fairness test that is a central feature of this bill. How does the newly established and financially pumped Workplace Authority maintain Australian workplaces as fair and equitable? Looking at this bill, it becomes difficult to see how the government expects the Workplace Authority to remain consistently fair in its operation. Section 346M of the bill outlines the considerations that the Workplace Authority may—and I stress ‘may’—take into account. First is the monetary and non-monetary compensation that the employee has received in lieu of the protected award condition; and second is the personal circumstances of an employee, particularly family responsibilities. The authority may inform itself in any way it
considered appropriate. When these provisions are examined, we see that they become very murky rather quickly when put under the spotlight. The definition of ‘non-monetary compensation’ is something:

(a) for which there is a money value equivalent or to which a money value can reasonably be assigned; and

(b) that confers a benefit or advantage on the employee which is of significant value to the employee.

You do not have to think for very long to realise that this definition covers just about anything under the sun. How is the Workplace Authority expected to attach value to every possible thing that may be put forward by the employer as fair compensation? By this definition, the compensation does not even have to be provided for directly by the employer. In fact, if one stretches the bow to its greatest extent, it could even be office space with a good view paid for at a high price in Sydney, for example, and therefore easily connected with a monetary value and as conferring a benefit or advantage on the employee. I am certain that a nice view is of some value to some people—and I am sure that former Senator Vanstone in her new residence in Rome will have a very nice view which she will regard as being of significant value—but should these sorts of things be considered as bargaining chips to be weighed against basic workplace terms and conditions? In my view they should not. They are too vague and too operationally difficult for the Workplace Authority to be expected to consider and to assess.

However, it does not stop at this. We also see the real possibility that personal circumstances will be paraded around in order to determine whether the stripping of a certain condition is fair. There are some disturbing consequences of this practice. Firstly, the information is provided by the employer and not the employee—so there exists an immediate conflict of interest. Secondly, is it fairer, for example, that a mother with two children has her vacation time rate more highly than a mother with one child? How does the Workplace Authority, this bureaucratic engine, make these determinations? There are serious concerns that need to be addressed in the creation of a body with these kinds of discretionary powers. Many of my colleagues have described the Workplace Authority as a secretive organisation. I would like to add my own description of it: a black box into which one places a personal question, and then, by necessity, it spits out an impersonal response.

A similarly disturbing problem with this new regime was highlighted in the Senate Standing Committee on Employment, Workplace Relations and Education’s report on this bill. In light of the length of AWAs now being five years, it is unrealistic to assume that personal circumstances, such as that of one’s family, will remain the same over such a long period. The example given in a submission to the committee illustrated this well. An employee has their child care paid in lieu of a removed condition; however, the child over a period of five years grows up and enters school. As a consequence, the child requires less or even no child care at all. The relevant AWA remains in effect, unchanged, without the condition that was removed for the remainder of the five year period. This example highlights again the inequity that is inherent in a bureaucratic body that makes judgement calls on personal circumstances, on a one-off basis, and without sufficient information. It is a testament to the reactionary nature of this bill and the ways that Australian workers will still lose out under this Work Choices regime.

I will conclude where I began by expressing once again my feeling of déjà vu. I was disturbed by this legislation in its first incarnation and I am disturbed by its amendment
as contained in this bill. At the time that Work Choices first appeared, many found it difficult to believe that such a fundamentally unfair law could have been introduced by this government. Personally, I thought that the government would stand by its legislation, especially considering that the bill reflects the very essence of the government’s insensitive workplace ideology. But, as we have seen, this is a government that is willing to even undermine its own core philosophies for short-term electoral gains. The Australian people will not be fooled by this deceptive semi-back-step from the extremism that has characterised Work Choices. Labor is optimistic about the future of this country. We do not define Australia by its past but look to how it may define itself in the future.

Senator FORSHA W (New South Wales) (1.28 pm)—Here we go again—another piece of amending legislation introduced by this government to correct a problem created by previous legislation. Since this government came to power in 1996 they have been seeking to change the workplace relations system in this country. Once they obtained an absolute majority in the Senate after July 2005, they proceeded to do that—but to do it in a way that destroyed the concept of fairness and equity in the Australian industrial relations system.

I recall the many debates that I and other senators have participated in over the years. There were always two consistent features of the government’s legislation. One of them was that it was bad for workers and their families. The other feature was that they always tried to dress it up with a title that in reality reflected the opposite of what the legislation did. I remember they introduced the ‘More Jobs Better Pay’ legislation and then they introduced a bill dealing with unfair dismissals that was called the ‘Fair Dismissal Bill’. Here we have it again. We have this amending legislation that is entitled the Workplace Relations Amendment (A Stronger Safety Net) Bill 2007. This bill should really be entitled the ‘Workplace Relations Amendment (We Got it Wrong We Lied to You and Told You it Was a Fair Piece of Legislation but Now the Public Has Found Us Out and We Need to Fix This Problem in a Hurry Because We Don’t Want to Lose the Next Federal Election) Bill 2007’. That sums up precisely what this bill is about. It is a last desperate act by the Howard government to try and turn around the public outrage, the public condemnation and the public rejection of Work Choices. The hide of this government and their hypocrisy is that they are now going to spend millions more dollars of taxpayers’ funds in an attempt to persuade the public that this piece of legislation will undo the problems that the previous legislation created, on which they also spent millions of dollars trying to convince the public that it was in fact a fair system. They have no shame, they have no scruples, because they are desperate to try and hang onto the levers of power at all costs.

Senator Polley—At all costs to the taxpayer!

Senator FORSHA W—At all costs to the taxpayer, Senator Polley—thank you for that accurate interjection. The original legislation that this government introduced made dramatic and far-reaching changes to the industrial relations system. But that first round of legislation was under the conciliation and arbitration powers. There was at least a retention of the concept of public interest, of fairness and of a no disadvantage test that had been introduced by the previous Hawke and Keating governments. However, that no disadvantage test, as we know, disappeared
with Work Choices. And of course Work Choices was legislation that was based upon the use of the corporations power of the Constitution rather than the industrial relations or arbitration and conciliation powers. The Prime Minister, the minister for industrial relations and the government all assured us that no-one would be worse off—that no worker in this country would ever be worse off under their changes. In fact, they went so far as to say they would be better off. They have constantly used this mantra. They also said that their legislation was simpler, more flexible and would introduce much needed deregulation and a simple process for employers and employees to bargain over their wages and conditions. Mind you, that same legislation that was supposed to be simpler, fairer and more flexible was in fact much longer than the legislation that it replaced.

Here we have today further legislation, the Workplace Relations Amendment (A Stronger Safety Net) Bill 2007, that itself runs to 80-odd pages with a lengthy explanatory memorandum. If it were the case that this was just a problem of perception, a misunderstanding or a loophole in the law that needed fixing, then why would we have this substantial amending bill before the parliament? The truth is that this is a major, major problem within the Work Choices legislation. In fact, it is a problem that cannot be solved by a simple amendment or even a bill containing 83 pages of changes; it can only ultimately be solved by throwing the legislation out and introducing a system that does incorporate fairness and flexibility for Australian workers and Australian employers.

These problems have come to light over the last 12 months or so—the classic cases of what happened at Spotlight, what happened and is still happening with Darrell Lea, what happened to the young workers of the Pow Juice company. They are all examples of where employees were either stripped of their award rights and conditions and placed on AWAs or terminated and re-employed on AWAs at a significantly reduced standard. As Senator Kirk said in her contribution earlier, it was the real purpose of the legislation to encourage that situation to occur, to provide those opportunities to employers and companies to do just that. I think it is to the credit of a lot of employers and companies in this country that they did not do that. But we also know that there were many who have done it and are increasingly being encouraged to do it—that is, to take advantage of legislation that enables them, without any real restriction, to take employees off award rates and conditions and place them on individual AWAs at reduced levels of entitlement. That is public knowledge. And there is a great fear out there in the community, a great concern, that left unchecked this will continue to be the norm.

I have spoken at a number of community forums, where I have heard mums and dads who have said, ‘It may not necessarily have happened in my workplace, but it’s happening in the workplaces of my children in the retail sector, and it’s particularly being used against younger workers or workers with very little if any industrial bargaining power.’ We have seen situations, of course, where employees were terminated one day, supposedly because of operational reasons, and then offered their jobs back the next day at a lesser standard. This government have sat by and only acted when it finally got to a point where they could not do anything but act because of the public outrage and the demonstrated unfairness of this system.

We also had the change to the unfair dismissal laws, where a business with up to 100 employees is not covered any longer and hence is free to terminate without reason or just cause. That change went well beyond what the government’s own proposal originally was, which is that unfair dismissal laws
should be exempt for small businesses of up to 20 or 25 employees.

The very fact that this government has had to introduce what it calls a fairness test is in itself an admission that the current system is unfair. We could cut all of the speeches in this parliament back to that one simple proposition—it has overwhelmingly been demonstrated that the current system is unfair, so the government proposes to introduce what it calls a fairness test. We said it from day one; we told you this was the case. We said both in this parliament and publicly that this was unfair, un-Australian legislation, and we were proved right. But, of course, we have been attacked and pilloried from one end of the country to the other and told that we were just scaremongering or exaggerating and all the rest of the opprobrium that was heaped upon us. Well, we were right. Now this desperate Howard government is floundering around in a last-minute attempt to grab the life raft and try to save itself from the Prime Minister’s ideological obsession.

I want to discuss a couple of aspects of the bill. As has been said, we are supporting this bill because any improvement is better than none. As minuscule as it is, any improvement is better than none for this current system, but ultimately the only solution for the public is to throw this government out and elect a Labor government, which will fix the problems. This bill establishes two new statutory offices—a Workplace Authority and a Workplace Ombudsman. It also results in the employment of up to, I think, 300 extra staff or contractors to monitor the changes. That is a substantial change to introduce these two new statutory offices and an extra 300 staff to try and ensure that AWAs are fair. If that does not tell you that there is a major problem with the current legislation, then, frankly, you do not want to be convinced. And, of course, it demonstrates that the previously established machinery—the Employment Advocate and all the other fancy titles that the government has picked—have singularly failed to do their job. Maybe I am being a bit unfair to them. Maybe they were doing their job, but their job was not to find the problems, not to test the AWAs and not to apply fairness to them but to turn a blind eye. It cannot happen any longer, as the government itself acknowledges.

It is too little, too late. The bill may provide some marginal benefit in that it at least recognises that there are fundamental problems in the system, and it may help in some situations. However, the fundamental problems and the inherent unfairness of the Work Choices regime remain. For instance, these changes do not fully protect award matters. The fairness test is limited to a small range of protected award matters, being those very few conditions of employment that this government legislated should be protected as award matters. These changes do not really do anything about ensuring that workers do not lose other conditions of employment that they are entitled to but that are not listed as protected matters under the legislation.

Furthermore, the changes only apply to employees earning less than $75,000 a year. Obviously, then, not all employees are covered by the amending legislation. There are problems with the definition of what is deemed to be fair compensation and there is no definition of what is meant by the term ‘exceptional circumstances’ when it is considered by the Workplace Authority Director. The process remains secretive and it is not subject to review. The Workplace Authority Director does not have to provide detailed reasons for a decision. So there are many areas, and I have named just a few, that this legislation does not even touch. They are areas where the Work Choices legislation is still manifestly unfair.
I refer to an advertisement that I saw in the newspaper the other day. At first I was shocked. It said: ‘Collective bargaining—making it easier to do business.’ It is an ad run by the Australian government Department of Industry, Tourism and Resources. I thought, ‘My god, the government has actually decided to promote collective bargaining. What a change that is!’ But then I saw that the ad read:

Collective bargaining: making it easier to do business, whatever the size of your business … Collective bargaining enables businesses of all sizes to work together co-operatively. Small businesses can benefit by joining together to negotiate with a larger business, who is their common customer or supplier. Larger businesses can find it more efficient to negotiate directly with a group of small businesses rather than each small business individually.

I thought: ‘My god, this is amazing!’ Then I wondered: ‘If you took out the word “businesses” and used “workers”, would that ad be published? No.’ I quote again:

Recent Australian Government reforms to the collective bargaining processes under the Trade Practices Act have established a new notification process. This will make it simpler, quicker and cheaper for small businesses to engage in collective bargaining.

What sheer hypocrisy! Your government is out there advertising and promoting to small businesses—maybe a range of small business suppliers—the opportunity to collectively bargain with larger businesses. It is okay for them to do it—and I do not object to that; I think it is a good idea, because very often it is the small businesses, the subcontractors, that get screwed by the contractors when it comes to what they are able to charge for their services—but it is apparently not good enough under this government for workers to have the same right. The right to collective bargaining is enshrined in ILO conventions and has been understood and accepted as a fundamental human right for a worker since the beginning of the industrial age. Workers should have the right to collectively bargain, but this government has done everything possible to discourage and take away those rights and to promote the concept that workers should negotiate individually. That is your mantra; that is your ideological position—that workers should be forced to negotiate individually with businesses whether those businesses be small or whether they be BHP. But at the same time you are out there advertising that small businesses have a need to band together to get some strength to negotiate with big business. You are promoting that but you are denying the same right to workers. What other shame and hypocrisy can this government show in that regard? As I said, this legislation is too little, too late, and it is going to be too late for the Howard government whenever the next election is called.

Senator POLLEY (Tasmania) (1.47 pm)—I too rise to speak on the Workplace Relations Amendment (A Stronger Safety Net) Bill 2007. I have been amazed at the arrogance of my government colleagues throughout this debate. In fact, it never ceases to amaze me how out of touch and arrogant they are, particularly on this issue and the effect it has on Australian families. I see that the Howard government is up to its usual tricks trying to spin and spend as soon as it sees an election around the corner. Months out from an election, it is interesting to see the government scrambling to convince the public that these changes are something more than a distraction from the inherent unfairness of the WorkChoices legislation. The central question is: if WorkChoices is not broken, why does it need a fairness test? I am yet to hear a satisfactory explanation for this from the government. It is almost as if it were saying, ‘It is bad legislation but we are trying to make it a little less bad.’
We all know that this amendment is truly a reaction to the polls and to the prospect of the government finding out at the next election just how unpopular Work Choices is. It has been 13 months since Work Choices was introduced, and it has taken the government till now to realise that workers have been asked to trade away protected conditions. When it does react to the polls, it comes up with something that lacks substance— another example of a cynical government trying to distract the Australian public by offering something that sounds good but in reality offers nothing. A fairness test, indeed! The government has realised that Australians have seen Work Choices for what it is—an unfair and unbalanced industrial relations system that weights the system in favour of employers at the expense of workers. We have seen in the last 13 months many examples of this.

The changes in this bill do little to restore the balance that has been lost under the extreme Work Choices legislation. These changes do nothing to protect redundancy or long service leave. They are just another example of clever and cunning politics by this government. We in the Australian Labor Party think that the Australian public deserve better than that. We believe in a truly fair industrial relations system that gives everyone, both employers and employees, a fair go and the ability to work in a reasonable environment. It says a lot about the priorities of the Howard government that the fairness test this bill is supposed to implement does so little to fix the system that the government itself created. Make no mistake: Work Choices with all its unfairness is exactly what the Prime Minister intended, and it is imperative that we point out how unfair and unjust the system is to all Australians. But the government has been trying to hide the substance of Work Choices with spin; trying not to call its own legislation by the name he gave it: Work Choices. We all know what this unfair industrial relations system stands for. What else can we expect from John Howard? After all, he said, ‘Australian families have never been better off.’

I turn to some of the problems with this bill. I have noticed that this bill is called the Workplace Relations Amendment (A Stronger Safety Net) Bill. What an ironic title. There is no safety net under Work Choices, and the government is well aware of that, so I do not quite know what the government means by titling this amendment bill ‘A Stronger Safety Net’. It is just another example of its cunning and the tricky politics under the Prime Minister. The government obviously thinks it can again mislead the public into believing that it is strengthening something in Work Choices, when the sad reality is that it is just more clever Howard government window-dressing. The central point that must be made is that Work Choices is inherently unfair legislation. No number of fairness tests and fake safety nets can change its nature. Australians can see that this government is not interested in making the legislation truly fair, or even in looking after ordinary Australians. If it were, it would do more than wheel out these cosmetic changes with an election around the corner. It would implement a truly fair and balanced industrial relations system. All the government is interested in, as the Prime Minister himself puts it, is ‘pulling a rabbit out of the hat’ and playing election-year politics.

This is unacceptable when we are talking about the rights of Australian workers. We all know, at least on this side of the chamber, how Work Choices has failed Australian families and, in particular, Australian women. A close look at this bill shows that the so-called fairness test the government is trying to slip past the public is nothing more than a sham. It does nothing to fix the government’s hated Work Choices legislation.
The only way Australians can be sure of restoring balance to the industrial relations system is by repealing the Work Choices laws and implementing the Labor Party’s industrial relations platform, dealing fairly between employers and employees.

This amendment is intended to help Australians on AWAs who trade away conditions, but it does nothing for those who are already on workplace agreements and have already traded away their conditions. Is the government going to do anything about those who have already lost their rights under Work Choices? Of course not. This government is forgetting about those workers and allowing them to continue to work without their protected conditions.

While we are talking about Work Choices let us remember that it is hardly a system in which an employee has a great deal of choice. If an employer decides not to bargain in good faith then they do not have to. The core of Work Choices has always been about taking away basic conditions such as penalty rates, overtime and shift loadings from workers. The Prime Minister can talk all he likes about fairness, but the cold, hard reality is that this attempt to hide the true nature of the Work Choices legislation has failed.

Once again the government resorts to advertising and spin to try to fool the Australian public into thinking that the system has changed, but they will not be fooled. The government has disowned Work Choices, but it continues to refer to it as the great hope of the labour market. We all know how extreme and unfair Work Choices has proven to be in practice. This government has no qualms about using taxpayers’ money to the tune of $4.1 million in order to tell everyone how fair this amendment is, but that is only the tip of the iceberg with regard to the advertising budget. Of course there was the $55 million spent in 2005 to explain to Australians that award conditions were protected. The proof that this was not the case is evident in this amendment. This legislation spends even more money though—more than $350 million of new money has appeared from nowhere to sell this amendment. This government, I have found, is very fond of names, and this amendment is no exception. Nearly everything is changing its name—from the Office of Workplace Services to the Office of the Workplace Advocate—all at the taxpayers’ expense, of course. But the substance of Work Choices stays the same. Once again, spin over substance.

I understand from reading the amendment bill that the government is going to employ hundreds of new staff to police these new changes. These contractors will be required to implement the so-called fairness test the government is proposing. This massive increase in both staffing and funding in the industrial relations sector represents a huge bureaucratic increase. According to forward estimates, the total additional funding will be a massive $1.83 billion—an enormous expenditure that the government has incurred in implementing and advertising Work Choices, but money that could have been put to better use designing and implementing a fair and balanced industrial relations system.

In my own state of Tasmania many working families are already struggling. Work Choices represents a further weakening of their bargaining power. Some are losing award conditions, like the workers taken over by United Petroleum in 2006—a case that is just the tip of the iceberg. ACTU research shows that Tasmanians on AWAs earned almost $100 a week less than their friends on collective agreements. There is no fairness in that. Labour’s approach to this amendment is that if it does no harm and if there is a possibility, as slim as that may be, that it makes a difference to even one worker then we will support it. If a worker is offered
an AWA that strips away all 11 of their protected award conditions then this bill might prevent that AWA.

Of course we may never know because the mechanism on which the government is proposing to judge Australian workplace agreements is secret and non-renewable. That is what this bill does: it sets up a secret process under the Workplace Authority to determine whether an agreement is fair or not. The authority does this unilaterally without having to provide reasons for its decisions. It does not have to explain how it values the services provided by the employee, or the non-monetary value that it assigns to something provided by an employee. It does not even have to explain how it reached its decision and why it considers an agreement to be fair or unfair. There is also no scope for either side of the agreement—the employee or the employer—to make their feelings known. Is that fair? Of course it is not.

This bill also has something else that I find worrying—that is, a section that allows employees’ personal circumstances to be used when determining the industrial conditions that are offered to them. Surely an employee’s personal circumstances are just that—personal—and should not be used as a basis for determining their entitlements. This is truly worrying and once again proof of how the government’s rhetoric about fairness does not match its actions. Is it fair that an employee’s personal circumstances can affect their awards and entitlements? Of course, the government does not want to talk about these aspects of the bill.

Let me turn to the credentials that the Labor Party has on this issue. I would like to add something more about the Prime Minister who seems determined to bring up Labor’s economic credentials, and it is something that I think is worth pointing out. When John Howard was Treasurer in the Fraser government, all the way back in 1983, interest rates were high, inflation was 11 per cent and unemployment was 11 per cent. If we are going to talk about economic credentials, let us at least be fair about it and talk about the Prime Minister’s background on the subject.

The Labor Party, when it came to power in 1983, worked hard to rebuild the Australian economy and laid the basis for the sustained economic prosperity we have today. We did this partly by developing a fair industrial relations system, and working hand in hand with employers and employees to ensure that the best outcomes were achieved for all Australians. Sadly, Work Choices cannot be said to be doing the same.

In conclusion, it is a system and a process that John Howard has ripped up and changed in order to implement his own extreme industrial relations Work Choices legislation. This government does not believe in the conciliation and arbitration system. It does not believe in fairness. It does not believe in a balanced system. Work Choices exposes what the Prime Minister believes in—an unfair, extreme and unbalanced system that does nothing to deliver fairness at all.

The PRESIDENT—Order! The time for this debate has expired.

Senator POLLEY—Mr President, I seek leave to have the remainder of my speech incorporated in Hansard.

Leave granted.

The incorporated speech read as follows—

He believes in a system where workers lack the real power to negotiate with their employer, where it is worker against worker, and conditions are something that are not guaranteed. The government is trying to be too clever by half. They cannot have it both ways; you cannot implement an unfair system and then try not to call it by
name hoping that no one will notice. That is the action of a cunning and desperate government. Let us also not forget what the Treasurer said when asked—words to the effect that everything can change after the election. After the next election all bets are off for this government. Let us not forget Work Choices when that election comes around, and make this government accountable for failing the people of Australia.

In the end, this is the story of the Howard government. It is not, and never has been, about a fair go for ordinary Australians. It is about keeping power for as long as possible and using taxpayer money for its own ends. Not only does this government take away workers rights, but then it uses their tax dollars to tell them how much better off they are. That is what this government thinks of fairness. Australians should not make the mistake of thinking that this government cares about workers’ rights, and should send that message home to the Prime Minister through the ballot box at the next election. It is time for a fair system, it is time for balance in IR and it is time for Work Choices to be consigned to history.

Debate interrupted.

QUESTIONS WITHOUT NOTICE

Broadband

Senator LUNDY (2.00 pm)—My question is to Senator Coonan, the Minister for Communications, Information Technology and the Arts. I refer the minister to her claim that her broadband plan will provide very fast broadband speeds of 12 megabits per second to rural and regional areas. Can the minister confirm that Optus-Elders themselves concede that their plan only delivers speeds of up to 12 megabits per second? Don’t Optus-Elders qualify their claim by acknowledging that actual speeds will vary according to distance, internet traffic, weather conditions and terrain? Why has the minister ignored the Optus-Elders qualification and mislead Australians about the broadband speed that her package will deliver?

Senator COONAN—Thank you to Senator Lundy for the question. The technology that the government has adopted in its Australia Connect package and in the rollout of the new network will reach people that the Labor Party will simply forget. The rural and regional Australians who will be excluded from the Labor Party’s ‘fraudband’ will be covered by this new technology. The OPEL network will use the best mix of technologies. It will use ADSL2+ in the more densely populated urban fringes and WiMAX technology to fill black spots in the ADSL2+ coverage and in the less densely populated regional areas. I am glad that Senator Lundy brought up Optus-Elders’s claim, because I happen to have here what Mr Les Wozniczka, CEO of Futuris, which is the owners of Elders, said this morning:

The network has been designed from the ground up to meet all the needs of users in rural and regional Australia. The government funds will be deployed in a mixture of fibre. In fact, 80 per cent of the funds will be going into improving backhaul roots, where there has been major congestion, and to address some issues of monopoly pricing there. It is going into WiMAX technologies and it is going into ADSL2+. The technology will deliver a performance that will be comparable to metropolitan centres.

He continued:

It is scaleable—

Senator Chris Evans—Mr President, I rise on a point of order. It goes to the question of relevance. The minister has made no attempt to answer the question—in fact, in answering it she said she was glad Senator Lundy brought something up, as if the answer should not be at all related to the question. I ask you to direct her to the question, which was about a comparison between her claims and the claims of those allegedly providing the service. I ask you to ask her to answer the question.

The PRESIDENT—The minister has over two minutes left to answer the question. I believe she was relevant, because she was
talking about broadband speed and that is what the question was about.

**Senator COONAN**—I know this is hitting a bit of a raw nerve over the other side. Mr Wozniczka, from Elders—and this was specifically raised by Senator Lundy in her primary question; I am sure I will get a penetrating supplementary—said:

This technology is scaleable. The long-term plans are to reach speeds of up to 50 to 70 megabits per second. The infrastructure that we are putting in place will allow Australia to continue to be at the leading edge of technology as new technology comes in.

I was interested to hear Mr Wozniczka comment that the opposition had not bothered to talk to Elders about this technology. Can you imagine, Mr President, that there is criticism of the technology? According to one of the companies that will be rolling it out in a joint venture, nobody has even bothered to ask them how they see this technology working.

It is also interesting that this company—the Elders and Optus joint venture, called OPEL—have actually got some skin in the game. This joint venture are putting $1 billion of their own money into this technology. Would they seriously back technology that they did not feel was capable of meeting the capabilities that they claim for it? WiMAX is a fourth generation wireless technology, and it is proven to provide high-speed broadband connections over long distances. Mr Wozniczka has confirmed the speeds that the technology is capable of. He said that it is a guaranteed speed, increasing to 12 megabits out to a radius of 20 kilometres, and that will be by 2009. *(Time expired)*

**Senator LUNDY**—Mr President, I ask a supplementary question. Despite my colleague’s point of order I note that the minister deliberately ignored my specific question. I ask this supplementary: isn’t it the case that, if you live in a flat area and there is a cloudless sky at 2 am, wireless broadband might be able to deliver speeds of 12 megabits per second? Isn’t this exactly why the minister’s colleague Senator Joyce said today that a lot more needs to be done on this? Why should regional Australia get only a second-rate service?

**Senator COONAN**—The government will deliver a service where the Labor Party will provide absolutely none. Labor has absolutely no answer for the last two per cent of the population. In fact, they have no answer after about 72 per cent of the population, but that is for another answer. The important thing to notice is that this technology will deliver what it is claimed to do and it is capable of scaling up. The critical point is that the Labor Party will simply drain the Communications Fund that this government will keep and retain for the benefit of future upgrades for rural and regional Australians so that this technology can continue to improve over the years.

**Broadband**

**Senator NASH** *(2.07 pm)*—My question is to the Minister for Communications, Information Technology and the Arts, Senator Coonan. Will the minister please provide details to the Senate on government action to ensure that all Australians enjoy equitable access to high speed broadband? Are there any alternative policies?

**Senator COONAN**—Thank you to Senator Nash for her longstanding interest and support for the people of rural and regional Australia. Yesterday I announced a new wholesale network for Australia that will provide a world-class 12-megabit coverage to 99 per cent of the population at affordable prices. We are providing $958 million to ensure that, using a mix of technologies, a new state-of-the-art network will reach 99 per cent of the population and be completed by 2009.
The Communications Fund that I mentioned will provide an income stream to ensure ongoing upgrades of this technology into the future. Yesterday every member of parliament, without exception, was provided with a map giving intricate details on the rollout of this new network. This is a world first—a policy that ensures that all Australians, regardless of where they live, have access to affordable broadband. By contrast, Labor has released an uncosted, untested and undeliverable proposal that misleads people into thinking that Labor can deliver fibre to 98 per cent of Australians for only $8 billion. However, based on any reasonable assessment of their flimsy costings, their numbers simply do not add up. $4 billion alone is required for the cities covering 36 per cent of the population, so if you generously assume another $4 billion will get you another 36 per cent of the population, you have a total coverage of 72 per cent. That is certainly not 99 per cent and not even 98 per cent, but 72 per cent. We can call it 75 per cent to be really generous, and I am being generous today. This means that Labor will leave over three million premises without fast broadband service and no prospect of ever getting one in the future.

Labor’s forward proposal is now starting to unravel. Labor’s shadow cabinet minister and the member for Hunter, Mr Joel Fitzgibbon MP, has well and truly belled the cat with his comments in a media doorstop in Canberra today. The journalist asked, ‘Who misses out in that region under your plan?’ The shadow minister for defence replied, ‘Well, those things are yet to be tested.’ He went on to say, ‘We will roll out fibre to the node right throughout the Hunter region. Obviously there may be some people excluded from that.’ He then said, ‘We don’t have the technical backing to make those final conclusions.’ So now we have a shadow cabinet minister confirming that Labor’s proposal leaves many behind, and it does not even cover the Hunter region.

Honourable senators interjecting—

The PRESIDENT—Order! There is too much noise in the chamber.

Senator Ronaldson—There is not much noise over here.

The PRESIDENT—Senator Ronaldson, come to order!

Senator COONAN—Forget a so-called plan for the future. Labor’s broadband has been shown up as ‘fraudband’ by one of its own shadow cabinet ministers. It is absolutely clear today that this is an inexperienced Labor team which does not have the necessary policy or economic clout to manage a trillion-dollar economy. I want to issue the Labor Party a challenge—(Time expired)

Senator NASH—Mr President, I ask a supplementary question. Would the minister further explain why the government will not be adopting alternative policies?

Senator COONAN—I was issuing a challenge to the Labor Party, and I see that Senator Conroy is piking it today; he is not in the chamber. My challenge to the absent Senator Conroy is this: release Labor’s costings, coverage maps and details of technical backing that prove Labor’s plan works. I am calling on the Labor Party to release details that support their claim that with $8 billion they can reach 98 per cent of the population with fibre. It is clearly a nonsense, but until Labor provides this detail on its plan, all Australians, particularly those in regional and rural Australia, will have no confidence that there is any alternative to the government’s fully costed and fully tested plan of delivering affordable broadband to all Australians.
for Communications, Information Technology and the Arts. Can the minister confirm that Tasmania has been totally excluded from the government’s five capital city fibre-to-the-node broadband network? Isn’t it true that, instead of getting a first-class fibre-optic system, many Tasmanians will have to put up with second-rate wireless broadband? Doesn’t the performance of wireless decline with distance, bad weather, hilly geography and the number of people using the service at any one time? Why should Tasmanians put up with a system that will not work properly if they live in a hilly area or it happens to be raining?

Senator COONAN—I actually enjoy Tasmania very much, and when I go to Tasmania I am going to be able to access first-class telecommunications from any part of Tasmania, because Tasmania is obviously to be covered by the new high-speed network that will provide a minimum speed of 12 megabits to 99 per cent of the Australian population. Unless I am very much mistaken, Tasmanians definitely belong to the whole of the Australian population, and they are so included. The government is strongly committed to the proposition that all Australians, regardless of where they live, should have access to high-speed broadband.

It is a very brave person who would say that they know all the technological answers for Australia over the next five years. Just a couple of years ago we had Labor’s foray into dial-up internet, urging the government to splash $5 billion of taxpayers’ money on mandating dial-up. The reality is that a mix of technologies will be the most effective means to deliver the services that Australia needs. The WiMAX broadband technology is a wireless broadband technology that can provide a lower cost alternative to wireline broadband in regional and rural areas. I am not telling those opposite anything they do not know already, particularly if they listen to their shadow spokesperson, Senator Conroy, who seems to be absent today. This is a bit of a killer: in 2005 Senator Conroy told a Connecting Up conference:

With access to a wireless broadband virtual private network, a farmer could design a farm that is completely ‘connected up’—

Senator Abetz—Was that wireless?

Senator COONAN—Yes, Senator Abetz, that was wireless. He continued:

... and allows him to monitor his property and control his machinery from the comfort of his home.

Senator Conroy went on:

However, these possibilities can only be realised if rural and regional communities have access to the infrastructure used to deliver these services. That is a phenomenal backflip! In the same speech Senator Conroy said:

The most important infrastructure in this regard is the infrastructure that allows the delivery of broadband, optical fibre, DSLAMs and wireless base stations.

That is a quote from a speech of Senator Conroy. I could not have put it better myself. He said that by adopting a mix of technologies the government is providing equitable access to all Australians regardless of where they live.

Why has he had this change of heart, we have to ask ourselves, don’t we? It may have been that a focus group report had come in, and that was why it came time for him to jump out of bed yesterday morning. Senator Conroy had been told it was time to do a backflip. He now believes that a one-size-fits-all approach to 72 per cent of the population is sufficient, which is what his plan has. Like many other Australians, I disagree with him. The government has a detailed, costed and deliverable policy of delivering broadband to all Australians.

Senator CAROL BROWN—Mr President, I ask a supplementary question. Didn’t
the government say its plan was a comprehensive and complete broadband solution for Australia? If the plan really is comprehensive and complete, why aren’t Tasmanians—including those living in our two largest cities of Launceston, Senator Colbeck, and Hobart, Senator Abetz—getting first-class fibre-optic broadband? Why aren’t Tasmanians entitled to the same level of service as Australians living in the five mainland capital cities?

Opposition senators interjecting—

The PRESIDENT—Senators on my left, one of your colleagues asked a question. For goodness sake keep quiet and let it be answered!

Senator COONAN—The government’s technology will roll out 12 megabits, which is precisely what the Labor Party has said they can do with fibre. Senator Carol Brown can rest easy because the competitive bids process will include Hobart, as a major capital city, in any of the fibre-to-the-node rollouts.

Senator Sherry—What about Launceston? What about Devonport? What about Burnie?

The PRESIDENT—Senator Sherry, you are warned!

Economy

Senator WATSON (2.19 pm)—My question is directed to the Minister for Finance and Administration, Senator Minchin. Will the minister outline to the Senate the importance of productivity in ensuring the continuing strength of the Australian economy? Further, will the minister advise the Senate of any alternative policies?

Senator MINCHIN—I thank Senator Watson for the question. Senators know that the current economic conditions in Australia are very good news for Australian families, Australian businesses and Australian job seekers—and I acknowledge the gallery, full of future job seekers, that we have here today. When you look at the raft of economic statistics it is hard to find bad news. We have unemployment at 4.2 per cent—

The PRESIDENT—Senators on my left, including you, Senator Ray, come to order!

Senator MINCHIN—As I was saying, we have unemployment at 4.2 per cent and we have the economy growing strongly. Inflation is well under control as a result of 11 years of very good economic management. As the ABS has reported, all sections of society are enjoying the benefits of our economic management. The share of national income going to the poorest 20 per cent of Australians is increasing under our government.

So, obviously, if you are on the other side of this chamber and you try to punch a hole in that very good economic record you have a problem. So the opposition has looked around for any statistic you could possibly find to imagine that things are not as rosy as they appear. Labor have, for the last six months, latched onto productivity as some sort of economic lifebuoy. And they have been spinning that as a very big issue.

Labor’s problem, of course, is that this is a furphy. Mr Rudd was very badly exposed on this issue on ABC radio last week. I think the interview showed that he may know something about foreign affairs but he does not seem to understand productivity and he does not understand the national account’s measuring of productivity. So his officers prepared a 10-page briefing paper for him to help him understand productivity. It makes very interesting reading. The note, which I have read of course, explains the true situation. It explains that productivity is actually increasing. It explains that recent lags in productivity can easily be explained by the surge in employment under our government.
It says that when employment is growing fast, productivity tends to slow, as measured by the ABS. The note also admits that the drought has affected overall productivity but states clearly:

Non-farm productivity has been stronger than overall productivity, and it is showing signs of a sharp pick up.

That is the note from the Labor advisers to Mr Rudd. So Labor’s own advisers acknowledge that productivity is clearly improving. But then the advice goes on to talk about the spin. The memo advises Mr Rudd not to acknowledge that productivity will rise and that he should keep referring to his simplistic analysis of the last budget papers to insist that productivity growth will be zero. We know that did not work very well for Mr Rudd on ABC radio, and, now that his own office has blown the whistle on this spin, it is not going to work anymore.

The other big problem for Mr Rudd of course is that he does not actually have any economic policies to improve productivity. The Labor Party has two big policies: one is to damage the economy on climate change; the other big policy is to restore union power to Australian workplaces, and that would do untold damage to productivity in this country. Just yesterday, as Senator Abetz pointed out, one of our biggest constructors, John Holland, said that Labor’s IR policy would be a disaster for the construction industry. John Holland said that our policies had delivered an $8.5 billion productivity dividend to their industry and were likely to lead to a further 10 to 20 per cent improvement in productivity over the next five years. All that productivity gain would be at risk under Labor’s determination to put the unions back in charge of Australian workplace relations.

Broadband

Senator CARR (2.23 pm)—My question without notice is to Senator Coonan, Minister for Communications, Information Technology and the Arts. I ask: why did the minister deem it necessary for cabinet to examine maps showing the impact of the broadband policy on the government’s 40 most marginal seats, when it was discussed? Wasn’t it because the minister thought the cabinet would be more interested in the political impact of the announcement than it would be in what it actually delivered? Isn’t the government’s focus more about the next election than about the next generation? How could the minister have allowed this critical communications policy decision to degenerate into what the Adelaide Advertiser described today as “a naked political exercise”?

Senator COONAN—Thank you to Senator Carr for the question. The issue with the timing on the proposal is that it has been being worked on by the government for over eight months. The funding for this proposal was actually in the supplementary budget portfolio statement of September 2005, and it has been subject to a competitive grants process that started last year. After eight months of working on the government’s comprehensive and far-reaching broadband plan, which is going to ensure that all Australians, regardless of where they live, will be able to access fast broadband, it was able to be announced by the Prime Minister and by me yesterday.

We do not go in for knee-jerk reactions; we go in for detailed policy work that involves proper costings, proper coverage maps and proper technical detail to support the policy that we roll out. I repeat my challenge to the Labor Party, which they should get around to, because I am going to keep asking them: releasing maps—

Senator Carr—Mr President, I raise a point of order. My point of order goes to the question of relevance. I asked: why did the minister deem it necessary to take to cabinet
a list of the 40 most marginal seats in terms of its maps? I asked that direct question. I think I am entitled to an answer.

The PRESIDENT—The minister has 2½ minutes to complete her answer. I would remind her of the question—

Senator Chris Evans interjecting—

The PRESIDENT—and I would remind Senator Evans that shouting is disorderly.

Senator Chris Evans—Mr President, on the same point of order: I would just make the point that there is some frustration in the chamber because the minister makes no attempt at all to answer the question. She even says in responding that she has no intention of answering the question. I would ask you to enforce more rigidly the requirement on ministers to at least have a crack at answering the question.

The PRESIDENT—Frustration is no answer to disorderly behaviour, and disorderly behaviour has been going on before questions have been asked. I remind you of the question, Senator Coonan, but I also remind senators that shouting across the chamber, regardless of the minister or any person asking a question, is disorderly.

Senator COONAN—I can understand how the opposition have been frustrated waiting for the government’s broadband policy and how anxious they have been to get hold of the maps. Maps of broadband coverage were prepared and released to all MPs, regardless of political colour, on the day of the announcement. That does not differentiate a party and it does not differentiate in any way any of the arrangements that related to the release of the maps. People on my side of the chamber and in my party only saw the maps yesterday. That is really the critical thing—that, if you have an arrangement for the preparation of paper and paperwork, that in no way differentiates the way in which you release the maps and release the information to everyone who is entitled to it. This is public information. It was all released at the same time. Despite the invitation from Senator Carr, I do not feel inclined to tell him what the maps are that are discussed in cabinet.

Senator Faulkner—you hypocrite.

The PRESIDENT—Order! Senator Faulkner, withdraw that comment. Stand up and withdraw it!

Senator Faulkner—Certainly, I withdraw.

The PRESIDENT—Thank you. Senator Coonan, have you completed your answer?

Senator COONAN—The Labor Party are living in the past. Thirty years ago seems to be about where they are. But, if this is all the Labor Party have to talk about in response to our broadband proposal announced yesterday—when maps were released and there was no privileged information given to anyone—then I think it is a pretty good sign that we have hit a raw nerve and we have delivered a great package.

Honourable senators interjecting—

The PRESIDENT—When senators come to order we will continue with question time, and not before. Senator Faulkner and Senator Coonan, come to order.

Senator CARR—Mr President, I ask a supplementary question. Minister, is it not true that the leaked email from your office made it perfectly clear that it was not possible to complete all the maps, that only the 40 electoral maps—the top marginal coalition seats—were required to be completed by the time of the cabinet meeting? Isn’t it true that the minister actually walked into cabinet with a copy of Malcolm Mackerras’s electoral pendulum and the maps of the 40 most marginal coalition seats and got the endorsement of her package on that basis? Isn’t the broadband package, like everything else
this government does, driven by the need for a short-term political fix rather than a plan for the next generation?

Senator COONAN—The answer to that is no. I can say from experience that this government does not need a focus group to know which side of the bed to get out of every morning like Mr Keating reminds us the Labor Party does.

Firearms

Senator FIFIELD (2.30 pm)—My question is to the Minister for Justice and Customs, Senator Johnston. In light of yesterday’s tragic shooting in the Melbourne central business district, could the minister advise the Senate what the Australian government is doing to protect the community from handgun crime?

Senator JOHNSTON—I thank Senator Fifield for his question and acknowledge his longstanding concern about violent crime, particularly in his home state of Victoria. I reiterate the comments of the Minister for Finance and Administration and Leader of the Government in the Senate, Senator Minchin, in passing my condolences to the family and friends of the man killed in yesterday’s tragic shooting in Melbourne. A number of commentators have sought to use this incident to suggest that the government is somehow culpable in the control of firearms, particularly concealable weapons and handguns. I want to reject these comments from the outset.

Of any government throughout Australia’s history, the Howard government has one of the proudest records in being proactive in ensuring the safety of the Australian community with respect to firearms whilst balancing the needs of legitimate firearms licensees. One of the first things the Prime Minister did when he came into office was to instigate the most significant firearms reforms ever seen in this country. Where previously there had been minimal control of firearms across Australia, the Howard government gained agreement from all the state and territory governments under the national firearms agreement to limit firearms ownership to only those people with a proven genuine reason to possess such weapons, such as government users, professional pest controllers, security guards and sporting shooters. Personal protection is not—and I reiterate ‘is not’—recognised as a genuine reason to possess a firearm in Australia.

As a result of the 1996 reforms, a large number of firearms were prohibited, including automatic and semiautomatic military style long arms. Some 660,000 firearms were surrendered under the 1996 buyback scheme. In 2002, 70,000 handguns were recovered from the Australian community under the then buyback scheme. Additionally, in 2002, Australian state and territory governments established the National Firearms Trafficking Policy Agreement, which focused on reducing firearms across Australia. May I pause to say that Australia has some of the toughest firearms legislation across the world. For any law-abiding citizen to attempt to acquire a firearm lawfully, it is probably one of the most tortuous and difficult processes across the world.

In addition to legislative reform, the Australian government is strongly committed to preventing the trafficking of illegal firearms and firearms parts through increased law enforcement activity, including the activities of the Australian Crime Commission and the Australian Customs Service. In 2005-06, Customs seized 3,857 firearms, parts and accessories; and the Australian Crime Commission seized or quarantined 1,300 firearms and, as a result of activity of its firearms determination, laid 97 charges with respect to the illegal possession of firearms.
As a result of our tough stance on the possession of firearms, we have seen the incidence of firearms murders decrease from 99 victims and 31 per cent of all murders in 1996 to 26 victims and 9.6 per cent of all murders in 2005—a fantastic result of good policy from the Howard government. Robbery with firearms has decreased from 1,585 victims in 1996 to 758 victims in 2005, which is a drop from 9.7 per cent to 4.5 per cent. Firearms related deaths decreased from 521 in 1996 to only 238 in 2004—a fantastic result.

Superannuation

Senator MURRAY (2.35 pm)—My question is to the Minister for Finance and Administration, Senator Minchin, also representing the Treasurer. Minister, from 1 July, payouts from a superannuation fund will be tax free for those aged 60 and over. Has the minister noted that the three main criticisms being aired in the media are that this policy dangerously narrows the income tax base, disproportionately advantages high-income earners and still allows high-income earners to claim further tax rebates? What is the government’s response to those criticisms? Dealing with the last of those three criticisms, which concerns double-dipping, wouldn’t that problem be solved by simply requiring tax-free super income to be declared on annual tax returns? Minister, will well-off retirees earning $100,000 or $200,000 be able to qualify for the low-income tax offset and, if they will, why should they be able to?

Senator MINCHIN—The government’s reforms to superannuation taxation are, I think, properly considered by all as the most significant reforms to the taxation of superannuation in this country. There has long been the quite proper criticism of the way in which superannuation taxation has developed in this country that it is taxed on three occasions: when it goes in, while it is there and when it comes out. All parties have struggled with that difficulty. Overall superannuation has been taxed concessionally—and we acknowledge the role that the former Labor government played in that, and it has been a bipartisan view that superannuation, because it represents retirement incomes, should be taxed concessionally—nevertheless, the fact that it has been taxed at three points in the chain has been a major source of complaint right across the community and one that both major parties have struggled to come to terms with.

Given the strength of the economy, the strength of the federal government’s budget and the strength of federal government finances, we are now in a position where it is possible for us to deal with that problem. If you wished to eliminate one of the points of taxation, you could pick any one of the three, I guess. It is true, as Senator Murray would know, that at one stage I floated the possibility that you might focus on the contributions tax as a tax to be eliminated.

But the government has been very alive to this problem. After due consideration, it decided in last year’s budget that it would eliminate the tax on end benefit. That was warmly and widely received and, I think, supported by all parties. There is no fundamental institutional opposition to the proposition that retired Australians, once they have access to their superannuation pensions, should be able to receive them tax free, given that tax has been paid on those superannuation benefits at the contributions point and in the earning. So there is tax paid on the way through.

It is our assessment that ensuring that we maximise the private provision of retirement incomes is very important and that continuing to maximise the attraction of Australians investing in superannuation is also very important to lessening the burden that will be
placed on future generations of taxpayers—again I point to the gallery—in relation to the ageing of the population and the burden that future taxpayers will bear with the change in the demographic order. But that only increases the importance of ensuring that Australians can provide for their own incomes in retirement and not rely solely on the age pension, which will be paid for by then current taxpayers.

While you could superficially argue that we should not do this because of the income tax base, you have to look at the whole box and dice. It is important to look at it on the basis of the issue of demographic change and the need to ensure that we keep to a minimum the burden on the budget from the age pension and we maximise the attraction of retirement incomes. Lessening the tax burden on superannuation, by definition, must increase the attraction of people investing in super.

We do quite properly think this is a responsible and sensible way to go. Inevitably, when you remove or reduce taxation, with those on higher incomes of course paying much higher rates of tax—and, as you know, most of the taxation in this country is paid for by higher income earners—there will be, on the face of it, a disproportionate advantage. They are still paying a lot of tax. If you put a lot of money into super, you will still pay a lot of tax on the way through and in terms of the earnings that that will pay. Senator Murray may have a supplementary.

Senator MURRAY—Mr President, I ask a supplementary question. I thank the minister for his answer, but I would ask him if he would not mind coming back to the Senate in due course—perhaps today—with the answers to the questions as to whether tax-free super income should be declared on annual tax returns and whether wealthier retirees will be able to qualify for the low-income tax offset.

I ask as my supplementary question: can the minister confirm that the Medicare levy is not defined as income tax and therefore should not be included in tax-free super? Can the minister confirm that all retirees over 65, well-off or not, will qualify for the concessional Commonwealth seniors health card? If that concession is available to all, does the government think that better-off retirees should pay the Medicare levy on their income?

Senator MINCHIN—They are technical questions. I accept them and you are right to ask them. I will endeavour to get a specific answer to each of them by three o’clock, Senator Murray.

Workplace Relations

Senator CHAPMAN (2.41 pm)—My question is directed to the Minister representing the Minister for Employment and Workplace Relations. Will the minister update the Senate on the important work that the Office of the Australian Building and Construction Commissioner is undertaking to ensure Australia’s construction industry is free from intimidation and illegal tactics? Has the minister considered any threats to the commission’s ongoing role in performing this important work?

Senator ABETZ—I thank Senator Chapman for his interest in this issue. Australia’s building and construction industry is a significant and important sector of the economy, turning over close to $90 billion annually and employing some 577,000 of our fellow Australians. As Commissioner Cole found in 2003, the industry was riddled with unlawful conduct. In response, the government established the Australian Building and Construction Commission to stamp out this behaviour. Through its investigations and prosecutions, the commission has addressed
unlawful conduct and enforced the rule of law on building sites. It is no coincidence that the level of industrial dispute in this country is now at a 90-year low of 1.5 working days lost per 1,000 employees. Hold on to that number 1.5, because I want to remind honourable senators that, when Labor was last in power, the figure was a staggering 263.9 working days lost per 1,000 employees.

I was asked about threats to this body. The main threat is Labor and Ms Gillard. She believes that the powers of the ABCC are ‘akin to interrogating terrorists’. Labor plans to execute this body. But, by popular demand, let us have another ‘Who said it?’ Who said, ‘You wouldn’t just abolish the ABCC and have nothing in its place? I would be concerned if militant unionists were left in that position’? I can debunk the suggestion from the other side that it may have been Mr Keating, but it was a Labor employment minister from—and you have already guessed it—the state of Western Australia. It was Ms Roberts. As we read in the press today, these militant unionists from the CFMEU have been caught at it again on candid camera: attempting to intimidate and stand over—an occupational health and safety manager on a Perth building site.

A few weeks ago Mr Rudd temporarily suspended Dean Mighell and the ETU from the ALP for exactly this sort of behaviour and pledged to return their funds. I say to Mr Rudd that, if he were serious about addressing militant unionism, rather than undertaking mere window-dressing, he would do three things: firstly, he would expel Joe McDonald and Kevin Reynolds from the ALP; secondly, he would return the massive $6.3 million the CFMEU has given to the ALP over the past decade; and, thirdly, he would retain the ABCC unchanged in its present form. Mr Rudd has to explain to the Australian people why it is an expelling offence for Dean Mighell and the ETU but it is only a slap on the wrist for the CFMEU. Of course, the difference is that, when the thugs, such as Brian Burke, come with money, like $6.3 million, it all seems to be okay if it helps Mr Rudd in his bid to be elected as prime minister of this country. We on this side are committed to defending the decent workers of this country and getting rid of criminality on work sites. We make no bones about that. Mr Rudd simply cannot afford to do it because he relies on the $6.3 million that he gets from these thuggish unions. (Time expired)

Broadband

Senator WONG (2.46 pm)—My question is to Senator Coonan, the Minister for Communications, Information Technology and the Arts. I refer the minister to the Howard government’s plans to send a direct mail-out to 3.1 million households in regional Australia to ‘raise awareness of the government’s initiatives for regional telecommunications’. Can the minister confirm that the purpose of this campaign is simply to promote the Howard government’s second-rate broadband fix? Isn’t it the case that this mail-out will include fridge magnets? Can the minister confirm that this mail-out is part of a $6.4 million advertising blitz to try to convince regional Australia that the Howard government’s broadband policy is not just a second-rate political fix to get it through to the next election?

Senator COONAN—The answer to Senator Wong is no.

Senator WONG—Mr President, I ask a supplementary question. Can the minister come clean on just how many taxpayer dollars will be spent by this government on promoting its second-rate broadband fix? Given that the Howard government is budgeted to spend $1.8 billion of taxpayers’
money over the life of the government until election day, can the government really be believed when it says that it will not be spending any money advertising this broadband fix? Tell us, Minister, how much money are you intending to spend on advertising your second-rate broadband policy to regional Australia? What has been determined by GCU and what will be spent from your portfolio?

Senator COONAN—Senator Wong, who has been running around trying to drum up some sort of case on spending in telecommunications, has, I am afraid, fallen on fallow ground. She is fishing up a very dry gully. The rural telecommunications campaign—

Opposition senators interjecting—

The PRESIDENT—Order! You have asked a question; allow the minister to answer it.

Senator COONAN—As I was just saying, Senator Wong is fishing up a very dry gully because the rural telecommunications campaign that related to consumer rights in telecommunications was posted out two months ago.

Tasmanian Pulp Mill

Senator MILNE (2.48 pm)—My question is to the Minister representing the Prime Minister, Senator Minchin. Given the Prime Minister’s support for the Gunns pulp mill proposal and the federal government subsidies provided to support it, is he aware of the strength of community opposition in northern Tasmania against the proposed pulp mill as evidenced by the 11,000 people who participated in a protest against the mill last Saturday? If so, is the government aware that the opposition to the project is not only because of its environmental impacts but also because of the blatant political interference of the Lennon Labor government, which has kowtowed to Gunns’s demands for a rubber stamp approval process?

Senator ABETZ—I inform the honourable senator that overwhelmingly the people of Tasmania are in favour of downstream processing of their raw materials. The people of Tasmania do not want to see, and they have seen it time and time again, a campaign of misinformation against this particular pulp mill on the basis that its creation would make the snow caps of New Zealand melt, increase police corruption, increase prostitution and other social ills, and that all this could be overcome if it were all of a sudden to become a chlorine-free pulp mill. All the ills and evils would be overcome. That is where the Australian Greens have come unstuck with the Tasmanian community.

What the Greens have done—quite rightly, I must say—in recent times is latch on to the dissatisfaction of the Tasmanian population with the way that Premier Lennon has handled this situation, especially with the RPDC. We as a government have been on the record time and time again to indicate that we regret that which has occurred in Tasmania but acknowledge that the Premier and the state parliament have to deal with those issues that fall within their bailiwick as we as an Australian government are dealing with those matters that fall within our bailiwick. What I can say to the Tasmanian people and the Australian people is this: that which we needed to investigate and look at has not required any change of legislation on our part and we are continuing on with business as usual. The Tasmanian people, and I dare say the Australian people, have to make a decision about this pulp mill.

Not one single extra tree is going to be harvested as a result of this pulp mill. The only thing that will occur is that the woodchips will be either processed in Tasmania or, using fossil fuels, shipped to a pulp mill in
Japan, dirtier than the one that would be established in Tasmania. Using more fossil fuels, the material will then be shipped back to Tasmania to be made into paper. Now, most Australians who have common sense and who have the environment at heart say that if it is not going to cost an extra tree, if you can reduce fossil fuels in cartage and if you can get a cleaner mill, then that is an environmental trifecta that deserves support, if the pulp mill meets the strict environmental guidelines, which has always been the important caveat that we as an Australian government have put on this project.

Senator MILNE—Mr President, I ask a supplementary question. It seems that Senator Abetz is speaking on behalf of the Prime Minister today, so I will direct this to him. Is the Prime Minister aware that Premier Lennon knew that the Gunns project would not get the go-ahead from the RPDC which was set up to look at stringent guidelines and that is why the Premier colluded with Gunns to set up an alternative, inferior process that would approve the mill? Doesn’t that mean that the Commonwealth is endorsing this corrupted process by providing funding to Gunns and by providing the cover of another federal assessment when the original joint assessment was signed off by the Commonwealth and this new Commonwealth assessment does not meet the same guidelines?

Senator ABETZ—What Premier Lennon knew or did not know is not for me to comment on. All I know is that he does not know much. Apart from that, whether Mr Lennon knew what the RPDC had in mind is, if I might say, a terrible slur on the RPDC, because it suggests that the RPDC leaked the outcome to the Premier prior to the end of the hearings. That is an assertion that I am not prepared to accept. Whilst the Greens go around spreading their conspiracy theories, as they are so wont to do, they do their cause no good. Of course, on that basis I would encourage them to continue.

Broadband

Senator CHRIS EVANS (2.54 pm)—My question is directed to Senator Coonan, the Minister for Communications, Information Technology and the Arts. Can the minister explain to the Senate how the member for Stirling, Mr Keenan, was able to have an advertisement in local newspapers promoting Australia Connected published on Tuesday of this week, the same day as the official launch? Was there a leak of the minister’s plans from her office or was it the case that, as a member in a marginal seat, one of those listed in the 40 taken to cabinet, Mr Keenan was provided with advance information as part of the government’s political fix? Doesn’t this again confirm that the minister’s announcement is much more about short-term politics than about the long-term communications needs of this country?

Senator COONAN—As I said earlier, this policy has been in prospect and being developed for eight months and it is fully costed. There are coverage maps for the whole of Australia and it is a policy that has been carefully developed. Under no circumstances could it be said that this policy has been developed in response to either the Labor Party or the forthcoming election. This has been in prospect since the supplementary portfolio budget statements of September 2005. How can you conflate a date back in 2005 to some urgent outcome in 2007? That is seriously overstating the case. The important thing about the so-called leaked email is that what it referred to was a series of maps that were being prepared, and those broadband coverage maps were prepared and released in their final form to all MPs on the day of the announcement. I stand by that—they were released on the day of the announcement. That is not to say that certain
members may have made some sort of submission to the office; I will have to take that on notice.

Opposition senators interjecting—

Senator COONAN—Well, if you do not want me to take it on notice I will withdraw that offer. What I will say is what I know, and that is that all coverage maps, irrespective of whether they were Liberal, Labor, National or Independent, were released at the same time yesterday after the announcement.

Senator CHRIS EVANS—Mr President, I ask a supplementary question. I note that the minister did not actually answer the question. I asked when the government MPs on the list of 40 considered by cabinet were first advised. Is it the fact that they received information prior to the maps being distributed yesterday? If they were not advised earlier, how could the member for Stirling have got his advertisement into the papers today? Can the minister advise whether or not the ad was drafted by the government members secretariat on behalf of those members? Isn’t it the case that you didn’t release the information yesterday but you had put in a political campaign well before the announcement was made?

Senator COONAN—Senator Evans is completely wrong about that. The maps in their final form and all the details of the releases were released after the announcement was made yesterday.

Medical Services for Western Sydney

Senator PAYNE (2.58 pm)—My question is to the Minister for the Arts and Sport, Senator Brandis, who represents the Minister for Education, Science and Training. Will the minister inform the Senate of government initiatives to deliver improved medical services and provide greater access to medical education and training to people in New South Wales, particularly to people of Sydney’s greater west.

Senator BRANDIS—I thank the honourable senator for her question and acknowledge her longstanding and deep commitment to the interests of the people in Western Sydney. As you would know, Mr President, Senator Payne has maintained her electorate office in Parramatta throughout her entire Senate career. There are fewer greater champions for Western Sydney in the Howard government. In July’s COAG meeting last year, the Prime Minister announced that the Australian government would provide 200 new medical school places as well as increased funding for Australia’s medical schools, subject to matching capital funding from the states. The governments of Queensland and of Victoria were swift to provide the matching capital funding, but, alas, I have to inform Senator Payne that the situation was otherwise with the government of New South Wales.

The Australian government committed to providing 80 new medical training places for the University of New England and the University of Newcastle and to establish a medical school at UNE which is to have a strong focus on rural medical practice. The Australian government also pledged $3 million in capital funding for the new medical school, subject to matching funding from the New South Wales government. Regional New South Wales has been waiting ever since for Mr Iemma to deliver on that commitment. His refusal to provide the matching funding was putting at risk the medical school opening its doors next year. But the Australian government will not let the dithering of Mr Iemma put at risk the health of the people of regional New South Wales. The Australian government would wait no longer for Mr Iemma and we have released our funding for the capital works and for the medical school places.

Senator Payne also asked about Western Sydney, where the Australian government
has provided some $3.5 million to develop nursing development hubs at the Campbelltown and Parramatta campuses of the University of Western Sydney. As honourable senators may be aware, the University of Western Sydney has the largest undergraduate pre-registration nursing program in Australia. These new nursing development hubs include clinical teaching laboratories, simulation and virtual teaching facilities as well as training wards and clinical units. The Australian government has also provided $25 million in capital funding for the new University of Western Sydney medical school along with similar funding for student places. This brings the Australian government’s contribution to the medical school in Western Sydney to around $50 million.

The University of Western Sydney is the same university that was ripped off by the New South Wales state government in 2005 by almost $11.3 million in payroll tax—payroll tax that, I should say, ought no longer to be levied following the COAG agreement in relation to the GST some years ago. Ripped off by $11.3 million! I wonder whether honourable senators know how much the New South Wales state government provided to the University of Western Sydney in that year, 2005. It was $109,000. Mr Iemma’s Labor government is ripping almost $100 million more out of New South Wales universities through payroll tax than it is providing them with in financial assistance. And that is on top of the $11 billion New South Wales is receiving from GST revenue.

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Broadband

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (3.02 pm)—I wish to add to an answer I gave to Senator Evans about an advertisement placed by Mr Michael Keenan, the member for Stirling, in relation to the broadband policy. He has confirmed to my office that he received the information yesterday, after the announcement was made, and he was able to place the announcement that appears today.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Broadband

Senator LUNDY (Australian Capital Territory) (3.03 pm)—I move:
That the Senate take note of the answers given by the Minister for Communications, Information Technology and the Arts (Senator Coonan) to questions without notice asked today relating to broadband telecommunications infrastructure.

We are once again witnessing the most amazing game of catch-up that we have seen for a long time. I have paid a great deal of attention to the issue of broadband for 11 years in this place. I have paid a great deal of attention to the issue of broadband for 11 years in this place. I have seen this government announce to all and sundry that in fact it was their view that Australians not only did not want broadband but they did not need it. We have witnessed 11 years of this government not only doing just about everything they possibly can to ensure that Australia was left behind in the economic sphere of opportunity that broadband offers, but they did so with quite a disgraceful alternative political agenda—and that was the privatisation of Telstra. That kept them focused on that particular objective and turned their heads away from the needs of the future of this nation in relation to broadband.

What we are seeing today is the minister desperately trying to justify this policy, as a catch-up to Labor’s forward-thinking, future orientated broadband initiative. But, as with most things that the Howard government attempt to do in the eleventh hour of an elec-
tion year, they have got it wrong. What is sad and disappointing about the government’s attempt in this area of public policy is that they are creating a two-class system—a whole raft of second-rate citizens who will only have available to them the inferior wireless service that forms such a central feature of the Howard government’s so-called broadband plan, Australia Connected.

I say this because, today in question time, we tested the minister’s knowledge and understanding of the technology once again, and asked her very specifically to answer a question about the proposed speeds for the WiMAX technology that will service rural and regional Australia under their plan. What we know is that this technology cannot service a minimum of 12 megabits per second; it can service up to 12 megabits per second. What we also know from Elders-Optus is that it is likely to provide a speed of around six megabits per second. I would like to refer to a useful document, which I will refer to the minister to assist her knowledge. It is called *Broadband made easy* and is published by Ericsson. It gives the definition of WiMAX as ‘World Interoperability for Microwave Access’ and describes it as:

> A new wireless technology that uses a shared base radio station for two-way communication for several kilometres around the base station. It’s used for fast Internet access and sometimes phone calls.

The document goes on to say:

> Most service providers and manufacturers in their sales literature will give the maximum theoretical speed in Mbps—
>

that their technology can provide (for example ADSL can provide speeds “up to” 6Mbps). In the real world, factors such as sharing with other users, distance, and interference will mean that the average user experience is likely to be lower than this speed. So the “capacity” or “throughput” of your broadband access will be less than the maximum “speed” of the broadband access. This is true of all networks.

And they use this analogy that I think is quite useful for the minister:

> For example the signs on a freeway may say that the maximum speed is 100kph, but at peak hour when you are sharing the road network with thousands of other users, you may not be able to achieve this speed very often.

The minister seems to be incapable of acknowledging this technological fact. She failed to answer this question and, in fact, deliberately ignored it and my supplementary question about what is known to be severe interference with that technology. Senator Coonan also failed to answer questions regarding Tasmania, which misses out completely on the higher bandwidth technologies based on fibre networks. We know that they took this issue to cabinet and it is political. In relation to the maps, I found out that, in a slimy, dirty act, these maps were slipped under the doors of opposition MPs after 9.30 last night, when the House rose. What a typical Howard government slimy dog act. And the minister stood here and gratuitously claimed that everyone got this information in these maps at the same time. What a disgrace! *(Time expired)*

**Senator KEMP** (Victoria) *(3.08 pm)*—It is always a pleasure to follow Senator Lundy, because, in order to respond to her comments, you look in vain to find any powerful points that she has made against the government. What we are seeing, of course, is a classic case of Labor sour grapes. Labor’s election approach is now completely unravelling. We know that with the climate change issue the Labor Party have fallen over a very big hurdle with their targets, which cannot be sustained without doing massive damage to the Australian economy. We know that the centrepiece of the economic strategy—the productivity approach led by Mr Rudd—has fallen over because it
has become very clear that Mr Rudd himself knows nothing about the issues of productivity and the Australian economy.

Finally, with the announcement of the broadband rollout, we find that the Labor Party is now struggling to catch up with the government’s approach. By every measure, the Labor Party’s policy on broadband is grossly inferior to the policy outlined by the Prime Minister in his press conference yesterday. I was intrigued to listen to Senator Lundy and her attack on the WiMAX technology. It is a great pity that Senator Lundy’s speech is not being heard in the US. My understanding is that WiMAX is being rolled out to some 100 million homes in the US, but they did not have the advantage, unfortunately, of the advice from Senator Lundy, which I am sure would not have changed their opinion one iota.

What we are seeing is the classic approach by the Labor Party. They never want to discuss policies; they want to play the man. This is exactly what we are seeing across a wide range of areas with the Labor Party’s approach as we go to the next election. There are very significant policy issues that have to be debated in the Australian community. The government is very proud of its broadband policy. A great deal of work has been put into the development of this policy on broadband, which will be rolled out to 99 per cent of Australian homes. This is in contrast—and I am being generous to the Labor Party’s broadband policy—to a rollout to some 75 per cent of Australian homes. Of course, we have been able to do this without the massive raid on the public purse which the Labor Party has proposed.

What we are seeing as we are moving towards the winter break is that the Labor Party are finding that their policies on climate change are under acute attack—and correctly so—because of the damage they will do to the economy. We are finding the productivity approach of Mr Rudd unwinding simply because of the incredible ignorance of Mr Rudd on key features of his own policy and key features of how the Australian economy works. And we are seeing this precisely in relation to the matter of broadband.

As to the paucity of the Labor Party policy, those who do not believe me should listen to the astonishing interview that was given by Joel Fitzgibbon, the Labor Party shadow defence minister. He finally told the truth—I do not say that he did that deliberately—about the Labor Party’s broadband proposal. He revealed that it is ‘yet to be tested’. It has ‘no technical backing’ and cannot reach anywhere near the levels of the population in the proposal announced by the Prime Minister yesterday. The fact is that the Labor Party approach on broadband is grossly inferior to the approach that was revealed by the government.

Now that the Labor Party is trying to catch up what does Senator Lundy do? Senator Lundy gets herself into a great lather and attacks the government and personally attacks Senator Coonan, which I thought was most unfortunate and shows a complete unwillingness, in my opinion, to debate the substantive issues which are before us. But I can make this prediction: as we go towards the next election, the personal attacks on Senator Coonan will increase. We are seeing this day after day in question time. The personal attacks on Senator Coonan were unfortunately continued in the contribution made by Senator Lundy. The fact of the matter is the Australian public want a substantive policy debate. They want real issues to be debated, and the Labor Party— (Time expired)

Senator McLUCAS (Queensland) (3.13 pm)—I want to take this opportunity to make some analyses of the government’s so-called
broadband proposals for North Queensland and the implications for our economy and our ability to participate in the broader community. Access to broadband is increasingly being raised with my office as an issue of concern for North Queensland residents. Why? Because people are increasingly coming to understand that broadband is the new way to do business—it is the new way that we connect with society. For people in more remote places, it is increasingly becoming apparent that we currently have a second-rate service. Increasingly, my office is receiving complaints about the current second-rate service, the inability to connect to the internet and the poor speed of the service that we currently have.

North Queenslanders know that at present we receive a substandard service. The children at the Seventh-day Adventist school in the inner-city suburb of Westcourt in Cairns know that they still cannot connect their computers to the internet. For over three years we have worked hard but to no avail to try to get this school connected, but the service that is being provided is now substandard. Unfortunately they are joined in waiting for a service by the children from Caravonica State School, a school on the northern highway out of Cairns. We are not talking about remote or isolated schools in this circumstance; we are talking about schools in the main part of the city of Cairns which currently cannot receive an adequate internet service. The schools in more remote places have another set of problems again.

Unfortunately, the announcement by Senator Coonan yesterday confirms that our children in North Queensland will continue to have a substandard, second-rate service compared with that for their city cousins. We know that the technology being offered to rural and remote Australia will not equate to what people will be able to access in capital cities. In fact, Senator Coonan said so herself; she said it would be ‘comparable’. We know that the wireless proposal is a second-class, substandard service compared to that which could be accessed in a capital city in Australia. Even the proponents, Optus-Elders, have said that speeds will be ‘up to’ 12 megabits. Senator Lundy has quite rightly put to the chamber that the Optus-Elders proposal will probably run at a speed of around six megabits. Twelve megabits may be the best that can be achieved, but the reality is that we know it will be highly unlikely.

We also know that the service will be compromised by distance, traffic on the system, weather conditions and terrain. Welcome to North Queensland! In North Queensland we know that under the Howard government proposal we can expect to have significant outages during the long wet season we experience. In North Queensland we know that there will be significant outages for people living in more remote places, where the signal will have to travel longer distances. We also know that for those who live in the area west of Cairns, the Atherton Tablelands, the black spot problems they currently experience with their mobile phones because of the terrain will be once again exacerbated.

But we do not have to take my word for it. I was in touch today with a leader in the IT sector particularly interested in IT in health and ageing. He compared Labor’s previously announced policy and the announcement yesterday by the government. He described the government’s plan as a short-term quick fix. He said that it was clearly for political reasons, to get them past the election, and not a long-term solution. Interestingly, he described Labor’s plan as far more robust and sustainable. He described wireless service as high risk. As we know, one area of opportunity for rural and remote communities is e-health, where patients can be assisted by physicians located, usually, in ma-
Major cities. He painted a fairly scary picture. He said, ‘Imagine—(Time expired)

Senator BIRMINGHAM (South Australia) (3.18 pm)—It is no wonder that Labor is flailing about on this issue and trying to get lots of coverage, because it has been exposed. Its policy proposals have been blown out of the water by a better package delivered by the Howard government on broadband and the future communications infrastructure of this country. It is a package that is more comprehensive and that recognises that one size does not necessarily fit all, a package that delivers across the spectrum of the Australian community—unlike Labor’s policy, which is an attempt at a simple, one-size-fits-all that is going to blow billions of dollars of public money.

The government has recognised that we do need to address areas in which there may be market failure, and we recognise that they may exist in regional areas. That is why the government has committed some $600 million to providing the most effective mix of infrastructure to deliver broadband technology as fast as possible to regional Australia. It is a mix of fibre optic, ADSL2+ and wireless broadband. It is recognition that the government is willing to put in place the best and most appropriate technology to get broadband as fast and as cheaply as possible into the communities where it is needed. Where the markets can deliver, we are backing the development of a commercial fibre optic network—again, ensuring that it is done faster than under Labor’s plan but ensuring that we do not have to put public money into it, because there is no market failure.

Labor wants to spend billions of hard-earned Australian taxpayers’ dollars addressing a market failure that does not exist in metropolitan areas. Instead, we are putting our faith in the private sector, through a competitive tender process, to deliver that infrastructure. All up, that is going to ensure that we cover some 99 per cent of Australian households—a greater number than would be covered by Labor’s proposal, faster than Labor’s proposal and with a more effective mix of technologies. Just to ensure that the remaining one per cent do not miss out—and because the government has always been committed to ensuring that people in regional and rural Australia get the right mix of technologies—we will also have in place the Australian Broadband Guarantee, ensuring a subsidy of up to $2,750 per household to allow those who might miss out under the other two schemes to access broadband.

This is a much better proposal. It is a proposal in which my home state, South Australia, is a winner. I was delighted to read this morning that, as a result of the awarding of the tender to the Elders consortium, there will be 450 extra jobs coming to Adelaide. It is excellent news for South Australia and something we welcome warmly. Not only will we get better broadband infrastructure in South Australia as a result of this but we will get more jobs in a high-tech industry as well. It is great news for South Australia.

We hear allegations from the other side that states such as Tasmania may miss out. Perhaps the other side need to do their homework, because I understand that Tasmania will not miss out. There is already a high-speed optical fibre cable going to Tasmania, built at the cost of some $24 million by the Tasmania government and doing absolutely nothing at present. It is lying idle. The Labor Party, whose government in Tasmania built this $24 million cable, should be thanking the government for the fact that we are delivering the capacity for that piece of infrastructure to be utilised in the north of Tasmania. That will ensure that Burnie, Devonport, Ulverstone and Wynyard all get access to ADSL2+, contrary to what is being
alleged on the opposite side. Indeed, as the minister indicated, Hobart will also be included in the tender documents. So South Australia is a winner, Tasmania is a winner; all of Australia is a winner under this proposal, because we will be saved from Labor’s plan. We are going to get great infrastructure here, and all of Australia will win by being saved from a plan that would deliver less for the future in connection speeds and coverage across Australia, and would deliver less funds available for the future by raiding the $2 billion Communications Fund—not just raiding it but wiping that out—and by raiding $2.7 billion from the Future Fund. It is a case of delivering less for Australia from that side, more from this side. We have developed a plan for the future. Compare that with the policy backflip of Labor—Senator Birmingham talks about it being a plan for the government’s re-election. The government’s announcement proved, once again, just how arrogant and out of touch it has become. It proved yet again that this government has no real vision for the future and with no real vision for the next election and with no real vision for the future. If we needed any further evidence of this, we only need to go to the minister’s office itself. In a leaked email from the minister’s office, it laid out its priority. Is the national interest the priority? No. Is good governance the priority? No. Surprise, surprise, its priority is votes in marginal seats. So desperate is this government, so self-serving, so obsessed with its own interest, that the national interest goes out the window. Good government policy goes out of the window and we are left with a broadband plan that is very much left wanting.

The minister today seemed to backflip and belatedly add Hobart to the FTTN list. That is a commitment we will hold the minister to. But what about Launceston? The government’s announcement has left the state of Tasmania and rural and regional Australia out in the cold. The announcement would lock millions of Australians into a second-class service. The government has slapped together a quick fix, a short-sighted bandaid plan that will only deliver high-speed fibre networks to the inner areas of the capital cities, leaving families, students and small business operators in other areas to struggle with inferior wireless service.

Unlike Labor’s high-speed fibre to the node national broadband network plan, which will be rolled out to 98 per cent of Australians and deliver service that would be a minimum of 40 times faster than that which is currently provided, the government’s plan is to only deliver such services to the capital cities, leaving the rest of Australia with a second-rate wireless service. As the OECD recently found, there are serious questions over the reliability of wireless to deliver adequate services to rural and regional Australia. Current users of the wireless network in such areas already know all too well that it is unreliable, to say the least, suffering from slower speeds, slower upload
and download times and weather interferences. Why should people in rural and regional Australia be left out in the cold and be made to put up with a second-rate service? Why, if the government plans to provide, as it claims, a complete and comprehensive broadband solution for Australia, are families and business operators located outside the cities, who are due to receive the FTTH, being neglected? This is a disgrace. Under this plan, my home state of Tasmania has virtually been left off the map. The government plan means that Tasmania will be classified as a rural and regional area and we will not receive the fibre to the node network.

The government plans to treat Tasmania, along with other areas outside the cities, as broadband backwaters not worthy of receiving a first-class service. Simply, it is a disgrace. The government, with its head in the sand, is naive to think that all that is at stake for people living in these areas is slow access and a few hiccups due to bad weather. The Australian Local Government Association found in its State of the regions report last year that the cost of inferior broadband services—that is, wireless—in 2006 alone was $2.7 billion in forgone gross domestic product and 30,000 regional jobs. Why should areas where people live, such as areas in Tasmania, be forced to suffer such a fate? And where were the Tasmanian Liberal senators when the plans were being hatched to dump Tasmania and relegate Tasmanians as second-class citizens? I will tell you: nowhere to be seen, just as they were for the Blundstone workers and just as they were for the Telstra workers. They were nowhere to be seen. The government cannot see—(Time expired)

Question agreed to.

Firearms

Senator STOTT DESPOJA (South Australia) (3.29 pm)—I move:

That the Senate take note of the answer given by the Minister for Justice and Customs, Senator Johnston, to a question without notice asked by Senator Fifield today relating to hand guns.

Like other colleagues in this place I would like to recognise the tragic events in Victoria yesterday and put on record my condolences for Mr Brendan Keilar, who died in spite of what seems to have been a heroic effort. I also acknowledge that there are people who are still critically injured.

In his comments Senator Johnston said that some commentators had suggested that the government was culpable in relation to the events yesterday, and I have it on his assurance that he was not referring to me. Coincidentally—I am not sure whether it was prescient or whether it was just spooky—I did make a contribution to the debate yesterday morning with a newspaper article on the issue of gun law reform. I was not suggesting government culpability, but I was talking about the need for us to re-examine the effectiveness of gun laws in Australia today. I do not want people in this place, or commentators more generally, to feel that we cannot open the lid and debate the issue of the effectiveness of our national gun laws—by ‘national’, I mean Commonwealth legislation that may be relevant and, obviously, state and territory legislation, which is in many respects most relevant—because I think there are still some outstanding issues in relation to gun law reform.

I am certainly one of the first to acknowledge that the federal government does not have the necessary constitutional power to enact laws in relation to the possession of firearms, but there is a precedent for action that we are all aware of—the events of 1996 in the wake of the Port Arthur massacre and
the legislative and policy efforts of 1996 and 1997. It was a time of extraordinary collaboration and unity among all political parties, the states and the territories and other interest groups. Many Australians—and pretty much all of us in this place have gone on record acknowledging the efforts of the Prime Minister and others—supported the 1997 national firearms agreement and the guns buyback scheme.

The government’s contribution in establishing and implementing the amnesty and the compensation schemes was fundamentally important. The facilitation of the collection of some 640,000 firearms in an attempt to limit guns in circulation was significant and positive. The willingness of Australians to pay an additional tax in order to see that come about should be acknowledged. Certainly the states and territories have tightened laws—for example, by banning automatic and semiautomatic firearms and pump action guns, with minor exceptions; by establishing firearms registry systems; by providing a cooling off period for shooters; by developing new minimum criteria for granting, refusing and cancelling licences; and by enabling arrangements for the storage of firearms. But how effective have these measures been?

One issue that I put on record yesterday and wish to examine in this place in more detail at some point is the effectiveness of the collection of statistics. There is poor statistical reporting and a lack of long-term studies on guns, so we cannot determine how effective some of these schemes have been or what more we need to do. We know the research database is limited. We know that statistics on the numbers, availability and distribution of firearms in Australia prior to 2001, licensed and unlicensed, are patchy or simply do not exist. We know that the Institute of Criminology has been unable to publish numbers by state and territory in recent reports because the institute relies on state and territory firearms registries within each police department to publish data. Even the research that is available sends mixed signals that relate to whether there has been a reduction in murders and suicide as a consequence of fewer guns—in fact, a British Journal of Criminology study has suggested that firearms agreements do not have any effect on the number of deaths and death rates. New South Wales and Queensland reported this week that they have failed to dent the gun tally, with gun ownership continuing to climb. These issues mean that this is a subject worthy of debate. I think it is time for it to go back on the agenda of the Standing Committee of Attorneys-General and the Australian Police Ministers Council, which would enable a scoping audit to ensure each state is complying with the spirit of the 1997 agreement. I realise time is limited, and I hope we will have this debate. (Time expired)

Question agreed to.

PETITIONS

The Clerk—Petitions have been lodged for presentation as follows:

Aboriginal Land Rights (Northern Territory) Act

To the Honourable the President and Members of the Senate, in Parliament assembled:


• also being ‘Traditional Owners’ under the Aboriginal Land Rights (Northern Territory) Act,
also being citizens of Australia, residents of the Northern Territory
also being both persons, and representing clans and communities, with the fundamental right of self-determination under the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the draft UN Declaration on the Rights of Indigenous Peoples.

shows:
the strong opposition of our Yoingu people to the current Australian Governments proposals to change the ‘Permit System’ under the Aboriginal Land Rights (Northern Territory) Act and related legislation, which we believe will further, and significantly, diminish:
• our property rights
• our capacity to sustain our culture and social organisation
• our ability to safeguard and use the natural resources we depend on traditionally and which provide opportunity for future economic development,
• our ability to protect and use areas of cultural significance to us
• our ability to control unwanted and adverse influences and interference in the social and cultural life of our communities.

and that:
• we and our clans people have not been properly consulted about these proposals to change the permit system, just as we were also not properly consulted about the recent changes to the Aboriginal Land Rights (Northern Territory) Act.
• the processes of consultation is very inadequate. The timeframe is impossibly short, and the Indigenous people most affected by the proposals are unlikely to even hear of the review because of access difficulties associated with poor telecommunications, lack of print or other media, language difficulties and poor literacy, geographic isolation, and the absence of indigenous representative structures through which information can be effectively disseminated. These factors, and the requirement for written submissions only, will exclude the vast majority of the affected Indigenous people from having any voice.
• we are deeply concerned at what appears to be the sustained and concerted negative portrayal in some public forums, of both our Indigenous culture and of life in remote communities. These negative portrayals are based on misleading generalisations from selective and often extreme examples of individual or community dysfunction. We are concerned that these extreme examples are being use, as the rationale and justification for imposing change on all our people and communities.
• we are very concerned at the Government’s suggestion that our lives must be regularly scrutinised by the media. The media’s interest in our communities is usually only fleeting, sensational, and after the event. They are interested in ‘news’ - not our wellbeing or the social and economic development of our communities. It is an extremely sad situation for our system of government, our democracy and our rights, if Government only acts on what it already knows and commits resources, when embarrassed by the media.
• it is our view that the discussion paper released by FACSIA is biased in both its selection, representation and analysis of the relevant issues, and is therefore ‘prejudicial’ in terms of the options put forward.
• we are committed to remaining on our country and in our homelands communities, and state that these homelands are generally far happier, healthier, and safer places for our children, old people and families than either larger settlements or the urban fringe:
• OUR property rights and ability to maintain our culture should not be diminished because of incidents that may have occurred in other locations at other times under different cultural and community circumstances.
• all OUR land is ‘private land’, we know who owns each piece of land and who has rights over it and cultural responsibility for it. Under your law the land is held in ‘trust by the Lands Trust and administered by the Land Council on our behalf. This is little different
to the situation for ‘mainstream’ property held and managed by Trusts and Companies on behalf of beneficiaries and shareholders. Like them, we should have the right to refuse access to our land and property, and to seek compensation on just terms where these rights are infringed or imposed upon.

• we have, and need, a ‘permit system’ precisely because many in the ‘mainstream’ do not understand what is important to us, and have historically refused to recognise and respect our property rights. Reliance on ‘Trespass Law’ alone would impose an impossible legal, financial and practical burden on our people.

• the property rights of no other Australians are treated by Government in such a way. The general population is not given the opportunity to make ‘submissions on the rights of any other group that owns and manages property ‘communally’ to refuse access to both the ‘private’ and ‘communal’ areas of their property. Such other groups would include pastoral or agricultural companies, ‘residents of up-market ‘gated communities’, of ‘multiple-occupancy’ rural developments, and ‘strata’, ‘community or ‘company’ title developments. The process the Australian Government has adopted in relation to our property rights would therefore seem to be racially discriminatory, and to contravene the Racial Discrimination Act 1975.

• it should be left to Yolngu, as Traditional Owners, to initiate change to the permit system for our area of country, if we decide this is necessary. We can do this through influence on our Land Council, through lobbying Government, or petitioning the Parliament. At this time, however, we do not want the Permit System changed.

• our communities are not ‘dosed’. We are regularly visited by Territory and Commonwealth politicians, public servants, tradesmen and contractors, transport operators and other service providers, people who want to camp, fish or hunt on our country, and the non-Yolngu friends we have made over many years. Many politicians and their personal staff, Territory and Commonwealth public servants including the police, welfare & child protection, health, education, housing, essential services and other classes of persons approved by the Minister, have permits related to their work which allows them visit our communities with minimal restriction. The ‘permit system’ does not lock out people with a legitimate need to be on our land, it simply stops our country and communities from being overrun by people who find us a ‘curiosity’ or who want to exploit us, or our cultural and environmental resources, for their own gain.

Your Petioners request that the Senate should:

a) NOT support any legislative or administrative measures that would alter how the current Permit System operates under the Aboriginal Land Rights (Northern Territory) Act or complementary Territory or Commonwealth legislation, except to the extent that:

• the proposed changes have been initiated and determined by a defined group(s) of indigenous people themselves, and

• only in relation to land in which those defined groups have a direct and primary interest, and

• where there is the informed consent of a significant majority of people who have a ‘traditional’ interest in that land.

b) Ensure through whatever legislative, administrative or other means possible, that the Australian Government and Territory Government develop and conduct their indigenous affairs policies in accordance with the intentions of the draft UN Declaration on the Rights of Indigenous Peoples, in particular Articles 8, 10, 18,19, 20 and 26, which was adopted by the Human Rights Council on 29 June 2006 and is due for consideration by the UN General Assembly in December 2006.

by Senator Crossin (from 189 citizens)
To the Honourable Members of the House of Representatives and Senators of the Parliament of Australia

We, the undersigned, are alarmed at the recently released plans for the new immigration detention centre currently being built on Christmas Island. In particular we are deeply concerned that the plans:

(a) are for a maximum security prison facility— including electric fences, 24-hour surveillance, microwave detectors and individual surveillance of all detainees—intended to house people who have not been charged with any crime;

(b) provide for children to be imprisoned in this maximum security facility, in direct contravention of a commitment made by this Parliament in 2005 that children will only be detained as an absolute last resort; and

(c) are inconsistent with the findings of numerous Parliamentary Inquiries, the opinions of medical professionals, mental health experts, international human rights bodies, lawyers, scholars, refugees and members of the community about the negative impact of such detention facilities on the lives of everyone who is held in them.

Therefore, we call all Members of the House and Senators to:

(a) affirm the commitment of the Australian Government to:

(i) transparency and accountability in governance; and to

(ii) the rule of law; and the recognition of human rights and the inviolable right of every individual to be treated with dignity and respect;

(b) demand an immediate halt to the construction of the Christmas Island Immigration Detention Centre;

(c) demand accurate information from the Minister for Immigration and Citizenship and his Department, and from the Prime Minister, and the Department of Prime Minister and Cabinet, about why construction has begun on this Detention Centre, and who can or will be interred there;

(d) demand an immediate end to the mandatory, indefinite and judicially non-reviewable detention of refugees and asylum seekers;

(e) re-affirm the Parliament's commitment to ensuring that Australia's immigration system will not permit the detention of children.

by Senator Nettle (from 10,332 citizens)

Petitions received.

NOTICES

Withdrawal

Senator WATSON (Tasmania) (3.34 pm)—Pursuant to notice given on the last day of sitting, I now withdraw business of the Senate notices of motion Nos 2 and 3 standing in my name for seven sitting days after today.

Presentation

Senator Sterle to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to amend the Independent Contractors Act 2006, and for related purposes. Independent Contractors Amendment Bill 2007 (No. 2).

Senator Coonan to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to amend the Australian Postal Corporation Act 1989, and for related purposes. Australian Postal Corporation Amendment (Quarantine Inspection and Other Measures) Bill 2007.

Senator Mason 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 therapeutic goods, and for related purposes. Therapeutic Goods Amendment Bill 2007.
**Senator Allison** to move on the next day of sitting:

That the Senate:

(a) considers the use of Kirribilli House, the Prime Minister’s Lodge and Parliament House for political party fundraising to be at odds with the ethical conduct expected of senators, members, ministers and presiding officers; and

(b) calls on the Government to develop a model code of ethical conduct for ratification and implementation by the Federal Parliament as a matter of urgency.

**Senator Milne** to move on the next day of sitting:

That the Senate:

(a) notes that, at its annual summit held from 6 June to 8 June 2007, the Group of Eight (G8):

(i) agreed that the United Nations (UN) climate process is the appropriate forum for negotiating future global action on climate change,

(ii) called on all parties to actively and constructively participate in the UN Climate Change Conference to be held in Indonesia in December 2007 with a view to achieving a comprehensive post 2012-agreement (post Kyoto-agreement) that should include all major emitters, and

(iii) stressed that further action should be based on the UN Framework Convention on Climate Change principle of common but differentiated responsibilities and capabilities; and

(b) endorses the above agreements and resolutions of the G8 meeting.

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

That the Senate congratulates the 10,000 or more Tasmanians who turned out in Launceston on Saturday, 16 June 2007 to protest against the proposed Gunns Limited pulp mill, for their civic pride, concern for the environment and peaceful expression of opinion in the best of democratic traditions.

**Senator Crossin** to move on the next day of sitting:

That the Senate:

(a) expresses its deep regret at the passing of the late Mr George Burarrwanga, who died at his Elcho Island home of Galiwin’ku in the Northern Territory on 9 June 2007;

(b) pays tribute to Mr Burarrwanga’s life as a performer, best known as the magnetic lead singer of the Warumpi Band which was formed in the Central Australian community of Papunya and took its music across Australia and internationally, particularly with the well-known ballad ‘My Island Home’;

(c) recognises Mr Burarrwanga’s heritage as a proud saltwater Gumatj man who also developed strong links in Central Australian communities and mastered several Aboriginal languages;

(d) notes Mr Burarrwanga’s contribution to bringing a greater understanding of Aboriginal Australia through his life and performance which bridged many cultural divides; and

(e) conveys its condolences to Mr Burarrwanga’s family and the community during this period of grief.

**Senator Nettle** to move on the next day of sitting:

That the Senate:

(a) notes that:

(i) 21 June 2007 marks one month since Afghan Member of Parliament and democracy advocate Ms Malalai Joya was suspended from the Afghan Parliament as a result of criticising some of its members,

(ii) Ms Joya’s electoral term runs for another 3½ years and she received the second highest number of votes in the district that she represents,

(iii) a core criticism of the Taliban regime was that its treatment of women was deeply oppressive, and

(iv) Ms Joya has been a strident critic of the continued oppression of women in Af-
ghanistan and has said that life for women in Afghanistan today is no better than life under Taliban rule, and
(v) supporters of Ms Joya are organising, around the world in the week beginning 18 June 2007, to mobilise international support for her case and call for her reinstatement to the Afghan Parliament; and

(b) calls on the Government to:
(i) communicate to the Afghan Government its concern at the suspension of Ms Joya from the Parliament and request that she be reinstated to the Afghan Parliament, and
(ii) urge the Afghan Government to take steps to protect and promote the rights of women in Afghanistan.

Senator Nettle to move on the next day of sitting:
That:
(a) the Senate:
(i) condemns the recent decision of the New South Wales State Labor Government to allow the giant Anvil Hill coal mine to proceed, and
(ii) notes that the Minister for the Environment and Water Resources (Mr Turnbull) decided on 11 February 2007 not to assess the mine under the controlled action provisions of the Environment Protection and Biodiversity Conservation Act 1999; and
(b) there be laid on the table by the Minister representing the Minister for the Environment and Water Resources, no later than noon on 7 August 2007:
(i) all documents relating to the decision not to make the Anvil Hill coal mine a controlled action under the Act, and
(ii) any other documents held by the Department of the Environment and Water Resources in relation to the Anvil Hill coal mine.

Postponement
The following items of business were postponed:

Business of the Senate notice of motion no. 1 standing in the name of Senator O’Brien for today, proposing the reference of a matter to the Rural and Regional Affairs and Transport Committee, postponed till 20 June 2007.

General business notice of motion no. 791 standing in the name of Senator Milne for today, relating to Colombia and human rights, postponed till 20 June 2007.

General business notice of motion no. 820 standing in the name of Senator Nettle for today, relating to BBC journalist, Mr Alan Johnston, postponed till 20 June 2007.

DALAI LAMA

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.40 pm)—I move:

That the Senate congratulates the Dalai Lama for his dignity, compassion and forbearance during his popular visit to Australia.

Question agreed to.

COMMITTEES

Economics Committee

Extension of Time

Senator PARRY (Tasmania) (3.40 pm)—At the request of Senator Ronaldson, I move:

That the time for the presentation of the report of the Economics Committee on private equity markets be extended to 16 August 2007.

Question agreed to.

BUSINESS

Withdrawal

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

That general business order of the day no. 16 relating to the Public Interest Disclosure (Protection of Whistleblowers) Bill 2002 [2004] be discharged from the Notice Paper.

Question agreed to.
Tuesday, 19 June 2007

SENATE

49

HUMAN RIGHTS

Senator STEPHENS (New South Wales—Parliamentary Secretary to the Leader of the Opposition) (3.41 pm)—by leave—I move the motion as amended:

That the Senate:

(a) notes that:

(i) hundreds of thousands of children are driven into the multi-billion dollar commercial sex trade every year,

(ii) more than 100 countries are parties to the United Nations (UN) ‘Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography’, which opposes the sale of children, child prostitution and child pornography and requires those offering or delivering or accepting children for the purposes of sexual exploitation, organ harvesting or forced labour to be punished,

(iii) while Australia ratified the optional protocol on 8 January 2007, some countries in our region that receive aid from Australia have signed the optional protocol but are yet to ratify it, while others are yet to sign the document, and

(iv) poverty is a key driver in fuelling child and adult trafficking; and

(b) calls on the Federal Government to:

(i) encourage countries in the region to become party to the UN ‘Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children’ and implement its requirements in practice,

(ii) maintain support for poverty alleviation programs directly targeted to assist poor communities particularly affected by people trafficking, and

(iii) maintain its responses to the needs of victims of trafficking into Australia by improving support services, reviewing access to visas and by assisting the repatriation of those who wish to return to their country of origin.

CLIMATE CHANGE

Senator SIEWERT (Western Australia) (3.41 pm)—by leave—I, and also on behalf of Senator Nettle, move the motion as amended:

That the Senate:

(a) notes:

(i) the impact of reduced rainfall on inflows into river systems in northern New South Wales due to the combined effects of climate change and drought,

(ii) that serious water management issues already exist in these systems, including problems with over-allocation of water resources, and

(iii) the economic value of the range of industries that depend on these systems, from dairy farms on the floodplains through to commercial fisheries; and

(b) calls on the Federal Government to:

(i) abandon plans for damming the Clarence, Tweed, Richmond and Mann Rivers, and

(ii) work with local communities, local water authorities and state governments in developing alternative sources to meet increasing demand, such as rainwater tanks, stormwater capture and storage, and recycling.

Question agreed to.

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(i) abandon plans for damming the Clarence, Tweed, Richmond and Mann Rivers, and

(ii) work with local communities, local water authorities and state governments in developing alternative sources to meet increasing demand, such as rainwater tanks, stormwater capture and storage, and recycling.

Question put.

The Senate divided. [3.46 pm]

(The President—Senator the Hon. Paul Calvert)

Ayes……….. 31
Nees……….. 35
Majority…….. 4

AYES

Allison, L.F. Bartlett, A.J.J.
Bishop, T.M. Brown, B.J.
Brown, C.L. Campbell, G. *
Carr, K.J. Crossin, P.M.
Forshaw, M.G. Hogg, J.J.
Senator CONROY did not vote, to compensate for the vacancy caused by the resignation of Senator Ian Campbell.

Question negatived.

DEFENCE

Senator FAULKNER (New South Wales) (3.49 pm)—I move:

That there be laid on the table by the Minister representing the Minister for Defence all documents including briefs to ministers concerning complaints and allegations made in 1997 and 1998 about substandard maintenance on Navy ships and the likely risks of harm, particularly with respect to the safety of HMAS Westralia, as well as responses and results of any investigations into those complaints and allegations subsequently conducted.

Question put.

The Senate divided. [3.51 pm]

(The President—Senator the Hon. Paul Calvert)

Ayes…………… 32
Noes…………… 34
Majority……… 2

AYES

Allison, L.F. Bartlett, A.J.J.
Bishop, T.M. Brown, B.J.
Brown, C.L. Campbell, G. *
Crossin, P.M. Faulkner, J.P.
Fielding, S. Forshaw, M.G.
Hogg, J.J. Hurley, A.
Hutchins, S.P. Kirk, L.
Ludwig, J.W. Lundy, K.A.
Marshall, G. McEwen, A.
McLucas, J.E. Milne, C.
Moore, C. Murray, A.J.M.
Nettle, K. Nettle, K.
Polley, H. Ray, R.F.
Sherry, N.J. Siewert, R.
Siewert, R. Stephens, U.
Stephens, U. Sterle, G.
Stott Despoja, N. Webber, R.
Webber, R. Wortley, D.

NOES

Abetz, E. Adams, J.
Barnett, G. Bernardi, C.
Birmingham, S. Boswell, R.L.D.
Boyce, S. Calvert, P.H.
Chapman, H.G.P. Colbeck, R.
Coonan, H.L. Eggleston, A.
Fielding, S. Fierravanti-Wells, C.
Heffernan, W. Fisher, M.J.
Johnston, D. Hough, J.
Kemp, C.R. Humphries, G.
Macdonald, J.A.L. Joyce, B.
McGauran, J.J.J. Lightfoot, P.R.
Parry, S. * Nash, F.
Ronaldson, M. Payne, M.A.
Troeth, J.M. Scullion, N.G.
Watson, J.O.W. Trood, R.B.

PAIRS

Evans, C.V. Patterson, K.C.
Faulkner, J.P. Brandis, G.H.
O’Brien, K.W.K. Minchin, N.H.
Wong, P. Macdonald, I.

* denotes teller

Senator Conroy did not vote, to compensate for the vacancy caused by the resignation of Senator Ian Campbell.

Question negatived.
Senator Carr did not vote, to compensate for the vacancy caused by the resignation of Senator Ian Campbell.

Question negatived.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (3.53 pm)—Mr President, I seek leave to make a very brief statement—in fact it is one sentence—in relation to the previous vote.

Leave granted.

Senator ABETZ—Given that all matters surrounding HMAS Westralia are currently being investigated by the Ombudsman, it would be inappropriate to comply with this request.

AUDITOR-GENERAL’S REPORTS

Report No. 45 of 2006-07


CORPORATIONS LEGISLATION AMENDMENT (SIMPLER REGULATORY SYSTEM) BILL 2007

CORPORATIONS (FEES) AMENDMENT BILL 2007

CORPORATIONS (REVIEW FEES) AMENDMENT BILL 2007

Report of Corporations and Financial Services Committee

Senator CHAPMAN (South Australia) (3.55 pm)—I present the report of the Parliamentary Joint Committee on Corporations and Financial Services on the Corporations Legislation Amendment (Simpler Regulatory System) Bill 2007 and two related bills, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator CHAPMAN—by leave—I move:

That the Senate take note of the report.

I am pleased to speak in support of this unanimous report of the Parliamentary Joint Committee on Corporations and Financial Services.

The report relates to the package of simpler regulatory system bills forming the current tranche of the government’s corporations reform agenda.

The committee is unanimous in supporting the major policy objectives of the bills, which include introducing greater access to affordable financial advice for consumers, removing unnecessary regulatory burdens and modernising compliance and reporting frameworks for companies.

Many of the measures contained in the bills were the subject of a consultation process which extends back to October 2005, when the task force chaired by Mr Gary Banks was appointed to examine the regulatory burden on business.

A consultation paper, informed by the findings of the Banks review, was released in April 2006, and received over 80 submissions from industry stakeholders.

These processes, in turn, informed the proposals paper which was released in November last year, and on which many of the measures contained in these bills are based.

That is why I am somewhat bewildered and bemused by the minority report by oppo-
sition members of this committee to the report being tabled today.

On the one hand the opposition members agree with the recommendations of the committee, especially the first that clearly recommends that government and industry stakeholders consult further and devise ways to reduce the length and complexity of statements of advice and product disclosure statements; and on the other hand they complain about it.

Had Labor had any convictions of sound and strong policy making, the opposition members of the committee would have come up with strategies to address their concerns.

Agreeing to a recommendation because you have not got alternative policies and then whingeing about it reflects a basic lack of policies and strategies.

This legislation is neither rushed nor ad hoc as Labor claims in its minority report. The simpler regulatory system bill reflects the government’s response to a number of recommendations of the Rethinking regulation report of the Banks regulation task force of January 2006. The bill offers initiatives for financial reporting, financial reporting thresholds for proprietary companies—which will improve business efficiency and reduce compliance costs—yet Labor calls it rushed and ad hoc.

Perhaps I ought not to be bewildered—as clearly the minority report reflects the depths of Labor’s inexperience and the risk they would pose to our prosperity, in government.

Perhaps the most notable indicator of the seriousness with which the government has consulted stakeholders is the decision to defer proposal 1.1 of the proposals paper and the creation of a new category of financial services advice to deal with product sales recommendations. No agreed view was reached between Treasury and key stakeholders in developing the proposal, and it was not included in the bills before the Senate.

In deciding to hold a short inquiry into the bills the committee was mindful of the long and comprehensive consultation process already undertaken—in contrast to what is alleged in Labor’s minority report. The committee focused its attention on identifying any outstanding issues for financial services practitioners, regulators and industry stakeholders.

While the committee sought comment on all the features of the bills, the majority of feedback addressed those provisions that seek to simplify the way financial advisers give advice to consumers.

The underlying sentiment of both the submissions and the testimony given by witnesses at the committee’s hearing last Wednesday was positive. The bills offer significant improvements for the financial adviser through simplified and reduced disclosure compliance. They also offer easier and cheaper access to financial advice for consumers with both a little and a lot to invest. They make it easier for financial advisers to do their job, and they make it easier for those with savings to deploy them to their advantage.

The bills were popular and the reforms worthwhile. That fact was clear because much of the commentary in the submissions took the form of suggestions for enhancement rather than outright criticism.

One feature which did elicit some concern on the part of some stakeholders was the inclusion of advice relating to superannuation in the simplified advice framework. The legislation aims to help people with the process of consolidating their super accounts, but concerns were raised that simplified disclosures might result in poorer quality advice being given, particularly in relation to exit
fees and the loss of valuable insurance cover through the consolidation process.

The committee recognises the legitimacy of these concerns but can find no compelling evidence that simplified disclosure would result in inferior advice. Rather, the committee sees the increased availability of advice, particularly to people for whom professional advice would otherwise not be viable, as a feature of the legislation which makes it more attractive rather than less.

Other notable features of the legislation include a new method for advisers to identify investors who have enough experience and expertise to safely escape some of the disclosure requirements which would otherwise apply. This measure will supplement existing methods of determining sophisticated investors but will allow experienced investors dealing in smaller amounts to have their expertise recognised.

The legislation also removes onerous and unnecessary requirements relating to companies involved in takeover bids.

The arrangements will now be more in keeping with the contemporary corporate environment.

The bills also modernise arrangements for companies seeking to distribute their annual reports, which for the first time will be able to be sent electronically, depending on company and investor preference.

In some cases involving a share issue on a small scale, the need to generate a prospectus will be disposed of.

Similar improvements are made to the issuing of company charges, which will be able to be lodged electronically, and to the requirement to lodge company particulars.

Taken together, these measures represent a significant saving to a significant proportion of Australian businesses.

During the inquiry, the committee was mindful of the dual regulatory objectives in relation to financial services.

On the one hand, the government is keen to protect consumers from unscrupulous practices and to ensure that they hold all the information they need to make informed choices about their financial affairs.

On the other hand, regulators seek not to overstep the mark, making financial advice too expensive and difficult to obtain and understand. These objectives must be balanced in striving for an effective and efficient financial services regime, and the committee believes that these bills strike that balance.

The committee recommends that the government continue to work with stakeholder groups to find ways to make product disclosure statements and other disclosure documents shorter and less complex.

The improved readability of disclosure documents lies at the heart of achieving some of the key objectives of this legislation.

I thank our committee secretary, David Sullivan, researcher Tim Watling and the other committee staff for their invaluable assistance in our consideration of these bills.

The committee notes the strong support for the bills from major financial services, accounting and, with a few exceptions, superannuation stakeholders. This overwhelming support reinforces in the minds of the committee members the importance of passing this legislation as soon as possible. Accordingly, the committee urges the Senate to pass this package of bills unamended.

Question agreed to.
present reports from all standing committees on the 2007-08 budget estimates, together with the Hansard record of the committees’ proceedings and documents received by committees.

Ordered that the reports be printed.

SOCIAL SECURITY AMENDMENT (APPRENTICESHIP WAGE TOP-UP FOR AUSTRALIAN APPRENTICES) BILL 2007

First Reading

Bill received from the House of Representatives.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (4.05 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 ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (4.05 pm)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

The Social Security Amendment (Apprenticeship Wage Top-Up for Australian Apprentices) Bill 2007 will increase the take home pay of Australian Apprentices in the initial years of their training.

This Government’s sound financial management has produced a strong economy, an economy that is about one and a half times larger than it was in 1996. A strong and growing economy requires skilled employees.

The Australian Government is a strong supporter of Vocational Education and Training (VET). This Bill supports the Government’s intention to address skills shortages in the Australian economy.

It is aimed at encouraging people to participate in Australian Apprenticeships, providing them with the skills needed to enter or re-enter the workforce, re-train for a new job or upgrade for an existing job. Australian Apprenticeships provide people with a nationally recognised qualification and a strong prospect of a personally and financially rewarding career. This measure will increase the supply of skilled people to meet the needs of business and support a more competitive and innovative economy.

The Apprenticeship Wage Top-Up for Australian Apprentices acknowledges that the first and second years of an apprenticeship can be particularly difficult, when wages are at their lowest. It also acknowledges how important these people are to our continued economic competitiveness, performance and growth.

This measure will provide $1,000 per year, over two years, to Australian Apprentices, under thirty, undertaking an Australian Apprenticeship in a trade occupation identified as experiencing national skills shortages.

Payable in six monthly instalments the Apprenticeship Wage Top-Up payment will ease the financial burden faced by Australian Apprentices in the first two years of their training. In total Australian Apprentices will receive $2,000 under the initiative over the two year period. Part time and Australian School-based Apprentices will also benefit on a pro-rata basis.

The Apprenticeship Wage Top-Up payment will provide additional support to more than 228,000 Australian Apprentices over 4 years.

This amending bill contains provisions for exemptions from the Social Security Act 1991, the Income Tax Assessment Act 1997 and Veterans’ Entitlements Act 1986. This will mean that Australian Apprentices will receive the full payment and not be required to declare it as part of their income and will also ensure receipt of this payment will not affect any pensions or allowances they may be eligible to receive.

Assistance provided under this initiative will encourage many young people to consider technical and trade training, to ensure that Australia has the skilled workforce to meet our future needs. It will also allow many Australian Apprentices to remain
in training and reach their goals to become fully qualified tradespersons. The Apprenticeship Wage Top-Up payment will not affect the eligibility for other initiatives or incentives available to Australian Apprentices.

This measure, combined with the suite of other initiatives already put in place by this Government, represents a significant investment in the future growth of Australian industries.

I commend this Bill to the Senate.

Debate (on motion by Senator Abetz) adjourned.

APPROPRIATION (PARLIAMENTARY DEPARTMENTS) BILL (No. 1) 2007-2008
APPROPRIATION BILL (No. 1) 2007-2008
APPROPRIATION BILL (No. 2) 2007-2008
APPROPRIATION BILL (No. 5) 2006-2007
APPROPRIATION BILL (No. 6) 2006-2007

First Reading

Bills received from the House of Representatives.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (4.06 pm)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

APPROPRIATION (PARLIAMENTARY DEPARTMENTS) BILL (No. 1) 2007-2008

The purpose of the Appropriation (Parliamentary Departments) Bill (No. 1) 2007-2008 is to provide funding for the operations of the three Parliamentary Departments.

The total appropriation sought through this Bill is $170.7 million. Details of the proposed expenditure are set out in the Schedule to the Bill.

The redundant “Departmental items adjustment” provision has also been removed from the Bill. This provision has never been exercised.

I commend the Bill to the Senate.

APPROPRIATION BILL (No. 1) 2007-2008

It is with great pleasure that I introduce Appropriation Bill (No. 1) 2007-2008, which, together with Appropriation Bill (No. 2) 2007-2008, is one of the principal pieces of legislation underpinning the third Budget of the fourth term of the Coalition Government.

Appropriation Bill (No. 1) 2007-2008 seeks authority for meeting the expenses of the ordinary annual services of Government.

This Bill seeks approval for appropriations from the Consolidated Revenue Fund totalling approximately $59 billion.

Details of the proposed appropriations are set out in Schedule 1 to the Bill, the main features of which were outlined in the Treasurer’s Budget speech on 8 May 2007.

We have taken the opportunity to remove a redundant provision from Appropriation Bills Nos. 1 and 2 and the Parliamentary Departments Appropriation Bill No. 1. The Departmental Items Adjustments and other similar provisions will no longer be required in the annual appropriation Bills. These sections were originally included to smooth the transition to the accrual arrangements implemented in 1999-2000. They have not been
exercised for some five years and are no longer required.
I commend the Bill to the Senate.

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APPROPRIATION BILL (No. 2) 2007-2008
It is with great pleasure that I introduce Appropriation Bill (NO. 2) 2007-2008, which, together with Appropriation Bill (No. 1) 2007-2008, is one of the principal pieces of legislation underpinning the third Budget of the fourth term of the Coalition Government.
Appropriation Bill (No. 2) 2007-2008 proposes appropriations for agencies to meet:
• expenses in relation to grants to the States under section 96 of the Constitution and for payments to the Northern Territory, the Australian Capital Territory and local government authorities;
• administered expenses for new outcomes;
• requirements for departmental equity injections, loans and previous years’ outputs; and
• requirements to create or acquire administered assets and to discharge administered liabilities.
Appropriation Bill (No. 2) 2007-2008 seeks approval for appropriations from the Consolidated Revenue Fund totalling $10,133.4 million.
The Bill includes a minor technical change to section 14 to streamline ministerial determinations that are made on payments to the states, territories and local government authorities. The change will enable payments to be made without the mandatory ministerial determination on the amount and timing. The provision otherwise is unaltered and determinations may be issued if required.
The redundant “Departmental items adjustment” provision has also been removed from the Bill. The provision has not been exercised for some five years and is no longer required.
Details of the proposed appropriations are set out in Schedule 2 to the Bill, the main features of which were outlined in the Treasurer’s Budget speech on 8 May 2007.
I commend the Bill to the Senate.

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APPROPRIATION BILL (No. 5) 2006-2007
It is with great pleasure that I introduce Appropriation Bill (NO. 5) 2006-2007.
There are two Supplementary Additional Estimates Bills: Appropriation Bill (No. 5) 2006-2007, and Appropriation Bill (No. 6) 2006-2007. I shall introduce the latter Bill shortly.
These Bills seek authority for supplementary appropriation from the Consolidated Revenue Fund in the current financial year, to pay for important initiatives agreed by the Government since the Additional Estimates 2006-2007.
The total appropriation being sought through the Supplementary Additional Estimates Bills is approximately $814.0 million, with $554.8 million being sought in Bill 5.
I now outline the major items provided for in the Bill:
• An increase of $66.3 million will be made available to the Department of Education, Science and Training to provide:
  • $50 million to the Indigenous Education Strategic Initiatives Programme for infrastructure investment to existing non-government schools, particularly those in remote and regional areas that accommodate significant numbers of Indigenous students; and
  • $50 million to the Synchrotron facility to support its ongoing operations, subject to the Victorian State Government matching this funding.
• These funding increases are partially offset by savings in 2006-07 of $33.7 million in other programmes.
• An additional $435.8 million will be provided to the Department of Health and Ageing to fund a variety of development and expansion projects by medical research facilities. This measure will enhance the capacity and quality of Australia’s health and medical research efforts and assist Australian researchers to continue high quality world-class research. The major items of funding include:
  • $100 million for the Princess Alexandra Hospital and University of Queensland;
• $100 million for the Western Australian Institutes for Health;
• $55 million for the Queensland Institute of Medical Research;
• $50 million for the Murdoch Children’s Research Institute in Victoria; and
• $30 million for the Prince of Wales Medical Research Institute in New South Wales.

The balance of the amount in Appropriation Bill (No. 5) relate to estimates variations and other minor measures.

I commend the Bill to the Senate.

APPROPRIATION BILL (No. 6) 2006-2007

Appropriation Bill (No. 6) 2006-2007 requests additional funding for agencies to meet:

• expenses in relation to grants to the States under section 96 of the Constitution and for payments to the Northern Territory, the Australian Capital Territory and local government authorities; and
• non-operating requirements in the form of departmental equity injections.

Total additional appropriation of around $259.2 million is proposed in Appropriation Bill (No. 6) 2006-2007.

The supplementary appropriation is required to fund an important initiative during the current financial year that has been agreed by the Government since the Additional Estimates 2006-2007. The initiative involves an additional $250 million to the Department of Transport and Regional Services for the AusLink Strategic Regional Programme. This funding increase is partially offset by savings in other programmes.

The balance of the amount in Appropriation Bill (No. 6) relate to estimates variations, and other minor measures.

Appropriation Bill (No. 6) includes the same minor technical change to section 14 that has been made to Appropriation Bill (No. 2).

I commend the Bill to the Senate.

Debate (on motion by Senator Abetz) adjourned.
The debate has shown there to be a num-
ber of misconceptions about the intent and
effect of this bill. This bill sets out to
strengthen the agreement making safety net
for around 7.5 million of our fellow Austra-
lians. To ensure there is some clarity in this
debate, let me take this opportunity to ad-
dress the grossest misrepresentations that
have been made. Accusations have been
made—not surprisingly by Senator Marshall,
our brother from the ETU—that the new
fairness test is compromised by subjectivity.
In addition, Senator Wong, the CFMEU
delegate, argued—albeit wrongly—that the
capacity to take into account the personal
circumstances of employees will erode job
security for those with caring responsibili-
ties.

Firstly, the government rejects the insinua-
tion that there is no objective basis for mak-
ing decisions about fair compensation.
Rather, the bill is clear. The first considera-
tion will be the value of the monetary and
non-monetary compensation provided under
the agreement. Moreover, the bill is very
clear about assessing non-monetary compen-
sation. It must have a monetary value
equivalent as well as significant value to the
employee. As the standing committee heard
in evidence, the capacity that the Workplace
Authority has to consider the particular cir-
cumstances and preferences of employees is,
in fact, a major strength and not a weakness
of this bill. In other words, the preferences
of the affected employees themselves are abso-
lutely relevant to this exercise. If workers
prefer particular arrangements and value
these more highly than certain award enti-
tlements, they should not be prevented from
striking bargains that reflect their individual
preferences. Importantly, such arrangements
must meet the fairness test. This is a very
important protection. For example, compen-
sation in the form of a car space for a worker
who does not have a car would not be
deemed fair, despite unfortunate claims made
in this place last night by Senator Brown—
and she is the more sensible of the two sena-
tors who carry the name Senator Brown.

To claim such an arrangement would sat-
sify the fairness test disingenuously ignores
the very clear wording of the legislation,
which requires that non-monetary compensa-
tion have a significant value to the employee.
Moreover, it is simply wrong to argue that
the capacity to consider an employee’s indi-
vidual circumstances will remove job secu-
ritv for carers. This bill recognises that
workers with family responsibilities may
want to negotiate flexible arrangements that
allow them to combine employment with
caring responsibilities—and the absence of
such flexibility, if not otherwise available,
would compromise their ability to remain in
the workplace. This framework is not about
one-size-fits-all arrangements, which are
continually advocated by the union represen-
tatives opposite. One-size-fits-all arrange-
ments threaten the job security of those who
require their individual needs to be taken into
account and reflected in their employment
conditions.

It was also claimed that an employee’s
personal circumstances will be subject to
undue scrutiny by the Workplace Authority.
An employee’s personal circumstances may
be taken into account by the Workplace Au-
thority in deciding whether fair compensa-
tion is being provided—and for no other rea-
son. The test is deliberately drafted so that it
is the value of the entitlements to the em-
ployee that counts. The Workplace Authority
has no power to demand information. It is up
to the employee, as they wish, to provide
such information to satisfy the authority.
This bill leaves it to employers and employ-
ees to reach agreement on working arrange-
ments but subject to a fairness assessment by
an independent authority. If an agreement
fails the fairness test, it ceases to operate and
the employer must make up any shortfall.

I can confirm that the government will
move amendments to clarify that the em-
ployee is entitled to recover both the entitle-
ments under the instrument that would have
otherwise applied and any entitlements aris-
ing under any other applicable law, agree-
ment or arrangement, including the Aus-
tralian Fair Pay and Conditions Standard and
the contract of employment. While these
amounts would have been recoverable in any
case, the amendments will put this issue be-
beyond doubt.

There have been suggestions that the pro-
vision in the legislation for the Workplace
Authority to consider matters such as the
industry or economic situation of an em-
ployer will lead to a wave of substandard
agreements. This is also wrong. The Work-
place Authority will only consider matters
such as the industry or economic situation of
an employer where there are exceptional cir-
cumstances and where it is not contrary to
the public interest to do so. This is not only
similar to the old no disadvantage test but is
actually a higher threshold to satisfy.

It has been suggested that the fairness test
does not go far enough and that the salary
cap for A W As should be removed and the
test should be applied to all agreements, in-
cluding agreements made before the Prime
Minister’s announcement in early May.

Senator Sterle—Yep!

Senator ABETZ—I understand that
amendments will be moved to this effect. I
note Senator Sterle’s interjection of ‘Yep’ in
support of that assertion; I think he might be
a bit embarrassed later on. I can advise that
these amendments will be opposed by the
government. The government has already
indicated that it does not consider it appro-
priate to apply the fairness test to agreements
that were made in good faith under the law in
force at the time not to interfere with accrued
rights under such agreements. This would
cause parties a great deal of confusion. In
some cases the agreements would no longer
be operative; employees may have changed
jobs; the employer may not even exist any-
more. While Senator Wong argued that hun-
dreds of thousands of employees who made
agreements before 7 May 2007 would get
nothing from this bill, during the House of
Representatives debate on this bill the Dep-
uty Leader of the Opposition actually agreed
with the government—Senator Sterle might
like to listen to this—and stated that Labor:
... do not believe it is appropriate to try and retro-
spectively apply this test ...

No interjections, I am pleased to say; so
hopefully that has registered. The govern-
ment recognises that thousands of workers
and their bosses are able to agree amongst
themselves about the terms and conditions of
employment that suit them best. The Labor
Party cannot accept that workers and their
bosses can make agreements without union
involvement. The fairness test will apply to
workplace agreements made before 7 May
2007 if they are varied after this date and the
variation modifies or excludes one or more
protected award condition.

In relation to the salary cap, the govern-
ment considers that the $75,000 cap strikes
an appropriate balance between ensuring
fairness on the one hand and sensible ad-
ministration on the other. I can inform the
Senate that the $75,000 cap was chosen for a
number of reasons. Firstly, nearly 90 per cent
of adult non-managerial employees earn less
than $75,000. The fairness test will therefore
cover most Australian workers. Secondly,$75,000 is approximately 1½ times average
annual ordinary earnings of $55,057. Finally,
those earning $75,000 or more are generally
not reliant on awards.
Additionally, while on the issue of coverage of the fairness test, I note that the government intends to move an amendment to the bill that would confirm that a workplace agreement covering an employee who is employed in an industry or occupation that was, immediately before commencement of the workplace relations reforms on 27 March 2006, usually regulated by a state award is subject to the fairness test. This addresses a concern raised in submissions to the Senate committee inquiring into the bill that such employees would be inadvertently excluded. This was never the intention, and the proposed amendment will put this beyond doubt.

Much of the debate has focused on the fact that the fairness test assesses agreements against protected award conditions rather than the award as a whole. Others have suggested that other award conditions such as redundancy pay and notice of roster changes should be singled out under the test and that the bill should prevent employees from trading one award entitlement for another. Firstly, these arguments are narrowly focused and neglect the overall intended effect of the bill, which is that Australian workers be able to access fair arrangements in a way that does not destroy the flexibility required for continued economic prosperity and further jobs growth. This bill finds the correct balance by protecting those award conditions that have the greatest impact on take-home pay, such as allowances and penalty rates, while retaining necessary flexibility for employers and employees to reach agreements that meet their needs. As I have already outlined, the bill clearly states that whatever the trade-off is it must be fair and, in determining what is fair, the primary consideration be the monetary value of that compensation.

Both Senators Wong and Marshall also claimed that decisions of the Workplace Authority will be secretive and non-reviewable. The Workplace Authority is not a tribunal. It will not have legalistic judicial processes with endless hearings and appeals; rather, it will have a simple administrative arrangement. Prior to the 2006 changes, the former Office of the Employment Advocate had a policy that allowed for internal review of decisions where errors of law or fact were drawn to its attention. I am advised that the authority intends to put in place a similar policy in the context of the fairness test. Additionally, both parties to agreements will have access to plenty of information about how their agreements stack up against the fairness test. For example, the Workplace Authority will publish guidance material on the operation of the test. Advice and pre-lodgement assessments will also be available. This will enable parties to have their agreements checked in advance and will help them to develop fair agreements and to have more certainty once they have lodged. Once lodged, both parties will be notified at various stages of the process. This is explicitly set out in the bill.

There have been other claims that employees and employers will not get a chance to provide, verify or refute information provided to the Workplace Authority. In fact, in assessing an agreement, the Workplace Authority may contact both parties to discuss aspects of that agreement or obtain further information. If an agreement does not pass the fairness test, parties are notified and given advice about how to make it fair.

Parties will know exactly what the problem will be, without the time and expense of presenting their case to a tribunal. Moreover, the government rejects the assertion that employees and employers will be left in the wilderness because the Workplace Authority will conduct the fairness test in its own time and without any limits. It will administer the fairness test efficiently and will make decisions as soon as reasonably practicable—
anticipated to be within seven to 10 days. Also, pre-lodgement assessments are available so that parties can have agreements checked in advance. This gives them more certainty once they have lodged, and approval will be fast-tracked.

The ACTU criticism, as parroted continually by Labor senators opposite, loses sight of the fact that the fairness test is a beneficial scheme that operates after parties have reached an agreement between themselves and is capable of providing additional employee benefits over and above those contained in the agreement itself. The fairness test is not a return to the one-size-fits-all arrangements. While it is mostly expected that a higher rate of pay would be provided, if an employee wants family-friendly working hours instead then they can do that. Trading award entitlements occurred under the old no disadvantage test. Employers did it, employees did it and unions did it. The sky did not fall in then, it has not fallen in since, and it will not fall in in the future. This government is about ensuring that choice and flexibility remain the fundamental building blocks of workplace agreement making.

In the past, we have had outrageous assertions made by those opposite as to what would happen with this government’s reforms. Indeed, I remember the quite bizarre comments made by the now Leader of the Opposition on 30 June—I think it was—1999 in relation to the new tax system: that that would go down in Australian history as the worst day, the greatest injustice, in Australian history this century. Well, hello! Does anybody believe that anymore? Absolutely not.

They made the same claims about waterfront reform. They made those claims about our first tranche of industrial reform. They made those claims about our social welfare reform. Every single reform has been opposed by those opposite, and we have continued to put in reforms, including those of March 2006, when people such as Senator Marshall used to come into this place before they were implemented trying to humour me with the suggestion that if the unfair dismissal law provision were removed we might get a growth of 75,000 in the number of those in employment. Very interesting, isn’t it? In the few months that have passed since March 2006, those gibes across the chamber have evaporated, because today we celebrate over 350,000 new jobs since that change was made to the legislation—another gross and stark example of the ACTU and the Labor Party misrepresenting our reforms. What I say to our fellow Australians is simply this: look at the evidence, not at what the ACTU says. With that I commend the bill to the Senate.

The ACTING DEPUTY PRESIDENT (Senator Watson)—The question is that the amendment moved by Senator Wong be agreed to.

Question negatived.

Original question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (4.28 pm)—Mr Temporary Chairman, I table a supplementary explanatory memorandum relating to the government amendments to be moved to this bill. The memorandum was circulated in the chamber on 18 June 2007.

Senator MURRAY (Western Australia) (4.28 pm)—Mr Temporary Chairman, it is all very well for the explanatory memorandum to be tabled, but there are four participants in the debate, as far as I can see—although there may be more; maybe six—on this side
and not one of us has got a copy of that explanatory memorandum.

Senator WONG (South Australia) (4.29 pm)—Mr Temporary Chairman, I can confirm that. I have just tried to look through the documents circulated in the chamber that are certainly on the desks in front of me and I cannot find anything. Here we have a government that put in 336—I think it was—amendments but it was some 30 minutes, I think, before the original Work Choices bill was debated. This is a government that has had to bowl up further tranches of amendments in relation to its Work Choices legislation because it could not get the drafting right. We now have yet again the government coming up with amendments between the House and the Senate, because they cannot get themselves organised to actually make sure that the bill is an appropriate form before it comes into this chamber, and then tabling a supplementary memorandum at this point in the debate. It may well have been circulated in the chamber, but certainly the opposition does not have it and the spokesperson for the Australian Democrats does not have it, although I understand Senator Siewert, the spokesperson for the Australian Greens, now has it.

This is yet another example of the way in which this government rushes this industrial relations legislation through. It is poorly drafted, with all due respect to the officials who are here. They are under time constraints that the government imposes because of its political objectives. It is simply further confirmation that this bill is all about politics: it is about pollsters first, advertising second and then the text of the legislation at the end of it. Here we have, again, the government belatedly introducing more amendments, and supplementary EMs in relation to those further amendments.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (4.30 pm)—This is a very cheap attack on the government by the opposition. It clearly is an inconvenience to honourable senators if they have not received the explanatory memorandum, but what the government does in these circumstances—as everybody knows—is to provide them to the Table Office. I am advised that the Table Office circulated the explanatory memorandum over 24 hours ago. So, if honourable senators somehow did not get them, then, with great respect, that is a matter of regret and I accept that. But to try to visit that on the government is inappropriate. Clearly something has fallen down in the system, but, on this occasion, I feel somewhat confident that it was not in fact the government’s fault. Having said that, it clearly is a matter of regret that that which was provided over 24 hours ago has not found its way through to circulation.

The TEMPORARY CHAIRMAN—I have been advised by the Clerk that the documents were circulated yesterday. Additional copies were circulated a few moments ago, so every senator at the present time should have a copy of the relevant amendments.

Senator Abetz—I’m sure I won’t get an apology.

Senator WONG (South Australia) (4.32 pm)—No, Minister, you will not get an apology, because yet again what we have is a government that cannot work out a bill between the House of Representatives and the Senate. How many times, in relation to industrial relations legislation, have you guys had to amend this while the bill is being walked over? You just cannot draft it completely. How many times have we had to amend this legislation? You had 336 amendments shortly before the whole Work Choices bill started. I do not actually blame
the department for this. They are operating under the exigencies that you place on them because you know the politics is against you. You know you have to rush this through. That is why you were out there advertising the day after the announcement, why you are demanding that people draft legislation on the run and why—you again—we have legislation in chapters. We have tranches of legislation because you cannot get the bill drafted completely before it comes into the chamber.

The TEMPORARY CHAIRMAN (Senator Watson)—Minister, maybe you would like to move your amendment now.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (4.32 pm)—I seek leave to move government amendments (1) to (6) and (11) through to (44) on sheet PJ379 together.

Leave not granted.

Senator WONG (South Australia) (4.33 pm)—I will just clarify this to expedite it for Senator Abetz. As I understand the Labor position, we oppose government amendment (43) but are willing to support the remainder. So if you excise amendment (43) from the last tranche that you just attempted to move, Minister, that would be acceptable to the Labor Party. I am not sure about the minor parties.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (4.33 pm)—by leave—I will try my luck and move government amendments (1) to (6), (11) to (44) on sheet PJ379.

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

7. Schedule 6 The day on which this Act receives the Royal Assent.

(2) Schedule 1, item 1, page 4 (after line 10), before the definition of designated award in subsection 346B(1), insert:

business being transferred has the same meaning as in Part 11.

(3) Schedule 1, item 1, page 4 (after line 27), after the definition of industrial instrument in subsection 346B(1), insert:

new employer has the same meaning as in Part 11.

old employer has the same meaning as in Part 11.

(4) Schedule 1, item 1, page 5 (after line 24), after the definition of salary in subsection 346B(1) (after the note), insert:

time of transmission, in relation to a business being transferred, has the same meaning as in Part 11.

transferring employee has the same meaning as in Part 11.

transmission period, in relation to a business being transferred, has the same meaning as in Part 11.

(5) Schedule 1, item 1, page 6 (after line 20), after section 346C, insert:

346CA Industry or occupation usually regulated by State award before the reform commencement—extended operation of certain provisions

(1) For the purposes of a provision mentioned in subsection (2), an industry or occupation in which the terms and conditions of the kind of work performed or to be performed by an employee are usually regulated by an award is taken to include an industry or occupation in which the terms and conditions of the kind of work performed or to be performed by the employee:

(a) were, immediately before the reform commencement, usually regulated by a State award; or

(b) would, but for an industrial instrument or a State employment agreement, usually have been regulated by a State award immediately before the reform commencement.

(2) The provisions are as follows:

(a) subparagraph 346E(1)(b)(ii);

(b) subparagraph 346E(2)(b)(ii);

(c) subparagraph 346F(1)(b)(ii);
(d) subparagraph 346F(2)(b)(ii);
(e) paragraph 346K(2)(a);
(f) a provision referred to in para-
graph (a), (b), (c) or (d), as referred
to in section 346L.

(6) Schedule 1, item 1, page 7 (after line 6), at
the end of Subdivision A, add:

346DA Transmission of business—where
no decision under section 346M at time of
transmission

(1) This section applies if:
(a) the Workplace Authority Director is
required to decide under sec-
tion 346M whether a workplace
agreement passes the fairness test;
and
(b) before the Workplace Authority
Director makes the decision, the
workplace agreement becomes bind-
ing upon a new employer and a
transferring employee or transfer-
ring employees because of the op-
eration of section 583 or 585.

(2) Subject to subsection (4), for the pur-
poses of deciding under section 346M
whether the workplace agreement
passes the fairness test, references to
the employer in section 346M and in
the definition of relevant award
are
taken to be references to the old em-
ployer.

(3) If:
(a) the Workplace Authority Director
has been notified that the workplace
agreement is binding on the new
employer and the transferring em-
ployee or transferring employees;
and
(b) the Workplace Authority Director is
required to give a notice under sec-
tion 346J, 346P or 346U to the em-
ployer in relation to the workplace
agreement;
the Workplace Authority Director
must give the notice to both the old
employer and the new employer.

(4) If the Workplace Authority Director
decides under section 346M that the
workplace agreement does not pass the
fairness test:
(a) references in section 346R to the
employer bound by the workplace
agreement are taken to be references
to the new employer; and
(b) to avoid doubt, if the new employer
subsequently lodges a variation of
the workplace agreement under sec-
tion 346R then, for the purposes of
deciding under section 346U
whether the workplace agreement as
varied passes the fairness test, refer-
ces in section 346M to the em-
ployer are taken to be references to
the old employer.

Note 1: The employment arrangements
that have effect in relation to
the new employer and the trans-
ferring employee or transferring
employees are as set out in sec-
tion 346YA.

Note 2: The compensation payable to
the transferring employees un-
der section 346ZD by both the
old employer and the new em-
ployer is as specified in subsec-
tions 346ZD(2), (2A) and (2B).

346DB Transmission of business—where
no decision on a varied agreement under
section 346U at time of transmission

(1) This section applies if:
(a) the Workplace Authority Director is
required to decide under sec-
tion 346U whether a workplace
agreement as varied passes the fair-
ness test; and
(b) before the Workplace Authority
Director makes the decision, the
workplace agreement becomes bind-
ing upon a new employer and a
transferring employee or transfer-
ring employees because of the op-
eration of section 583 or 585.
(2) For the purposes of deciding under section 346U whether the workplace agreement as varied passes the fairness test, references in section 346M to the employer are taken to be references to the old employer.

(3) If:

(a) the Workplace Authority Director has been notified that the workplace agreement is binding upon the new employer and a transferring employee or transferring employees; and

(b) the Workplace Authority Director is required to give a notice under section 346U to the employer in relation to the workplace agreement,

the Workplace Authority Director must give the notice to both the old employer and the new employer.

346DC Transmission of business—employees still employed by old employer

To avoid doubt, if a workplace agreement becomes binding upon a new employer and a transferring employee or transferring employees because of the operation of section 583 or 585, this Division has effect, to the extent that the workplace agreement continues to bind the old employer, and an employee or employees who are not transferring employees, according to its terms.

(11) Schedule 1, item 1, page 13 (lines 9 to 15), omit the note.

(12) Schedule 1, item 1, page 15 (lines 7 to 13), omit the note.

(13) Schedule 1, item 1, page 22 (line 27), omit paragraph 346U(4)(b), substitute:

(b) if the workplace agreement as varied passes the fairness test:

(i) that the workplace agreement continues in operation; and

(ii) that the workplace agreement was varied by way of a variation or a written undertaking, as the case may be; and

(iii) that the employee or employees whose employment is, or was at any time, subject to the workplace agreement, are entitled to any compensation payable to the employee or employees under section 346ZD; and

(c) if the workplace agreement as varied does not pass the fairness test:

(i) that, if the workplace agreement was in operation immediately before the date of issue of the notice—the agreement ceases to operate on the date of issue of the notice; and

(ii) that the employee or employees whose employment was at any time subject to the workplace agreement are, on and from the date of issue of the notice, entitled to any compensation payable to the employee or employees under section 346ZD.

(14) Schedule 1, item 1, page 24 (after line 38), after subsection 346Y(4), insert:

(4A) Despite subsection (2), if the original agreement is a workplace agreement that, after lodgment, becomes binding upon a new employer and a transferring employee or transferring employees because of the operation of section 583 or 585, this section does not have the effect of binding the new employer and the transferring employee or transferring employees to an instrument or to a designated award.

Note: The employment arrangements that have effect in relation to the new employer and the transferring employee or transferring employees are as set out in section 346YA.

(15) Schedule 1, item 1, page 25 (after line 16), after section 346Y, insert:

346YA Employment arrangements if a workplace agreement ceases to operate
because it does not pass fairness test—transmission of business

(1) This section applies if:

(a) on a particular day (the cessation day), a workplace agreement (the original agreement) ceases to operate under section 346R or 346W because the original agreement does not pass the fairness test; and

(b) during the period beginning when the original agreement was lodged and ending on the cessation day, the original agreement became binding upon a new employer and a transferring employee or transferring employees because of the operation of section 583 or 585 in relation to a business being transferred; and

(c) the cessation day occurs during the transmission period in relation to the business being transferred.

Note: If the cessation day occurs after the transmission period ends, the rules in Part 11 will have effect according to their terms.

(2) The new employer and the transferring employee or transferring employees who were bound by the original agreement immediately before the cessation day are taken, on and from the cessation day, to be bound by:

(a) the instrument:

(i) that, but for the original agreement having come into operation, would have bound the old employer and the transferring employee or transferring employees immediately before the time of transmission; and

(ii) that was capable of binding the new employer after the time of transmission under Part 11, Schedule 6 or Schedule 9; or

(b) if there is no instrument of a kind referred to in paragraph (a) in relation to the old employer and one or more of the transferring employ-

ees—the designated award in relation to that employee or those employees, to the extent that the designated award contains protected award conditions.

(3) If, but for the original agreement having come into operation, the old employer would have been bound, immediately before the time of transmission, under a designated provision by a redundancy provision in relation to a transferring employee or transferring employees whose employment was subject to the original agreement, the new employer is taken:

(a) to be bound under section 598A or clause 27A of Schedule 9, as the case requires, on and from the cessation day, by the redundancy provision in relation to the transferring employee or transferring employees; and

(b) to continue to be so bound until the earliest of the following:

(i) the end of the period of 12 months beginning on the first day on which the old employer became bound under a designated provision by the redundancy provision;

(ii) the time when the employee ceases to be employed by the new employer;

(iii) the time when another workplace agreement comes into operation in relation to the transferring employee or the transferring employees and the new employer.

(4) If the original agreement is a workplace agreement as varied under Division 8, the workplace agreement as in force before the variation was lodged is, despite section 346ZB, capable of being an instrument described in paragraph (2)(a).

(5) In this section:
designated provision has the same meaning as in section 346ZA.

instrument means any of the following:
(a) a workplace agreement;
(b) an award;
(c) a pre-reform certified agreement (within the meaning of Schedule 7);
(d) a pre-reform AWA.

Note: Preserved State agreements and notional agreements preserving State awards are dealt with in Schedule 8.

(16) Schedule 1, item 1, page 25 (line 17), omit “section 346Y”, substitute “sections 346Y and 346YA”.

(17) Schedule 1, item 1, page 25 (line 18), before “If”, insert “(1)”.

(18) Schedule 1, item 1, page 26 (after line 4), at the end of section 346Z (after the note), add:
(2) If, because of the operation of section 346YA, a new employer and a transferring employee or transferring employees are taken to be bound by an instrument, the instrument is taken, despite any other provision of this Act, to have effect in relation to the new employer and the transferring employee or employees throughout the period:
(a) beginning on the cessation day; and
(b) ending at the end of the transmission period in relation to the business being transferred;
as if the new employer and the transferring employee or transferring employees had become bound by the instrument under Part 11, Schedule 6 or Schedule 9, as the case requires.

(19) Schedule 1, item 1, page 27 (line 16), omit “section 346Y”, substitute “section 346Y or 346YA”.

(20) Schedule 1, item 1, page 27 (line 34), omit “became entitled under the workplace agreement”, substitute “was entitled, under the workplace agreement, and under any other applicable law, agreement or arrangement that operated in conjunction with the workplace agreement.”.

(21) Schedule 1, item 1, page 28 (lines 6 to 13), omit all the words after “period,”; substitute “worked out in accordance with the assumptions set out in subsection (2A)”.

(22) Schedule 1, item 1, page 28 (after line 13), after subsection 346ZD(2), insert:

(2A) For the purposes of working out the total value of the entitlements to which the employee would have been entitled, in respect of one or more periods of employment of the employee during the fairness test period, it is to be assumed that, during that period or those periods of employment:
(a) the employee’s employment was subject to:
   (i) the instrument or instruments that, but for the workplace agreement, would have bound the employer in relation to that period or those periods of employment of the employee; or
   (ii) if there is no such instrument—the designated award in relation to the employee, to the extent that it contains protected award conditions; and
(b) the employer was bound, under a designated provision, by any redundancy provision that, but for the workplace agreement having come into operation, would have bound the employer in relation to the employee; and
(c) the employer was bound under section 394 by any undertaking that, but for the workplace agreement having come into operation, would have bound the employer in relation to the employee; and
(d) the employee’s employment was subject to any other applicable law, agreement or arrangement that would have operated in conjunction with the instrument or instruments
referred to in subparagraph (a)(i), or the designated award referred to in subparagraph (a)(ii), as the case requires.

(23) Schedule 1, item 1, page 28, after proposed subsection 346ZD(2A), insert:

(2B) If, because of the operation of section 583 or 585, the workplace agreement bound an old employer and a new employer in relation to the employment of a transferring employee during the fairness test period:

(a) the transferring employee is entitled to be paid compensation by the old employer in respect of the period or periods during which the employee was employed by the old employer, worked out in accordance with the assumptions set out in subsection (2A); and

(b) the transferring employee is entitled to be paid compensation by the new employer in respect of the period or periods during which the employee was employed by the new employer, worked out in accordance with the assumptions set out in subsection (2A), subject to the following modifications:

(i) subparagraph (2A)(a)(i) is taken to refer to the instrument described in paragraph 346YA(2)(a); and

(ii) a reference in paragraph (2A)(b) to a designated provision is taken to be a reference to section 598A or clause 27A of Schedule 9, as the case requires.

(24) Schedule 1, item 1, page 28 (after line 35), before the definition of fairness test period, insert:

designated provision has the same meaning as in section 346ZA.

(25) Schedule 1, item 1, page 29 (after line 25), after section 346ZE, insert:

346ZEA Notice requirements in relation to transmission of business

(1) This section applies if:

(a) a new employer is bound by a workplace agreement (the transmitted workplace agreement) in relation to a transferring employee because of section 583 or 585; and

(b) before the time of transmission in relation to the business being transferred, the Workplace Authority Director gave notice to the old employer under section 346J that the Workplace Authority Director must decide under section 346M or 346U whether the transmitted workplace agreement passes the fairness test; and

(c) as at the time of transmission, the Workplace Authority Director has not yet decided whether the transmitted workplace agreement passes the fairness test under whichever of those sections is applicable.

(2) The old employer must take reasonable steps to give a written notice to the Workplace Authority Director that:

(a) identifies the transmitted workplace agreement; and

(b) states whether or not the old employer remains bound by the transmitted workplace agreement in relation to the employment of any employees; and

(c) specifies the date on which the transmission period in relation to the business being transferred ends; and

(d) specifies the name and address of the new employer.

(3) Subsection (2) is a civil remedy provision.

Note: See Division 11 for provisions on enforcement.

(26) Schedule 1, item 5, page 32 (line 31), after “346Y”, insert “, 346YA”.

(27) Schedule 1, item 6, page 33 (line 9), after “346Y”, insert “, 346YA”.
(28) Schedule 1, item 7, page 33 (line 21), after “346Y”, insert “346YA”.
(29) Schedule 1, item 15, page 35 (after line 6), after paragraph (b), insert:
(jba) for subsection 346ZEA(2)—30 penalty units;
(30) Schedule 1, item 30, page 37 (line 21), after “346Y”, insert “346YA”.
(31) Schedule 1, item 32, page 38 (line 20), after “346Y”, insert “346YA”.
(32) Schedule 1, item 33, page 38 (line 34), after “346Y”, insert “346YA”.
(33) Schedule 1, item 34, page 39 (line 20), after “346Y”, insert “346YA”.
(34) Schedule 1, item 39, page 40 (line 20), after “346Y”, insert “346YA”.
(35) Schedule 1, item 40, page 40 (line 30), after “346Y”, insert “346YA”.
(36) Schedule 1, item 41, page 41 (line 38), after “346Y”, insert “346YA”.
(37) Schedule 1, item 41, page 41 (line 38), after “346Y”, insert “346YA”.
(38) Schedule 1, item 41, page 42 (line 4), after “346Y”, insert “346YA”.
(39) Schedule 1, item 41, page 42 (line 8), after “346Y”, insert “346YA”.
(40) Schedule 1, item 42, page 43 (line 26), after “346Y”, insert “346YA”.
(41) Schedule 1, item 42, page 43 (line 27), after “346Y”, insert “346YA”.
(42) Schedule 1, item 42, page 43 (line 30), after “346Y”, insert “346YA”.
(43) Schedule 2, item 2 page 53 (after line 24), after Division 3, insert:
Division 3A—Workplace Relations Fact Sheet
154A Workplace Authority Director must issue Workplace Relations Fact Sheet
(1) The Workplace Authority Director must, by notice published in the Gazette, issue a document called the Workplace Relations Fact Sheet.
(2) The Workplace Relations Fact Sheet must contain the following:
(a) information about the Australian Fair Pay and Conditions Standard;
(b) information about protected award conditions.

Workplace Relations Act 1996
1 Paragraph 354(1)(b)
After “but for the agreement”, insert “, a previous workplace agreement or another industrial instrument”.
2 Subsection 354(4)
Insert:
industrial instrument means any of the following:
(a) a pre-reform AWA;
(b) a pre-reform certified agreement (within the meaning of Schedule 7);
(c) a workplace determination;
(d) a section 170MX award (within the meaning of Schedule 7);
(e) an old IR agreement (within the meaning of Schedule 7).
3 Application
The amendments made by this Schedule apply to workplace agreements lodged on or after the day on which this Schedule commences.

Question agreed to.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (4.34 pm)—I move government amendment (43) on sheet PJ379:
(43) Schedule 2, item 2 page 53 (after line 24), after Division 3, insert:
Division 3A—Workplace Relations Fact Sheet
154A Workplace Authority Director must issue Workplace Relations Fact Sheet
(1) The Workplace Authority Director must, by notice published in the Gazette, issue a document called the Workplace Relations Fact Sheet.
(2) The Workplace Relations Fact Sheet must contain the following:
(a) information about the Australian Fair Pay and Conditions Standard;
(b) information about protected award conditions;

Schedule 6—Minor technical amendments
(c) information about the fairness test;
(d) information about the role of the Workplace Authority Director and the Workplace Ombudsman.

(3) The regulations may prescribe other matters relating to the content, form, or manner of providing the Workplace Relations Fact Sheet.

(4) A Workplace Relations Fact Sheet issued under subsection (1) is not a legislative instrument.

**154B Employer must give a Workplace Relations Fact Sheet to new employees**

(1) If a person becomes an employee of an employer, the employer must take reasonable steps to ensure that the employee is given a copy of the Workplace Relations Fact Sheet issued under section 154A within the period of 7 days commencing on the day on which the person became an employee of the employer.

(2) Subsection (1) is a civil remedy provision.

**154C Employer must give a Workplace Relations Fact Sheet to existing employees**

(1) An employer must take reasonable steps to ensure that each person who is an employee of the employer on the day on which the Workplace Authority Director issues the first Workplace Relations Fact Sheet under section 154A is given a copy of the Workplace Relations Fact Sheet within the period of 3 months commencing on that day.

(2) Subsection (1) is a civil remedy provision.

**154D Penalties for contravention of civil remedy provisions**

(1) The Court may make an order imposing a pecuniary penalty on a person who has contravened section 154B or 154C on application by:

(a) a workplace inspector; or
(b) an employee affected by the contravention.

(2) The maximum penalty that may be imposed under subsection (1) is 1 penalty unit.

Note: Division 3 of Part 14 contains other provisions relevant to civil remedies.

Senator WONG (South Australia) (4.35 pm)—As indicated, Labor will be opposing amendment (43). Let us be clear about what amendment (43) does: it inserts in division 3A the requirement in relation to the workplace relations fact sheet. The fact of the fact sheet, as it were, was disclosed in some media just recently. What we see now is that the Howard government, not content with spending millions and millions of dollars of taxpayers’ money on government advertising in industrial relations and other portfolio areas, wants to use its legislative authority to impose a requirement that millions of existing Australian employees be given a fact sheet by their employer. It is quite extraordinary that the government believes it is appropriate to require this in workplaces. It really is yet another example of government-mandated propaganda.

Let us be clear—this is not about information; this is not about making sure people know their rights: this is all about the government knowing it has an issue with the popularity or lack of popularity of Work Choices prior to the election and using every means at its disposal to try to remedy that. This is all about government spin. Senator Abetz may well get up shortly and talk about the importance of employees having information about their rights. It is interesting, isn’t it, that we did not see this attention or this commitment to providing employees with information about what the Howard government would do on industrial relations before the last election?

I do not recall, Senator Abetz, the full horror of your Work Choices position being articulated to the electorate. Does anyone here
recall any Liberal Party advertising that said, ‘Hey, guess what—we are going to allow your penalty rates to be taken away’? Whoopy-do. ‘Hey, guess what—we are going to allow you to trade off public holidays.’
‘Hey, guess what—we are going to protect only a very small number of conditions and we are going to talk about protected award conditions, but they are actually not protected.’ I do not recall any of that sort of advertising funded by the Liberal Party. Amazingly, after the election and after WorkChoices was put in, we suddenly saw this heartfelt commitment by the Howard government to provide employees with information about their WorkChoices legislation.

So let’s be clear: what this amendment inserts into the act are provisions relating to the workplace relations fact sheet. It also gives the government a broad discretion to amend the form and content of that fact sheet through regulation. This will potentially allow the government to avoid scrutiny about the content of the fact sheet during this debate and subsequently, and it may well allow the government to insert a requirement for further or different information prior to the federal election.

We understand what this amendment is all about. This amendment is all about putting in place a legislative framework which will require government propaganda to be given to employees. Of course, what we know is that this is all about getting this information out prior to the next election. That is what this is about. This is a pre-election stunt. It is interesting from a government that says, ‘We are about freedom, individual freedom’ et cetera. They are actually also going to require employers, at the risk of breaching the provision in the act, to give employees these fact sheets within a period of seven days upon commencement of employment and they will potentially face fines if they fail to do so. It is quite interesting. We have government-mandated propaganda and potential fines for employers if they fail to pass this on to people.

So, yes, Labor is opposed to this. We do not think it is appropriate to have mandated government propaganda placed in this legislation. This is a government that spent $55 million on advertising its Work Choices legislation. Now, on the basis of pollsters’ advice, they are ditching the phrase ‘Work Choices’ and they are spending potentially up to an additional $36.5 million on their second tranche of Work Choices advertising. I note that the minister has never come in here and discounted that figure being on the public record, nor has he ever said how much the government intends to spend between now and the next election on the Work Choices mark 2 campaign, or the ‘Let’s Pretend it’s not Work Choices’ campaign, which is probably a better way to badge it.

This government spent, I think, $4.1 million at a cost of about $25,000 an hour on their first tranche of the mark 2 Work Choices advertising campaign and this is a government that, the day after the Prime Minister’s announcement, had full-page advertisements in every national Australian paper and every metropolitan daily over that weekend saying, ‘This is our whiz-bang new change to our legislation.’ Paradoxically, one of the things we found out in estimates is that they actually class that as non-campaign advertising. How Orwellian is that? You make an announcement about a policy change, you get the taxpayers to pay for it and you call it non-campaign advertising—non-campaign advertising that just happens to be drafted in consultation with the Prime Minister’s office. This is the sort of grubby political advertising propaganda that we see from this government, which knows it has got a political problem with its industrial relations system but which is not interested in actually resolving the problem. What it is interested in is
resolving the spin. This is an amendment that is all about yet more Howard government propaganda with respect to workplace relations.

Senator MURRAY (Western Australia) (4.41 pm)—I wonder if I could add to those remarks already made so that when the minister responds he has got my concerns to address as well. I take a slightly contrary view to the shadow minister in that I absolutely do support the maximum information being available to any employee and employer to enable them to comply with the law better, but I am very alert to the dangers in a pre-election environment of such information being provided in such a manner as it might be thought to constitute, in the shadow minister’s words, propaganda—in other words, saying to the employee, ‘Look what a good government we have got—and by the way it happens to be a coalition government, so Work Choices is not as bad as its opponents believe.’ So I need to see if there are any safeguards.

The supplementary explanatory memorandum, at paragraph 79 of page 13, states that these amendments would ‘require the Workplace Authority Director to gazette a Workplace Relations Fact Sheet’. Minister, my question is: is that gazette or the regulations that surround this issue subject to parliamentary disallowance or anything of that nature to ensure that the fact sheet is exactly what the legislation says it is—namely, that it spells out the law without any kind of partisan inference or bias? My question is a precautionary one. I support the principle of information being provided. I am very wary if information is perverted in any way.

My second brief question to you, Minister, which, hopefully, you can respond to, is whether the businesses that have to do this will be clearly identified and identifiable. The reason I ask that question is that the statistics are very difficult to get, but I understand that in some states up to 25 per cent of all employees are still under state systems. In some cases those are easy to identify—namely, they work for the public sector. But there are many people still in the private sector—unincorporated businesses and so on—who do not fall under the federal law and it would not be easy for a Workplace Authority inspector to turn up to an establishment and know whether the business was incorporated or unincorporated. It might be called, to use a name of one of the senators here, ‘Marshall’s Cafe’ and it might be incorporated; it might be unincorporated. So you want to avoid a situation where somebody is threatened with punishment for not handing these things out when they may not in fact be subject to federal law. My question is: will those who have to abide by the law be easily identifiable? I remind the minister that in my head is the fact that in local government, for instance, there have been some quarrels as to which councils fall under federal law and which do not, and I would like to know how those sorts of issues would be resolved.

My third initial query with respect to this particular item is the question of exemptions. The minister would be well aware that under many acts there are provisions for categories to be exempted—for instance, the Financial Services Act, where certain categories are exempted from complying. I wonder whether there will be disallowable instruments such as regulations which will say that microbusinesses employing only one person may or may not have to comply with this law or whether they will say that leniency will be granted for specific categories. For instance, you might find people for whom the English language is very difficult and they might have had difficulty understanding the law. There may be categories—and I am thinking on the run, because bear in mind I have only just seen these amendments and the supple-
mentary explanatory memorandum—that legitimately should qualify for exemptions.

So, to recap the three questions I have, briefly, to make sure that they are clear: I want to know whether there is any measure by which either the parliament or an independent body can ensure that the fact sheet is exactly that—just a fact sheet; secondly, that businesses which are not liable under this law will not be subject to error or mistake by regulators trying to enforce a law; and, thirdly, whether there will be any categories of exemptions spelled out and whether that will be a disallowable instrument.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (4.47 pm)—There are a number of issues to deal with and, if I may, I will go through them in reverse order. As I understand it, in relation to Senator Murray’s three questions there will not be any categories of exemption. In relation to those that will be covered by this provision, it will only be those businesses that are currently covered by the federal system and, hopefully, businesses would be aware which category they fall into. The first question Senator Murray asked was in relation to the proposed document that is going to be gazetted. No, that will not be a disallowable instrument. That will be part and parcel of the Workplace Authority Director’s role. The director will be responsible for that particular document.

Having dealt with Senator Murray’s matters, I turn some attention to Senator Wong’s contribution. It is a very interesting contribution when you consider that the Labor Party has been out there condemning the prospect of a fact sheet. Ms Gillard has been out there saying that this would be a terrible imposition on small business and Senator Wong has echoed those comments, being highly critical of a workplace relations fact sheet.

Firstly, let us see what is actually being proposed. Under proposed subsection 154A there would be a requirement that the Workplace Authority Director gazette a workplace relations fact sheet setting out information about the Australian fair pay and conditions standard, protected award conditions, the fairness test and the roles of the Workplace Authority Director and the Workplace Ombudsman. I really do not know what the objection could be to employees being informed as to where they might be able to go if they have got difficulties or questions or issues in being advised what their protected award conditions are or what the fairness test means. It defies all belief from the party that allegedly champions the protection of workers—but of course the trade union movement especially in the private sector only represents a small minority of workers these days and overall they represent, I think, fewer than one in five Australian workers. So we are concerned as a government to ensure that information gets out to those 80 per cent plus of Australian workers who have made a conscious decision not to be a member of the trade union movement. What the Labor Party wants at all times is for no information to be provided to workers other than through the trade union movement. And when they have so spectacularly failed in getting the confidence of Australian workers I believe that it is appropriate that somebody like the Workplace Authority Director provides information and that that information is provided by employers.

The proposed subsection 145A(3) would allow regulations to prescribe other matters relating to the content, form or manner of providing the workplace relations fact sheet. Proposed subsection 145B would require an employer to take reasonable steps to provide each employee with a copy of an information statement within seven days of commencing employment. As a transitional measure pro-
posed subsection 154C would also require employers to take reasonable steps to provide each existing employee with a copy of the fact sheet within three months of it first being gazetted. Proposed section 154D would allow a workplace inspector or an affected employee to apply to the Federal Court to impose a penalty on an employer for failing to provide a copy of the statement to an employee. That would be, I assume, a measure of last resort and voluntary compliance would be sought in relation to this information being provided to Australian workers.

Why is it that the government wants this fact sheet to be provided to Australian workers? For one simple reason: it is for their own protection and for their own good that they are fully informed as to their rights and entitlements. So it seems to me quite bizarre that the Australian Labor Party would be objecting to this. That got me thinking back to the Labor Party’s alleged 10 minimum standards. Remember that document Forward with Fairness, in which they had 10 minimum standards for the Australian workforce? There was one major omission: the minimum wage. Oops, a bit of an oversight! Here we are talking about the basic conditions of Australian workers, and the luminaries of the Australian Labor Party, in conjunction with the ACTU, forget to talk about the minimum wage. Nevertheless, in that Forward with Fairness document, at point 8 of the 10 points that missed out on the minimum wage—and I am still waiting for them to say that there are now 11 standards—the Labor Party policy on national employment standards says:

Employers must provide all new employees with a Fair Work Information Statement which contains prescribed information about the employee’s rights and entitlements at work, including the right of the employee to choose whether to be or not to be—

and here is the crunch—a member of a union and where to go for information and assistance.

The only real difference seems to be that we will not be putting on the document potentially which particular trade union might be relevant to a person’s employment. Other than that, there is virtually no difference between what we are proposing and what is in point 8 on page 8 of the Labor Party’s so-called Forward with Fairness document. This is another example of opposition for opposition’s sake. I say to the Australian people—and I have said this so often now: do not listen to what Labor say; look at what they actually do. They condemn our policy but in fact they have a policy that is very similar, other than that they have the trade union element in it.

Whilst I am on that, could I simply invite those senators opposite who talk about government advertising to come out with a big stick against Premier Iemma, who, in the 11 months before the last New South Wales state election, spent $90 million on government advertising—and there was not a breath out of the Australian Labor Party. When Premier Beattie has his colour inserts and other inserts in all Australian newspapers, with a big smiling photograph of himself, there is not a single word of condemnation. When the state Labor government in my home state of Tasmania undertakes information campaigns, there is not a single word of criticism. This is another classic example of: look at what Labor do, not at what they say. What the Labor Party are basically saying is that state Labor government advertising is good and federal Liberal government advertising is bad. What is the difference? One is Labor and one is Liberal. By definition, it is very clear. I think the Australian people are more intelligent than that, and the assertions made by those opposite simply do not stack up.
What we are concerned about in these amendments is to ensure that Australian workers have protection and know where to go for assistance. That is why the government will be pursuing these amendments.

Senator MARSHALL (Victoria) (4.56 pm)—Minister, I just want to understand the effect of these amendments. The explanatory memorandum says that these amendments would require an employer to provide a copy of the workplace relations fact sheet to each employee within a week of the employee commencing employment. Given that most AWAs are offered to employees at the time they are employed—more often than not as a 'take it or leave it' approach—is there anything in your amendments that requires the fact sheet to be provided to the employee prior to their being required to sign an AWA?

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (4.57 pm)—The workers of Australia who will be signing up to AWAs will not of necessity be required to be provided with that particular document, but they will be provided with an information sheet in relation to agreement-making, which will cover some of these aspects. But, of course, the important point is that the agreement that they enter into will be subjected to the fairness test and, therefore, as I was able to indicate in the summing-up speech, about 90 per cent of Australian workers—those on AWAs and those who earn less than $75,000—will have that added protection.

Senator MURRAY (Western Australia) (4.58 pm)—Minister, returning to the fact sheet that will be provided, I need some clarification—and I am sure Senator Marshall will want to follow through on this. As you know, Proposed subsection 154A(1) says that the Workplace Authority Director must, by notice published in the Gazette, issue a document called the workplace relations fact sheet. Proposed subsection 154A(3) says the regulations may prescribe other matters relating to the content, form or manner of providing the workplace relations fact sheet. As I understand it, the regulations, in this context, mean the workplace regulations generally, which are disallowable. If those regulations are disallowable and they actually refer to the content—which, of course, would be the wording, as I understand it—that would always override the Gazette. So I would think that the gazettal would follow the regulations—I would expect that to happen—unless there were no regulations referring to this. Do you see my problem? You have got two forms of publishing. My question is: will there be regulations—or don't you know that yet—and, if there will be, am I right in believing that they would precede the gazettal but, because regulations are disallowable, the form and content would indeed be subject to parliamentary disallowance? I might be conceiving a conflict here; I am not sure.

The other brief question I have on these issues is whether the onus is initially on an employer. As I understand the law as written—and bear in mind that I have not had long to deal with it—the onus is on the employer as a matter of course. But, in the early distribution of these forms, is the onus on the Workplace Authority to get the forms to every employer or is the onus on every employer to go and get these forms themselves? Again, I stress that not all employers are on internet and have a printer or are fully cognisant of the English language. They might not know that this is happening and would not necessarily be able to get hold of these forms in the time frame required. Those are the two extra questions I would like a response to.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (5.00 pm)—
pm)—Senator Murray has a whole host of questions. I will try to deal with them in order. If I forget any, I am sure that he will jump up and remind me of them. The Workplace Authority is required to have particular consideration for employers and employees with language difficulties. That would be taken care of, I am advised, by the overall legislation in the way that we deal with those matters. It will be a requirement of the employer to provide the forms to the employee, but they will also be available from the Workplace Authority and over the internet.

In relation to proposed changes to the fact sheet, as I understand the situation, it is not contemplated at this stage that regulations are necessarily needed but, in the event that it is seen as necessary to make changes to the fact sheet for whatever reason, we believe that regulation, which would be a disallowable instrument, would be the most effective and expeditious way of doing it. Keep in mind that section 154A contains the requirements for what the fact sheet deals with—and I read some of those matters out—such as information about the Australian Fair Pay and Conditions Standard, protected award conditions, the fairness test and the roles of the Workplace Authority Director and the Workplace Ombudsman.

Going back to the issue of those who may have language difficulties, I understand that currently eight languages are specifically serviced: Arabic, Chinese, Greek, Italian, Korean, Macedonian, Spanish and Vietnamese. Then there are 24 other languages that have a notification simply referring people to a translation service. There are a whole host of those languages. I may have said ‘24 other languages’ but, looking at the list, I can see that the eight languages I referred to before are included in the 24 languages that have a reference to a translation service if people want to avail themselves of one.

Senator MARSHALL (Victoria) (5.04 pm)—I am a little bit unclear now. I thought that you were confirming that this amendment does not require the fact sheet to be provided to employees at the time of making the agreement as long as it is provided within seven days of the commencement of employment. But then you talked about an information sheet which would be provided at the time of making the agreement. There were some issues in the chamber earlier which resulted in our not having access to your amendments and explanatory memorandum until rather recently, so I may have missed this, but I cannot find any reference to an information sheet as distinct from the fact sheet in the explanatory memorandum. If there is, can you point me to it so we can work out what the difference is and how it is intended they will operate.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (5.05 pm)—I refer the honourable senator to section 337, entitled ‘Providing employees with ready access and information statement’. Section 337 is part of division 4 of the act, which deals with prelodgement procedures. Section 337 goes on for pretty well two pages. I will not bore the Senate by reading out all those provisions simply to confirm to the honourable senator that, if he was more anxious to see the good things in this legislation and spent his time studying it, he might not be up on his feet so often criticising it in the circumstances that he now finds himself in.

Senator WONG (South Australia) (5.06 pm)—I just want to confirm one thing now, although I do have a range of further questions arising out of the contribution of the minister over the committee stage thus far. Has the government reprinted a consolidated version of this legislation subsequent to its most recent episode in December? If so, I am very pleased to hear that. I am not sure if
Senator Marshall wanted to go back to this issue, but I have other questions in relation to this.

Senator Marshall—You move on and I’ll come back to it.

Senator Wong—Thank you. I wanted to ask a number of questions about penalty provisions. Is there a penalty for an employer who seeks to impose an agreement—for example, a condition of employment—that subsequently fails the fairness test? That is the first question.

Senator Abetz—It is a bit of a sad reflection, isn’t it, when a person who has carriage of this legislation in this chamber is asking when the consolidated legislation may have occurred? You would have thought that, if somebody had a burning interest and desire to know about this topic, they would have known that the consolidated legislation had been around for over six months. The reprint was done on 15 December 2006. This is just another example of the degree of sloppiness that we unfortunately find from those opposite.

The penalty that might apply to an employer whose agreement is found to be not fair is that the agreement is void, and the entitlements that the employee would have otherwise been entitled to are fully recoverable by either the Ombudsman or the employee. We have arrangements in place that would assist and facilitate the employee in doing that through the Workplace Ombudsman.

Senator Wong—Again, as is so often the case, Senator Abetz does not answer the question.

Senator Abetz—It was 15 December; what is vague about that?

Senator Wong—Let us move on to what I was actually asking, which is about the penalty provisions. I understand that you are saying that an employer in that position faces a voiding of the agreement and the employee can recover the entitlements which would be owed otherwise under the relevant award because the agreement is not there. But that is not the same as a civil penalty provision; correct?

Senator Abetz—Correct.

Senator Wong—Interesting. What we have here is a government that says: ‘We’re going to fine employers, including small business people, for failing to provide employees with one of our documents but we are not going to provide any penalty if they put in place a dodgy agreement.’ It is really clear what your political and policy priorities are. Has the government undertaken any regulation impact study or issued a regulation impact statement in relation to the requirement on employers to provide this information, and in particular have they done one for the small business sector?

Senator Abetz—In relation to dodgy agreements, if there is duress involved then there is a penalty to be applied. In the event that people honestly make an agreement which is found to be not fair, then in those circumstances no advantage can be gained by the employer. I think that is a sensible and reasonable balance. In relation to a regulation impact statement for this particular provision, the real champions of small business and their employment capacity is very well known and acknowledged by the Howard government; we have championed their cause time and time again—just as much, might I add, as we have championed the cause of the working men and women of this country. It is interesting that the party that alleges it is the ‘champion of the Australian worker’ wants a regulation impact statement on the impact on
small business. If we do not have this statement, what would the impact be on the Australian worker, on the Australian man and woman in the workforce? Here we are, with Mr Rudd trying to reinvent himself somehow as the ‘champion of small business’ and thereby forgetting all about the workers of this country, whereas we continually say that we have a balanced approach to these issues. We do champion the cause of small business just as we champion the cause of the working men and women of this country. That is why on occasions such as this we make an on-balance decision that, whilst this undoubtedly will have some—I would suggest minimal, but nevertheless some—impact on small businesses, not to have it, we believe, would have a greater impact on the working men and women of this country and we seek to protect them.

Senator WONG (South Australia) (5.12 pm)—The next issue relates to subsection (3). As I understand the minister’s answers, the fact sheet itself, although published in the Gazette, is not disallowable. Under section 154A(1), it is within the prerogative of the Workplace Authority Director to issue a fact sheet provided it contains the matters listed in subsection (2). What are potentially disallowable—although that obviously depends on the time frame between now and the election, which may be an issue—are ‘other matters relating to the content, form or manner of providing the workplace relations fact sheet’. That is in subsection (3). Essentially what the government is putting in place is the capacity to amend the fact sheet. Given how much this department and this portfolio spends on market research, will the minister rule out changes to the fact sheet as a result of market research or polling?

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (5.13 pm)—In relation to anything that the government does, can I simply indicate and confirm to the honourable senator opposite that we have one test—and it is not the one that Mr Keating exposed the Labor Party as having, which is needing a focus group to know which side of bed to get out of the morning. We on this side of the chamber continually ask this one, simple question: is it in the national interest? That is our test. So in all those tough decisions on issues like changing the tax system—we knew it was unpopular—waterfront reforms and social welfare reforms we did not ask if they were popular; because, as we knew with the GST and other issues, if your concern was with short-term popularity you would not have touched them.

Our concern has been long-term nation building, and today this nation is starting to enjoy the dividends of that, with unprecedented wages growth in a low-inflationary environment with high employment and the lowest rate of industrial disputation since records have been kept. It is those sorts of factors that motivate us. I can assure the honourable senator that, if regulations and changes are made to the gazetted form, it will be with those tests in mind and not with the sorts of things that clearly take up a lot of time and interest on the Labor Party side.

Senator WONG (South Australia) (5.15 pm)—What an extraordinary contribution! This is a government—and we know this from Senate estimates—that spends millions of dollars of taxpayers’ money on focus groups, testing their message. We know that the whole reason all of a sudden that ‘Work Choices’ is not being used anymore is that you know that your polling and your focus groups have told you that people do not like it. You come in here and say, ‘We act in the national interest’—this is an entirely politically driven bill. This is all about getting you out of trouble before the next election; that is the intention. And we know that millions of dollars have been spent on market research
in this area and in others to try and get your message right.

Through you, Mr Chairman: the government cannot come in here and try and pretend that they are all about the national interest. What we have seen is the government testing their message—doing market research testing, using consultancies to a range of market research firms and focus groups. And what have they come up with? They have worked out: ‘We’ve got a little bit of a problem with Work Choices, so we’ll ditch the name, we’ll spend millions more dollars on more government advertising and we’ll come up with some “fairness” test that we’ll try and ride to the next election to pretend to the Australian people that we aren’t actually about people’s rights and entitlements being stripped away.’

I notice that, for all of the rhetoric that the minister engaged in, in response to my question, there is no ruling out of focus group testing, market research or polling in relation to the fact sheet and utilising that information for the purposes of amending it. It is a simple question: yes or no? And you do not rule it out.

**Senator MURRAY** (Western Australia) (5.17 pm)—I want to return to my earlier question. I am concerned that, with the best endeavours of the government, other political parties and the media, many small business people will be absolutely unaware that any of this is forecast or is intended. Yet this legislation imposes a new onus on employers, which, if not complied with, will result in their being subject to a penalty. So I want to confirm this: is it the intention of the government to supply every business that has to comply with this law with enough fact sheets, or with a fact sheet at least, so that they know that it is a requirement once these provisions become law? If the onus is on the employer to get the form, I can see large numbers who will not get it and will be extremely annoyed if they get fined or whatever.

**Senator ABETZ** (Tasmania—Minister for Fisheries, Forestry and Conservation) (5.18 pm)—I think Senator Murray makes the very important point that, in circumstances such as that, it is vital and it is appropriate for governments to undertake information campaigns to indicate to people what their requirements are under law. That is why governments of all persuasions, all colours, engage in information campaigns. We will be seeking to ensure that all employers are made aware of their requirements under the changed provisions.

**Question put:**
That the amendment (**Senator Abetz’s**) be agreed to.

The committee divided. [5.24 pm]

(The Chairman—Senator JJ Hogg)

**Ayes** ............ 34  
**Noes** ............ 30  
**Majority** ............ 4

**AYES**

Adams, J.  
Bernardi, C.  
Boswell, R.L.D.  
Calvert, P.H.  
Colbeck, R.  
Eggleston, A.  
Ferguson, A.B.  
Fierravanti-Wells, C.  
Fisher, M.J.  
Humphries, G.  
Joyce, B.  
Lightfoot, P.R.  
Mason, B.J.  
Nash, F.  
Payne, M.A.  
Scullion, N.G.  
Trood, R.B.

**NOES**

Allison, L.F.  
Barnett, G.  
Birmingham, S.  
Boyd, S.  
Chapman, H.G.P.  
Cooman, H.L.  
Ellison, C.M.  
Fielding, S.  
Fifield, M.P.  
Heffernan, W.  
Johnston, D.  
Kemp, C.R.  
Macdonald, J.A.L.  
McGauran, J.J.J.  
Parry, S.  
Ronaldson, M.  
Troeth, J.M.  
Watson, J.O.W.

CHAMBER
Senator Conroy did not vote, to compensate for the vacancy caused by the resignation of Senator Ian Campbell

Question agreed to.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (5.27 pm)—by leave—I move government amendments (7) and (8) on sheet PJ379 together:

(7) Schedule 1, item 1, page 7 (lines 14 to 21), omit paragraph 346E(1)(b), substitute:

(b) on the date of lodgment:

(i) the employer bound by the AWA is bound by an award in respect of the terms and conditions of the kind of work performed or to be performed by the employee; or

(ii) the employee whose employment is subject to the AWA is employed in an industry or occupation in which the terms and conditions of the kind of work performed or to be performed by the employee are usually regulated by an award, or would, but for a workplace agreement or another industrial instrument, usually be regulated by an award; and

These amendments would amend proposed section 346E of the bill as introduced to make clear that workplace agreements would be subject to the fairness test where, immediately before the date on which the agreement is lodged, the employee was actually bound by an award in respect of the kind of work performed by the employee. The amendment is necessary to avoid any suggestion that the fairness test would not apply where an employer is bound by an award but in circumstances where the employee is employed in an industry or occupation that is not usually regulated by an award.

Question agreed to.

Senator SIEWERT (Western Australia) (5.28 pm)—by leave—I move Greens amendments (3), (6), (8) and (18) on sheet 5285 together:

(3) Schedule 1, item 1, page 5 (lines 16 to 24), omit the definition of salary in subsection 346B(1).
346E Workplace Authority Director must apply the fairness test to all workplace agreements

The Workplace Authority Director must decide under section 346M whether every AWA and collective agreement lodged after 27 March 2006 passes the fairness test.

These amendments relate to the fairness test as it applies to all workplace agreements. They rewrite subdivision B, essentially providing that the Workplace Authority Director must apply the test to all workplace agreements lodged after 27 March 2006. The amendments also remove the date limit in the bill of 7 May 2007 and the salary limit for AWAs of $75,000. My first question is: does the government, by moving the bill, now acknowledge that there were agreements lodged between 27 March 2006 and 7 May 2007 which are unfair and which in fact would not pass the fairness test?

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (5.30 pm)—The government opposes the Greens amendments. These amendments seek to apply the fairness test to all agreements made since 27 March 2006 and would also remove the salary cap of $75,000. Without any disrespect to the Greens amendments, I think I covered both those issues in my second reading summing up of why the government has put in these relevant provisions. The vast majority, 90 per cent, of employees earn $75,000 or less. Those that earn more largely are not on awards.

In relation to the fairness test and trying to reopen situations where people may have moved on from employment, where they may no longer be with us or where the business may no longer be in operation, even the shadow spokesperson on industrial relations, Ms Gillard—in one of those rare lucid moments—acknowledged that it would not be appropriate to try to wind back the clock before 7 May. So on this occasion I can even rely on Ms Gillard in support of the argument. It should not be seen as a sign of desperation by the government when we rely on those opposite—

Senator Kemp—It is a nasty precedent.

Senator ABETZ—It is a dangerous precedent, Senator Kemp, I agree. But in the spirit of goodwill that exists in the chamber, I do like to point out the commonality that from time to time exists between the opposition and the government.

Senator SIEWERT (Western Australia) (5.32 pm)—The problem now, of course, is that we have employees who will be on an AWA that could be unfair under the new system. The other question I have is about part-time workers whose wages are based on a full-time equivalent. My understanding is that if the full-time equivalent wage is over $75,000 but they are working part-time, which means their pay is in effect less, they are not covered under this fairness test.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (5.33 pm)—These are the Australian Greens amendments. I thought that those proposing amendments should have questions to discover what the amendments are about asked
of them. In relation to the matter that the senator quite rightly raises, we have determined that it should be on a pro rata basis, so that if somebody were earning, say, $40,000 part-time but the full-time equivalent were $80,000 then they would not be covered.

Senator WONG (South Australia) (5.33 pm)—I place on record that Labor will not be supporting these amendments. Whilst we appreciate the sentiments of Senator Siewert and the Greens amendments, our view is, firstly, an in-principle difficulty with retrospectivity, but more importantly we believe that the only way to deal with the inherent unfairness in Work Choices is to elect a Labor government and to have the act repealed and a new act in place consistent with Labor’s policy.

Senator MURRAY (Western Australia) (5.34 pm)—I too, on behalf of the Australian Democrats, will not be supporting those amendments which seek to make legal agreements retrospective. I have sympathy for the point made by Senator Siewert, because the legislation does introduce a situation where there are two classes of employees—those with better conditions under the new fairness test and those with conditions that applied previously—but in law it is extremely unwise to introduce an unwinding of an existing contract unless both sides agree. Of course, it is still open for employers and employees to do that and to pursue a new agreement.

However, Mr Chairman, I ask you to put the question with respect to the $75,000 salary cap separately. Whilst I disagree with retrospectivity, I agree that there should be no cap. I find the cap arbitrary. For instance, in its latest rendition of the tax rates, the government has decided that $80,000 will be the upper level of middle-income earners. We supported that particular movement. They have shifted the tax threshold from $75,000 to $80,000. I do not know what $75,000 attaches to. It seems to be an arbitrary cut-off and I think it will result in some disadvantages which should not be there. I think it would be preferable if there were no cap or if the cap were articulated properly, which it has not been. So I would appreciate it if that particular amendment could be put separately from those which make for retrospectivity.

The CHAIRMAN—Senator Murray, before you resume your seat, would you point us to the number of the specific amendment you are referring to. We have not had the chance to pick that up.

Senator MURRAY—As I understand it, amendment (3) omits the definition of salary and would get rid of the cap.

The CHAIRMAN—So you are seeking that when we put those amendments we put (3) first and then (6), (8) and (18) on sheet 5285; is that correct?

Senator MURRAY—Yes.

The CHAIRMAN—That will be done. The question, therefore, is that Greens amendment (3) on sheet 5285 be agreed to.

Question negatived.

The CHAIRMAN—The question now is that Greens amendments (6), (8) and (18) on sheet 5285 be agreed to.

Question negatived.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (5.38 pm)—by leave—I move government amendments (9) and (10) on sheet PJ379:

(9) Schedule 1, item 1, page 8 (line 33) to page 9 (line 3), omit paragraph 346F(1)(b), substitute:

(b) on the date of lodgment of the variation:

(i) the employer bound by the AWA as varied is bound by an award in respect of the terms and condi-
tions of the kind of work performed or to be performed by the employee; or

(ii) the employee whose employment is subject to the AWA as varied is employed in an industry or occupation in which the terms and conditions of the kind of work performed or to be performed by the employee are usually regulated by an award, or would, but for a workplace agreement or another industrial instrument, usually be regulated by an award; and

(10) Schedule 1, item 1, page 9 (lines 28 to 36), omit paragraph 346F(2)(b), substitute:

(b) on the date of lodgment of the variation:

(i) the employer bound by the collective agreement as varied is bound by an award in respect of the terms and conditions of the kind of work performed or to be performed by the one or more of the employees; or

(ii) one or more of the employees whose employment is subject to the collective agreement as varied is employed in an industry or occupation in which the terms and conditions of the kind of work performed or to be performed by the employees are usually regulated by an award, or would, but for a workplace agreement or another industrial instrument, usually be regulated by an award; and

In moving those amendments, I note that they would amend section 346F of the legislation. The reasons for those amendments are exactly the same as the reasons enunciated for government amendments (7) and (8). We have already dealt with those, so I will not the delay the Senate any further other than to note that if these amendments are carried, then I assume the next Australian Greens amendment would be obviated.

Question agreed to.

Senator SIEWERT (Western Australia) (5.39 pm)—I seek leave to withdraw Greens amendment (7) on sheet 5285.

Leave granted.

Senator WONG (South Australia) (5.39 pm)—There is a minor change in the groupings on the running sheet. We consider there are essentially five bundles or groups of amendments being moved by the opposition. The first is in relation to award conditions and removing the $75,000 threshold, the second relates to full compensation rather than fair compensation, the third relates to the review of decisions and reasons for decisions, the fourth relates to Good Friday and Christmas Day and the fifth relates to Anzac Day. In relation to the first group, I seek leave to move amendments (1) to (13), (22)—

The CHAIRMAN—Senator Wong, I am looking at the running sheet that I have—

Senator WONG—I am indicating to you, Mr Chairman, that the running sheet bundling is not the order in which I am seeking to move them. I am trying to go through this slowly. Shall I start again?

The CHAIRMAN—Yes.

Senator Murray—The chair is from Queensland, you need to go very slowly!

Senator Wong—I think Senator Murray is not going to get the call again in this debate.

The CHAIRMAN—Senator Murray, I would remind you that your chair duty is being done by a senator from Queensland who graciously filled in for you. Anyway, we will come to that at some other stage.

Senator Murray—I withdraw!
The CHAIRMAN—Thank you, Senator Murray. I am glad peace has broken out. Senator Wong has the call.

Senator WONG—Thank you, Mr Chairman from Queensland. I move opposition amendments (1) to (13), (22), (24), (25), (27), (30) and (34) to (46).

The CHAIRMAN—Senator Wong, it has just been drawn to my attention that you will have to leave (10) out of that because, if you look on the next page of the running sheet, you will see (10) is there. So it would be (1) to (9) and (11) to (13). You can speak to the bundle, but I will put (10) separately at another stage.

Senator WONG—by leave—

I move opposition amendments (1) to (9), (11) to (13), (22), (24), (25), (27), (30) and (34) to (46) on sheet 5295 revised:

(1) Schedule 1, item 1, page 4 (lines 28 and 29), omit the definition of protected award conditions in subsection 346B(1).

(2) Schedule 1, item 1, page 5 (lines 16 to 24), omit the definition of salary.

(3) Schedule 1, item 1, page 5 (lines 25 to 32), omit subsection 346B(2) and the note.

(4) Schedule 1, item 1, page 6 (lines 1 to 16), omit “protected” (wherever occurring).

(5) Schedule 1, item 1, page 6 (line 17), omit “protected”.

(6) Schedule 1, item 1, page 8 (lines 1 to 23), omit “protected” (twice occurring).

(7) Schedule 1, item 1, page 7 (lines 22 to 35), omit paragraph 346E(1)(c).

(8) Schedule 1, item 1, page 9 (lines 18 to 40), omit “protected” (twice occurring).

(9) Schedule 1, item 1, page 9 (lines 4 to 17), omit paragraph 346F(1)(c).

(11) Schedule 1, item 1, page 14 (line 2), omit “paragraphs 346E(1)(a), (b) and (c)”, substitute “paragraphs 346E(1)(a) and (b)”.

(12) Schedule 1, item 1, page 14 (lines 14 and 15), omit “paragraphs 346F(1)(b) and (c)”, substitute “paragraph 346F(1)(b)”.

(13) Schedule 1, item 1, page 15 (line 20) to page 16 (line 10), omit “protected” (wherever occurring).

(22) Schedule 1, item 1, page 24 (lines 24 and 25), omit “, to the extent that the designated award contains protected award conditions”.

(24) Schedule 1, item 1, page 28 (lines 12 and 13), omit “, to the extent that it contains protected award conditions”.

(25) Schedule 1, item 1, page 28 (line 13), omit “protected”.

(27) Schedule 1, item 1, page 31 (lines 10 to 19), omit “protected” (wherever occurring).

(30) Schedule 1, item 8, page 33 (line 24), omit “certain protected”.

(34) Schedule 1, item 41, page 41 (lines 10 and 11), omit paragraph 25B(1)(c).

(35) Schedule 1, item 41, page 41 (lines 15 and 16), omit paragraph 25B(1)(d), substitute

(d) a reference in that Division to award conditions were a reference to preserved conditions; and

(36) Schedule 1, item 41, page 41 (lines 20 to 24), omit paragraph 25B(1)(f), substitute:

(f) section 346C was substituted with:

“For the purposes of this Division, preserved conditions are taken to apply under a preserved State agreement in relation to an employee if the employee’s employment is subject to a workplace agreement.”;

and

(37) Schedule 1, item 41, page 41 (lines 25 and 26), omit paragraph 25B(1)(g).

(38) Schedule 1, item 41, page 41 (lines 32 to 37), omit the words from “(b) if there is” to and including “agreement.”, substitute “(b) if there is no instrument of the kind referred to in paragraph (a) in relation to the employer and one or more of the employees—preserved conditions in relation to the employee.”.

(39) Schedule 1, item 41, page 42 (line 6), omit “protected”.

(40) Schedule 1, item 41, page 42 (line 10), omit “protected”.


(41) Schedule 1, item 41, page 42 (lines 16 and 17), omit the definition of protected preserved condition in subclause 25B(3), substitute

preserved condition means a term of a State award or a provision of a State or Territory industrial law, as in force immediately before the reform commencement, that would have determined a term or condition of employment of a person, had the person been employed at that time and that employment not been subject to a State employment agreement.

(42) Schedule 1, item 41, page 42 (lines 23 to 31), omit subclause 25B(4) and the note.

(43) Schedule 1, item 42, page 43 (lines 11 and 12), omit paragraph 52AAA(1)(c).

(44) Schedule 1, item 42, page 43 (lines 16 and 17), omit paragraph 52AAA(1)(d), substitute:

(d) a reference in that Division to award conditions were a reference to notional conditions; and

(45) Schedule 1, item 42, page 43 (lines 32 and 33), omit the definition of protected notional conditions in subclause 52AAA(2), substitute:

notional condition means a term of a notional agreement preserving State awards.

(46) Schedule 1, item 42, page 44 (lines 3 to 10), omit subclause 52AAA(3) and the note.

Very briefly, these amendments deal with the definition of protected award conditions and various other matters, including the effect of the agreement passed as the review. Amendments (34) to (36) deal with protected award conditions. Fundamentally, the principle behind these amendments is that Labor believes that all award conditions should be protected, not just some. That is the thrust of this range of amendments. They go to the heart of one of the distinctions between Labor and the government—that is, we think award conditions are actually worth protecting. Apparently the Howard government does not, so I urge the Senate to consider these amendments.

Senator MURRAY (Western Australia) (5.43 pm)—When you refer to ‘protected award conditions’, as I read your amendments and as I recall the provisions in the act, that refers to awards that were previously state as well as those that are federal. Is that correct?

Senator WONG (South Australia) (5.44 pm)—That is correct.

Senator MURRAY (Western Australia) (5.44 pm)—I have a concern with these provisions but sympathy for them. My concern is that a number of the states had unlimited award allowability—the award was constructed with whatever the parties agreed should be in it whereas the federal system was much more constrained and confined to 20 allowable matters. I support the intention of the opposition fully with respect to federal awards—I think they should be fully covered—but my memory is that some state awards probably expanded unnecessarily into extraneous matters. Essentially, you are arguing that there should be no disadvantage across the award. That is so, isn’t it?

Senator WONG (South Australia) (5.45 pm)—I would refer you to the approach that Labor has set out in its released policy on this, which does look at the simplification and the rationalisation of a range of award conditions. I suppose we are taking a view about what is the best thing to do between now and the election. If Labor were elected, clearly we have a policy in place which would deal with the issues you raise—with what you described as ‘extraneous’ award conditions. Can I indicate also that I neglected to refer in my comments on these amendments to the amendment which deals with one of the provisions dealing with the $75,000 salary threshold, which in part is
dealt with by amendment 10, which will be moved later but is also dealt with by amendment 11, which is an amendment to 346E(1)(a), (1)(b) and (1)(c). One of the concerns is in relation to (iii) of subsection (1)(c) and the minister may want to comment. As I read it—it is on page 7 of the bill—this refers to an employee for whom the annual full-time equivalent salary payable is less than $75,000. I assume that means that, if you are on a couple of weeks work or you are on a part-time salary but your full-time equivalent exceeds $75,000, the test does not apply to you. I wonder whether the minister could confirm that, because dealing with that issue was the intention of the amendment.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (5.47 pm)—I would refer the honourable senator to clause 346G ‘Provisions about annual rate of salary.’ That would be pro-rata to a full-time equivalent situation. I think Senator Siewert asked a similar question previously in this debate, and I gave that answer then.

The CHAIRMAN—The question is that opposition amendments (1) to (9), (11) to (13), (22), (24), (25), (27), (30) and (34) to (46) on sheet 5295 revised be agreed to.

The committee divided. [5.53 pm]
(The Chairman—Senator JJ Hogg)

Ayes…………… 31
Noes…………… 35
Majority……… 4

AYES

Moore, C.
Nettle, K.
Polley, H.
Sievert, R.
Sterle, G.
Webber, R. *
Wortley, D.

Murray, A.J.M.
O’Brien, K.W.K.
Ray, R.F.
Stephens, U.
Stott Despoja, N.
Wong, P.

NOES

Abetz, E.
Barnett, G.
Birmingham, S.
Boyce, S.
Chapman, H.G.P.
Coonan, H.L.
Ellison, C.M.
Fielding, S.
Fifield, M.P.
Heffernan, W.
Johnston, D.
Kemp, C.R.
Macdonald, J.A.L.
McGauran, J.J.J.*
Parry, S.
Ronaldson, M.
Troeth, J.M.
Watson, J.O.W.

Adams, J.
Bernardi, C.
Boswell, R.L.D.
Calvert, P.H.
Colbeck, R.
Eggleston, A.
Ferguson, A.B.
Fierravanti-Wells, C.
Fisher, M.J.
Humphries, G.
Joyce, B.
Lightfoot, P.R.
Mason, B.J.
Nash, F.
Payne, M.A.
Scullion, N.G.
Trood, R.B.

PAIRS

Campbell, G.
Carr, K.J.
Evans, C.V.
Sherry, N.J.

Brandis, G.H.
Macdonald, I.
Minchin, N.H.
Patterson, K.C.

* denotes teller

Senator Conroy did not vote, to compensate for the vacancy caused by the resignation of Senator Ian Campbell.

Question negatived.

The CHAIRMAN—The next question refers to opposition amendment (10) on sheet 5295 revised. The question is that section 346G stand as printed.

Question agreed to.

Senator MURRAY (Western Australia) (5.58 pm)—by leave—Because there was no division, I request that the chamber record that the Democrats supported the opposition amendment.
Senator SIEWERT (Western Australia) (5.58 pm)—by leave—I request that the chamber record that the Australian Greens supported the opposition amendment.

CHAIRMAN—Those requests are noted.

Senator SIEWERT (Western Australia) (5.58 pm)—by leave—I move Greens amendments (1), (2), (4), (9), (10), (12), (13), (26) and (27) on sheet 5285:

(1) Schedule 1, item 1, page 4 (lines 14 to 17), omit all words from and including “346L, and” to and including “section 346L”, substitute “346F”.

(2) Schedule 1, item 1, page 4 (lines 28 and 29), omit the definition of “protected award conditions” in subsection 346B(1).

(4) Schedule 1, item 1, page 5 (lines 25 to 32), omit subsection 346B(2) and the note.

(9) Schedule 1, item 1, page 15 (line 24), omit “protected”.

(10) Schedule 1, item 1, page 15 (line 25), omit “that apply to the employee”, substitute “in the reference award”.

(12) Schedule 1, item 1, page 15 (line 31), omit “protected”.

(13) Schedule 1, item 1, page 15 (lines 31 and 32), omit “that apply to some or all of those employees”, substitute “in the reference award”.

(26) Schedule 1, item 1, page 31 (line 11), omit “protected”.

(27) Schedule 1, item 1, page 31 (line 16), omit “a protected award condition”, substitute “award conditions”.

I am aware that some of these amendments overlap with the opposition’s amendments. These amendments will delete references to ‘protected award conditions’ and provide for the fairness test to consider all award conditions in the reference award. I indicated in my speech on the second reading that I would move these types of amendments. The government’s formulation of the fairness test leaves out many award conditions that are important to employees, such as redundancy pay, long service leave, rostering provisions and other working hour provisions, casual leave, casual loadings that are more than 20 per cent, any rights to request flexible working conditions, and paid maternity leave. These conditions affect employees’ work and family lives and we believe they should be considered.

We believe what is considered in the fairness test goes directly to the different views about what should constitute a safety net. Work Choices provides a set of five minimum conditions and another list of award conditions that may or may not provide a safety net, depending on an employee’s circumstances. The Greens believe in a strong and robust safety net based on the award system that applies to all employees. We believe that these amendments go to making the safety net a stronger safety net, as in the title of this bill.

Question negatived.

The TEMPORARY CHAIRMAN (Senator Troeth)—The question now is that section 346C stand as printed.

Question agreed to.

Senator WONG (South Australia) (6.00 pm)—by leave—I move opposition amendments (14) to (18):

(14) Schedule 1, item 1, page 15 (line 22), omit “fair compensation”, substitute “full compensation”.

(15) Schedule 1, item 1, page 15 (line 28), omit “fair compensation”, substitute “full compensation”.

(16) Schedule 1, item 1, page 16 (lines 1 and 2), omit “fair compensation”, substitute “full compensation”.

(17) Schedule 1, item 1, page 16 (lines 11 and 12), omit “fair compensation”, substitute “full compensation”.

(18) Schedule 1, item 1, page 16 (lines 22 and 23), omit “fair compensation”, substitute “full compensation”.

I am aware that some of these amendments overlap with the opposition’s amendments. These amendments will delete references to ‘protected award conditions’ and provide for the fairness test to consider all award conditions in the reference award. I indicated in my speech on the second reading that I would move these types of amendments. The government’s formulation of the fairness test leaves out many award conditions that are important to employees, such as redundancy pay, long service leave, rostering provisions and other working hour provisions, casual leave, casual loadings that are more than 20 per cent, any rights to request flexible working conditions, and paid maternity leave. These conditions affect employees’ work and family lives and we believe they should be considered.

We believe what is considered in the fairness test goes directly to the different views about what should constitute a safety net. Work Choices provides a set of five minimum conditions and another list of award conditions that may or may not provide a safety net, depending on an employee’s circumstances. The Greens believe in a strong and robust safety net based on the award system that applies to all employees. We believe that these amendments go to making the safety net a stronger safety net, as in the title of this bill.

Question negatived.

The TEMPORARY CHAIRMAN (Senator Troeth)—The question now is that section 346C stand as printed.

Question agreed to.

Senator WONG (South Australia) (6.00 pm)—by leave—I move opposition amendments (14) to (18):

(14) Schedule 1, item 1, page 15 (line 22), omit “fair compensation”, substitute “full compensation”.

(15) Schedule 1, item 1, page 15 (line 28), omit “fair compensation”, substitute “full compensation”.

(16) Schedule 1, item 1, page 16 (lines 1 and 2), omit “fair compensation”, substitute “full compensation”.

(17) Schedule 1, item 1, page 16 (lines 11 and 12), omit “fair compensation”, substitute “full compensation”.

(18) Schedule 1, item 1, page 16 (lines 22 and 23), omit “fair compensation”, substitute “full compensation”.

I am aware that some of these amendments overlap with the opposition’s amendments. These amendments will delete references to ‘protected award conditions’ and provide for the fairness test to consider all award conditions in the reference award. I indicated in my speech on the second reading that I would move these types of amendments. The government’s formulation of the fairness test leaves out many award conditions that are important to employees, such as redundancy pay, long service leave, rostering provisions and other working hour provisions, casual leave, casual loadings that are more than 20 per cent, any rights to request flexible working conditions, and paid maternity leave. These conditions affect employees’ work and family lives and we believe they should be considered.

We believe what is considered in the fairness test goes directly to the different views about what should constitute a safety net. Work Choices provides a set of five minimum conditions and another list of award conditions that may or may not provide a safety net, depending on an employee’s circumstances. The Greens believe in a strong and robust safety net based on the award system that applies to all employees. We believe that these amendments go to making the safety net a stronger safety net, as in the title of this bill.

Question negatived.
This set of amendments relates to Labor’s desire to provide full compensation, not just fair compensation. I note that one of the issues that has been raised in relation to the drafting of this bill is the failure to include a clear definition of ‘fair compensation’. There are provisions which set out what must happen when an agreement passes the fairness test and there is a definition, for example, in relation to non-monetary compensation. Maybe the minister can explain why there is not a clear definition of ‘fair compensation’.

But the reality is that the government is not committed to providing any compensation for certain types of conditions of employment—things like redundancy pay or rostering protections. And it is clear from this bill and from the government’s statements relating to it that the government is not committed to providing full compensation for employees who lose their overtime and penalty rates, shiftwork allowances, rest breaks and public holiday pay. Therefore, within these amendments we are moving a requirement to provide full compensation for the loss of award conditions. In essence, these amendments replace the term ‘fair compensation’ with ‘full compensation’ in all provisions relating to the fairness test. The effect of this will be that employees’ terms and conditions are protected in their entirety, something the Howard government is not prepared to do. Where these conditions are excluded or modified in an agreement, an employee will be entitled to full compensation for their loss, rather than something less than that.

These amendments by Labor are to ensure that protected award conditions cannot simply be eroded away. They will provide clearer guidance to the Workplace Authority Director about what is required of him or her when conducting the fairness test. They will also provide certainty for Australian employers and employees about their obligations and entitlements, given the potentially vague implications of the fairness test which have been alluded to in the second reading debate and in other places.

Just while I am on my feet, can I say that it is interesting to recall the debate in the chamber on the second reading of the initial Work Choices legislation, when the government actually voted against putting ‘fairness’ into the objects of the act and into the provisions governing the determinations of the Fair Pay Commission. When I asked Senator Abetz during that debate why the government was doing that, he said:

You can have fairness without actually saying it. Clearly, under the Howard government, that is just another piece of rhetoric. We know that this legislation is unfair. We do not think it is appropriate that there is less than full compensation for employees who lose overtime and penalty rates, shiftwork allowances, rest breaks and public holidays. And we think that provisions such as redundancy pay and rostering protections ought be subject to full compensation.

Senator Murray (Western Australia) (6.05 pm)—I must say from a purely policy perspective I have been a bit concerned at the direction in which compensation arguments have gone and I hope that if the law ever gets rewritten following the election this issue will be better dealt with than at present. I have always rather liked the Australian Constitution’s phrase of ‘compensation on just terms’. I have found ‘fair’ as a word in law quite difficult to use with respect to compensation, as is the word ‘full’, because the question is: when is it full, or when is it fair? These become difficult issues. Frankly, it would have been better if ‘compensation’ had merely been left without a qualifying adjective so it could be developed under jurisprudence in terms of administrative law. But that is a problem that people better quali-
The point I want to make with respect to the problem the amendments are trying to fix is that the issue of compensation is not resolved by the government’s legislation. The opposition’s amendments are trying to address a problem which exists in the starting legislation. I do not think the determination of compensation is going to be as easy as people think, either under the government’s proposals or under the opposition’s.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (6.07 pm)—In relation to the fairness test, those matters are outlined in the legislation in clause 346M under the heading ‘When does an agreement pass the fairness test?’ There are nearly two pages of detail. I will not read out the whole of those two pages or thereabouts, but it is important to put the particular part dealing with non-monetary compensation on the record:

... non-monetary compensation, in relation to an employee, means compensation (other than an entitlement to a payment of money):
(a) for which there is a money value equivalent or to which a money value can reasonably be assigned; and
(b) that confers a benefit or advantage on the employee which is of significant value to the employee.

Senator Wong—We can read.

Senator ABETZ—That is reassuring; if you can read, I invite you to actually read it. If you had done so, you would not have continued to seek to mislead the Australian people about the provisions of our legislation. In relation to the fairness test, we are seeking to get a balance between that which is required to protect employees and that which will allow employees to have a degree of flexibility. That is why the government opposes the proposed amendment. The amendment is mischievous in seeking to imply that anything less than full compensation is not fair compensation. This is a bit of a semantic issue and, with respect, not necessarily one of substance.

To ensure bargaining results in fair outcomes, the fairness test will provide that protected award conditions can be traded in exchange for fair compensation. The legislation contains detailed provisions about how fair compensation is to be determined. Importantly, the fairness test allows the real value of non-monetary entitlements to employees to be taken into account. It does this by defining non-monetary compensation as compensation that confers a benefit or advantage on an employee which is of significant value to the employee. That is where those on the other side and the government disagree. We believe in flexibility and we believe that what may be fair and reasonable has to be weighed up in the particular circumstance of each individual employee, and it may vary quite considerably. Something may be of real value, for example, to a single parent who has no other family help in relation to children. To be able to pick up a child from school may be of absolute, vital importance whereas to another employee it may be a convenience but not a necessity. So each individual circumstance needs to be taken into account. That is the sort of flexibility that we have sought to bring to the legislation. It is the flexibility which, I note, those opposite condemn and oppose. That is fair enough, but we have seen the benefits of a flexible workplace system with more and more of our fellow Australians gaining employment. We do not want to see that compromised.

Senator MURRAY (Western Australia) (6.11 pm)—For the record, the Democrats and I do support flexibility. We recognise that employment arrangements vary by enterprise. That is why we support enterprise bargaining. We recognise that employment
arrangements vary by particular individual agreements as well. So we do support flexibility. What the opposition are trying to do, as I understand it, is ensure that ‘fair’ is also ‘full’, and they see a difference between the two. They have not put in a provision to delete all the other tests you have put with respect to compensation, monetary or non-monetary; they have merely said that ‘fair’ does not go far enough and ‘full’ goes further. I have difficulty with both words, as I have said. I prefer the ‘just terms’ sort of approach but I understand what the government is trying to do. But I did want to put on record that we do support flexibility; we always have and we will continue to do so.

Senator WONG (South Australia) (6.12 pm)—I am sure the minister does not want a history lesson on which party first introduced enterprise bargaining into Australia. I make three points. The first is that by opposing this amendment the government has made it very clear that it believes Australian employees should not be fully compensated for the trading away of protected award conditions. The second point is in relation to the sole parent issue. I am not sure what point the minister is trying to make there; are we really suggesting that someone’s worth at work should be determined by their personal circumstances and that somehow, for example, the sole parent in that situation could have to give away more to get that provision because that is worth more to her or him than somebody who did not require the time to pick their children up from school? This is the problem with the way in which you are approaching this. The third point relates to the minister’s comments about semantics. This is from a government that says, in television ads, newspaper ads and a booklet, ‘protected by law’ in relation to conditions that can be traded away. So do not come in here, Minister, and lecture us on semantics.

Question put:

That the amendments (Senator Wong’s) be agreed to.

The committee divided. [6.18 pm]

(The Chairman—Senator JJ Hogg)

Ayes.............. 31
Noes.............. 33
Majority........... 2

AYES


NOES


PAIRS

Campbell, G. Carr, K.J. Conroy, S.M.
Ray, R.F.       Macdonald, I.
Sherry, N.J.       Parry, S.
* denotes teller

Senator Evans did not vote, to compensate for the vacancy caused by the resignation of Senator Ian Campbell.

Question negatived.

Senator SIEWERT (Western Australia) (6.21 pm)—by leave—I move Greens amendments (11), (14), (15), (16) and (17) on sheet 5285.

(11) Schedule 1, item 1, page 15 (lines 27 and 28), omit “, on balance, the collective agreement provides fair compensation, in its overall effect on the employees”, substitute “the collective agreement provides fair compensation to each employee”.

(14) Schedule 1, item 1, page 16 (lines 1 to 29), omit subsections 346M(2) to (5).

(15) Schedule 1, item 1, page 16 (after line 35), after subsection 346M(6), insert:

(6A) The employer, the employees and their representatives and the unions party to an agreement must be advised of and have the opportunity to verify or refute information provided to the Workplace Authority Director under subsection (6) in relation to the agreement that covers the employer, employees or would bind the union.

(16) Schedule 1, item 1, page 16 (line 36) to page 17 (line 6), omit subsection 346M(6), substitute:

(7) In this section:

fair compensation, in relation to an employee, means the provision of an additional benefit or advantage that:

(a) is of significant and immediate value (whether financial or otherwise) to the employee; and

(b) fully compensates the employee for the exclusion or modification of the relevant conditions.

(17) Schedule 1, item 1, page 17 (after line 6), after section 346M, insert:

346MA Workplace Authority Director to provide reasons for decisions

(1) If the Workplace Authority Director makes a decision in accordance with section 346M, the Workplace Authority Director must provide a written statement of reasons for that decision to:

(a) the employer in relation to the workplace agreement;

(b) if the workplace agreement is an AWA—the employee whose employment is subject to the AWA;

(c) if the agreement is a union collective agreement or a union greenfields agreement—the organisation or organisations bound by the agreement.

(2) A party to a workplace agreement which has been subject to a decision made in accordance with section 346M may appeal to the Federal Magistrates Court for a review of the decision in accordance with the Administrative Decisions (Judicial Review) Act 1977.

These amendments are about the application of the fairness test. Because they are slightly different, I will speak to each one. Amendment (11) is about how the fairness test applies to collective agreements. The amendment provides that collective agreements past the test only when no employee loses conditions without compensation. Under the bill, a collective agreement is assessed to have its overall effect, which means some employees could be worse off with no fair compensation. I have a question there about why it is considered fair if individuals are not also better off.

Amendment (14) is the deletion of matters to be taken into consideration. This amendment deletes the subdivision that allows the Workplace Authority director to take into consideration employees’ personal circumstances and a business’s industry location or economic circumstances. With personal circumstances, there is an issue that allows for
discriminatory outcomes, with no review of decisions. This type of provision is open to abuse, with vulnerable employees being exploited—and we touched on that earlier. On the circumstances of the business, we do not believe that what we see as a core condition should be traded away for anything less than fair compensation and that the state of a business, particularly in terms of industry or location, should be taken into consideration.

Amendment (15) provides that, if the Workplace Authority Director obtains information under subsection 346M(6), such information must be provided to the other parties of the agreement to be verified or refuted. It is a matter of general principle that, if someone is making a decision that materially and, in particular, detrimentally affects a person, that person is entitled to know the information being considered and have an opportunity to reply.

Amendment (16) deletes the definition of ‘non-monetary compensation’ and puts in the definition of ‘fair compensation’. The definition is from Professor Andrew Stewart’s submission to the inquiry, and even in his submission he admits that it is not perfect but better than the current bill. We have also had a discussion about what is a definition of ‘fair compensation’. The amendment emphasises the need for benefits to be additional to those already enjoyed and to have immediate, rather than potential, value for the worker and to provide for full compensation.

Amendment (17) is an attempt to provide some accountability for the test. It provides for the Workplace Authority Director to provide written reasons and furnish them to the parties. It also provides for an appeal of a decision on the fairness test to go to the Administrative Appeals Tribunal. The subjective nature of the test without the accountability that comes with a review opens up the potential for unfair results. We need to understand the need for certainty and timeliness, but there is also a need to balance the fact that people’s livelihoods can be affected by these decisions. We believe a review process assists to ensure that the test is applied fairly, robustly and consistently.

All these items go to improving fairness and putting fairness into the fairness test. There are a number of items that we believe are unfair in this area and we are seeking to address them. As I said earlier, I would particularly like to know why it is considered fair if an individual loses out in a collective agreement under the overall effect provision, rather than ensuring that no employee is worse off without fair compensation.

Senator WONG (South Australia) (6.25 pm)—For the reasons I articulated previously, I confirm that the opposition will not be supporting these amendments. We understand the sentiments behind Senator Siewert’s amendments but, as I said, we think they go to issues where, really, this act cannot be cured by these sorts of amendments and we really need to put in place a different set of legislation. I will be clear that, on a range of the issues that Senator Siewert has outlined, we clearly share her concerns about the effect on these entitlements and conditions of employment for employees under the government’s legislation.

Senator MURRAY (Western Australia) (6.26 pm)—The Democrats do not support items (11), (14) and (15). We do support items (16 and (17).

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (6.26 pm)—For the record, the government opposes the Greens amendments. I think that a lot of the arguments have in fact been canvassed previously in relation to other aspects of this legislation.
The TEMPORARY CHAIRMAN (Senator Troeth)—The question is that amendments (11), (14) and (15) be agreed to.

Question negatived.

The TEMPORARY CHAIRMAN—The question is that amendments (16) and (17) be agreed to.

Question negatived.

Senator WONG (South Australia) (6.27 pm)—by leave—I move opposition amendments (19) to (21), (23), (26), (28) and (29) on sheet 5295 revised.

(19) Schedule 1, item 1, page 18 (line 26), at the end of subsection 346P(5), add:

; and (c) must state the reasons, by reference to the matters referred to in subsection 346M(1), (2), (3) or (4), for the decision of the Workplace Authority Director the subject of the notice.

(20) Schedule 1, item 1, page 22 (line 27), at the end of subsection 346U(4), add:

; and (c) the reasons, by reference to the matters referred to in subsection 346M(1), (2), (3) or (4), for the decision of the Workplace Authority Director the subject of the notice.

(21) Schedule 1, item 1, page 24 (after line 6), after section 346X, insert:

346XA Effect if agreement passes review of fairness test

If:

(a) a workplace agreement is not in operation at the date of the review decision because of the effect of section 346W or 346R that the agreement did not pass the fairness test; and

(b) the Workplace Authority Director decides under section 346M on review that the workplace agreement passes the fairness test;

the workplace agreement commences operation on the date of issue specified in the notice of the review decision under section 346ZI.

(23) Schedule 1, item 1, page 27 (after line 11), after the note to section 346ZB, insert:

Note 2: This section will operate subject to section 346XA.

(26) Schedule 1, item 1, page 28 (line 32), at the end of subsection 346ZD(3), add:

; (d) if the employee is entitled to compensation because of the operation of Subdivision G in respect of the workplace agreement—the period of 14 days beginning on the date of issue of the notice of the review decision under section 346ZI.

(28) Schedule 1, item 1, page 31 (after line 21), at the end of Division 5A, add:

Subdivision G—Review of decision

346ZI Process for review of Workplace Authority Director decision

(1) If a notice has been provided by the Workplace Authority Director under section 346J, 346P or 346U and a person as defined in subsection (9) disagrees with the decision of the Workplace Authority Director contained in the notice, the person may notify the Workplace Authority Director of his or her objection and the reasons for the objection.

(2) The Workplace Authority Director must, by notice published in the Gazette, set out requirements for the form of a notice to be provided by a person under subsection (1).

(3) Any objection must be lodged in writing in the required form within 7 days of the date of receipt of the notice of the decision of the Workplace Authority Director.

(4) A copy of the objection must be provided to the other party or parties to the agreement within 7 days of receipt of the notice of the decision of the Workplace Authority Director.

(5) If an objection to a decision is lodged with the Workplace Authority Director, the Workplace Authority Director must
In the short time that we have before the break, let me say that these amendments deal with the issue that was raised by Labor in the second reading debate and which has also previously been raised in the public arena. I think it was also the subject of some discussion in the committee stage to date—that is, the lack of review associated with the government’s fairness test. It is an unreviewable process and, we say, a secretive process. Whether an agreement passes the fairness test is a decision which, under the bill, is to be conducted behind closed doors and largely at the discretion of the Workplace Authority Director. That essentially was confirmed by the minister today. As I understand it—and I am happy to be corrected—there is no formal appeal or review process. I think the minister answered that charge by saying that it is not a tribunal. That may well the case, but the point is that it is making decisions that are obviously relevant to people’s rights. To not have any process, or even reasons, for any decision made or a possibility of review—

Sitting suspended from 6.30 pm to 7.30 pm

Senator WONG—Prior to the dinner break, I was outlining the reasons for Labor moving these amendments. They centre on the failure in the bill to ensure that there is openness and transparency in the assessment of an agreement. Our concern is that the fairness test is largely a decision to be conducted behind closed doors by a particular official. There is not a requirement to disclose the basis of the decision, such as the assumptions made, the information relied upon and the relative merits of clauses in the agreement weighed by the Workplace Authority Director about the fairness test as set out in Subdivision G of Division 5 of Part 8 of this Act.
Director in arriving at a decision that an agreement is or is not fair.

In addition, there is no opportunity for an employer or an employee to address information provided to the Workplace Authority by the other party as part of that process. I am not even clear on whether any natural justice requirements impinge upon the Workplace Authority’s determinations in this regard. I have to say that the minister’s contribution previously that this is not a tribunal really does not meet the argument. The point is that a decision is being made as to whether an agreement is in accordance with the act or not and whether it is therefore operative. A decision is made to weigh the relative merits of particular provisions in an agreement against the protected award conditions and other matters. We believe that an employee and an employer are entitled to have some transparency in that process.

In essence, we are moving a range of amendments which go to this issue. Our amendments relate to three key decisions that the Workplace Authority Director is required to make under the government’s bill: first, whether or not the fairness test is to be applied to a particular agreement; second, whether the agreement passes the fairness test; and, third, whether an agreement which has been varied passes the fairness test. For each of these agreements, the Workplace Authority Director should be required to provide a notice to the employer and employees who will be covered by the agreement setting out their decision.

Under Labor’s amendments, where the Workplace Authority Director is required to provide employers and employees with a notice in these circumstances, the Workplace Authority Director will also be required to provide in that notice details of how they reached the decision by reference to the criteria set out in the bill. Let us be clear. At the moment, as I understand it, there is a requirement to provide a notice. We are seeking for the notice to also provide details of how the decision was reached by reference to criteria set out in the bill. An example of this would be that, where a notice sets out whether an agreement passes or does not pass the fairness test, the notice must also detail how the Workplace Authority Director applied the factors relevant to the fairness test in proposed section 346M to arrive at a decision.

The rationale behind this is that this will enable an employer or employee upon receipt of a notice to see how the director arrived at the decision. It will bring some degree of transparency, consistency and accountability to the process. If the employer or employee disagrees with the decision or the reason for the decision, under our amendments, they will then be able to raise objections. There will be a time limit for the employer and employee to do this, which we have set out as within seven days of receiving such a decision. If such an objection is raised by the employer or an employee, the director will then be required to make the relevant decision, again taking into consideration the issues raised in the objections notice.

These amendments will go some way towards addressing some of the key failings of the government’s bill and the lack of transparency and accountability in this process and we hope that they would therefore increase the consistency in decision making. This would, in turn, make agreement making somewhat easier for employers and employees in Australia. If the government has the view that this is a test that can be applied consistently, it should not have any fear of amendments which seek to provide some transparency. As Senator Abetz knows, two of the reasons for transparent decision making are (a) to try to facilitate consistency, and
(b) to ensure that a process is properly followed. In the absence of Labor amendments, we do have some concerns as to the lack of transparency contained within the government’s bill.

Of course, as I have outlined previously, whilst these amendments do go some way to addressing some of the key failings in this bill, particularly the lack of transparency and accountability in the process, we on this side of the chamber recognise that our amendments do not remedy the inherent unfairness and lack of balance in the government’s Work Choices legislation. As I have previously iterated in this place, the only way to fix Work Choices is to get rid of that legislation altogether and replace it with a modern, simple industrial relations system which is both balanced and productive.

Senator SIEWERT (Western Australia) (7.36 pm)—These amendments are very similar to the Greens amendments to provide transparency and accountability to the Workplace Authority Director. With regard to justice and fairness, there should be a requirement for the Workplace Authority Director to provide a written statement of reasons for that decision. While we will be supporting this amendment, we believe the Greens amendment was more comprehensive—surprise! This is a key part of the safety net and a fairness test. If somebody is being offered an AWA and that is going through the fairness test, they should be able to find out the reasons why it did or did not pass the test. There should also be appeal provisions. Again, it goes to transparency and accountability. We will be supporting this amendment.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (7.38 pm)—The government opposes these amendments put forward by the opposition. I stress this again: the authority is not a tribunal and I think the Labor Party and the Greens—I do not know what the Democrats will be saying about this—are stuck in a situation where they think arguments will be conducted backwards and forwards in relation to a particular award. This is, in fact, an agreement between two parties. I think there is only concern from the employee’s point of view—that is all that the government in its legislation is concerned about in relation to the fairness test; that it is fair to the employee. Even if the Workplace Authority were to think that it is unfair to the employer, as I understand it, it is not something that the authority is to take into account. But the circumstances are that the employee has signed an agreement, that gets submitted to the authority and the request is that the authority accept it as a fair agreement. The employee is notified throughout the process. If the authority has found it to be fair, the parties will receive notification and it therefore comes into lawful effect. If it is deemed by the authority to be unfair, then the authority goes back to the parties and indicates to them why it believes the agreement is unfair and how that might be remedied.

The authority is not like a tribunal; it is like a safety valve or a safety net for the employee. The employee might have signed up saying, ‘This is a fair agreement to me; I like this agreement so therefore it can go forward to the Workplace Authority.’ However, the Workplace Authority, in putting its ruler of fairness over the document, may come to a different determination. To ask for reasoned decisions would introduce a layer of bureaucracy, work and unnecessary red tape. This is an extra security, a safety net measure for the employee after he or she has determined for themselves that the agreement is a fair one and they want it to go forward. I just do not understand how it could be said that there is a lack of transparency. It is not as though a judge is sitting on a case hearing
arguments from both sides. In fact, the test is only applied from the employee’s point of view, as I understand the situation. The Workplace Authority will publish guidance material on the operation of the test and pre-lodgement advice will be available so the parties can have agreements checked in advance. Once an agreement is lodged, the parties will be notified at various stages of the process. This is set out explicitly in the legislation. In assessing an agreement, the Workplace Authority may contact the parties to discuss aspects of the agreement or obtain further information. If an agreement does not pass the fairness test, parties are notified and provided with advice about how the agreement can be varied to make it fair. The authority will also have the administrative capacity to reconsider its decisions when errors are drawn to its attention. So, with great respect to those opposite, I do not think any argument has been made out in support of the proposed amendments.

Senator GEORGE CAMPBELL (New South Wales) (7.42 pm)—I listened intently—

Senator Abetz—that is a first.

Senator GEORGE CAMPBELL—that is a first—to your commentary in respect of this issue and particularly the point you make that these amendments are about ensuring that the employee’s position, to the extent that you can, is protected. Obviously if that is the case it has not been protected in the past. But I fail to understand the logic you then use to say that, if the focus is about protecting the right of the employee, why it is not possible to put in a provision that says that the Workplace Authority Director cannot or will not provide the employee with reasons why the provisions of an agreement are unfair. We are talking about agreements that apply in the main to people of non-English-speaking backgrounds. We know that from the Employment Advocate’s evidence in Senate estimates of the past that they have actually sent letters in English to people of non-English-speaking backgrounds who have had no capacity to comprehend what is in those letters. We know that there are a substantial number of workers in low-paid jobs and a lot of workers with limited education backgrounds who are dealing with the confrontation of these agreements on a daily basis.

If those workers do not know, if they are not told the circumstances under which an agreement is unfair, are you seriously expecting them to go to the Office of Workplace Services, to hire a lawyer, or to get an advocate from somewhere—on $300 or $400 a week? Are you seriously suggesting that that is available to them? You know as well as I do that, at the end of the day, they will be forced to accept whatever is told to them by the employer. But, if the circumstances are of such a character that there is unfairness identified by the Workplace Authority Director in an agreement, what is the logic that says you cannot tell the person who is being unfairly treated—particularly the employee, if that is who you are setting out to defend—where the unfairness is? On what you have just said, I cannot comprehend why you would take that position.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (7.46 pm)—I thought I had explained it prior to Senator Campbell’s intervention, but clearly not sufficiently or not eloquently enough, so allow me to try again. In relation to this process an employee voluntarily signs an agreement, as does the employer, and it gets submitted to the Workplace Authority Director. The Workplace Authority Director then puts his or her ruler over the agreement. That ruler is called ‘fairness.’ It is a check, if you like, by an independent person, to ascertain whether a different set of eyes and a different
mind, against certain criteria, determines that it is a fair agreement. In the event that it is fair, they will be notified that a determination has been made that it is fair—without any reasons given, but that it is deemed to be fair. In the event that it is deemed to be unfair, the parties will be contacted with suggestions and helpful hints. I may have to look at the actual terminology that is to be applied.

Senator Wong—It refers to ‘how the agreement could be varied to pass the fairness test’.

Senator ABETZ—Thank you very much. The Workplace Authority Director then has to provide advice on ‘how the agreement could be varied to pass the fairness test (including by way of an undertaking)’. As a result, if you were provided advice as to how the agreement could be varied to pass the fairness test, it stands to reason that the unfairness originally must be pointed out and that the way to overcome that unfairness is by having other provisions in the agreement. So the parties would be told quite clearly why the agreement is deemed to be unfair.

Senator SIEWERT (Western Australia) (7.48 pm)—What happens if the director says it is fair, particularly when you take into account people’s personal circumstances and all those sorts of things, and the employee does not believe that it is fair? What you are saying is that the director’s word amounts to: take it or leave it, that’s it—no correspondence entered into. But what these amendments seek and what the Greens amendments sought to do is enable an employee to find out the basis on which the decision was made. It is not objective. You are taking into account industry circumstances, exceptional circumstances and personal circumstances, so it is subjective; it is not objective. Therefore, if the director makes a decision that it is fair, an employee may not feel it is fair and certainly deserves to understand why and be able to challenge that, particularly as it is so subjective.

Senator WONG (South Australia) (7.49 pm)—Following on from Senator Siewert’s contribution, I make this point: under subsection 346P of the bill the requirement on the Workplace Authority Director is only to notify ‘the decision’—so, not the reasons—and, if it does not pass the fairness test, not to notify why it did not but to notify what would need to be done in order to remedy that.

Senator Abetz interjecting—

Senator WONG—They are different things, Minister.

Senator Abetz—Come on! This is just chronic.

Senator WONG—I am happy to explain it in very simple terms. Let us be clear that what is being put in place here is a system where an error could be made by the director that the parties are unaware of in terms of their determination as to whether an agreement is fair. There might be an error with how they have calculated something, or with what the value of a rostering provision might be, or they might have based the decision on information provided by one party but not the other. So it is quite possible under this process that, within the Workplace Authority Director, a decision is made based on an error and, because there is no requirement in the legislation for the reasons for the determination that an agreement is fair or unfair to be disclosed, that may not even be something of which the parties are aware. What is being argued for here is a situation where the determination as to whether something is fair or unfair does not have to be explained. The minister says that, because they have to tell them how to vary it, that somehow will disclose why it is unfair. That may be the case. I suggest to the minister that they are actually different requirements. You might be able to
glean from what you have to change what the director has relied on for the purposes of determining unfairness, but they are not the same sets of information. But, even if we accepted your argument that that subsection does require the reasons for something being unfair to be disclosed, the question arises: why don’t you require that of an agreement that is found to be fair? You cannot have it both ways.

Senator Abetz—What?

Senator WONG—Would you like me to explain it simply, Senator Abetz? What you are saying is: ‘It is fine; we don’t have to ensure that people are actually told why an agreement is fair. We don’t have to give those reasons or the rationale.’ In fact, it is quite possible the decision could be based on information or a calculation that is incorrect or on ascribing more weight than is warranted to the personal circumstances of an employee and the employee may never know. These are all issues that are beyond what is given to the industrial parties—to the employer and employee.

You scoffed—which seems to happen regularly—when I suggested that, regarding section 346P(3), advice as to how the agreement could be varied to pass the fairness test was not the same thing as giving reasons for why the agreement was found to be unfair. I make two points about that: first, they are in fact different sets of information. It is possible, I would think, to glean from what has to be varied why it was unfair, but they are not the same sets of information. The second point was that, if you assert it is the same set of information—it is in effect giving reasons for unfairness—then the question arises: what is wrong therefore with requiring the rationale for a determination of fairness to be provided? What is so difficult or inappropriate or improper in actually telling workers and employers why an agreement is fair and why it is unfair? Why are you so afraid of that?

Senator MURRAY (Western Australia) (7.54 pm)—I would like to ask that these amendments be separated so that the ‘reasons amendments’ can be put separately to the ‘review amendments’. The reasons amendments are items (19) and (20) and the rest pretty well cover the review provisions. I think the reasons amendments, as I may describe them, are entirely proper. Reasons should be recorded and given for a decision. The shadow minister does no more than state what is common, accepted practice and part of the process of natural justice and proper administrative practice.

The review amendments, which are the remainders, are somewhat more complicated. I would have preferred for the Labor Party to have taken a simpler approach, said that there must a review process and determined it on a fairly open and flexible nature. I find the clause as written excessively determinative, if I may say so. I would have preferred, perhaps, that the act would simply require a review process to be undertaken and the actual process to be spelt out by regulation or something. So I have a drafting problem.

If I thought these amendments might get passed, which they will not because the government have the numbers, I would be urging the Labor Party to amend their review proposals. But I support the two principles: I support the actual wording of the reasons in those amendments—I think that is entirely right—and I definitely support the process of review. That is also a well-established principle of natural justice and proper administrative procedure. But I have doubts about the way in which they are framed. So I would like those amendments put separately.

The TEMPORARY CHAIRMAN (Senator Moore)—Senator Murray, to clarify, you want amendments (19) and (20) to
be separated so that the question would now be on only those two amendments, with amendments (21), (23), (26), (28) and (29) to be decided separately. I will divide that question.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (7.57 pm)—If I can respond firstly to Senator Murray, I think the Australian Democrats were very keen on a no disadvantage test.

Senator Murray—That’s right.

Senator ABETZ—How did that no disadvantage test take place? If it were deemed that there was no disadvantage, no reasons were given. Nobody suggested at the time that that was vital or an important part of natural justice et cetera. Yet here this evening, all of a sudden, with a different but very similar test, if it is deemed to be fair we now want all the reasons articulated as to why it is fair, albeit the parties have voluntarily entered into the agreement in the first place. So, with great respect to Senator Murray, he seems to be taking a different view to that which was previously taken.

The parties are genuinely and generally deemed to be able to come to an agreement between themselves which they deem to be fair and reasonable in all their particular and peculiar circumstances. To protect the employees, we have said certain things will not be permitted to be traded away. In fact, on personal leave we said that that was going to be a minimum of 10 days, whereas in some awards it used to be eight days. So that was going to be imported into certain contracts, which raised a higher standard than existed in some awards negotiated by the trade union movement. But, if the parties believe that it is a fair and reasonable agreement, then all that we are doing is requiring the Workplace Authority to check the agreement to ensure that it is in fact a fair and reasonable document.

This is in fact special protection for workers. When workers voluntarily sign up to a hire purchase agreement or a house purchase they think it is a fair and reasonable agreement and it is binding on them. In relation to their employment contract, we are saying that this is a special contract and we are going to provide them with a special and, if you like, extra consumer protection where an independent body looks over the agreement to ensure that it is fair. If it is fair then they are notified that it was deemed to be fair.

In relation to Senator Wong’s quite convoluted submission, if the agreement is deemed to be unfair then the Workplace Authority need to go back to the parties and indicate to them how that perceived unfairness might be remedied. One would have thought that that might expose that which is in the Workplace Authority’s mind as to what was unfair in the first place. Also, and more importantly, the Workplace Authority have to make a finding that it is a fair agreement. If there is some doubt, they have to be satisfied—I think that is the term—that it is a fair agreement. That is why, in clause 346M(6), the Workplace Authority Director is given the power to:

… inform himself or herself in any way he or she considers appropriate (but not limited to) contacting the employer and the employee, or some or all of the employees, whose employment is subject to the workplace agreement.

So if there are residual doubts they can then be followed up by the Workplace Authority in an appropriate way. This is a robust system. It is an extra layer of protection, an extra part of a safety net for the workers of this country. To have this bureaucratic requirement is something that we as a government simply do not accept. We believe that there is very real and robust protection here for Australian workers. What Senator Murray has argued—and I find it strange—would be a
different system to that which was in place under the no disadvantage test.

Senator MURRAY (Western Australia) (8.02 pm)—I cannot leave that unanswered. Firstly, in its final shape the Workplace Relations Act 1996, as passed at the end of 1996 and as applied from 1997, was not an act in which the government got everything they wanted—they know they did not—and it was not an act in which the Democrats got everything they wanted. But if you are going to shift from there to surmising that because we did not get everything we wanted we were going to have a dummy spit, we did not. The whole history of the Democrats in this place has been consistently to support, in all sorts of legislation, both reasons being given for decisions and review processes. The minister has been here long enough to know that that has been the case with us many times. But I think that is an irrelevancy.

Senator Abetz—Did you ask for reasons for the no disadvantage test?

Senator MURRAY—Let’s stay with the legislation before us, Senator Abetz, through the chair. It is an irrelevancy because we are considering what the legislation actually suggests. Bear in mind that the amendments I am focusing on with respect to reasons are opposition amendments (19) and (20). They simply say ‘must state the reasons’. They do not say that the reasons have to be extensive, lengthy, involved, convoluted or bureaucratic; they simply say they must be stated. If an agreement passed the fairness test, the reason that the agreement was allowed could be that it met all the requirements of the legislation. If the agreement did not pass the fairness test then they need to spell it out. I think the shadow minister has quite rightly pointed out that 346P(3) says:

If the Workplace Authority Director decides under section 346M that a workplace agreement does not pass the fairness test, the notice must also:

(a) in the case of a workplace agreement that is in operation on the date of issue specified in the notice—contain advice as to how the agreement could be varied to pass the fairness test

In other words, their reasons for rejecting it will result in the creation of advice as to how to remedy it. All the opposition’s amendments are doing is saying explicitly that you must spell out the reasons for rejecting it—here are the reasons—and this is how you can correct it. That is not adding bureaucracy, complexity or undue process; it is merely making explicit what should be a natural consequence if you are rejecting an agreement because it does not pass the fairness test. The minister could argue, through the chair, that the amendments are superfluous and unnecessary, or whatever words he may use, but it is not an answer to condemn them for characteristics and a lack of virtue which they do not have.

That is the reasons area. What I like about the opposition’s amendments is that they do not go to lengths that say the reasons must be full, comprehensive and cover this, that and the other thing; they simply say that a reason must be provided. It might be a clause or a sentence or a paragraph—it depends on the circumstance. When we get to the review process I am critical of the way in which the amendments are devised. I want a review process but I think the way in which they have been devised may be difficult, depending on the circumstances. There I have more sympathy with the minister’s concerns that they may produce consequences which are not that attractive. But I support the principle, and that is important. I always support the principle of giving reasons and reviewing a decision in every case where it is appropriate. Sometimes it may not be. So I think the minister is wrong to indicate inconsistency and he is unfair to the intention of the
amendments in the way in which he characterises them.

**Senator GEORGE CAMPBELL** (New South Wales) (8.07 pm)—Minister, I want to ask you again about your explanation with respect to how the fairness test works. If I am a 16-year-old—

**Senator Abetz**—We all wish.

**Senator GEORGE CAMPBELL**—I wish I was again, yes—seeking employment in—

**Senator Joyce**—Then you shouldn’t be in this place!

**Senator GEORGE CAMPBELL**—Maybe if there were a few more 16-year-olds in this place we would get a bit more common sense than we occasionally do across the chamber, but that is a separate issue.

The TEMPORARY CHAIRMAN (Senator Sandy Macdonald)—Order! Senator Campbell.

**Senator Joyce**—If you were a 16-year-old is what I meant.

**Senator GEORGE CAMPBELL**—Mr Temporary Chairman, I think you ought to talk to the interjector rather than to me.

The TEMPORARY CHAIRMAN—Order! Yes, I was calling you, Senator Campbell.

**Senator GEORGE CAMPBELL**—I am a 16-year-old seeking employment in the retail industry. I go along for a job, I ‘negotiate’ an AWA with my employer, David Jones, and we spend six hours or a week negotiating this agreement with all of the conditions that I have understood fully, argued out with the employer and put my name to. That is then sent for registration to the office of the Workplace Authority Director. He signs off on that. Minister, he signs off on that. I will wait until you have finished chattering.

**Senator Abetz**—No, keep talking.

**Senator GEORGE CAMPBELL**—Why should I? You are not listening. He signs off on that as being unfair. He presumably notifies the employer, David Jones, and he notifies me, the 16-year-old, that the agreement is unfair and he suggests, ‘This is what you should remedy and how you should remedy the unfairness’. What do I do as a 16-year-old to remedy that unfairness? This is my first job opportunity in the workforce. Explain to me what steps I would take, as a 16-year-old, to deal with that.

**Senator ABETZ** (Tasmania—Minister for Fisheries, Forestry and Conservation) (8.10 pm)—First of all, allow me to deal with Senator Murray’s contribution. I will not stay long on that; I think we will have to agree to disagree on that. I did interject and say, ‘Did you seek reasons for the no disadvantage test in the negotiations’, and I was told, ‘Let’s deal with the bill that’s in front of us’.

**Senator Murray**—I did not hear the interjection.

**Senator ABETZ**—I just thought that that might be a bit of a tell-tale sign. My understanding is that no request was made that it would be appropriate to have reasons in the event that the no disadvantage test was applied and determined that there was no disadvantage in the circumstances and, therefore, the agreement ought to be allowed. But that was never put. Anyway, let us move on.

**Senator Murray**—Where did you get that understanding from?

**Senator ABETZ**—If, as Senator Murray would be satisfied with a statement—and I think that is what he said: just one word and then I think he changed it to a sentence—

**Senator Murray**—No, I said a clause, a sentence or a paragraph.

**Senator ABETZ**—yes—like, ‘It is fair.’ That would not really assist anybody and would not be of great assistance, but it would
be added bureaucracy, added cost for no benefit because under 346P:

(1) If the Workplace Authority Director decides … that a workplace agreement passes the fairness test, the Workplace Authority Director must notify the following of the decision:

(a) the employer in relation to the workplace agreement;

(b) if the workplace agreement is an AWA—the employee whose employment is subject to the AWA;

(c) if the agreement is a union collective agreement or a union greenfields agreement—the organisation or organisations bound by the agreement.

So they will in fact be notified that it was determined to be fair. For them to have to set out all of the reasons when the parties had entered into this agreement voluntarily seems to me to be unfortunate and unnecessary bureaucracy.

Coming to Senator Campbell, can I remind him of the extra protection that Australian workers were provided for the first time ever as a result of the Howard government legislation? Because of clause 37—

Senator Wong—Because it didn’t work, which is why you’ve got this bill in the first place!

Senator ABETZ—Because of clause 373 in the existing legislation—

Senator Wong—Everyone knew it was a joke. Now you are back here to fix it up before the election.

Senator ABETZ—The good senator is interjecting without having any idea what I am about to say and comment on. Senator Campbell was banging on about if, in his wishful thinking, he were a 16-year-old again and what would happen in those circumstances as a 16-year-old. What I am pointing out is that, for the first time ever, in our recent legislation, which has now been in force for about 15 months or so, those people who are under the age of 18 are required to have their agreements co-signed by a legal guardian or a parent. For the first time ever. And of course that was one of the extra protections that we as a government decided to put in to protect the young of this country. The trade union movement did not argue for that, might I add.

Senator Joyce—The National Party did.

Senator ABETZ—The National and Liberal parties did, Senator Joyce, because we believed it was fair and reasonable. As a result, the scenario put forward by the honourable senator is once again in ignorance of the fact that it is protected by law—and I will use that phrase—as a result of the Howard government’s legislation. This unfortunately highlights yet another example of a former trade union official in this place so hell-bent on misrepresenting our legislation and proposals that he does not bother to acquaint himself with the facts, the circumstances and the legislation before going out into the community. Senator Campbell has undoubtedly given radio interviews and speeches at Labor Party branch meetings and elsewhere condemning—

Senator George Campbell—Mr Temporary Chairman, I rise on a point of order. I do not mind the minister berating me or taking issue with the questions I ask but, if he is going to make personal attacks, I am quite happy to stand here and return the personal attacks if that is what the minister wants. Minister, if that is the way you want to conduct yourself in debate, I am quite happy to accommodate you. I am well aware of the fact that they have to get a guardian’s approval to sign it, but I am asking you: what do they do and how do they remedy it? Not every 16-year-old’s guardian is a legal person, has legal qualifications, understands the Workplace Relations Act and understands the employee-employer relationship. So the
The question is still valid irrespective of whether they are aged 16 years or 18 years and one day. The point is this: what do they do if they are told by the workplace director that their agreement is unfair? What steps do they take to seek to remedy that unfairness?

The TEMPORARY CHAIRMAN (Senator Sandy Macdonald)—Thank you, Senator Campbell. I do not think you have a point of order but you had a further chance to speak on it. I remind the minister that this is a chance for him to answer the debating points.

Senator ABETZ—Absolutely. Unfortu-
nately, Senator Campbell spent quite some time seeking to highlight by implication and innuendo the disadvantage a 16-year-old would face. What Senator Campbell has not caught up with was the fact that, some 15 months ago, the Howard government changed the law to protect those 16-year-olds—protection which, over a century of trade unionism in this country, had not been afforded those 16-year-olds. Do I get excited when those opposite misrepresent this govern-
ment? Yes, I do, for very good reason. Could I return the compliment to Senator Campbell and suggest that, hypothetically, I am not a 16-year-old but in fact an 18-year-old and I happen to work for an employment agency. They often need a common law contract of employment, and they tell me that it is fair to pay me an extra 45c per hour in exchange for all my award entitlements. Who checks this? Who independently tells me that it is fair? I trust it will not be the Leader of the Opposition.

Senator MURRAY (Western Australia) (8.18 pm)—I was a bit annoyed, I might say—which is not common with me—at the misrepresentation of the minister about the negotiations between the Democrats and the coalition government with respect to the Workplace Relations Act. I will summarise my understanding of what the minister said. He said that he has been advised that no rep- resentation was made at that time, for rea- sons to be given, with respect to the no-
disadvantage test. Those recent questions and answers were not foretold, so the only source of that advice—and I am convinced that they did not give it—would be the advisers at the minister’s shoulder. None of those advis-
ers—and I can see their faces—were in-
volved in the negotiations. None of them sat—and neither did Senator Abetz—in rooms which were occupied by me and the then minister, Peter Reith, who was ex-
tremely efficient, professional and polite. He was never petty and was always to the point and well argued. I admired his negotiating ability in stance and capacity. At times we were joined by advisers. At times those ad-
visers were expanded to include government officials. Those meetings were not recorded on tape or on Hansard.

There were some written notes at times, and they varied, so it would be impossible for the former minister, me, advisers or any-
body else to remember everything that was said or was passed between us. But what I do remember is this: we knew, when the global no-disadvantage test had to be agreed upon, that global no-disadvantage test was an ap-
praisal of all the allowable award matters and that by and large Australian workplace agreements—the pre Work Choices agree-
ments—had to be at least as good as or better than those allowable matters taken as a whole. To arrive at that decision of either accepting or rejecting them, the Employment Advocate would have to come to a set of reasons as to why they either complied or did not comply. It was a perfectly commonsense outcome. The fact is that we did not write it into the legislation. I cannot recall the detail of it all, but what I do not like is the minister smugly asserting—he was not there; he was a backbencher and was not even involved as
a chair of the Senate committee or in any other way—that he knows whether the matter was discussed. That is what he is saying. I can assure you that reasons were discussed, but I cannot recall the reason why they were not finally put in. I would have to go back to my notes, and I would have to ask former Minister Peter Reith. I will say again for the record that, in the whole conduct of Peter Reith’s negotiations with us, I found him to be extremely professional and never smug or petty.

The second thing I want to come back to with respect to these two provisions is that they say ‘must state the reasons’. I said that that could be a clause, a sentence or a paragraph. The minister immediately came back and said that saying that something is or is not fair might be a reason but it creates cost, bureaucracy and so on. If in examining the issue somebody arrives at the opinion that the agreement does or does not comply with the legislation, that is a reason. The virtue of the opposition’s suggestion is that it allows those reasons to be relevant to the matter concerned and to be as short or as long as necessary.

The attitude of the government to every amendment that comes to this place is to reject it because it was not written by them. That is the attitude, unless Senator Joyce has the gumption and the courage to stand out against them, in which case they have to take a different view. The real reason the government is rejecting these amendments is that they were written by the Labor Party. The Labor Party could write an amendment giving every member of the government a million-dollar bonus and you would still reject it because it was written by the Labor Party. You have a visceral, naked, aggressive, ugly repulsion of anything that the opposition puts forward as an amendment in this place. Maybe you have accepted one opposition amendment, but you tell me of any others you have accepted since 1 July 2005. If it comes from them, it is bad—I think that is the attitude that lies behind your rejection of these sorts of amendments. The problem is that we then get to a situation where we never examine anything on its merits. You can reject the opposition’s amendments for good, sound policy reasons—and I think there might be good, sound policy reasons to reject the second set of these amendments—but the principles of reasons and review they outline are perfectly reasonable propositions. You might resist and reject the way in which they are worded, but you should not reject the principles they espouse.

Senator JOYCE (Queensland) (8.24 pm)—I acknowledge Senator Murray and the dignity he gives to this chamber.

Senator Abetz—With that outburst?

Senator JOYCE—He always tries to do the right thing; you have to give it to him. He is always a fair arbiter of the way the debate is going. It is right that you should get on the record, Minister, because people are listening to the broadcast of this, whether you know of anyone who offers 45c an hour for the delivery of overtime penalty rates and allowances. I think it is fundamentally important that the Australian people understand the integrity and the philosophical conceit of the argument that is purported to come from the other side—that dinner, breakfast and lunch are put on the table by an individual contract that allows as payment for overtime penalties and allowances a paltry amount of 45c an hour. I have a business and, if I were to offer that to my employees, it would be a complete and utter insult. I would not do it. I let my employees determine their overtime penalties and allowances because I want to keep them. I ask you, Minister, so that all the people driving home from work tonight might hear of it: do you know of a business in this

CHAMBER
nation that offers 45c an hour for overtime penalties and allowances?

Senator GEORGE CAMPBELL (New South Wales) (8.26 pm)—I want to raise the issue that I initially raised with the minister and which he has not answered. I will make it easier for him—I will make the person 18 years and one day old. That person sat down for three or four weeks and negotiated an agreement with David Jones, the retailer, for employment in the retail industry. He signed up to an AWA, which the Workplace Authority Director finds is not fair. How does that person go about seeking to redress any deficiency that exists within that agreement?

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (8.27 pm)—It is good that we have moved on to people who are of legal age because I think we dealt with the under-18-year-olds very effectively. In relation to 18-year-olds and over, in those circumstances the Workplace Authority Director would indicate to the parties how a perceived unfairness in the agreement might be overcome. Also, as I have previously read out, clause 346M(6) states:

In deciding whether a workplace agreement passes, or does not pass, the fairness test, the Workplace Authority Director may inform himself or herself in any way he or she considers appropriate including (but not limited to) contacting the employer and the employee, or some or all of the employees, whose employment is subject to the workplace agreement.

So the authority would indicate to the employee what the deficiencies are and how they might be overcome. That is the extra safety net that we are providing to Australian workers. It is a safety net that, I might add, is not in common-law agreements. I note that the Australian Labor Party does not seem to require that for common-law agreements. That is an interesting observation given Senator Joyce’s intervention, which I will not engage on any further. But I do acknowledge what he is getting at.

Senator GEORGE CAMPBELL (New South Wales) (8.29 pm)—Are you saying, Minister, that in the circumstances I have outlined the Workplace Authority Director is compelled to advise both the employee and the employer of the deficiency? Are you saying that he is required to advise both of the deficiency?

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (8.29 pm)—Yes.

Senator GEORGE CAMPBELL (New South Wales) (8.29 pm)—Minister, I am just trying to clarify. I am trying not to engage in rhetorical debate; I am trying to clarify what this legislation means in practice. Does that mean that, as an 18-year-old, I am then compelled to accept what the workplace director says? What the workplace director says is the way in which to correct the agreement—is that the option that is available to me? Whatever the workplace director says is required to make the agreement fair, from being unfair, I am required to accept?

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (8.30 pm)—What has occurred is that two parties have entered into an agreement voluntarily. It is submitted to the Workplace Authority for its extra consideration—all, might I add, geared for the protection of the employee. So, even if the Workplace Authority Director thinks this is completely unfair to the employer, that will not be something that will be able to exercise his or her mind. The only thing that can exercise his or her mind is whether it is unfair to the employee. In those circumstances, albeit the employee has signed up voluntarily, the Workplace Authority Director would then be in touch with both sides to say, ‘This legally binding agreement that you wanted can be made legally binding
by overcoming certain deficiencies’—and then certain suggestions are made—‘and if they are acceptable to the employer then we have an agreement.’

Senator GEORGE CAMPBELL (New South Wales) (8.31 pm)—What if they are not acceptable to the employee, Minister?

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (8.31 pm)—It would be a bizarre situation where the employee thought the agreement was fair and had it submitted, and the Workplace Authority Director said, in effect, ‘Think you’ve short-changed yourself a bit here, mate; you should really be getting a bit more in a particular area,’ and so the employee all of a sudden gets a windfall, courtesy of the Workplace Authority Director, and then turns around and says, ‘Hey, I don’t want an extra 45c’—no, I won’t be provocative; he turns around and says, ‘I don’t want the extra money or the extra conditions that are now being suggested.’ It just is not in the real world.

Senator GEORGE CAMPBELL (New South Wales) (8.32 pm)—I would again repeat the question, Minister, because it may not be acceptable to the employee—I may not want the Kentucky fried chickens that are due to expire on Saturday or Sunday; I may not want the piece of fish or the bread or whatever else they are offering me as non-monetary compensation. They may not be aspects of the agreement that I am interested in, whatever they are. What I am trying to get at is: if the workplace director says, ‘In order to remedy this agreement, you will have to do X, Y and Z,’ and then the employee says, ‘I don’t want to do X, Y and Z to remedy the agreement; I prefer to do A, B and C,’ what avenues are available to me as that employee to pursue that element of the remedy? Or do I simply have to meet what the workplace director says are the deficiencies? Or is it up to the employer to make the remedy to the agreement without reference to the employee? Bear in mind that I am an 18-year-old who is entering the workforce for the first time and I have just spent four weeks negotiating this agreement with David Jones’s head of human resources.

The TEMPORARY CHAIRMAN (Senator Sandy Macdonald)—Minister?

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (8.34 pm)—I was not necessarily going to respond to that, Mr Temporary Chairman. The simple fact is that the agreement is one the employee was happy with in the first place. It goes to the Workplace Authority Director, and the Workplace Authority Director will not be saying, ‘You have to work an extra hour,’ or, ‘You can no longer pick up your kids from school,’ or whatever else. It is in fact enhancing the conditions of the employee. That is what would be happening if the determination were made that it was unfair. As I stressed before, the test of unfairness does not relate to the employer; it only relates to the employee. Therefore, if it is deemed to be unfair, the employee will only be able to walk out with extra and enhanced conditions that he or she previously did not enjoy.

Senator GEORGE CAMPBELL (New South Wales) (8.35 pm)—What you are saying, Minister, is essentially that if an agreement is found to be unfair the onus will be on the employer to remedy it. We are talking about an 18-year-old. Everybody in this country knows that when young people front up to work for the first time they are given a document and told: ‘Sign on the bottom line and you’ve got a job. If you don’t sign, you haven’t got a job.’ There is no negotiation. Senator Webber in her contribution on the second reading debate went through, chapter and verse, a workplace agreement which was
being offered in the mining industry in Western Australia to experienced workers—not to people 18 years of age who have just come out of school to go into the workforce—and they were told: ‘Sign it.’ You cannot even take a copy of it away. You have to sign it on the job: ‘Here it is. During your lunchbreak read it over. Give the copy back and sign it or you haven’t got a job.’ And those people do not have a job.

Senator Webber—That’s right.

Senator GEORGE CAMPBELL—In fact, Senator Webber’s contribution has forced the Office of Workplace Services to write to her seeking information so they can go and inquire into the circumstances of that agreement. Minister, don’t you sit there and tell us what ACCI told us at the inquiry: that there is not one instance of these things occurring, that it is all a figment of our imagination, that it is all being generated because the ACTU is running a scare campaign. There are a multitude of these circumstances out there that we all know about where people are being forced into adopting or accepting agreements which they do not want to have a bar of, but they have no choice because it is the only way they can get a job.

I have asked you a simple question which you have not, in the past 25 minutes, even come close to attempting to answer. That is: how does an employee in those circumstances—an 18-year-old coming into the workforce for the first time—actually seek to remedy a deficient agreement in such a way as to get the conditions they are seeking and not the conditions that are being imposed upon them by an employer? I have not heard the answer. If you are not prepared to answer it, just tell me and I can go and do something else.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (8.37 pm)—If Senator George Campbell wants to absent himself that may be beneficial all around. I can indicate to him that I have in fact answered that question. The problem is that those who are still bogged down in the trade union movement’s views of the 1950s just cannot understand and accept that individuals will make employment arrangements between themselves and their employer. It is always open to the parties, should they want to, to vary an agreement.

In relation to Senator Webber’s alleged expose, we on this side have, unfortunately, found that when the ACTU has put so-called scenarios on television advertisements they have been found to be false and been withdrawn. In relation to Senator Webber’s contribution, I am astounded that if she is aware of this information she should raise it in the parliament without having referred it to the appropriate authorities to investigate. I congratulate the Office of Workplace Services for proactively going to Senator Webber and asking her for the details. I am gobsmacked as to why the honourable senator, having known about an alleged breach of the law, has not gone and reported it to the appropriate authorities. I say to everybody who might be unfortunate enough to be listening to this broadcast that, if they are concerned, they should report their concerns to the Office of Workplace Services because we now have an independent body that seeks to champion the cause of workers to ensure that they do get industrial justice.

Senator WEBBER (Western Australia) (8.39 pm)—I cannot help but respond to some of the imputations made by the minister in his latest contribution. It is not my usual practice to take part in the committee stages of any legislation except legislation that I am intimately involved with. However, if you are going to have a go then you will get one back. I was not aware, Minister, that you knew exactly when I was made aware of that individual contract because I did not
reveal that last night for a very good reason. Those workers gave me that contract on the weekend on the basis of me respecting their confidentiality. I have advised the Opposition Whip that I did get that response from the government department. I have also written back to the government department—obviously they have not told you—saying that it was given to me on the basis of confidentiality. I will go back and meet with those people in person before I reveal those details. I would hope that you would respect that, when I say I will respect their request for confidentiality, I will uphold that. They were aware I would use it as an example and they were happy with that. But I will not reveal those details until I get their permission because some of their workmates are still working on that mine site and they are concerned about victimisation. If they give me the permission to reveal it, I expect you to come in here and retract what you have just said.

The TEMPORARY CHAIRMAN
(Senator Sandy Macdonald)—The question is that amendments (19) and (20) on sheet 5295 be agreed to.

The committee divided. [8.45 pm]
(The Chairman—Senator JJ Hogg)

Ayes .............. 33
Noes ............. 35
Majority ........... 2

AYES

Allison, L.F.  
Brown, B.J.  
Campbell, G.  
Conroy, S.M.  
Evans, C.V.  
Fielding, S.  
Hogg, J.J.  
Hutchins, S.P.  
Ludwig, J.W.  
Marshall, G.  
McLucas, J.E.  

Bartlett, A.J.J.  
Brown, C.L.  
Carr, K.J.  
Crossin, P.M.  
Faulkner, J.P.  
Forshaw, M.G.  
Hurley, A.  
Kirk, L.  
Lundy, K.A.  
McEwen, A.  
Milne, C.  

Murray, A.J.M.  
O’Brien, K.W.K.  
Siewert, R.  
Sterle, G.  
Webber, R. *

NOES

Abetz, E.  
Barnett, G.  
Birmingham, S.  
Calvert, P.H.  
Colbeck, R.  
Eggleston, A.  
Ferguson, A.B.  
Fifield, M.P.  
Heffernan, W.  
Johnston, D.  
Kemp, C.R.  
Macdonald, J.A.L.  
McGauran, J.J.J.  
Nash, F.  
Patterson, K.C.  
Ronaldson, M.  
Troeth, J.M.  
Watson, J.O.W.  

Adams, J.  
Bernardi, C.  
Boyce, S.  
Chapman, H.G.P.  
Cooman, H.L.  
Ellison, C.M.  
Fierravanti-Wells, C.  
Fisher, M.J.  
Humphries, G.  
Joyce, B. *  
Lightfoot, P.R.  
Mason, B.J.  
Minchin, N.H.  
Parry, S.  
Payne, M.A.  
Scullion, N.G.  
Trood, R.B.  

PAIRS

Bishop, T.M.  
Ray, R.F.  
Wortley, D.  

* denotes teller

Senator Sherry did not vote, to compensate for the vacancy caused by the resignation of Senator Ian Campbell

Question negatived.

The CHAIRMAN—The question now is that amendments (21), (23), (26), (28) and (29) on sheet 5295 be agreed to.

Question negatived.

Senator SIEWERT (Western Australia) (8.49 pm)—by leave—I move Greens amendments (19), (20) and (21) on sheet 5285:

(19) Schedule 1, item 1, page 24 (line 17) after “instruments that”, insert “if not an award, pass the fairness test and that,”.

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(20) Schedule 1, item 1, page 24 (lines 24 and 25), omit ‘’, to the extent that the designated award contains protected award conditions’’.

(21) Schedule 1, item 1, page 25 (line 14), at the end of subsection 346Y(5), add:

: (j) a preserved State agreement;
(k) a notional agreement preserving a State award.

These amendments relate to what happens when an AWA fails to pass the fairness test. Currently, it goes back to the previous agreement, even if it was a pre 7 May agreement that may not or would not have passed the fairness test. These amendments provide that if an agreement fails the test you go back to the previous agreement, if it passes the test, or, failing that, onto the appropriate award. These amendments close a loophole and the potential for employees to be worse off if their agreement fails the test. I did raise this during my second reading speech. We are concerned about what happens to an employee if an AWA fails the fairness test and that, if the agreement fails and it goes back to a previous agreement, it may in fact leave them worse off. We believe that these amendments deal with that and make the process fairer.

Senator WONG (South Australia) (8.50 pm)—Is the minister going to indicate the government’s intention in relation to these amendments?

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (8.51 pm)—I will do.

Senator WONG (South Australia) (8.51 pm)—There has been a range of amendments moved and I would think that it would be appropriate for the government to indicate what its view was in relation to the issues raised by Senator Siewert.

Question negatived.

Senator SIEWERT (Western Australia) (8.51 pm)—I move Greens amendment (22) on sheet 5285:

(22) Schedule 1, item 1, page 26 (lines 18 to 25), omit paragraph 346ZA(2)(b), substitute:

(b) to continue to be so bound until the time when the employee ceases to be employed by the employer.

This relates to the redundancy provisions in section 394. The bill provides that, where an agreement ceases to operate because it fails the fairness test and the agreement contained a redundancy provision, that redundancy provision continues to apply for 12 months or the employee is no longer employed by their employer, whichever is the earlier, or a new workplace agreement comes into operation. This amendment provides that the redundancy provision continues until the time the employee ceases to be employed, so it takes away the 12-month limit.

Senator WONG (South Australia) (8.52 pm)—I have indicated to Senator Siewert that, whilst we have some sympathy for the issues she is trying to address here, on balance we will not be supporting the amendment. I would refer Senator Siewert to the commitments contained in Labor’s Forward with Fairness policy, which deals with redundancy provisions and addresses most of the concerns she is seeking to deal with in this amendment.

Senator MURRAY (Western Australia) (8.53 pm)—The Democrats support this amendment.

Question put:

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

The committee divided. [8.57 pm]

(The Chairman—Senator JJ Hogg)

Ayes……………… 9
Noes……………… 45
Majority………. 36
AYES
Bartlett, A.J.J. Fielding, S. Murray, A.J.M. Siewert, R. *

NOES

* denotes teller

Question negatived.

Senator SIEWERT (Western Australia) (9.02 pm)—by leave—I move Greens amendments (23), (24) and (25) from sheet 5285 together:

(23) Schedule 1, item 1, page 29 (line 30), after paragraph 346ZF(1)(b), insert:

or (c) treat an employee any less favourably;

(24) Schedule 1, item 1, page 29 (lines 31 to 32), omit “the sole or dominant reason for the employer dismissing, or threatening to dismiss,”, substitute “one of the reasons for the employer dismissing, or threatening to dismiss or treating less favourably,”.

(25) Schedule 1, item 1, page 30 (lines 7 to 10), omit subsection 346ZF(3).

These amendments also relate to failure to pass the fairness test. They are designed to provide greater protection for people on AWAs. These amendments particularly relate to protection for people who are dismissed if their workplace agreement fails or may fail the fairness test. The amendments extend the protection to being treated unfairly as well as dismissal and provide that an agreement failing the test may be only one of the reasons for dismissal or unfavourable treatment rather than the sole or determinant reason. The problem with the sole determinant reason provision is that employers can get around it. This is another one of the issues that Professor Andrew Stewart brought up in his submission to the inquiry on the safety net bill where he pointed out a number of what he considered loopholes in the provisions within the bill. The Greens are seeking to close these loopholes and provide better protection for workers who may be dismissed if their workplace agreement fails or may fail the test.

Question negatived.

Senator WONG (South Australia) (9.04 pm)—by leave—I move opposition amendments (31) and (32) together.

(31) Schedule 1, page 36 (after line 3), after item 22, insert:

22A At the end of section 613

Add:

(2) Notwithstanding the other factors set out in this section or a provision in a workplace agreement or an award, an employee who wishes to attend religious activities on Good Friday must be taken to have reasonable grounds for refusing a request to work on Good Friday:

(32) Schedule 1, page 36 (after line 3), after item 22, insert:

22B At the end of section 613

Add:
(3) Notwithstanding the other factors set out in this section or a provision in a workplace agreement or an award, an employee who wishes to attend religious activities on Christmas Day must be taken to have reasonable grounds for refusing a request to work on Christmas Day.

These amendments deal with the issue of protection for public holidays. Labor believes that Australian employees are entitled to real protection for public holidays. The government’s test is supposed to provide protection from the loss of certain protected award conditions such as public holiday pay, but, as I said, Labor believes in real protection for working Australians, including for the time that they are entitled to not be at work or to entitlements if they choose to be at work.

The government’s Work Choices act states, on the one hand, that employees are entitled to a day off on public holidays but, in the very next section, it states that an employer may request an employee work on a public holiday. The legislation does indicate in section 612(3) that an employee can refuse a request where they have reasonable grounds to do so. It would be interesting to know how many Australian employees are actually aware that this provision exists in the legislation, let alone how to wade through the factors and debate with their employer as to whether their excuse is reasonable. We are proposing amendments to ensure that, when Australian workers are asked by their employer to work on public holidays, it is clear in which circumstances an employee has reasonable grounds for refusing.

On page 4 of sheet No. 5295 revised, amendment 31 states as follows:

Notwithstanding the other factors set out in this section or a provision in a workplace agreement or an award, an employee who wishes to attend religious activities on Good Friday must be taken to have reasonable grounds for refusing a request to work on Good Friday.

A similar provision is sought to be inserted by amendment 32 in relation to Christmas Day:

Notwithstanding the other factors set out in this section or a provision in a workplace agreement or an award, an employee who wishes to attend religious activities on Christmas Day must be taken to have reasonable grounds for refusing a request to work on Christmas Day.

These are important matters. One of the things that Labor has consistently said in relation to the Work Choices debate over the last 18 months or so is that the provisions of industrial relations legislation such as was rammed through the Senate do not only go to the technical aspects of people’s conditions of employment and they do not only go to the detail of what can or cannot be included in agreements. Those matters are important, but the legislation in fact goes to a great deal more than that. I note that tonight the minister made a joke about Labor requiring greater protections in an employment contract than in a hire-purchase arrangement—well, we do, and we make no apology for that.

Senator Abetz interjecting—

Senator WONG—The minister suggests I am misrepresenting him, and I invite anybody who is listening perhaps to go back to the Hansard record. The point is that this goes to the sort of society we are. Work Choices was a piece of legislation that was as much about the sort of Australia we want, the sorts of values we want to inculcate and the attitude to work and working life that we believe in. We have always taken a view in this country that there are some fundamental rights, some fundamental values and some fundamental principles such as a fair day’s pay for a fair day’s work and the eight-hour day, because behind that we think employees are entitled to spend some time with their
family. We have always had the view that the provision of reasonably remunerated work and reasonable conditions goes to the heart and the dignity of working people in their employment lives and in the nature of our society. What we are talking about here is that there are some things we should value—we should say that people who wish to attend religious activities on Good Friday or Christmas Day should be allowed to do so. That should be classed as being a reasonable ground for refusal.

I urge the Senate to consider supporting these two amendments. I would have thought they were unremarkable and consistent with the way in which most of us would approach these sorts of public holidays. They are days to which a great many people in our community ascribe a significant amount of spiritual and religious value. It would seem to us on this side of the chamber that there is benefit in placing in the legislation some protection for that and some recognition of the traditions that many people observe in relation to these particular days.

Senator MURRAY (Western Australia) (9.11 pm)—The Democrats support those amendments.

Senator SIEWERT (Western Australia) (9.11 pm)—The Greens will likewise be supporting these amendments.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (9.11 pm)—The government opposes the proposed amendments as they would unnecessarily limit the ability of employers and employees to negotiate arrangements that best suit their needs. The Workplace Relations Act provides a statutory entitlement to public holidays, in particular the specified iconic public holidays like Christmas Day and Australia Day; days substituted for those public holidays, for example if Christmas Day falls on a Sunday; and days declared as public holidays under state or territory law. Just as importantly, the act provides a right to paid leave on those public holidays. It also gives employees the right to reasonably refuse a request to work on a public holiday.

Whether a refusal is reasonable depends on all the circumstances; those that relate to both the employee and the employer. If somebody was employed at a service station, for example, and they indicated to their employer with plenty of notice—and I am not sure that the opposition amendment deals with the amount of notice that is required to be given by the employee to the employer—that they did not want to work because they had a religious commitment on that day, given that there may be a large pool of people to draw upon, that may be a perfectly reasonable request. However, if a doctor has been rostered on for an emergency service requirement at a public hospital, for example, and is an employed doctor, and he indicates he has a religious commitment one day before the particular religious holiday, I think it would be fair to say that the chances are in all the circumstances that would be deemed to be unreasonable. That is why there is the need for flexibility, and I think we have got the balance right in relation to that.

Of course, awards and agreements can provide additional entitlements such as penalty rates for working on public holidays or extra days off in lieu. Observance of public holidays and entitlements to payment on those days are protected award conditions for the purposes of agreement making. This means that they cannot be excluded or modified by a new workplace agreement without fair compensation in lieu. The statutory guarantee to public holidays under the Workplace Relations Act is similar to, if not stronger than, rights to public holidays under state and territory law. Allow me to give you two examples.
In New South Wales an entitlement to a paid day off for a public holiday is not determined by the relevant legislation, the Banks and Bank Holidays Act 1912. That legislation only proclaims public holidays. An entitlement to a paid day off must come from an award agreement or contract of employment. Another example—or another two, in fact—is that in Queensland and Western Australia employees are entitled to be paid for public holidays, but there is no statutory right for employees to reasonably refuse to work on those days. So the proposals being put forward by the opposition are unworkable. Once again, they do not allow for flexibility—in fact, they would tie up the legislation even more than in the past.

The TEMPORARY CHAIRMAN (Senator Marshall)—The question is that opposition amendments (31) and (32) be agreed to.

The committee divided. [9.20 pm]
(The Chairman—Senator JJ Hogg)

Ayes………….. 34
Noes………….. 36
Majority……….. 2

AYES

NOES

PAIRS
Campbell, G. Sherry, N.J. * denotes teller

Senator Ray did not vote, to compensate for the vacancy caused by the resignation of Senator Ian Campbell

Question negatived.

Senator WONG (South Australia) (9.22 pm)—I move opposition amendment (33) on sheet 5295 revised:

(33) Schedule 1, page 36 (after line 3), after item 22, insert:

22C At the end of section 613 Add:

(4) Notwithstanding the other factors set out in this section or a provision in a workplace agreement or an award, an employee who wishes to attend commemorative events on Anzac Day, or to support the attendance of a member of the employee’s family at commemorative events on Anzac Day, must be taken to have reasonable grounds for refusing a request to work on Anzac Day.

Perhaps while government senators are here they should be aware that they have just
voted against a Labor amendment which would ensure that people who wish to observe a religious ceremony on Good Friday or Christmas Day do not have grounds under the act to refuse a request to work overtime on that day—just to be clear about what the government’s position is on this. Now you have the opportunity with this next amendment to ensure that employees who wish to attend commemorative events on Anzac Day or to support the attendance of a member of the employee’s family at commemorative events on Anzac Day—

Senator Bernardi interjecting—

The TEMPORARY CHAIRMAN (Senator Marshall)—Order!

Senator WONG—Are you going to interject from the bleachers, Senator Bernardi?

Senator Bernardi interjecting—

The TEMPORARY CHAIRMAN—Order! Senator Bernardi will not interject while he is on his feet!

Senator WONG—I will take the interjection: ‘They should be on an AWA.’ What sort of answer is that from a gentleman who has just voted against making sure people can take Christmas Day or Good Friday off if they want to attend a religious ceremony? You have an opportunity now to ensure that employees who wish to attend a commemorative event on Anzac Day or to support the attendance of a member of the employee’s family at commemorative events on Anzac Day are taken to have reasonable grounds for refusing a request to work on those days. This is about making sure that people can say, ‘Listen, I want to march,’ or, ‘I want to be there while one of my relatives marches.’ I commend the amendment to the Senate.

Senator MURRAY (Western Australia) (9.24 pm)—The Democrats support the amendment.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.24 pm)—The Greens absolutely support the amendment.

Senator ABETZ (Tasmania—Manager of Government Business in the Senate) (9.24 pm)—For the reasons outlined in relation to the previous amendment, the government is opposing this.

Question put:
That the amendment (Senator Wong’s) be agreed to.

The committee divided. [9.29 pm]
(The Chairman—Senator JJ Hogg)

Ayes………….. 34
Noes………….. 36
Majority……… 2

AYES

Allison, L.F. Bishop, T.M. Brown, C.L.
Conroy, S.M. Evans, C.V. Fielding, S.
Hogg, J.J. Hutchins, S.P. Ludwig, J.W.
Marshall, G. McLucas, J.E.
Moore, C. Nettle, K. Polley, H.
Stephens, U. Stott Despoja, N.
Wong, P.

NOES

Abetz, E. Barnett, G. Birmingham, S.
Boyce, S. Chapman, H.G.P.
Coonan, H.L. Ellison, C.M.
Fierravanti-Wells, C. Fisher, M.J.
Humphries, G. Horany, P.

CHAMBER
Joyce, B. Kemp, C.R. 
Lightfoot, P.R. Macdonald, J.A.L. 
Minchin, N.H. McGauran, J.J.J. 
Parry, S. Patterson, K.C. 
Payne, M.A. Ronaldson, M. 
Scullion, N.G. Troeth, J.M. 
Trood, R.B. Watson, J.O.W. 

PAIRS 
Campbell, G. Brandis, G.H. 
Sherry, N.J. Macdonald, I. 
* denotes teller 

Senator Ray did not vote, to compensate for the vacancy caused by the resignation of Senator Ian Campbell 

Question negatived. 

Senator MURRAY (Western Australia) (9.32 pm)—by leave—I move Australian Democrats amendments (1) and (3) on sheet 5266: 

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

1A Paragraph 22(1)(a) 
After “conducted”, insert “annual”. 

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

1C Paragraph 24(1)(a) 
Before “the”, insert “subject to paragraph 22(1)(a)”. 

Amendment (3) is simply consequential. Amendment (1) requires annual wage reviews by the Australian Fair Pay Commission. It is probably implicit in the functioning of the commission. I seek to make it explicit. It is one of those things that either you agree with or you do not. It is plain on the face of it. 

Question negatived. 

Senator MURRAY (Western Australia) (9.33 pm)—I move Australian Democrats amendment (2) on sheet 5266: 

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

1B Section 23 
Repeal the section, substitute: 

23 AFPC’s wage-setting parameters 
(1) The objective of the AFPC in performing its wage-setting function is to ensure that a safety net of fair minimum wages and conditions of employment is established and maintained while promoting economic prosperity of the people of Australia, having regard to the following: 
(a) the need to provide fair minimum standards for employees in the context of living standards generally prevailing in the Australian community; 
(b) the capacity of the unemployed and low paid to obtain and remain in employment; 
(c) economic factors, including levels of productivity and inflation, desirability of attaining a high level of employment, employment and competitiveness across the economy; 
(d) relevant taxation and government transfer payments; 
(e) the needs of the low paid. 

(2) In performing its functions under this Part, the AFPC must have regard to the following: 
(a) the need for any alterations to wage relativities between awards to be based on skill, responsibility and the conditions under which work is performed; 
(b) the need to support training arrangements through appropriate trainee wage provisions; 
(c) the need, using a case-by-case approach, to protect the competitive position of young people in the labour market, to promote youth employment, youth skills and community standards and to assist in reducing youth unemployment, through appropriate wage provisions includ-
ing, where appropriate, junior wage provisions, taking into account:

(i) the extent of labour market disadvantage faced by young workers; and

(ii) the work value of young workers at different ages; and

(iii) the promotion of skills development and training of young workers to reduce their labour market disadvantages; and

(iv) the desirability of minimising discrimination on the basis of age in wage rates only to the extent necessary to further these objectives; and

(v) the structural efficiency principle; and

(vi) that 18 years of age is considered an adult;

(d) the need to provide a supported wage system for people with disabilities;

(e) the need to apply the principle of equal pay for work of equal value;

(f) the need to prevent and eliminate discrimination because of, or for reasons including, race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin.

(3) For the purposes of paragraph (2)(f), trainee wage arrangements are not to be treated as constituting discrimination by reason of age if:

(a) they apply (whether directly or otherwise) the wage criteria set out in the award providing for the national training wage or wage criteria of that kind; or

(b) they contain different rates of pay for adult and non-adult employees participating in an apprenticeship, cadetship or other similar work-based training arrangement.

This amendment seeks to substitute a longer and more expansive determination of wage-setting parameters for the Australian Fair Pay Commission and it incorporates either the actual wording or the intention of the existing section 23, which you will find on page 29 of the printed version, as at the end of 2006. The intention of this amendment is to sweep up the many issues which we believe the Fair Pay Commissioner should attend to. Effectively, we are seeking to incorporate specific social goals as well as economic goals in the wage-setting parameters; we are seeking to make it explicit that persons aged 18 and above are adults; and we are seeking to ensure that the First World standards which we think Australia should have with respect to minimum wages and conditions are identified. Of course, as in the government’s original parameters, we have said that the AFPC must have regard to these matters. They must, of course, arrive at their own balance and consideration.

Our amendment says that the objective must include promoting economic prosperity and must provide fair minimum standards in the context of living standards generally prevailing in the Australian community. We believe that the state of the employment market is important—the capacity of the unemployed and low paid to obtain and remain in employment. We think that economic factors are important—productivity, inflation and the desirability of attaining a high level of employment and competitiveness. We think that the AFPC should have regard to relevant taxation and government transfer payments—and that is a matter of some controversy—and that they should have regard to the needs of the low paid.

We say that the AFPC must have regard to the award relationships and training needs—the need for the competitive position of young people and youth employment. We want particular attention paid to any labour
market disadvantages for young workers. We of course advocate the desirability of minimising discrimination on the basis of age and wage rates. We refer to the structural efficiency principle. We argue for a supported wage system for people with disabilities. We enshrine the need to apply the principle of equal pay for work of equal value. We spell out the need to prevent and eliminate discrimination and itemise those characteristics, and we allow for exemptions or special determinations with respect to discriminating wage arrangements where people are trainees. That is a brief summary of the content. It is an expanded version, but the Democrats feel particularly strongly that the whole basis of a civilised, First World standard in this economy and this society starts with the minimum wage. That is why we have been promoting an expansion of the existing wage-setting parameters.

Question negatived.

Senator MURRAY (Western Australia) (9.38 pm)—by leave—I move Democrats amendments (4) and (5) on the sheet 5266 together:

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

1D Paragraph 103(1)(b)  
After “economy” (second occurring), insert “and society”.

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

1E Paragraph 103(2)(b)  
After “economy” (second occurring), insert “and society”.

We are explicitly saying that, with respect to any consideration of the public interest, the economy must be accompanied by a view being taken of society. So both of those amendments say ‘after economy insert “and society”’. We are not of the belief that a man or a nation is purely an economic being. We do believe we are primarily social beings and economics is a means to an end. We think that, in this perspective of minimum conditions and the safety net, a regard to how society is and the aspirations of society should be explicit.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (9.39 pm)—Very briefly, the commission has to have regard to the objects of the Workplace Relations Act 1996. Part of that includes the welfare of the people of Australia, which is something we pray for each day when we start proceedings in this place. Therefore, we believe the amendments are unnecessary.

Question negatived.

Senator MURRAY (Western Australia) (9.40 pm)—Before I start, I will remark to the minister, through you, Chair, that I think that is a very good prayer. By leave—I move Democrats amendments (6), (7), (8), (9), (10) on sheet 5266 together:

(6) Schedule 1, page 4 (after line 4), before item 1, insert:

1F At the end of subsection 151(3)  
Add:  
: and (c) the principle that men and women should receive equal remuneration for work of equal value.

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

1G After Subdivision G of Division 2 of Part 7  
Insert:

Subdivision GA—Indexation of minimum wage

200A Indexation of minimum wage  
(1) This Subdivision provides for the indexation of the minimum wage, in line with the Consumer Price Index, to start on commencement of this section.

(2) The indexation factor is to be worked out in accordance with section 1193 of the Social Security Act 1991.
(3) The rounding off of indexed amounts is to be worked out in accordance with section 1194 of the Social Security Act 1991.

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

IH After subsection 226(4)

Insert:

Unreasonable hours

(4A) An employee must not be requested or required by an employer to work unreasonable hours, whether as additional hours or otherwise.

(4B) For the purpose of subsection (4A), the factors to be taken into account in determining whether hours are unreasonable include:

(a) any risk to the health and safety of the employee, other employees, customers or clients; and

Note: For purposes of this paragraph, an example is where truck drivers or doctors in hospitals are given unreasonable hours that endanger the health and safety of others.

(b) the employee’s personal circumstances (including family responsibilities); and

(c) any notice given by the employer of the requirement or request to work the hours in question.

Note: For example, hours may be unreasonable because the employee is asked to work excessively long hours, or an unreasonably short shift, or shifts broken by an unreasonably short period, or at an unreasonably short notice.

(9) Schedule 1, page 4 (after line 4), before item 1, insert:

II Subsection 337(4)

Repeal the subsection, substitute:

(4) The information statement mentioned in subsection (2) and paragraph (3)(a) must contain:

(a) information about the time at which and the manner in which the approval will be sought under section 340; and

(b) if the agreement is an AWA—information about the effect of section 334 (which deals with bargaining agents); and

(c) if the agreement is an employee collective agreement—information about the effect of section 335 (which deals with bargaining agents); and

(d) must be appropriate, having regard to the person’s particular circumstances and needs, especially if the employee(s) whose employment will be covered by the agreement are women, persons from a non-English speaking background or young persons; and

(e) any other information that the Employment Advocate requires by notice published in the Gazette.

(10) Schedule 1, page 4 (after line 4), before item 1, insert:

IJ Subsection 400(6)

Repeal the subsection, substitute:

(6) To avoid doubt, an employer is considered to have applied duress to an employee for the purposes of subsection (5) if the employer requires the employee to make an AWA with the employer as a condition of engagement.

I will speak to the amendments, but I request that the question on each is put separately. Amendment (6) on sheet 5266 adds ‘and the principle that men and women should receive equal remuneration for work of equal value’. As you know, we put that into the AFPC’s wage parameters. We think that is a principle that should be in IR legislation, and therefore we seek to add it. In amendment
(7) we argue for the indexation of the minimum wage. If you have an annual wage determination, indexation is not necessary. But if you do not have an annual wage determination, we think indexation of the minimum wage is necessary. So this amendment is moved in anticipation of us losing our annual wage amendment.

For amendment (8) I need to record that the coalition introduced quite an improvement on unreasonable hours from the previous legislation. Work Choices does say that an employer must not make an employee work unreasonable hours above 38 hours per week. That applies to all employees, including managers, and not just those who are paid overtime. Prior to Work Choices there was no general right of this kind, and this right cannot be reduced by agreement. The difficulty with these things is there is always a question of enforcement. And of course you do get very diligent and determined employees who voluntarily work unreasonable hours and sometimes employers are hard put to restrain such individuals. That might seem unusual, but in my experience it is not unusual. You do find willing horses that need restraining.

But I am less concerned about that—and I am pleased with the existing provision in Work Choices—than with a continuing problem with unreasonable hours with respect to categories where there is danger to public health and safety. I got onto this unreasonable hours issue as a result of the truck drivers’ campaigns over the years, to which we have all been subjected, where truck drivers are obliged or made to or feel they have to work unreasonable hours. The consequences can, of course, be road accidents, deaths and injury. The other problem I have is with doctors and medical staff in hospitals working unreasonable hours, particularly interns fresh out of training who have been known to work—it is well reported and well recorded—anywhere up to 100 hours a week. Of course the result is they make mistakes and again people’s lives and health are endangered. So the purpose of that unreasonable hours amendment of ours, and we have put in a specific note, is to actively legislate against that behaviour. So we have two notes which explain the unreasonable hours in there, which includes:

Note: For purposes of this paragraph, an example is where truck drivers or doctors in hospitals are given unreasonable hours that endanger the health and safety of others.

We think the provisions are desirable.

Item (9) refers to the manner in which approvals will be given with respect to individual workplace agreements, employee collective agreements and so on. The purpose is that the information statement spelt out in the legislation—and we had a discussion about that earlier—must contain a number of matters with respect to bargaining agents, and a person’s particular circumstances must be taken into account. That is to address better provision of information and to improve genuine consent for vulnerable workers.

The last item on sheet 5266, which I will motivate now, is item (10). That refers to the requirement for an Australian workplace agreement as a condition of employment to be considered duress. That section repeals subsection 400(6). It says:

(6) To avoid doubt, an employer is considered to have applied duress to an employee for the purposes of subsection (5) if the employer requires the employee to make an AWA with the employer as a condition of engagement.

That is an issue of great contention between the different sides. There are those who think they are entitled, and should be entitled, to do that and there are those, like me, who think that is prima facie making a workplace...
agreement a condition of employment of a particular kind in a particular manner, which means that the employee does not effectively have a choice. I happen to sign up to the small ‘l’ liberal view of choice—that people should have choice—which is why I support individual agreements as well as collective agreements. I also support, therefore, the right of people to reject an agreement, which may not be conceived to be in their interest.

The TEMPORARY CHAIRMAN (Senator Marshall)—The question is that Democrats amendment (6) be agreed to.

Question negatived.

The TEMPORARY CHAIRMAN—The question is that Democrats amendment (7) be agreed to.

Question negatived.

The TEMPORARY CHAIRMAN—The question is that Democrats amendment (8) be agreed to.

Question negatived.

The TEMPORARY CHAIRMAN—The question is that Democrats amendment (9) be agreed to.

Question negatived.

The CHAIRMAN—The question is that Democrats amendment (10) on sheet 5266 be agreed to.

Question put.

The committee divided. [9.52 pm]

(The Chairman—Senator JJ Hogg)

<table>
<thead>
<tr>
<th>Ayes</th>
<th>33</th>
</tr>
</thead>
<tbody>
<tr>
<td>Noes</td>
<td>37</td>
</tr>
<tr>
<td>Majority</td>
<td>4</td>
</tr>
</tbody>
</table>

AYES

Forshaw, M.G.
Hurley, A.
Kirk, L. *
Lundy, K.A.
McEwen, A.
Milne, C.
Murray, A.J.M.
O’Brien, K.W.K.
Sherry, N.J.
Stephens, U.
Stott Despoja, N.
Wortley, D.
Hogg, J.J.
Hutchins, S.P.
Ludwig, J.W.
Marshall, G.
McLucas, J.E.
Moore, C.
Nettle, K.
Polley, H.
Siewert, R.
Sterle, G.
Webber, R.

NOES

Abetz, E.
Barnett, G.
Birmingham, S.
Boyce, S.
Chapman, H.G.P.
Coonan, H.L.
Ellison, C.M.
Fielding, S.
Fifield, M.P.
Heffernan, W.
Johnston, D.
Kemp, C.R.
Macdonald, J.A.L.
McGauran, J.J.J.
Nash, F. *
Patterson, K.C.
Ronaldson, M.
Troeth, J.M.
Watson, J.O.W.
Ferguson, A.B.
Fierravanti-Wells, C.
Eggleston, A.
Fisher, M.J.
Humphries, G.
Joyce, B.
Mason, B.J.
Minchin, N.H.
Parry, S.
Payne, M.A.
Scullion, N.G.
Trood, R.B.

PAIRS

Campbell, G.
Wong, P.
Macdonald, I.
Brandis, G.H.

* denotes teller

Senator Ray did not vote, to compensate for the vacancy caused by the resignation of Senator Ian Campbell

Question negatived.

Senator SIEWERT (Western Australia) (9.54 pm)—by leave—I move Greens amendments (1) to (4) on sheet 5303:

(1) Schedule 2, page 61 (after line 10), at the end of Division 2, add:

Social Security Act 1991

31A Paragraph 502(4)(e)
After “applicable statutory conditions”, add “and would not pass the fairness test under Division 5A of the Workplace Relations Act 1996.”

(2) Schedule 2, page 61 (after line 10), at the end of Division 2, add:

31B Paragraph 541D(1)(e)

After “applicable statutory conditions”, add “and would not pass the fairness test under Division 5A of the Workplace Relations Act 1996.”

(3) Schedule 2, page 61 (after line 10), at the end of Division 2, add:

31C After subsection 629(1B)

Add:

(1C) Without limiting the matters to be taken into account for the purposes of paragraph (1)(d), a refusal to accept an offer of employment that is conditional on signing an AWA which would not pass the fairness test under Division 5A of the Workplace Relations Act 1996 constitutes a reasonable excuse to refuse an offer of employment.

(4) Schedule 2, page 61 (after line 10), at the end of Division 2, add:

31D Paragraph 731B(1)(e)

After “applicable statutory conditions”, add “and would not pass the fairness test under Division 5A of the Workplace Relations Act 1996.”

I call these the Welfare to Work amendments. They relate to the fairness test and the participation requirements. They will amend the Social Security Act to provide that, where there is a requirement for a person receiving a benefit to accept a job, they will not be required to accept the job if the terms and conditions would fail the fairness test. The consequence of refusing a job could be that the person would be breached and would receive the non-payment period. It is unacceptable for a person to receive an eight-week non-payment period for refusing a job with unfair working conditions. This amendment would apply to parenting, youth allowance, Newstart and special benefit payments. This amendment is designed to bring this bill into line with the Social Security Act. It will amend the Social Security Act so that a person would not be breached if their AWA would not pass the fairness test under division 5 of the Workplace Relations Act 1996. It is a simple amendment to bring the two acts into line and to ensure that people are not unfairly breached.

Senator WONG (South Australia) (9.56 pm)—We support the principle behind Senator Siewert’s amendment, which is that suitable work for the purposes of social security legislation should reflect the minimum standards within the industrial relations arena. That, I think, is what the senator is proposing. I have raised with Senator Siewert that we have some concerns about the technical detail of the amendment and on that basis we are unable to support the amendment. But I have made clear what Labor’s position is with respect to the principle.

Question put:

That the amendments (Senator Siewert’s) be agreed to.

The committee divided. [10.02 pm]

(The Chairman—Senator JJ Hogg)

Ayes…………….. 9

Noes…………….. 55

Majority……….. 46

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. Brown, C.L.
In the course of tonight’s debate on the workplace relations legislation, some have accused those on this side of the chamber of looking backwards. On the adjournment debate tonight I want to look back 100 years. Over the next few years Canberra will enjoy a series of centenary birthdays which will culminate on 12 March 2013. Canberra Day that year will commemorate the centenary of the ‘Foundation Stones’ ceremony, when the then Governor-General’s wife, Lady Denman, not only announced the name of the new capital; she told the enthusiastic audience present on the day how to pronounce it. That day is properly reckoned as the birthday of Australia’s planned national capital city. As with any birthday, there were vital and memorable preliminary stages that preceded it, and 2008 to 2013 are undoubtedly the years to recall the exploratory action and foundational legislation of a century ago. But it would be something of an oversight to ignore a seminal speech that was delivered at a public meeting convened in Queanbeyan by the mayor of that busy town on 24 July 1907, and it is the content of that speech that I would like to address in the chamber tonight.

The speaker was John Gale, a significant figure in post-colonial Queanbeyan and, for some, the ‘Father of Canberra’. Regardless of which title we choose to use for him, what we do know with certainty is that the address given by Gale that night, entitled “The Federal Capital. Dalgety or Canberra: Which?” played a pivotal and noble role in Canberra’s grand narrative. The big centenary milestones start next year, and Gale’s speech, made almost 100 years ago to the day, played a small but vital part in the Canberra story. With his background in journalism, Gale was an excellent publicist and promoter, and he knew what he wanted. The new capital of the new nation of Australia would be on his patch.

First, a little background. The search for the nation’s capital city started well before Federation in 1901. In the early 1890s, any number of Australian towns across the continent fancied their chances. The capital might have been interesting in Port Augusta, for example, or at the intersection of the borders of Queensland, the Northern Territory, New South Wales and South Australia—as some had seriously suggested—but the Federation fathers, wisely I think, decided otherwise. According to section 125 of the Constitution, the national capital should be in New South Wales, but at least 100 miles from Sydney.
Thus began, with its constitutional imprimatur, the dramatic search for sites, a process which started in earnest in 1902 and continued literally right up to the final, contentious decision in October 1908. In the 12 or so months leading up to the October decision, many Australian parliamentarians—and I understand that senators played a leading role in that respect—entrusted with the privilege of casting their vote to determine the site, had correctly assumed that the contest, and, indeed, it was a contest, was down to two sites: Dalgety and Yass-Canberra.

Western Australia’s renowned explorer/politician Sir John Forrest threw his very considerable weight behind Dalgety—so much so that he prepared a paper in the first months of 1907 which compared the two options and found strongly in Dalgety’s favour. New South Wales Premier Sir Joseph Carruthers and former Labor Prime Minister Chris Watson had emerged as public advocates for Canberra. The struggle was on in earnest.

Enter John Gale, intent on aggressively taking the influential Forrest to task and armed with an astonishing amount of technical, scientific, cultural and environmental information—and a desire to see the record put right. He knew that Yass-Canberra deserved to be the capital and he had put in many hours to establish what we would today refer to as a superb business case. This is obvious from the text of the lecture, based on a paper that Gale had prepared back in 1902 with the celebrated agrarian scientist, William Farrer, of wheat fame. Gale knew that the politicians wanted the best possible spot for the capital and he would give it to them.

Land availability was no problem at all:

In the vicinity of Canberra there is enough land to supply the wants of the Capital with such necessary food products as cannot well be brought from a distance. The meat, milk, butter, grapes, apples, potatoes, and other fruits and rootcrops raised or grown in the surrounding district cannot be surpassed in any part of Australia ...

Amidst a surprising amount of careful environmental detail, Gale gives close attention to the issue of water, extolling the many advantages of the Murrumbidgee and Molonglo rivers. A ‘concrete weir’ on both rivers would:

... besides furnishing additional power for electrical purposes ... create vast reaches of impounded water within a few miles of the city itself.

Again, a vision of the city that became truer than he could have imagined. Like many of his generation, Gale understood the need for a capital to be more than the seat of government; it must also be a living, breathing heart for the community’s aesthetic and recreational wants. On this point Gale proposed Canberra as a recreational paradise for the coming citizenry. Inevitably, with the passing of a century since his views were expounded, his paradise does not quite resemble what we might see today as an ideal for a city which is a national capital. His views of the benefits of Canberra in this regard were:

Closely allied to picturesque scenery and natural objects of paramount charm and beauty, are such manly fieldsports as hunting, shooting, and fishing. Game is everywhere plentiful. Besides kangaroo, wallaroo, and wallaby of many sorts, the wombat has its haunts hereabouts—to say nothing of the ubiquitous rabbit, hare and fox. We may even include the stately deer which are already in considerable numbers on the park-like uplands fringing Lake George. Birds of game include the beautiful lyre-bird, brush and plains turkey, curlew and plover, and, in their season, snipe and quail; wild duck, teal, swan, redbill, water hen and other aquatic fowl; so that employment for the gun can also be relied upon. As for the rod, the Queanbeyan district stands an easy first ...

It is true that the natural environment still holds very special attraction for Canberrans and indeed for all Australians, but for somewhat different reasons to the ones that attracted Gale.
More contemporary in its appeal is the image of the national capital of the future, which Gale provides in the last paragraphs of the paper. He trumpets a little floridly, but without much exaggeration:

Here the clear and ever-flowing Murrumbidgee sparkles through our splendid site and brightens it; here, our stupendous Alps slacken the cold blasts from the west and south, and refresh the eye with their ever-varying aspects; while the balmy but fresh and invigorating air gives such health and vigour as to cause work to be easy, appetite sharp, and sleep certain.

That explains the glow in my cheeks today; it is the balmy but fresh and invigorating air of that capital that was chosen almost a century ago. Despite some imagery in his salesmanship that wanders a little with the effluxion of time, this is a picture of Canberra as true today as it was 100 years ago. The ideas in Gale’s speech have prescience and a durability that marks him out as a visionary and one who can rightly claim to be a—if not the—‘Father of Canberra’. It is a matter of record that Gale got his wish in little more than a year. The capital would be Canberra.

The rest is history. With the indulgence of the Senate I propose to come back to this subject on future occasions, as other important celebrations of those centenary milestones leading up to 12 March 2013 occur.

Advertising Campaigns

Senator FAULKNER (New South Wales) (10.15 pm)—One of the most important supports of Australia’s political system is the ability of elected officials to make the distinction between their responsibilities as members of a government and their role as party politicians seeking re-election, to draw a line between the privileges, powers and entitlements provided to them to discharge the duties of office and the activities they may undertake in pursuit of partisan political outcomes. Over the past few weeks we have seen mounting evidence that Mr Howard and his ministers are no longer able to draw that line. We have seen Mr Howard’s appalling use of properties like Kirribilli House and the Lodge for Liberal Party functions and Liberal Party fundraising, letting the taxpayer foot the bill for party political activities. We have seen an ever-increasing allotment of advantages to incumbents with staff, printing allowances and entitlements as just the tip of the iceberg of the Howard government’s rigging of the system.

But the single greatest example is the outrageous use of taxpayer-funded advertising by Mr Howard’s government to push a partisan political agenda. Hundreds of millions of hard-earned taxpayers’ dollars have been spent by Mr Howard simply to save his political skin. This abuse of power is corrupting and undermining the proper working of Australia’s democratic heritage.

Let me put this into some perspective. The flagrantly political advertising—before the legislation was even introduced into parliament—of the government’s Work Choices policy cost taxpayers more than $50 million. That is more than half the entire advertising spend of the Keating government in the four years to 1995-96. In the nine months to March 2007, the Howard government has spent $40 million more than the Keating government did in four years. The Howard government has spent in a week of Work Choices advertising as much as it will spend in a year on national security advertising.

The ‘Don’t mention the Work Choices’ advertising campaign for the week of 20-26 May this year cost $4.1 million, or $25,000 an hour. This does not include the full-page newspaper IR ads in all daily newspapers for 5-6 May 2007, which the department classified as non-campaign advertising. It cost the taxpayer $472,195 for just two days.

In May 2007 there were 18 active government advertising campaigns. The media
spend for these 18 campaigns will be $111.2 million. This figure does not include the cost of focus group testing, market research, creative or production costs, public relations and consultants. These campaigns included: simpler super, $15.8 million, from May to June this year and private health insurance, $14.5 million, from 29 April to 30 June this year. Climate change ads have been delayed but the campaign is still due to start before election. The budget is for $52 million including a mail-out to all households. Since 1996 Mr Howard’s Liberal government has spent $1.85 billion on taxpayer-funded advertising campaigns including the $69 million superannuation campaign, $55 million on the Work Choices campaign in 2005, $65 million on the ‘Unchain my heart’ GST campaign and $26.9 million on the ‘Strengthening Medicare’ campaign in 2004.

The vast bulk of the Howard government’s advertising is full of blatant political propaganda. The banner headline for its early May 2007 advertising blitz notifying Mr Howard’s backflip on the Work Choices safety net said: ‘A stronger safety net for working Australians’. No information about the legislation—which had not even been introduced into parliament—just bogus claims about the benefits of the original Work Choices legislation and vague implications about the proposed changes. That is not providing information; it is deceptive propaganda, pure and simple.

It has been reported that the government will spend $69 million promoting the superannuation changes introduced in last year’s budget. In this case the banner headline of the press advertisement said ‘The biggest reform to Australian superannuation ever’. That is not only political propaganda; it is just not true. The brief for a $23 million climate change advertising blitz to begin in the next few weeks, we expect, specifies the need to ‘increase awareness of the Australian Government’s leadership role’ and to ‘position the government as the primary balanced voice on climate change’. That is to say, this $23 million splurge is about political spin, making the Howard government look good on climate change. If Mr Howard thinks that immense amounts of taxpayer-funded political propaganda will work to his advantage, Mr Howard will do it.

But I say: enough is enough. As the Leader of the Opposition, Mr Rudd, has made clear, a Labor government under Mr Rudd’s leadership would not use public funds for advertising of a party political nature. A Rudd government would enforce that undertaking by requiring the Auditor-General to verify that any government advertising met a genuine need for the provision of factual information or legitimate educational purposes, and a Rudd Labor government would work with state governments to see that similar arrangements applied in their jurisdictions. I would say that the citizens of this country deserve nothing less, but they will get nothing, of course—they will just not get this—from the Howard government.

The federal government of Australia should not be spending the public’s money in an effort to, in the sleaziest way, buy its way back into office. The federal government in this country should not be using public funds to lie to the Australian public. And the federal government in Australia should not be using—

Senator Coonan interjecting—

The PRESIDENT—Yes, I think that is a very good point of order, Senator. Order! I think your accusation there may be unparliamentary, Senator Faulkner; I ask you to withdraw it.

Senator FAULKNER—I do not believe it is, Mr President, but I will withdraw it. I am just talking about the federal government.
The President—I ask you to withdraw it.

Senator Faulkner—I withdraw it. I want to say this, though: the federal government should not be using the powers of office for partisan party political benefit. After 11 long years, Mr Howard’s Liberals don’t get it. They don’t know the difference between their money and the taxpayers’ money. They just cannot make that distinction anymore; Mr Howard just doesn’t know the difference.

Senator Coonan—I repeat that Senator Faulkner is getting very close to a personal imputation against the Prime Minister.

The President—No, not on this occasion; I will listen carefully.

Senator Faulkner—What I am saying is about the government, Mr President. Let me be absolutely clear. Listen to this, Senator Coonan. This federal government is the most dishonest federal government in Australian history. It is the most dishonest government in the history of the Commonwealth of Australia, and you ought to be ashamed to be part of it. I say: Australians deserve better and, under a Rudd Labor government, they will get better.

Disabled Supplementary Services Payment

Senator Fielding (Victoria—Leader of the Family First Party) (10.25 pm)—I wish to draw the attention of the Senate to a serious issue relating to a government reform to disability payments which threatens to disadvantage some of the most vulnerable families in Victoria and across Australia. During a tour of regional Victoria, I met with members of the Gippsland Carers Association in Morwell. Some of these carers fear they will be left with no respite once the federal government changes the current disabled supplementary services payment system to a one-size-fits-all inclusion support subsidy.

The new system could dramatically decrease the supplement paid to family day care operators, forcing some to give up their work, which will severely disadvantage many struggling families. These families deserve better treatment from Australia’s disability support system.

Two Gippsland mothers have shared with me that they will lose their respite through their family day care operator once the new system takes effect. To protect their privacy, I have given them different names. Mrs Smith and Miss Jones use the same day care operators, Mr and Mrs Williams, to look after their severely disabled children. Mrs Smith has three sons, two of whom are severely disabled. Miss Jones is a single mother of three children, one of whom has severe and profound disabilities. The other two children have Tourette syndrome. These mothers really have the hardest job of all: raising families that include severely disabled children. They receive up to 50 hours respite each week, which gives them much-needed time off and a much-deserved break. It also gives them the chance of a full night’s sleep and the opportunity to spend quality time with their partners and other children.

The Williamses care for four disabled children and another four children without disabilities. Currently, they receive $1,365 per fortnight in supplementary payments, in addition to the regular rate of $4.60 per hour, per child. Under the new system, this couple will receive, at most, only $800 per fortnight, or as little as $400 per fortnight in supplementary payments. As a result, the Williamses have told Mrs Smith and Miss Jones that they will no longer be able to care for their disabled sons. Not surprisingly, the Williamses have come to know and love these children. They have cared for them for many years and have undertaken extra study to develop their skills. They even renovated
their home to improve the care they offer the children.

For the Williamses to decide to stop caring for special needs children reveals how seriously the government’s new system will affect so many families of disabled children as well as family day care operators. Family First shares the concern of both mothers that they will be unable to find alternative care. Miss Jones says that she has been turned away by conventional childcare services and other family day care operators due to the severity of her son’s disabilities and his aggressive behaviour. Mrs Smith has experienced similar problems.

Family First is disappointed with the government’s blanket approach to an issue which could place even more stress and pressure on families with special needs children. As mentioned earlier, the current system offers additional payments to family day care operators who care for children with ongoing high support needs, like the Williamses. This payment, of up to $4.60 per hour, per child, supplements child care and family day care workers for the added responsibilities they take on. A government field officer assesses each special needs child and seeks a written diagnosis from doctors and specialists. The department uses this information to decide the amount of supplementary payment the operator should receive.

This arrangement will be replaced by a complex and unfair system where the government will no longer assess children individually. Nor will it consider the severity of a child’s disabilities or the different responsibilities of caring for each child. Instead, the department will assess the impact that one or more special needs children will have on the care environment—which, in this case, is the Williams’s house. If the department decides that the child will have a significant impact on the environment, it will allocate $8 per hour to the operator. If it rules that the child will have a moderate effect on the environment, it will allocate $4 per hour—not per hour per child, just per hour. This means that the Williams’s will be paid the same amount, between $4 and $8 per hour, whether they care for one child or four children. And regardless of the supplement the department allocates, the Williams’s funding will be slashed. In fact, they could lose more than two-thirds of their funding, which is a substantial pay cut. This couple will go from receiving $1,365 per fortnight to between $400 and $800, which is a loss of between $965 and $565 every fortnight.

The new system punishes committed operators who have worked hard to improve their facilities. For example, the Williams’s fear that, because their home is now better equipped to cater for special needs children, the department may decide these children have only a moderate impact on the environment. Family First strongly believes that dedicated, high-quality family day care operators should be encouraged to improve their environments and be rewarded for doing so, not penalised. Family First is pleased that the Minister for Families, Community Services and Indigenous Affairs, Mal Brough, intervened in this particular case that I have outlined, but that was only after Family First brought it to his attention.

The fact is that the case I have highlighted is not an isolated one. There are many Australian families in similar circumstances who will be worse off under the new system. Families with special needs children are special families indeed, as are those who help to care for these children. Family First believes they deserve all the support they can get, not less.

**Millennium Development Goals**

Senator CHAPMAN (South Australia) (10.32 pm)—Almost seven years ago, lead-
ers from all 189 member states of the United Nations agreed on a vision for the future: a world with less poverty, hunger and disease; greater survival prospects for mothers and their infants; better educated children; equal opportunities for women; a healthier environment; and a world in which developing countries work in partnership for the betterment of all—all by the target date of 2015. This vision took the shape of eight Millennium Development Goals which are providing countries around the world with a framework for development and time-bound targets by which progress can be measured. The eight Millennium Development Goals form a blueprint agreed to by all the world’s countries and all the world’s leading development institutions. They have galvanised unprecedented efforts to meet the needs of the world’s poorest.

Since agreeing to make the eight Millennium Development Goals a key framework for international action and cooperation to reduce poverty, much progress has been made; however, despite the gains, most of our neighbours are struggling. At least eight of our 22 neighbouring countries are significantly off track in achieving many of those goals. This is especially so for goal 4 of reducing child mortality and goal 5 of reducing maternal mortality. There has been some progress in sub-Saharan Africa, but the region as a whole will not achieve any of the Millennium Development Goals by 2015 on current progress.

Australian government development assistance takes many forms and makes a significant contribution to working towards achieving the Millennium Development Goals. Our region is home to more than 700 million people living in extreme poverty and has 14 of the world’s least developed countries. It faces a range of significant development challenges, including HIV-AIDS, which must be tackled by working together collectively and effectively.

Micah Challenge is a global Christian campaign working to be a prophetic and powerful voice for and with the poor communities around the world. Micah Challenge Australia is part of a global campaign which aims to deepen understanding of justice issues and engagement with the poor as an integral part of Christian faith. Micah Challenge is a global coalition of Christian aid agencies, churches and other church based groups which seek to mobilise people to act for and with the poor.

In Australia, Micah Challenge is made up of more than 25 organisations, including Baptist World Aid, Caritas, Compassion, Opportunity International, TEAR and World Vision. A number of church leaders have endorsed Micah Challenge and joined the Micah Panel of Reference. It is a sister campaign to Make Poverty History and is a part of the Make Poverty History coalition in Australia calling on the Australian government to contribute to the achievement of the Millennium Development Goals.

The Howard government has indeed responded to the call. In agreeing to play our part to achieve these goals, the Australian government has made a number of key commitments: to provide increased aid, focused on poverty reduction; to support the cancellation of debt for countries requiring it to meet their Millennium Development Goal targets; to work towards a fair, predictable and rules based international trade system; to support good governance in development; and to ensure environmental sustainability. Taken together, these commitments offer a realistic and comprehensive approach to helping end the ongoing tragedy of extreme poverty.

In 2007-08, Australia will provide an estimated $3.155 billion in aid, an increase of
$209 million over the 2006-07 budget—a 4.5 per cent real increase after inflation budget-to-budget. A new $2.588 billion package of initiatives was introduced, as part of the 2007-08 budget, to improve the lives, security and wellbeing of our neighbours in the Asia-Pacific region. The ratio of Australia’s official development assistance to gross national income for 2007-08 is estimated at 0.3 per cent, which matches the weighted average for all international donors in the 2006 calendar year.

Over the past seven years, the Australian government has consecutively increased its overseas aid allocation and has provided over $16 billion in that time. The Prime Minister, the Hon. John Howard MP, announced in 2005 that Australia’s aid would double by 2010 from 2004 levels. This was the first time an Australian government had announced a multiyear increase in aid funding and it underlined the government’s commitment to fighting poverty and achieving progress towards the Millennium Development Goals.

Recently, the government has reinforced its commitment by announcing, as part of the 2007-08 budget, its expectation that development assistance will continue to increase to $3.5 billion in 2008-09, $3.8 billion in 2009-10 and $4.3 billion in 2010-11. This funding increase will be based on the principles outlined in the first white paper on Australia’s overseas aid program—Australian Aid: Promoting Growth and Stability, which the Minister for Foreign Affairs, the Hon. Alexander Downer, launched in April 2006.

Provision of aid alone is not enough. Trade liberalisation is just as important. The World Bank estimates that freeing all merchandise trade and abolishing all trade-distorting agricultural subsidies would boost global welfare by up to $US290 billion in 2015 and lift as many as 32 million people out of poverty by the goal target of 2015. Australia is at the forefront of efforts to secure a successful and ambitious outcome from the World Trade Organisation Doha Round negotiations that delivers commercially meaningful improvements in market access for the agriculture, industrial and services sectors.

The Australian government is also committed to providing debt relief for the poor to foster development in poor countries. On 12 September 2006, the Australian government contributed $136.2 million to the Multilateral Debt Relief Initiative. Australia is one of the few countries to have fully met its obligations to the World Bank in this first decade of the Multilateral Debt Relief Initiative. We have also committed $112 million to finance multilateral debt relief under the Heavily Indebted Poor Countries Initiative. Under this initiative, debt relief is provided when a country has a proven track record of reforms, ensuring that debt relief is used for poverty reduction. In 2004, Australia also committed to forgive almost $1 billion of debt owed by Iraq through the Paris Club of bilateral creditors, including cancelling $334 million of debt in 2006-07. Humanitarian and reconstruction assistance also contributes to stability and security and fosters a defence against terrorism. We have complemented significant humanitarian assistance in Iraq, along with technical, government and economic reform and the enhancement of agricultural systems. In the Asia-Pacific region, where Australia is a major contributor of aid, significant progress has been observed in key poverty indicators, but serious challenges remain for meeting the Millennium Development Goals. The key to progress is sustainable broad-based economic growth. Experience from East Asia, where over 5,600 million people were lifted out of absolute poverty between 1981 and 2001, demonstrates that growth is essential to reduce poverty and is needed to
generate the vast majority of resources required to reach the goals.

The world is making progress in the fight against poverty, but more is required to achieve the goals. The goals focus on food and income security, basic health, gender equity, environmental sustainability, water and sanitation and providing a framework for aid donors and recipients to coordinate their efforts to halve global poverty by 2015. The 2007-08 aid budget announced an increase in aid focused on basic education, which will mean that by 2010 we will be giving at least $200 million to basic education. This is our share of the global costs of achieving Millennium Development Goals 2: to ensure that every child can access and complete primary school. Over 1.5 billion people in our region—Asia and the Pacific—lack access to clean water and sanitation. A global lack of water and sanitation kills 1.8 million children each year. Despite this critical importance of water and sanitation, our aid program does not have any separate initiatives in this area and we could redouble our efforts.

Australia’s approach to the development goals underlines the need for an open, non-discriminatory trade and financial system supported by continuing improvements in governance and stability, sound investments in people, commitment to private sector growth and openness to trade and investment. The G8 countries have kept their promise to write off the debts of 18 of the poorest countries in the world. The proportion of people living in absolute poverty has declined from 28 per cent to 19 per cent in the 14 years from 1990 to 2004. In just four years, there has been a 1,000 per cent increase in the use of treated malaria nets. Primary school enrolments have increased from 79 per cent to 86 per cent between 1990 and 2004. There is need for an ongoing and genuine partnership between developing and developed countries to achieve the goals, and the Howard government is taking a holistic and comprehensive approach. It is half-time, if you like; half-time to the goal to halve global poverty. But much can change after half-time. Anyone who recalls the Adelaide Crows’ magnificent turnaround in the 1998 AFL grand final after half-time will agree that half way can be a significant turning point. (Time expired)

Defence Equipment Purchases

Senator MARK BISHOP (Western Australia) (10.42 pm)—This government now faces a critical decision to be made by the end of this month: how it is going to spend some $10 billion on two key shipbuilding projects. On the board are orders for three air warfare destroyers and two amphibious ships or LHDs, the latter costing some $2 billion. Tonight, I would like to steer the government on a safe course with respect to these decisions. I do not want to see taxpayers again marooned by multibillion dollar defence projects that have been strategically ill-conceived, insufficiently costed and wrongly scheduled. Instead, it is better to see a proper balance between risk, schedule and capability.

In recent years I have developed somewhat of an interest in this area of policy. Last year the Senate Standing Committee on Foreign Affairs, Defence and Trade held an inquiry into this very subject matter: naval ship building and construction. I wrote Labor’s additional comments on the committee’s report and I would like to reiterate some of those points this evening. Unless the government makes a balanced and informed decision on these ships, it has the ability to make some grievous errors going into the future. Let us first look at the decision facing the government over the air warfare destroyers. These, if purchased, will be the nation’s most lethal front-line fighting ships. The government must decide on one of two de-
signs for these vessels: the Spanish designed Navantia vessel already in service or the far pricier, yet arguably more capable, theoretical US ship, an evolved Arleigh Burke vessel. As already mentioned, it is largely a choice between capability, schedule and risk.

The government must also decide on the design and construction of two 20,000-tonne amphibious ships valued at some $2 billion. The issue here is whether to go for a local or an offshore build, in whole or in part. The ramifications for the economy of such significant contracts are extensive, and I will address those later. When it comes to the AWDs, the government has already forked out nearly half a billion dollars on their design plans. All three ships are to be built by 2017. They will be fitted with the state-of-the-art Aegis missile system. They will be built in Adelaide by the Australian Submarine Corporation. But which design to choose? Again, it is a choice between risk—the US Arleigh Burke; and capability—the Spanish Navantia. The former is a paper ship, not yet built, while the latter is an actual ship. As I have said in a previous speech in the Senate, it appears the Arleigh Burke paper ship is nudging ahead.

The government originally estimated this project to cost $4.6 billion, but that has now spiralled out to something approaching $8 billion. But this vessel has the bells and whistles to satisfy Navy’s top brass. It has 64 vertical launch missile cells and two helicopters, whereas the Navantia has just 48 such cells and one copter. The utility of the larger cell system relates to the likely eventual purchase of the new theoretical SAM-3 missile system. The Navantia, which docked in Australia earlier this year, is sailing and suitable for our purposes. It is smaller than the Arleigh Burke, it is $500 million cheaper at this stage than its US competitor and it carries more crew. Although in that context I would like to know where any crew is going to come from considering that our fleet is currently substantially undermanned.

If the government abides by the Kinnaird two-step procurement process, the choice is reasonably clear-cut: go for the Navantia. It would be difficult to justify spending the extra half a billion dollars for arguably marginal extra capability without the purchase of a new SAM-3 missile system. It will be interesting to see which way the government blows, but I suggest politics will dictate the decision. Our preference for US sourced product may just tip the balance in favour of the Arleigh Burke.

The indigenous shipbuilding industry is also awaiting the government’s decision on the LHDs. These amphibious ships will be used to deploy land forces on operations. They will be capable of embarking up to 1,000 troops with their tanks, vehicles and equipment. The troops will be lodged ashore for combat or humanitarian missions and supported with the ships’ logistics facilities. It was the procurement of the AWDs that sparked the inquiry back in 2005. At that time, senators wanted to see whether the industry could sustain such construction on a long-term basis. They also wanted to know the most economically beneficial way of maintaining, repairing and refitting such vessels.

The year-long inquiry brought some interesting results. It found there are three critical factors for a viable industry: continuity of Defence demand, long product run and long-term planning. Senators also found Australia has a vibrant, small ship building industry which should be developed more at the bigger, heavier end. Australia has the skills and the workforce to sustain an indigenous shipbuilding industry, but it needs to boost its manufacturing sector—and the defence industry is a ready key to this achievement.
The inquiry found weaponry systems and fit-out was the key to naval shipbuilding, rather than the actual mechanical build of the vessel hulls themselves. So a new paradigm of such shipbuilding is emerging. That is, the vessel’s modules are made at different sites and assembled at one central site. We support the local build of naval shipbuilding, but with one caveat: the government gets the best possible deal for taxpayers. Whatever the decision regarding the LHDs and the AWDs I trust the government makes this call. Based on previous experience, however, I am left wondering—especially, as previously stated, if politics dictates policy. I fear the government will push aside rational considerations such as cost.

Finally, the procurement of the AWDs and the amphibious ships has far-reaching effects and consequences—beyond the positive media from the forthcoming decision, beyond the next election and well beyond the decade—for the inquiry found the indigenous shipbuilding industry to be a victim of cycles. There were years when Defence procurement projects, such as the Collins class submarines, supported a vibrant and expanding industry. But there were also long, lean years with no government contracts. It is hard to insure against these boom and bust cycles within naval shipbuilding. But the government, as the single buyer in this market, is in a prime position to think strategically.

In summary, we have concerns about this massive project. Whatever design is chosen, this project is unlikely to have a long-term benefit for our heavy engineering industry. It is boom and bust. There are few economies of scale. There will be no long-term transfer of intellectual property. Large capital investment will eventually be left idle. Skills developed will dissipate. Design and hightech capacity will suffer the real option of disappearing. There is simply no long-term plan, just ad hoc decisions. That is a real shame, because we do have a skilled heavy engineering industry in Australia perfectly capable of doing this work—and fortunately it is no longer as dependent on Defence.

I will conclude with a reference to the commentary provided in the Australian article this morning critical of the alliance management model. I believe we should keep an open mind on this matter. We need to realise in this country that as much as Defence might want it, a truly competitive naval ship building industry is not viable. No European nation can do it either and in the US it has taken strong government intervention to achieve rationalisation. A successful model has indeed been built which combines competition between yards, and yet allows those same companies to form consortiums, with the Navy Office closely engaged. The alliance model described here sounds similar. It may be different but it could also be innovative and worth trying for the future. The competition will remain, however, while ever a modular approach is taken to fabrication. It is not a pure model, but it could work if set up properly. It would be even better if the horizon for planning and investment went beyond these five ships. (Time expired)

**Broadband**

Senator NASH (New South Wales) (10.52 pm)—I rise to make a few comments about the government’s broadband plan, Australia Connected—

Senator Mason—Hear, hear!

Senator NASH—thank you, Senator Mason—and also a few comments around Labor’s broadband proposal for this nation. It was great for people, particularly in rural and regional Australia, to see the funding announcement of $958 million to go towards providing fast broadband out into our regions. We are going to see a mix of fibre, ADSL²+, WiMAX and satellite to ensure
that we have coverage for 100 per cent of the landmass around this nation.

As I have travelled around the state and the country people have been saying for quite some time that, quite simply, they want faster broadband. What I can tell you tonight is that, because of this government, they are going to get it. This government has a plan to take this nation forward in terms of broadband. We have listened and we have learnt from what has happened overseas, and we are going to put that to good use to ensure that every single person around this nation has access to quality broadband.

What I would really like to comment on tonight is the plan that Labor have for broadband in this nation. Quite frankly, it is not broadband; it is 'fraudband'. What we are seeing under their proposal is broadband confined to the cities and the major regional centres. They would have us believe that they have some grand plan to roll this out right around the nation. But let me tell you that they do not, because you do not have to scratch the surface very much to see that what they are proposing will not be able to be delivered into rural and regional communities—and I am an unashamed supporter of rural and regional communities. The cities are going to get broadband because the private companies are going to do it anyway. What we should be doing in this place is supporting the people who need our help—those in rural and regional communities. That is exactly what this government has done with the Australia Connected broadband proposal.

Let us have a bit of a look at what Labor are proposing to do. They are talking about $4.7 billion of taxpayers’ money going towards their fibre-to-the-node proposal. They are going to raid $2.7 billion of that out of the Future Fund that we have set up because of this government’s sound economic management. We have finally paid off all of Labor’s debt and we have some money to put into the Future Fund, but, oh no, Labor want to rip $2.7 billion out of that to put towards this network. But it gets even better. They want to steal the $2 billion out of the Communications Fund, pushed by the Nationals and set up to ensure regional telecommunications services in the future. Labor want to take that $2 billion out of the Communications Fund and put it into the cities. I might not be the brightest person in the world, but to me that is stealing from rural and regional communities—and that is not on. That fund was set up specifically to look after rural and regional people, and that is what it should be doing. This $4.7 billion that is going towards Labor’s fibre-to-the-node network is only going to reach the major cities and the major regional centres. So there is absolutely nothing for those people out in the rural and regional communities who need it most.

At a recent Senate estimates hearing I asked Mr Bryant, who is the general manager of the broadband infrastructure branch of the Department of Communications, Information Technology and the Arts:

If we look at regional townships, how far out of what we would call the town itself would you find nodes?

Bearing in mind that the plan from Labor is fibre to the node. He said:

The actual concept of fibre to the node is probably not that relevant to smaller regional townships.

He went on to say:

If you think about the structure of most smaller regional towns and cities, at 1.5 kilometres out from the exchange you would be hard pressed in a town of, say, 5,000 people to find sufficient density of housing to warrant doing that.

When you look even at just local government areas, those sized areas that Labor’s proposal would not get to, even in New South Wales,
would be LGAs such as Balranald, Bogan, Bombala, Bourowa, Bourke, Brewarrina, Carrathool, Central Darling, Conargo, Coolamon, Coonamble, Gilgandra, Gloucester, Gundagai, Guyra, Harden, Hay, Jerilderie, Lockhart, Murrumbidgee, Tumbarrumba, Urana, Walcha, Warren and Weddin. And they are talking about providing broadband to the nation! And that is just scratching the surface.

Senator Conroy goes on about his grand plan about fibre to the node. He obviously has not been out in the rural areas lately—not surprisingly; he is probably a little bit trapped in Melbourne. The last I looked around in the central west of New South Wales, where I live, there were no nodes. We will have to start calling Senator Conroy ‘No Nodes Noddy’ because there are no nodes out there and his plan is not going to work. It is a furphy; it is ‘fraudband’. I am not sure whether he is just deluded or he genuinely believes that fibre to the node will work out in the regions. I am not sure which is worse, because under Labor both rural and regional communities are going to miss out.

I think perhaps it is time that somebody started asking Senator Conroy and Mr Rudd what they plan to do about those rural and regional towns, because we have not heard a peep—not one squeak. All we have heard so far, and it is pretty silly when you look at it, is $4.7 billion of taxpayers’ money going to the cities and the large regional centres. As I said, it is pretty silly really when you look at the fact that private enterprise is going to roll out faster broadband in the cities anyway. You do not have to be too bright to figure out that spending nearly $5 billion of taxpayers’ money on something that is going to be delivered by private enterprise anyway is not the smartest thing to do.

Senator Conroy needs to have another look and maybe come up with another sort of plan for how he is going to get broadband out in this nation, because it is not going to work. It is not fair on those people in rural and regional communities, who deserve faster broadband and who are going to get it under this government, for the opposition to have some furphy of a plan, a ‘fraudband’ plan, when in government they would not deliver broadband to those people. It is simple and as plain as the nose on your face that that is what would happen. So I challenge those in this building and those around to ask Labor what they would do for that remaining two per cent. That remaining two per cent does not sound very much, but when you look at a map you see it is a big chunk of Australia. That big chunk of Australia is rural and regional Australia. Those people deserve nothing less than fast broadband, and that is exactly what we are going to give them under our plan.

Senator Moore—It’s taken a while.

Senator NASH—Out there in the regions there is going to be real broadband access. I will take the interjection from the other side that it has taken a while. It has taken a while because after the Nationals secured this money we wanted to get it right. If you try to come up with a quick, cobbled-together plan like Labor do, you come up with a plan that does not work—one that has holes in it. Once you scratch the surface and go a little deeper, you realise that there is no substance for rural and regional communities in Labor’s plan. There is no substance because they are going to rip out taxpayers’ money and put it into the cities. Show me the substance there. There is no substance in this plan as there is no substance in a whole stack of Labor policies. This is indicative of how they approach things. They do not substantiate the glib, throwaway lines they put out into the community. They do not back up what they say they are going to do. It is about time, not only with broadband but with
a whole range of Labor policies, that people scratched a little deeper to see exactly what the substance is and what the plan is, because when you have a look there is no substance, no experience and no way forward with their policies.

People do not care about technology. They get sick of hearing what is going to be delivered and how it is going to be delivered. They just want faster broadband. So I am delighted to see, with the announcement of the government’s policy, that we are going to give them that. Not one per cent of the country, not 10 per cent of the country, not the 70 per cent of the country which fibre to the node would be lucky to reach, but 100 per cent of people around this nation are going to get faster broadband, and they deserve it.

City of Stirling: Citizenship Ceremonies

Senator WEBBER (Western Australia) (11.02 pm)—When you become a senator in this place you are invited to do a whole range of interesting things, most of them outside the building. Some of them are a great pleasure and, indeed, an honour to attend. One thing that is a great honour to attend is a citizenship ceremony. Attending the ceremony and watching people make their commitment to becoming Australian citizens is significant and deeply moving.

So I was a little startled when I received a copy of a letter one of my state colleagues in Western Australia had received from the City of Stirling. It was about their new arrangements for citizenship ceremonies. They were pointing out that, with the government’s change in rules, there has been a large influx of people applying to take out Australian citizenship and therefore they were changing some of the scheduled ceremonies. That is fine. Of course, we are getting very close to an election so people are organising not just for members of parliament but for endorsed candidates to turn up. In its letter, the City of Stirling went on to outline when the new ceremonies would take place and then said:

In addition, the City wishes to draw to the attention of all Members of Parliament that the Code states, inter alia, “it is essential that the dignity and bipartisanship significance of citizenship ceremonies be maintained at all times. Citizenship ceremonies shall not be used as forums for political or partisan expression.” In order to ensure compliance with this requirement, the City advises it will not allow endorsed political candidates to be included, in any capacity, as part of the City’s citizenship ceremonies.

This is something I do not have a problem with, something I might recommend to the mayors of the City of Wanneroo and the City of Joondalup that they also adopt. My problem is that when you look at the guidelines that the city’s letter refers to you see they have left out one crucial bit. The guidelines say:

As well as the Minister, organisers must also invite:

• the local Federal Member/s of Parliament;
• a Senator from a different political party to that of the local Federal Member.

I have checked with my Labor colleagues and with my office. None of us can recall ever being invited to a citizenship ceremony at the City of Stirling. None of us has been invited to the one they have written to my state colleague about, which is taking place on 27 June. It would seem that every citizenship ceremony they have conducted since I became a senator in this place has not complied with the guidelines. I have been to one citizenship ceremony that they conducted, and that is because I asked my office to ring and request an invitation. I would have thought that would alert them to the fact that I was active in the northern suburbs of Perth and enjoyed attending those occasions. I have not heard from the city since.
I have checked with Senator Evans. He has been to one function at the City of Stirling. It was not a citizenship ceremony. He has been a senator in this place since 1993. I have checked with the office of Senator Mark Bishop. He has been a senator in this place since 1996. He has not had any correspondence from the City of Stirling either. I have checked with Senator Glenn Sterle, the most recent Labor senator from Western Australia in this place, and his office has never had any contact with the City of Stirling.

Whilst it might look a bit cute to write to my state colleagues and say that my friend, the Labor candidate for Stirling, cannot attend the citizenship ceremony—and, as I say, I accept that and I will be talking to the Mayor of the City of Wanneroo and suggesting that Mr Simpkins perhaps cannot attend his ceremony either—they might like to ensure they comply with the department’s guidelines before they try to score cheap political points.

Communications Electrical Plumbing Union Election

The President—Senator Conroy, I hope you noticed the tie I have on tonight.

Senator Conroy (Victoria) (11.06 pm)—An excellent Collingwood tie; I see you have already got on board. Last week I had reason to raise concerns about serious matters relating to the conduct of elections within the CEPU Communications Division. This division of the union represents postal and telecommunications workers. These elections opened on 1 June and will close on 2 July. Last week I documented in detail the lengths that certain individuals were going to not only to frustrate the conduct of the election, but to engineer electoral fraud. In particular, I focused upon the establishment of a front company used to hire people as door knockers whose sole purpose was to approach CEPU members and collect their ballot papers from them. This is despite a clear warning from the Australian Electoral Commission that this behaviour was prohibited.

The front company, called Australian Market Research, supposedly located at Level 1, 8-10 Palmer Street, Parramatta, placed an advertisement in the Sydney Morning Herald calling on people to attend training sessions at various locations in Sydney. At these sessions, various documents were provided to doorknocking applicants, including a sheet of 30 CEPU member names and addresses and a large express post envelope. Applicants were told to visit these addresses, collect CEPU ballot papers and return them using express post envelopes. As I indicated to the Senate, this elaborate set of arrangements has been established by AMR, whose owner is a candidate in the elections—Mr Peter Jones. His operations at Parramatta are a sham. In fact there is absolutely no physical evidence of a presence at this location apart from signage belonging to another company, Bowdens Group.

After my comments in the Senate, a concerned employee of this organisation contacted the CEPU last Friday. This person said they had learned about the problems being encountered in this election, they had read the matters raised in the Senate and they were concerned about their company being dragged into improper activity. This person was not only anxious about the impact on their firm but was also concerned about the implications for their job. This person said they were holding, and I quote this precisely: … hundreds of Australia Post Express Post satchels.

Remember, these satchels were provided by AMR to the doorknokers paid to collect ballot papers in this election. This person claimed that, over four months, Peter Jones paid to use the address for the collection of
express post three kilogram satchels and other mail. This person was advised by the CEPU not to give the express post satchels to Mr Jones or any other person. The AEC, which had previously been notified of this matter, was advised of these latest details last Friday.

The Senate should also be made aware of the following. It is claimed that, after the Senate was informed of the problems with this ballot, Mr Jones hurriedly returned with others to this location in Parramatta. It is said Mr Jones retrieved various items, including envelopes, before threatening staff that anyone who commented on this matter would be breaching confidentiality agreements. Further, it is believed that doorknockers were out in force on the weekend in the Central Coast, Hunter and South Coast regions of New South Wales attempting to collect yet more ballot papers.

One would think that the revelations made to the Senate last week would curb this brazen effort to engage in prohibited electoral behaviour. Yet it appears to have done the opposite, only spurring on these efforts. And I am alarmed that the relevant authorities are standing by, alerted to these actions but refusing to act. While the AEC acted earlier, it should now be a matter of urgency that serious, determined intervention occur in this election to prevent the prohibited action of ballot collection by people paid to break the law.

The Australian Federal Police had also been previously notified about these problems. Today they were approached to discuss the action they will be taking to stop these acts of electoral fraud. The AFP was also approached by the person I referred to earlier—the concerned employee of Bowdens Group. I wish to advise the Senate that I am formally writing to the AFP, supporting any moves towards urgent intervention by them to ensure AFP officers are sent to these premises tomorrow to prevent the handover of this illegally obtained material. The premises will also be under surveillance to alert authorities of any attempt by Mr Jones to collect these outstanding materials. It is anticipated that the AFP will treat this matter seriously in the interests of members who want to see proper elections conducted for their union.

Climate Change

Senator CROSSIN (Northern Territory) (11.12 pm)—Tonight I want to discuss the implication of climate change in the Northern Territory, and I begin with the 2007 report titled *State and territory greenhouse gas inventories 2005* released by the Australian Greenhouse Office. This report estimates that Australia’s greenhouse gas emissions, as a nation, totalled 559.1 million tonnes. Of this, the Northern Territory contributed two per cent, or approximately 13.5 million tonnes. When this is compared to other states—New South Wales contributed 28 per cent, Queensland, 28 per cent as well, and South Australia contributed five per cent, or 28.1 million tonnes—the Northern Territory’s contribution seems almost insignificant. Yet as a developing territory with an ever-increasing population and, as a consequence, growing sectors, it is vitally important that the Territory and Australia take action now to implement environmentally friendly policies to combat the devastating impact of climate change.

By far the largest contributor to the Territory’s gas emissions is related to agriculture, more specifically the burning of savannas, which generally occurs between May and October, which we know as the dry season. In 2005, agriculture contributed approximately eight million tonnes of greenhouse gas emissions, which is an increase of nearly two million tonnes since 1990. Stationary
energy emissions created from the production of electricity and other direct combustion of fossil fuels in industry is the next highest contributor, causing four million tonnes, an increase of just over 1.5 million tonnes since 1990. Transport comes in third, contributing approximately 1.5 million tonnes—also an increase since 1990.

The Northern Territory essentially has two seasons: the wet season, defined by monsoonal showers mainly confined to the Top End, high humidity and high temperatures; and, the dry season, which traditionally sees minimal rain, low humidity and cooler temperatures. The Territory experiences many extremes in weather across its vast landscape, and climate change has an impact on all of them. Tropical cyclones are a regular threat to the Top End of the Territory, which has the Gulf of Carpentaria on the east, the Arafura Sea to the north, and the Joseph Bonaparte Gulf to the west. Given that the collection of reliable data began only in the 1970s with the advent of satellite tracking, 40 years is too short a period to have established actual incidences of tropical cyclones in certain locations. Without getting too technical, this is due to the number of El Nino and La Nina occurrences in the region and improvements in discriminating between tropical cyclones and other low pressure systems.

Statistics from the last 40 years have shown that there has been a decrease in the number of cyclones forming in waters surrounding the Top End; however, this can be attributed to the larger number of El Nino weather patterns occurring, with more cyclones traditionally forming during La Nina occurrences. The number of intense cyclones, on the other hand, has substantially increased. The intensity of the cyclone is measured by the central pressure and the wind speed, which is of most concern as this causes significant damage.

While the scientific community is deeply divided as to whether the cause for more intense cyclones is linked to climate change, there is a strong argument supporting the link. The sea surface temperature is one of a few factors needed to form a cyclone, and the temperature of the sea can determine the intensity. The warmer the sea surface, the more energy is available for tropical cyclones and, as such, the cyclone intensifies. The increase in sea surface temperatures is strongly linked to climate change. Extending from that, it could be argued that more intense cyclones are linked to climate change. The rainfall that comes with cyclones is also expected to increase, which will cause widespread flooding. One only needs to see the photographs of Maningrida—a town in the Northern Territory with a population of 2,500—after the core of Cyclone Monica passed just kilometres west of the town in April 2006 to be very fearful of a future of stronger cyclones. The town was flattened and trees were stripped bare even though the town did not experience the strongest winds the cyclone had to offer. Cyclone Monica was described by David Alexander, the senior forecaster at the Bureau of Meteorology, as one of the best developed cyclones he had ever seen—right at the top range of category 5, which is the highest category for a cyclone.

Along with cyclones comes the devastation of storm surges. A storm surge occurs because of the intense onshore winds and falling atmospheric pressure of a cyclone as it approaches or crosses the coast. The devastating effects of storm surges include severe coastal flooding, which brings sea waves further inland, eroding the coastline and destroying infrastructure. Storm surges also cause flooding of rivers and streams. The coastline and islands of the Northern Territory are particularly at risk as the coastal waters are relatively shallow. If a cyclone
crosses land during high tide, the result can be catastrophic.

The Northern Territory experiences a range of temperatures across its vast landscape. Temperatures can reach a maximum average of 39.3 degrees in some areas, such as Rabbit Flat, and a minimum average of 3.4 degrees at Uluru—Ayers Rock, as we know it—in the middle of the Central Desert. An increase in temperatures has been strongly linked to climate change, and Australia in particular is experiencing an increase in temperature slightly faster than the global average. Most of the Northern Territory has warmed. Maximum temperatures have risen by approximately 0.2 degrees Celsius per decade and minimum temperatures have also risen to 0.1 degrees Celsius per decade across most of the Territory. It is clear that the average temperature rises more in the wet season than it does in the dry. The increase of average warming in Australia by 0.76 degrees Celsius since 1950 has already been associated with an increase in hot days and nights and a decrease in cold days and nights. This is an alarming trend—although I must say as a postscript, being a Territorian and coming to Canberra, that sometimes it does not feel as though there has been a decrease in cold nights! Currently, Alice Springs experiences an average of 90 days of temperatures over 35 degrees Celsius and 17 days over 40 degrees Celsius. By 2030, it is expected that the centre will experience an increase of between five and 70 days of temperatures above 35 degrees Celsius and between five and 45 days of temperatures above 40 degrees Celsius. The continuous increase of hot days and nights will increase fire risk, energy demand for air-conditioning and heat stress to humans, animals and crops.

Climate change also impacts directly on evaporation, which critically affects water storage. If there is more evaporation than rainfall, water loss will be experienced. It is a common misconception that the Territory has vast amounts of water. This is very incorrect. Below average rainfalls in past years mean there has been a failure to properly increase water resources. There is currently no danger of water restrictions at the moment, mainly because of the size of the Territory’s population; however, if Darwin had the population of a southern capital city, it would be a very different story. Rainfall will also be affected by climate change. In its report, the CSIRO states that the Northern Territory will likely experience a decrease in rainfall during the wet season as well as a decrease to the minimal dry season rainfall. The timing and magnitude of the monsoon near Darwin is also likely to be affected. To the south of the Territory, Alice Springs is expected to experience drier conditions in the near future, particularly from July to October, and a small delay to its wet season.

An article that appeared in the Canberra Times on 18 June, titled ‘North faces climate disaster’, described some concerns that leading scientists would be discussing in a two-day national conservation and climate change summit held at the Australian Academy of Science’s Shine Dome this week. This conference was organised by the World Conservation Union’s World Commission on Protected Areas and the World Wildlife Fund Australia. Dr Stuart Blanch, the director of WWF Australia’s northern conservation campaign, said in the article that studies have shown that sea levels were already affecting Torres Strait island communities and that, over the next 50 years, rising sea levels were predicted to flood more than four million hectares of coastal freshwater wetlands, placing local barramundi fisheries and Aboriginal livelihoods at risk.

The President—Senator Crossin, your time has expired.
Senator CROSSIN—I seek leave to incorporate the last few paragraphs of my speech.

Leave granted.

The speech read as follows—

Dr Blanch said, and I quote: ‘The extent of environmental damage and economic loss across the north of Australia that could be caused by climate change is immense. The scale is almost beyond comprehension.’ All these changes will have significant impacts on the Territory overall. The delicate ecosystems existing in our numerous national parks will be disrupted with increases in temperature and decreases in rainfall and cooler days; erosion, rising sea level and salt water inundations will also have devastating effects.

Labor intends to start acting on climate change now. The government has had 11 years to act on climate change, and it has failed to do so. Even with its current moves to act on reducing greenhouse gas emissions, it remains a sceptic; we have only seen them talk about climate change when their pollsters informed them that the public is deeply concerned about it.

Labor will immediately ratify the Kyoto Protocol and work with China to reduce greenhouse gases.

We will also drive in the clean renewable energy revolution by investing in wind, solar power and geothermal ‘hot rocks’ technology. We will develop an emissions trading scheme and responsibly reduce greenhouse gas emissions by 60 per cent by 2050.

Labor will invest in cleaner transport with the Green Car Innovation Fund, and help Australians to green their homes by providing $10,000 interest free loans for solar panels, water tanks and insulation.

We will encourage every Australian to make changes in the way we live so that we can properly combat the very real threat of climate change, and its devastating consequences.

Senator FIELDING (Victoria—Leader of the Family First Party) (11.22 pm)—Over the past few weeks we have seen the devastating fallout of the government’s decision to sell off all of Telstra, which Family First opposed. Australians expect governments to provide essential services, including telecommunications. Telstra is a service and not just a business. It should be treated as a service—an essential service—and not as a business only, where the bottom line is all that matters. Family First warned that services would be cut to boost profits. We warned that Australians would pay the price for the government treating Telstra as a business only, and what we warned about has come true.

Recently we have started to discover the real truth behind Telstra’s slash and burn agenda. Firstly, Telstra revealed plans to slash 500 jobs and close 13 call centres over the next 12 months, beginning with Wollongong, Canberra, Launceston and Newcastle. Launceston will be devastated, with 257 jobs losses. It is desperately hoping to lure another major employer to the town. Almost 220 jobs will go in Newcastle, 250 in Brisbane, almost 150 in Adelaide and 88 in Wollongong. Then last week Telstra announced that another 244 jobs would be axed, with Victorians bearing the brunt. Ballarat will lose 82 jobs, 112 will go in Melbourne and 50 will disappear in Brisbane.

But that is not all. Media reports today reveal that a Telstra executive said that the organisation had to be run like a dictatorship if it was going to be more efficient. The executive said:

We run an absolute dictatorship and that’s what’s going to drive this transformation and deliver results … If you can’t get the people to go there and you try once and you try twice … then you just shoot ’em and get them out of the way …

Family First is shocked and saddened by this attitude. Australian families are struggling to make ends meet, particularly families in regional areas. These massive job losses will impose further hardship and suffering on workers and their families in particular, as
well as on those in rural and remote Australia. Worst of all, there is more still to come. If Telstra is to reach its target of culling 12,000 jobs by 2010 it is only just over half way there. Another 500 Australian workers will lose their jobs this year; another 500 families will be thrown on the unemployment scrap heap and that will devastate their local communities. Until we know where the axe will fall, Telstra’s employees and their families will be forced to live in fear of losing their jobs and livelihoods. That is a level of stress and anxiety that no worker should have to endure.

It is a joke that Treasurer Peter Costello and communications minister Senator Helen Coonan condemned Telstra for its actions when they voted for the sale. The Howard government cannot distance itself from Telstra’s slash and burn agenda. The government must accept some responsibility for the fact that thousands of Australians are losing their jobs. After all, it was the government that sold part of Telstra and then campaigned so strongly to sell the rest of the telco. Before the sell-off, the government had a majority shareholding in Telstra, which provided some assurance for the quality of services in country areas and for the jobs of Australians and the wellbeing of their families. But Telstra still suffered from underinvestment and from a failure to provide services in regional Australia. More than 14 per cent of all lines were faulty, obsolete equipment had not been replaced, new workers had not been properly trained and IT systems were not capable of handling the volumes of new services offered.

The situation has hardly improved. Last year Telstra’s management made it clear that those hardest hit by the completely privatised company would not be Australians in the metropolitan suburbs, where Telstra’s market share in some cases is less than 20 per cent. Rather, it would be those in regional, rural and remote Australia, where there is little if any competition and Telstra’s market share is more than 90 per cent. Telstra’s management also predicted a growing technological divide between rural and metropolitan Australia. But the government was still happy to sell off its majority stake and put profits before people.

Just over two years ago, I told the minister for communications that Family First needed to be shown how selling the rest of Telstra would benefit Australian families. I added that I did not want to hear only about the economic benefits; I wanted to be convinced it was a good idea. Family First voted against the full sale of Telstra because profits would drive decisions and services that were not profitable, particularly those in regional and rural areas, would disappear, as would jobs in their thousands.

Family First condemns the government for turning its back on Telstra’s workers and their families who now live under a cloud of uncertainty, job insecurity and fear of the future.

Indigenous Australians

Senator BARTLETT (Queensland) (11.28 pm)—I seek leave to speak for longer than 10 minutes.

Leave granted.

Senator BARTLETT—I want to speak tonight about a few different reports that have appeared in the last week. They address issues that affect Indigenous Australians and indeed all Australians in one way or another. The one that has received by far the most attention in terms of media coverage is the report in the Northern Territory into protection of Aboriginal children from sexual abuse. That report has produced large headlines, as it should. There was some shocking detail in it.
One of the aspects that I find frustrating about the response to the report is that, as the report itself makes clear, there is not a lot in it that is actually new. I have noted comments from Dr Judy Atkinson about the report she wrote in 1989 for the national inquiry on violence, a report she wrote in 1991 for Prime Minister and Cabinet and a report that she and others, including Professor Bonnie Robertson, did on violence, including sexual violence, in communities in Queensland. So, as this latest report says, there is nothing new or extraordinary about the allegations it contains. The situation that it details is extraordinary, but it is not extraordinary in the sense that there is anything particularly new here. The big issue here is: why is this still happening? Why has the situation not changed? Why are we having another report with another round of shock-horror headlines as though this is some brand-new discovery? Why are we continuing to fail? Why is it that Indigenous communities in the Territory and in many other parts of the country are continuing to fail?

As the report also makes clear, we should not kid ourselves that sexual abuse and sexual assault of children and child abuse in general are confined to Indigenous communities or, indeed, confined to remote areas. Nonetheless, it is clear that this is particularly rife in a number of Indigenous communities, along with a lot of other chronic and extreme social issues that need addressing. But I think it is also important that we do not kid ourselves that this is all an Indigenous problem; that we in the non-Indigenous community might have a few people here and there who are the odd ones out but that there is no really serious problem here. As I have said a number of times in this place, and as the Senate itself has acknowledged through motions passed unanimously in this place, there is a serious problem with child abuse in general in Australia—a crisis—and within that there is a serious problem of sexual assault. As I think we all would acknowledge, sexual assault of children is not sexual in the general sense of the word; it is just another form of violence and abuse, just in a particularly shocking and confronting away. We need to keep these things as part of a perspective rather than gazing on them as though through the glass of a goldfish bowl or a fish tank.

A key aspect of the report that I want to emphasise is the significance of the comments at the start of the report that we need to recognise that there is an intertwined problem here of both symptom and cause. Some of the factors that have been identified such as chronic alcohol abuse, other substance abuse, breakdown of community, chronic unemployment and welfare dependency, are both consequences of the dispossession and oppression and violence and extreme suffering and human rights abuses inflicted on Indigenous people and, as well, they generate further abuse and trauma. It becomes a vicious cycle. What we need to do—and this is a simple phrase to say—is break that cycle. We seem to have this need in public debate either to say, ‘It’s all the fault of the individual, and that person has to take sole personal responsibility,’ or we blame historical wrongs and say, ‘It’s all the fault of historical wrongs and recent wrongs, and until we acknowledge that then the situation will not be fixed.’ I do not understand why we cannot hold the two concepts at the same time and recognise that they interconnect. Needing to acknowledge and to try to deal with past wrongs and redress them where possible is part and parcel of dealing with the present-day reality. But that does not mean that you are absolving people who are committing these acts from some degree of personal responsibility. It does not mean that the Indigenous communities themselves do not need to put in the commitment to address
these problems. But it does mean that you cannot resolve the problems unless you acknowledge some of the causal factors. Nowhere in the world and in no social situation do you deal with an immediate problem, with a chronic situation, with a serious social issue, without exploring how it came about and trying to address those factors. I think the continual effort by at least some to disconnect ‘now’ from ‘then’, and even from the very recent ‘then’, just dramatically increases the chances that we will be condemned to continue failing to break through this crisis.

The report emphasises that there are no simple fixes and it estimates that it will take at least 15 years to make significant inroads into the crisis. That means concerted and continuing commitment and prioritisation from government at federal level and, in this case, at Territory level, but I would strongly stress at state government level as well. There is plenty of room for criticism at both levels. It is a natural tendency of governments at each level to say, ‘Yes, we can do better, but the other mob are the real problem.’ Let us just put that to one side and accept that there is a need to do better. As is made clear in the report, there is no doubt the resources are there; what is needed is continual and consistent follow-through. Even though it says it will take 15 years, I would remind you that, as I said at the start, more than 15 years ago we had reports saying not very much different from what is in this report. Indeed, this particular report at one stage quotes from statements made by a judge with regard to a case in the Northern Territory back in 1977. So these issues are not new, and acting as though this is some sudden, great expose does not help.

It is important to acknowledge the various components of the recommendations that have been put forward. It is natural for all of us to pick the recommendations that we like, and I note the government doing that as well. But we need to look at the whole package of recommendations, we need to hold all those concepts, because there is no point just targeting alcohol, for example, if we do not target other areas. The range of key areas that were addressed, such as alcoholism, poverty, housing, stress, health issues, substance abuse, gambling, pornography, chronic unemployment, the inadequacy of responses by government agencies, lack of rehabilitation of offenders, the way the justice system works and education itself, all need to be worked on together and they have to be a package.

The key part of the recommendations that I want to emphasise is what this report puts upfront: that, in talking about the responsibility of governments—whether federal, state or territory—that is not to say that government has to fix it all and the community can just sit back and say, ‘Why hasn’t the government rescued us from this?’ Of course, the community has to take leadership; unless the community is involved in, driving and working at these solutions, government cannot do it. Government cannot fix things in isolation. But, the reverse applies: communities cannot do it without resourcing and social, political and public support, and governments cannot do it without genuine consultation with the communities involved.

There is quite clear emphasis at the very start of the recommendations in this report that all the solutions and actions have to be done in genuine consultation with Aboriginal people in designing initiatives for different Aboriginal communities in their different settings. The report quotes a former Liberal Aboriginal affairs minister saying that one of the things we should have learnt by now is that you cannot solve these things by centralised bureaucratic direction. I would have thought that was something that particularly a Liberal government would have a natural
affinity with. Centralised bureaucratic fixes imposed on communities from above rarely work in any circumstances. Mr Cheney said: ‘What you need is locally based action, local resourcing and local control to really make changes.’

He points to the irony that the traditional bogeymen, if you like, in engaging with Indigenous communities in the past, mining companies, are doing better in many cases working with local communities and addressing some of their issues and supporting them. That is not a universal statement, but there is no doubt that there are a growing number of success stories here and that is because they have the flexibility to manage towards outcomes locally with those communities. I think there are a lot of lessons we can learn from that.

I would like to emphasise the importance that this report gives to education at all levels. It does not mean just making sure that kids go to school—important though that is; it is about training people at the local level to have the skills to work on these issues with people in their communities and get respect recognised at a community level, as well as the ability to carry out research at a community level to follow through to see what is working and what is not. It is ridiculous that after so many decades of reports and inquiries these things are still not being done consistently, comprehensively and in consultation with affected communities and with adequate resources. That to me is the real shame here.

There is no point in just taking a demonising approach. Obviously, we must continue to strongly condemn any sort of abuse of children, but simply demonising a group of people, particularly Aboriginal men as a group, will just further disempower them and further break down community confidence and perceptions at a local level in Indigenous communities and will further engender a sense of hopelessness. You have to do a number of things at the same time. It is difficult to carry out but it is not difficult to conceptualise and attempt to do it. I really want to emphasise that all the recommendations in that report are a package and that they all hang together on the basis of consultation and adequate resourcing carried out over a prolonged period of time.

I also point to the reports tabled in the Senate yesterday and in the House last Thursday from the Aboriginal and Torres Strait Islander Social Justice Commissioner, Tom Calma. He has just released his social justice report and his native title report. The social justice report includes an appendix with a summary of the Social Justice Commissioner’s main findings and messages on family violence and abuse in Indigenous communities from 2001 to 2006. These things have been reported, they have been provided to the parliament and to the wider community time and again over the years. There might not have been the political optics and hooplas surrounding the specifics of the Northern Territory situation and some of the associated drama and disputes but the facts are there and they have been reported to us. The suggestion that we have to act suddenly, as though we have just discovered something, is again shown to be absurd by the fact that the commissioner’s own report gives us a summary of what he has been saying.

I point to the 10 key challenges. The first is ‘Turning government commitments into action’—and this is government at all levels. The second challenge is ‘Indigenous participation’, which is ensuring there is genuine Indigenous participation and consultation. The third is ‘Supporting Indigenous community initiatives and networks’ and the fourth is ‘Human rights education in Indigenous communities’, which is about communities
becoming more aware of basic fundamental human rights. They are part of the education message I spoke about in the other report.

Another challenge is ‘Don’t forget our men and don’t stereotype them as abusers’, which I have just spoken about. Others are ‘Look for the positives and celebrate the victories’ and ‘Re-assert our cultural norms and regain respect in our communities’. There are different ways to do that depending on some of the history and some of the realities of the different communities. Again, I am talking about communities within major cities as well as remote areas. Another challenge is ‘Ensure robust accountability and monitoring mechanisms’, which means ongoing assessments of how the projects are working and maintaining that continuing commitment. Another challenge is ‘Changing the mindset’ and that is about a change in the mindset of government from an approach which manages dysfunction to one that supports functional communities. To quote the commissioner:

Current approaches pay for the consequences of disadvantage and discrimination. It is a passive reactive system of feeding dysfunction, rather than taking positive steps to overcome it.

We need to reorient our system of service delivery to one focused on building functional health in communities rather than reacting. It is a bit like prevention rather than cure. Finally, ‘Targeting of need’ is about ensuring that programs are targeted to address need and overcome disadvantage rather than just maintain the status quo.

Flowing on from that, I note some of the recommendations in the Social Justice Commission’s report. There are only a small number of them but there is a lot of detail. They address some of the problems with the current arrangement for Indigenous affairs, which include the absence of what he terms ‘principled engagement’ with Indigenous peoples. I have not had time to read the full report yet so I cannot pass an opinion on whether it is principled engagement, but I would certainly say that there has been a lack of adequate and meaningful engagement and that in itself causes the efforts that are made to be less significant and less effective than they otherwise should be.

I will use one example that we have been talking about in the Senate this week concerning the lack of any meaningful engagement even where there are positive opportunities, and that has been the government’s decision to remove the Indigenous representative from the board of the Great Barrier Reef Marine Park Authority. That position was working well for Indigenous peoples in many parts of the coastal areas of Queensland and it was removed without even any discussion with them about it. That is just one example of a structural inability in so many parts of the bureaucracy to comprehend what the hell it is they are actually doing.

I would like to finish off by pointing to another report which was launched just today. It ties in with some of the recommendations and points made in the Social Justice Commission’s report. It celebrates the successes and points to the positives. It was a brief report launched today by ANTAR, Australians for Native Title and Reconciliation, on success stories in Indigenous health. This is very important because it points to the fact that in amongst all of the bad news there are success stories. We certainly should not ignore the bad news and sweep it under the carpet because it is awkward. We need to confront it. It is very easy to focus on the shocking and the awful and the horrible, creating an impression that it is just too overwhelming and too difficult. That can be very disempowering and create a feeling in people that there is just no point in putting resources
in, that it is just too hard—let us spend money on something else.

What this does show is that money well-spent has very good outcomes. The booklet details examples from around the country, and I am pleased to see a couple of examples there from Queensland. There is the Family Wellbeing program through the Apunipima Cape York Health Council based in Cairns but working over the cape, and the mums and babies program through the Townsville Aboriginal and Islander Health Service. They are just a couple of examples, and there are some others from pretty much all around Australia. There are plenty more on top of that of course that could have gone in. This shows that there are not only success stories but that there are already in place programs and mechanisms that we can feed resources into.

We all know that the Australian Medical Association and groups like Oxfam, ANTAR, GetUp! and plenty of others have called for an injection of $400 million a year in new funding. That is what would be needed to bridge that gap in Indigenous health and bring it back towards non-Indigenous Australians in terms of the level of health. We have had suggestions that we cannot spend all that money, that it would just be wasted, that you have to put in place the structures and all that. Certainly you want to make sure that the money is well directed but this shows that the places to direct it to are already there. You can work in through the programs that are already working, expand them further, build on the success stories and feed and resource them. The mechanisms are there. The avenues are there. The reports are there—and not just these reports in the last week but reports going back decades. Missing are the willingness to work together and the political commitment to drive that through consistently over years and years, and not just through the media cycle let alone the electoral cycle, and to provide resources. We know that the resources are there. We know that commitment and energy are being put in at community level. What is needed is the political will on top. (Time expired)

Children’s Health

Senator LUNDY (Australian Capital Territory) (11.49 pm)—One in four Australian children is overweight or obese. Type 2 diabetes has risen dramatically over the last five years. One in eight children has asthma and one in 12 has a chronic allergy. But perhaps some of the most concerning statistics relate to the mental health of our children. In Australia and across the world learning and behavioural disorders such as attention deficit hyperactivity disorder, ADHD, and autism spectrum disorder, ASD, are exploding into epidemic proportions with some huge unexplained increases in the last 10 to 15 years. Of concern is the fact that Australian children today are being medicated for ADHD with stimulants in unprecedented numbers.

Despite the lack of current up-to-date Australian statistics on children’s mental health, we know that around 11 per cent of children aged four to 14 years suffer from ADHD and a further one in 160 children from autism. These numbers are similar in the United States and the United Kingdom. According to the Australian Institute of Health and Welfare report Australia’s health 2006, Australian children should be the healthiest they have ever been. Death rates and communicable disease rates have fallen markedly in the past decades, living conditions are the best ever, passive smoking has been reduced and vaccination rates are at optimum levels. However, there are a number of areas of concern such as obesity and diabetes, while allergies and behavioural and developmental health problems are becoming more common. Why?
What we now know is that these illnesses are lifestyle related. Children are not born obese. They are not born with ADHD or autism. Diet is emerging as a major factor in these illnesses and also as a common link. This rise in childhood illness is part of a worldwide trend and Australia is lagging far behind the rest of the world in adequately and urgently addressing these crucial children’s health issues. Compounding the crisis, further studies show childhood illnesses have far-reaching consequences in adulthood. Research in 2005 showed that 88 per cent of children who were overweight and obese in 1985 stayed overweight and obese as adults. The 26 per cent of boys and 24 per cent of girls that are overweight or obese in Australia today, compared to 11 per cent in 1985, will now face problems like type 2 diabetes, heart disease, kidney damage, liver failure and certain cancers much earlier in life. As I have said before in this place, for the first time our children could have a lower life expectancy than their parents.

Further, the NSW government’s Schools Physical Activity and Nutrition Survey 2004-05 study of New South Wales schoolchildren showed that lack of physical activity is no longer considered the major contributing cause of childhood obesity. The study showed that while children are exercising more they are also consuming more energy. The energy, or kilojoule intake, of children rose around 13 per cent between 1985 and 1995, and the New South Wales data indicates that it continues to rise. The huge increase in the availability of sugar-laden, processed carbohydrates, processed fats and chemically enhanced foods as substitutes for simple fruits, vegetables, seeds, fats and proteins in our children’s diets is implicated not only in an epidemic of illness such as obesity and diabetes but also, alarmingly, in behavioural and learning disorders. Unless we address the diet and nutritional status of our children urgently the consequences may be far-reaching and insidious.

The lack of up-to-date Australian statistics and survey data is a huge impediment to evaluating the true state of our children’s health; in particular their mental health. How can good public policy be made in the absence of accurate and up-to-date data? There has not been a comprehensive national survey on nutritional status since 1995. The statistics collected by the Howard government on the levels of physical activity of children is confusing, inconsistent and erratic, so much so that different agencies have produced different results in participation level surveys. The only detailed study of children’s mental health was the National Survey of Mental Health and Wellbeing, which included a child component, conducted in 1998. Nine years is too long to wait for up-to-date statistical data while childhood illness escalates. In the absence of national data, state surveys such as the New South Wales Labor government’s SPANS report have been valuable in filling in the gaps.

In June 2006 the Australian Institute of Health and Welfare identified several unfavourable trends in children’s health in its report *Australia’s Health 2006*. Of concern were childhood overweight and obesity, diabetes and Indigenous health. The report mentioned, importantly, the difficulty in assessing trends in children’s mental health without up-to-date survey data. Despite this lack of information, federal Labor’s shadow minister for health, Nicola Roxon, and I, in my role as shadow minister for health promotion, have sought to provide some leadership by identifying four key causes for concern in children’s health. These are behavioural and learning disorders, including ADHD and autism; asthma and allergies; obesity, diabetes and physical inactivity; and diet and nutritional status. We know that Australian children have increasingly high levels of learn-
ing and behaviour disorders. ADHD is the most prevalent and often coexists with oppositional defiant disorder, conduct disorder and other anxiety or depressive disorders. Up to three times as many boys as girls have ADHD.

The symptoms of ADHD range from being inattentive, unable to concentrate or focus, unable to complete tasks and lack of self-control through to hyperactivity, impulsiveness, inappropriate social behaviour, fidgeting, talking, interrupting and being unable to stand still. ADHD is estimated to affect around 11 per cent of children or one in nine Australians, although surveys have shown this figure to be as low as seven per cent and as high as 14 per cent. Again, statistical data is extremely limited, with the last major national mental health survey back in 1998, and only limited data was collected from parents in the ABS national health survey in 2004-05. In 2005 a Western Australian study by Zubrick et al indicated that Aboriginal children had significantly higher rates of ADHD, at 24 per cent compared with 15 per cent of all children in WA aged four to 17 years. A study this month published in the American Journal of Psychiatry found the worldwide incidence of ADHD at 5.2 per cent, or one in 20 children. The highest rates were from Africa and South America, while Japanese and Finnish children scored the lowest. Australia does not even have current national guidelines on ADHD, unlike the majority of industrialised countries, including New Zealand. The Howard government rescinded the NHMRC guidelines on ADHD in December 1995 because they were 'out of date'. The release date for the revised guidelines is now January 2008.

ADHD medication is controversial at best, because the medicines usually prescribed are amphetamine based. Between 1991 and 1998 prescriptions for dexamphetamine sulphate increased by a whopping 2,400 per cent, while Ritalin prescriptions increased by 620 per cent. In the US, Ritalin prescriptions increased by 700 per cent between 1990 and 2000. In Australia, prior to 1995, dexamphetamine sulphate was on the PBS and therefore attracted more prescriptions than the better known Ritalin. After 1995, prescriptions of Ritalin skyrocketed in a matter of months after being put on the PBS.

There has been a lot of confusion about the statistical level of the use of Ritalin in the media recently, and I note that Media Watch intervened helpfully on 4 June to clarify the data with their article titled ‘Bitter Pill’. A 2002 Australian study, published in the Medical Journal of Australia, concluded that approximately 13 per cent of children with ADHD are taking stimulant medication. That means that, out of our four million children, about 1.45 per cent are being treated with amphetamines. This has raised many issues in Australian law, medicine and family welfare and requires urgent systematic investigation, particularly in light of the fact that there is now clinical and anecdotal evidence that, for some people, amphetamine based treatment for ADHD can be effectively replaced with diet modification and nutritional supplementation.

In 2002, US researchers found that a combination of vitamin, mineral, amino acid, probiotic, essential fatty acid and phospholipid treatments improved attention and self-control in children with ADHD equally as well as Ritalin treatment as administered to two identical groups of children. Further studies have focused on various essential fatty acids, the good omega fats found in fish, seed and nut oils, which must be obtained through diet and which are essential for brain function. In April 2007, an Australian study reported that children who were given combined fish oil and evening primrose oil supplements improved markedly on parental ratings of core ADHD symptoms.
such as inattention, hyperactivity and impulsivity. In the UK earlier this year, the Associate Parliamentary Food and Health Forum commenced an inquiry to examine the links between food and behaviour with a special focus on the role of essential fatty acids in the diet.

Autism spectrum disorder includes autism and Asperger’s syndrome, a high functioning form of autism where the child is often very gifted and very intelligent. There are two types of autism. Classic autism occurs from birth and is still very rare—occurring in only one to two of every 10,000 children—and regressive autism, which generally appears between the ages of 12 and 24 months after a period of normal behaviour. The diagnostic criteria for autism include the following characteristics: restrictive, repetitive behaviours; inability to interact socially; avoidance of eye contact; and abnormal language and communication skills.

A three-year study commissioned by the Australian Advisory Board on Autism Spectrum Disorders has just concluded, with the results showing that around 10,000 children aged six to 12 have ASD. Unfortunately, it is difficult to locate any historical statistics on autism in Australia, making a trend analysis next to impossible. But in the US children diagnosed with autism rose from one in 10,000 in 1970 to one in 500 in 1996 to one in 150 today. Dr Kenneth Bock, on his recent Australian visit to speak at the Mindd Foundation’s—Metabolic Immuno Neurologic Digestive Disorders—children’s forum, asserted that, in some cases, ADHD and autism could be reversed through his step-by-step program to heal children via diet, nutritional supplementation and detoxification. His program, based on treating ADHD and autism as medical illnesses arising from physical dysfunction rather than psychiatric disorders, offers hope to parents who have little left, as do his descriptions of how intensive dietary intervention and nutritional therapy have improved the lives of many children in the US.

A survey conducted by the US Autism Research Institute found that the symptoms of 65 per cent of children with autism and Asperger’s syndrome improved significantly on one particular diet—a combined gluten, or wheat, free; and casein, or dairy, free, diet. Controversially, however, Dr Bock links learning and behavioural disorders, including regressive autism, with the build-up of mercury, which is toxic. Bock claims factors like environmental pollution and genetic susceptibility make some children even more vulnerable to the toxic effects of mercury. Bock also points out that the symptoms of mercury poisoning and autism are nearly identical. Where his views get really controversial is that he draws the link to those childhood vaccinations which in the past have contained mercury as a preservative. His reported success with detoxification and nutritional therapy seem to strengthen his claims of a link between autism and mercury. By way of background, thimerosal or thiomersol—there are two spellings of this particular substance—is a preservative which contains 49.6 per cent ethyl mercury. This preservative was removed from childhood DTP—diphtheria tetanus pertussis—vaccinations in Australia in 2000 and in the US in 2001.

I raise Dr Bock’s views in the context of the growing public interest in the increases in autism, ADHD, allergies and asthma in children. To place his controversial views and new treatments of these illnesses into the context of orthodox medical thinking, I think it is also important to put on the public record the current position of the American Academy of Pediatrics: There are no valid studies that show a link between thimerosal in vaccines and autistic spectrum disorder. A 2004 report from the Institute of Medicine, Vaccines and Autism, concluded that
the available evidence is against the existence of a causal relationship between thimerosal-containing vaccines and autism.

In addition, I would like to refer to the formal advice of the federal Department of Health and Ageing in their publication Australian Immunisation Handbook—8th edition, published in 2003. Under part (b), ‘Vaccine content’, there is a section on thiomersal, as it is called in this publication. The section begins by providing an explanation as to why there are additives in some vaccines:

Additives may be necessary either as part of the production process of some vaccines, as preservatives, or to help boost the body’s immune response to the vaccine (an adjuvant). These may include formaldehyde, thiomersal and aluminium.

The section on thiomersal provides a description of its historical use in vaccinations and its ongoing use in some vaccines in trace amounts and responds to theoretical concerns about its safety. It concludes with these paragraphs:

People sometimes ask why thiomersal was removed from vaccines if it did not cause adverse health effects in children. There were two main reasons: first, it was an attempt to reduce to a minimum the amount of mercury given, in any form, to very small premature babies with low birth weight in whom there was a theoretical risk. Second, the intent was to reduce total exposure to mercury in babies and young children in a world where other environmental sources may be more difficult to eliminate.

This inconsistency between the work and findings of Bock et al and the published official position will ensure the ongoing debate about the causes of autism and the effect of mercury continues to rage. My aim in raising these issues is to ensure that the growing awareness and concern about the trends in children’s health is informed by scientific evidence and is open-minded towards new and innovative approaches to treatment and the potential for healing.

I would now like to turn briefly to asthma and allergies before concluding. Australian rates of asthma and environmental and food allergies remain amongst the highest in the world. In particular, while childhood asthma has stabilised in the past five years, rates of food allergies have continued to grow in Australia during the same period. In the US allergies are an epidemic in their own right—food allergies have increased approximately 700 per cent in just 10 years and fatal allergies are now more common. Cases of hospital admissions for anaphylactic shock, which is an acute allergic response, more than doubled between 1993 and 2005 and nearly tripled in children aged 0 to 4. Most were caused by peanut allergy. The number of children allergic to foods also escalated over this time, with the most common triggers being peanuts, eggs, dairy products and tree nuts. The World Allergy Organisation reports that internationally one in 33 children are affected by food allergy, but this is more common in children with other allergic diseases such as asthma and eczema.

In Australia the Australasian Society of Clinical Immunology and Allergy reports food allergies affect one in 20 children and one in 50 have peanut allergy. What cannot be explained is the recent and sudden rise in anaphylaxis in children, and research is urgently needed to provide answers. One in eight children aged less than 15 years, or 12 per cent, were reported as having asthma as a long-term health condition, which was similar to the rate in 2001. Of these children 13 per cent of boys and 10 per cent of girls suffered from asthma. Higher rates of asthma were reported in children aged five years and over than for children aged less than five years. Asthma is the fifth-most common reason for childhood hospitalisation, with nearly 14 per cent of children over 12 years report-
ing hay fever and allergic rhinitis as long-term conditions in the 2004-05 National Health Survey.

In conclusion, there ought to be far more attention paid to these chronic illnesses, rising in incidence amongst our children—in particular autism, ADHD, allergies and asthma. It is the gravest indictment that, in researching this speech, there was such a problem finding accurate, up-to-date data. I have had to rely on trend data from overseas and make some broad assumptions that we are experiencing similar trends. We as policy makers and legislators, as well as health professionals, need access to information about the ongoing health status of our population. What and how much children are eating is a critical part of that. Australia is one of the only countries that does not have consistent data about food and nutrient consumption. The US, the UK, New Zealand and many European nations have ongoing programs for monitoring diet and nutritional status.

Labor has been calling for a national nutrition survey for years. The Howard government has belatedly allocated some funding for an ongoing program of food and nutrient intake and other measures of wellbeing. According to the Department of Health and Ageing, in evidence given at Senate estimates, this survey will cover about 14,000 people but will not be in the field until 2009, with the results not released until 2010, a full 15 years after the last national survey was conducted. There is also a survey of 4,000 children in the field at the moment, according to departmental officials at the recent Senate estimates round, with the results not due until next year. The massive gap in data over the 11 long years of the Howard government will stand as a perpetual reminder of their neglect of children’s health.

Senate adjourned at 12.08 am

DOCUMENTS
Tabling
The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]

Australian Bureau of Statistics Act—Proposals Nos—
2 of 2007—Survey of Mental Health and Wellbeing.
3 of 2007—Survey of Income and Housing.
4 of 2007—National Health Survey.
Civil Aviation Act—Civil Aviation Safety Regulations—Airworthiness Directives—Part 105—
AD/CL-600/41 Amdt 1—Fire Warning Control Unit [F2007L01773]*.
AD/CL-600/71—State of Design Airworthiness Directives [F2007L01774]*.
AD/EMB-120/46—Fuel System [F2007L01765]*.
Higher Education Support Act—Higher Education Provider Approval (No. 8 of 2007)—Adelaide Central School of Art Incorporated [F2007L01734]*.
Private Health Insurance Act—Private Health Insurance (Prostheses) Amendment Rules 2007 (No. 1) [F2007L01775]*.
* Explanatory statement tabled with legislative instrument.

Tabling
The following government documents were tabled:

Aboriginal and Torres Strait Islander Social Justice Commissioner—Reports for 2006—
Native title.
Social justice.
Gene Technology Regulator—Quarterly report for the period 1 January to 31 March 2007.

QUESTIONS ON NOTICE

The following answers to questions were circulated:

Environment: Endangered Species
(Question No. 2930)

Senator Siewert asked the Minister representing the Minister for the Environment and Water Resources, upon notice, on 8 December 2006:

With reference to the proposed clearing of regrowth rainforest at Field 28, North West Point on Christmas Island for phosphate mining:

(1) Does the proponent, Christmas Island Phosphates (CIP), have a permit to kill, injure, or relocate the Christmas Island pipistrelle bat; if so, can a copy be provided of this permit and any attendant conditions; if not, does the Minister intend to issue such a permit.

(2) If the Minister does not intend to issue such a permit, why not.

(3) Will the Minister use ministerial call-in powers to require CIP to refer this proposal under the Environment Protection and Biodiversity Conservation Act 1999; if not, why not.

Senator Abetz—The Minister for the Environment and Water Resources has provided the following answer to the honourable senator’s question:

(1) No.

(2) My Department has not received an application for a permit to kill, injure, or relocate the Christmas Island Pipistrelle.


Environment: Endangered Species
(Question No. 2931)

Senator Siewert asked the Minister representing the Minister for the Environment and Water Resources, upon notice, on 8 December 2006:

With reference to the proposed clearing of regrowth rainforest at Field 28, North West Point on Christmas Island for phosphate mining:

(1) Is this activity exempt from the Environment Protection and Biodiversity Conservation Act 1999 as a consequence of the leases being approved prior to the Act coming into force.

(2) Did Christmas Island Phosphates/Phosphate Resources Limited have to notify the Minister of their plans which will impact on the critically-endangered Christmas Island pipistrelle bat.

(3) Does the Minister have the power under the Act to declare this a controlled action; if so, does the Minister intend to declare this a controlled action; if not, why not.

Senator Abetz—The Minister for the Environment and Water Resources has provided the following answer to the honourable senator’s question:

(1) Yes.

(2) No. However if the proponent proposes to undertake an activity that may kill, injure, take, trade, keep or move a member of a listed species in or on a Commonwealth area, a permit will be required under Part 13 of the Environment Protection and Biodiversity Conservation Act 1999.

(3) No.
Environment: Endangered Species  
(Question No. 2932)

Senator Siewert asked the Minister representing the Minister for the Environment and Water Resources, upon notice, on 8 December 2006:

With reference to the proposed clearing of regrowth rainforest at Field 28, North West Point on Christmas Island for phosphate mining:

(1) Is the Minister aware that Phosphate Resources Ltd is about to remove an estimated 90 per cent of the foraging habitat of the remaining population of the Christmas Island pipistrelle bat, which was listed as critically-endangered on the same day as the orange-bellied parrot.

(2) Can the Minister identify what financial resources have been allocated to recovery efforts for the:
   (a) orange-bellied parrot; and (b) pipistrelle bat.

Senator Abetz—The Minister for the Environment and Water Resources has provided the following answer to the honourable senator’s question:

(1) At this point in time there is no action proposed by Christmas Island Phosphates (CIP) / Phosphate Resources Limited (PRL) on Field 28.

(2) Yes. (a) The Australian Government has spent over $1 million for direct actions to address Orange-bellied Parrot recovery. An additional $3.2 million is to be spent in the 2006/07 and 2007/08 financial years for the implementation of recovery actions. (b) Over $110,000 of Natural Heritage Trust funding has been provided to date for the recovery of the Christmas Island pipistrelle bat. An additional $400,000 of Natural Heritage Trust funding has also been allocated to address the impacts of introduced exotics on Christmas Island, such as the Yellow Crazy Ant, which has been identified as a key threatening process for the Pipistrelle bat.

Environment: Endangered Species  
(Question No. 2933)

Senator Siewert asked the Minister representing the Minister for the Environment and Water Resources, upon notice, on 8 December 2006:

With reference to the proposed clearing of regrowth rainforest at Field 28, North West Point on Christmas Island for phosphate mining:

(1) Does the proposed mining: (a) impact on the recovery plan for the Christmas Island pipistrelle bat; if not, why not; and (b) contravene the recovery plan for the Christmas Island pipistrelle bat; if not, why not.

(2) Can a map be provided of the proposed mining area.

(3) Has Parks Australia formally approved mining in this area in the past; if so, can a copy be provided of the relevant approval documents, including any conditions attached to the approval.

(4) Does this approval contravene the recovery plan; if not, why not.

Senator Abetz—The Minister for the Environment and Water Resources has provided the following answer to the honourable senator’s question:

(1) (a) At this point in time there is no mining action proposed by Christmas Island Phosphates (CIP) / Phosphate Resources Limited (PRL) on Field 28. (b) See above.

(2) No, but a map can be obtained from the Department of Transport and Regional Services.

(3) Parks Australia has no regulatory role in approving mining on Christmas Island.

(4) No. The mining lease was approved in 1997, and the species was listed as a threatened species in 2001.
Environment: Endangered Species
(Question No. 2934)

Senator Siewert asked the Minister representing the Minister for the Environment and Water Resources, upon notice, on 8 December 2006:

With reference to the proposed clearing of regrowth rainforest at Field 28, North West Point on Christmas Island for phosphate mining:

(1) Did Christmas Island Phosphates/Phosphate Resources Ltd (PRL) notify the Minister of their plans which will impact on the Christmas Island pipistrelle bat; if so, what action did the Minister take on receiving this notification; if not, what action will be taken against PRL.

(2) Will the Minister be declaring this area as critical habitat.

(3) What procedures apply when listing of a threatened species postdates the granting of a lease or some other right.

Senator Abetz—The Minister for the Environment and Water Resources has provided the following answer to the honourable senator’s question:

(1) No.

(2) No.

(3) Assessment of proposed phosphate mining at Field 28 under the Environment Protection (Impact of Proposals) Act 1974 means that Part 3 of the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) does not apply. However, if the proponent proposes to undertake an activity that may kill, injure, take, trade, keep or move a member of a listed species in or on Commonwealth land, then a permit will be required under Part 13 of the EPBC Act.

Pandemic Influenza Packs
(Question No. 3070)

Senator Carr asked the Minister representing the Minister for Health and Ageing, upon notice, on 26 March 2007:

With reference to the answer to question on notice no. 2490 (Senate Hansard, 30 November 2006, p. 196):

(1) With reference to the Request for Quote (RFQ) issued by the department on 2 June 2005 relating to the supply of equipment to constitute 100 000 PanFlu VacPacs: (a) what were the selection criteria for tenderers; (b) who were the selected tenderers, other than Crystal Healthcare; (c) on what dates were these tenderers first approached; (d) if Crystal Healthcare was part of the select number of companies approached, what are the documented reasons for not including them at the Expression of Interest (EOI) stage; (e) what were the circumstances that led to the decision to subsequently approach Crystal Healthcare; and (f) did the correspondence to other tenderers indicate that procurement may be split.

(2) With reference to the indication of the Minister in the answer to question on notice no. 2490 that the invitation to Crystal Healthcare to submit a tender was not because there had been a poor response at the EOI stage and the denial that this information had been communicated to Crystal Healthcare by an officer of the department: (a) why was Crystal Healthcare contacted by the department by telephone after the EOI stage; (b) was this contact unsolicited; if so, what was the reason for the contact; (c) why was the company not required to submit a Statement of Capability in response to the RFQ; and (d) why was the company awarded a contract for the initial supply, despite not having submitted a Statement of Capability, without being required to follow Common-
we wealth Procurement Guidelines (CPGs), such as proper evaluation of financials, ability to deliver and technical capability.

(3) With reference to the Financial Management and Accountability (FMA) Regulation 8(2) as stated at 7.12 of the CPGs which requires an official who takes action that is inconsistent with the CPGs to make a written record of reasons for doing so, can the following be provided: (a) the written record explaining why the preferred supplier was not selected from those who responded to the original EOI; (b) reasons why Crystal Healthcare was selected without any analysis against a set of selection criteria; and (c) the original procurement plan approved for the above procurement before any approach was made to the market.

(4) With reference to the answer to paragraph (4) of question on notice no. 2490, in which the department confirmed that it awarded a contract to Crystal Healthcare by telephone on 3 June 2005, was there any indication to Crystal Healthcare at that time that the contract would be split; if so, can evidence be provided of this explanation.

(5) Can the department confirm that it continually asked Crystal Healthcare for assurances that it would be able to deliver the full contract of 100 000 packs within 4 weeks of the contract being signed; if so: (a) did Crystal Healthcare provide these assurances; and (b) was Crystal Healthcare subsequently informed that it had been awarded the contract because it could deliver within the specified timeframes.

(6) While the department now cites cost factors as a reason for its contract decisions, can the Minister confirm that this was not an issue at the time of contract discussions and that the department was concerned, rather, with the capacity to deliver on time.

(7) Can documents be provided that indicate the strategy developed by the department to respond to the threat of an outbreak, and the criteria for engagement of companies to deliver the vaccine.

(8) Can the department confirm that Crystal Healthcare was advised by two officers of the department, between 3 June and 5 June 2005, that Crystal Healthcare had been awarded the contract; if so, what are the precise details of their advice to Crystal Healthcare.

(9) With reference to the answers to paragraphs (6) and (12) of question on notice no. 2490, in which the Minister advised at (6) that ‘at no stage did the Department indicate that Crystal Healthcare was to commence work immediately’ and at (12) that ‘equipment was required rapidly, the decision was made to procure the first 2000 packs immediately’, which of these two statements is accurate.

(10) (a) Given that section 8.31 of the CPGs requires agencies to provide sufficient time for potential suppliers to make a submission, and advises that this should not be less than 10 days unless a genuine emergency renders that time limit impractical, and the answer to paragraph (9) of question on notice no. 2490 that urgency did not exist, why was Crystal Healthcare given only 1 day to respond to the RFQ; and (b) in accordance with FMA Regulation 8(2), can all documentation be provided that details the reasons for the department’s decision to give Crystal Healthcare only 1 day to respond.

(11) Can the Minister confirm that correspondence dated 6 June 2005 from the Acting Assistant Secretary, Biosecurity and Disease Control Branch, confirmed that the department had accepted Crystal Healthcare’s quotation for the supply of the material referred to in the proposal; if so, where in that letter is there an indication that the department was not proceeding with the full RFQ.

(12) Why does the correspondence of the Acting Assistant Secretary refer to an ‘initial order’ and to the original EOI and RFQ if the decision to split the order had already been made by the department.

(13) How and when did the department indicate to Crystal Healthcare that it was not proceeding with the entire contract.

(14) Can documentation be provided that confirms that it was the department’s intention not to proceed with the full contract prior to confirming the provision of PanFlu VacPacs with Crystal Healthcare.
(15) Why did the RFQ provided to Crystal Healthcare not indicate such a decision but instead referred specifically to 'an initial supply' and then to the fact that 'the remaining items do not need to be placed in...VacPacs...requests to form the PanFlu VacPacs will be made at a later time'.

(16) Did the department fully comply with the CPGs and all other guidelines, regulations and required procedures when it awarded Crystal Healthcare the contract over the telephone on 3 June 2005.

(17) Is it normal practice for the department to issue a purchase order without a signed contract; if so: (a) can recent examples of this circumstance be provided; and (b) what are the details in each of these cases.

(18) Is it the case that between 3 June and 4 June 2005 there was contact, on a number of occasions, between an officer of the department, and Mr Roger Bullen, a director of Crystal Healthcare, about a discrepancy in the number of gloves referred to in the RFQ; if so: (a) can the Minister confirm that Mr Bullen was advised that the number of gloves to be supplied for the initial order was 2,000,000 rather than 1,000,000 and that the total number of gloves to be supplied was 100,000,000; (b) how does this advice correspond with the statement of the department that it was only proceeding with the initial order; and (c) can the Minister provide the log telephone conversations with Mr Bullen on 3 June and 4 June 2005.

(19) Did Crystal Healthcare receive misleading advice.

(20) Can minutes or other documents be provided that demonstrate that the decision to split the order had already been made.

(21) Why was not the department's position clarified in accordance with the CPGs.

(22) Can the Minister explain the discrepancy between the answer to question on notice no. 2490 at paragraph (10) and the RFQ provided to Crystal Healthcare that clearly anticipates that the same supplier would provide the initial 2,000 VacPacs and provide further VacPacs 'on delivery as stock rotation may be required if long term storage occurs'.

(23) Can the Minister confirm that the RFQ referred only to a single supplier and does not refer to two contracts, that is an initial contract and a subsequent contract with an undetermined supplier.

(24) Did the process by which the department issued an RFQ on 2 June 2005 that referred to the awarding of one contract for the supply of the relevant equipment and then, by e-mail dated 9 June 2005, after the contract had been awarded to Crystal Healthcare on 3 June 2005 under the RFQ of 2 June 2005, indicate that the department was seeking to revise the tender requirements and/or re-tender comply with the CPGs.

(25) What precisely were the 'emerging priorities' referred to in an e-mail from an officer of the department dated 9 June 2005.

(26) Can the Minister explain on what basis or grounds the department can revise tender requirements or re-tender after: (a) the contract had been awarded to Crystal Healthcare; and (b) the closing date in the RFQ, which was advertised as 3 June 2005.

(27) With reference to the e-mail received by Crystal Healthcare on 9 June 2005 from an officer of the department that referred to 'complexities that came to light on Friday, 3 June 2005': (a) what were, or are, these complexities; and (b) why were these complexities not communicated to Crystal Healthcare by the department immediately, or at any other time, as required by section 8.3 of CPGs.

(28) Why did officers of the department continue to deal with Crystal Healthcare until 9 June 2005 on the basis that the contract had been awarded to it and the supply of equipment to the timeframes specified by the department was critical.

(29) Why did the RFQ issued on 9 June 2005 fail to provide any indication or information about the complexities that justified the re-tendering.
(30) Given that Crystal Healthcare’s pricing for the initial supply of 2,000 VacPacs was based on the RFQ details provided by the department, can the Minister explain following the department’s decision to re-tender: (a) why Crystal Healthcare was not given the opportunity to resubmit its pricing for the 2,000 PanFlu VacPacs; and (b) why the department decided against re-tender for the 2,000 PanFlu VacPacs.

(31) With reference to the answer to paragraph (12) of question on notice no. 2490 on the timing of the decision to revise the tender arrangements, can all internal records and communications, including minutes of meetings, correspondence, e-mails, tender assessments and other reports relating to the comparison and evaluation of the tenders be provided.

(32) (a) With reference to the answer to paragraph (12)(b) of question on notice no. 2490, if the tenders were ‘so dissimilar as to prevent any meaningful comparison’, ‘particularly for storage costs’: (i) why did not the department on 3 June 2005 re-tender before awarding the contract to Crystal Healthcare, (ii) why was Crystal Healthcare awarded the contract on 3 June 2005, (iii) why were the other tenderers unsuccessful in respect to the original RFQ, (iv) why was not the issue of storage or storage costs raised with Crystal Healthcare by the department, and (v) what communications were issued by the department in relation to storage or storage costs to other tenderers; (b) for each of the subparagraphs above, can copies of all correspondence or other communications sent by the department to other tenderers on these issues be provided; and (c) if storage and storage costs were an issue, why did the specifications in the RFQ issued on 9 June 2005 not change.

(33) Can the Minister provide copies of all material relating to the evaluation of Crystal Healthcare’s response to the RFQ dated 9 June 2005.

(34) Why was Crystal Healthcare not invited to re-submit its proposal based on the department’s claimed change in tender specifications relating to storage.

(35) With reference to the RFQ of 9 June 2005 that required storage in an Australian capital city: (a) is it the case that in order for the department to comply with the CPGs, it should have communicated a change in the storage requirement specifications to all tenderers before the close of the tender; if so, why did the department fail to do so; (b) on what date was the department first asked by any tenderer to consider storage outside a capital city; and (c) did the tenderer Cleanroom Garments comply with the capital city requirement in its response to the RFQ dated 2 June 2005, and the RFQ dated 9 June 2005; if so can documentary evidence of this compliance be provided.

(36) Is it the case that between 9 June 2005 and 27 September 2005, when a faxed letter was received indicating that Crystal Healthcare had been unsuccessful, departmental officers continued to represent to Crystal Healthcare that its proposal was still being considered by the department; if so: (a) can full details be provided from departmental logs or other records of all contact between the department and Crystal Healthcare between those two dates; (b) why was Crystal Healthcare not informed earlier, when a decision had clearly been made; and (c) was Crystal Healthcare given misleading advice.

Senator Ellison—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question based on departmental advice:

(1) (a) The selection criteria were those contained in the RFQ, ie the ability to supply and assemble the required components within the specified timeframe.

(b) The file lists the following organisations, in addition to Crystal Healthcare:

- Applied Biosystems
- DB Health
- Livingstone International Pty Ltd
- Sentry Medical

QUESTIONS ON NOTICE
TYCO Healthcare
Molnlycke Health Care
3M Australia Pty Ltd
Cardinal Health
Allcare Disposable Products
Scott Health and Safety
BOC Limited
Lifestyle and Rehab
Draeger Safety Pacific
Draeger Medical
Promedical Pty Ltd
Corporate Express
W9 Pty Ltd
Clean Room Garments
Medrite SuperMax Pty Ltd
AMCLA Pty Ltd
Kimberley-Clark Australia
Med-Con Pty Ltd
Ansell

(c) The companies were first approached on 1 June 2005 with a ‘Pandemic Influenza Vaccine Needles EOI’.

(d) Crystal Healthcare was included and was approached at the same time as all other companies. Crystal Healthcare was the first potential supplier to be emailed the EOI. It was emailed to Crystal Healthcare on 1 June 2005 at 4.32pm. Crystal Healthcare was also emailed an amended EOI titled ‘Needles EoI Changes’ on the morning of 2 June 2005 and a subsequent ‘Request for Quotation’ (RFQ) on the afternoon of 2 June 2005. The RFQ superseded the earlier EOIs.

(e) Crystal Healthcare was approached at the same time as all the other companies.

(f) No.

(2) (a) Crystal Healthcare was contacted as part of the EOI process, as were all other companies. Telephone contact was initiated to ensure all the selected companies were aware the EOI had been emailed to them.

(b) Yes. This contact was made to ensure all potential tenderers received the same information and the same notice that an EOI was going to be forwarded to them.

(c) An RFQ was released before the closing date of the EOI and Statement of Capability. The RFQ superseded the EOI/Statement of Capability. ‘Capability to supply the equipment’ was listed as a Minimum Requirement in the RFQ.

(d) All submissions received in response to the RFQ were evaluated in accordance with the published evaluation criteria. On the basis of this assessment, Crystal Healthcare’s submission was rated suitable to supply, pack and store 2,000 PanFlu VacPacs.

(3) (a) The EOI/Statement of Capability was replaced by the RFQ. The preferred supplier, Crystal Healthcare, was selected from those companies who responded to the RFQ.
(b) See response to question 2 (d) above.

(c) A formal procurement plan was not developed due to the urgency indicated by the risk assessment made at the time. However, approval was provided by the Deputy Secretary prior to approaching the market.

(4) The telephone conversation only advised Crystal Healthcare that they were the preferred supplier of 2,000 PanFlu VacPacs only. There was no verbal contract entered into and no undertaking that they were to commence purchases.

(5) No such assurances were sought.
   (a) Refer above.
   (b) No. Crystal Healthcare was awarded the contract for 2,000 packs, following assessment of their ability to provide the packs according to the Department’s requirements as specified in the RFQ.

(6) The preferred supplier was selected on the basis of value for money, ie a comparative analysis of all relevant costs and benefits of each proposal throughout the procurement cycle (whole of life costing).

(7) The Department’s strategy developed to respond to the threat of an outbreak is contained in the publicly available document Australian Management Plan for Pandemic Influenza (June 2005). This document has since been revised and published as the Australian Health Management Plan for Pandemic Influenza which is accessible from the Department’s website.

No company or companies have yet been engaged for the distribution of pandemic influenza vaccine.

(8) An officer of the Department advised Crystal Healthcare on 3 June 2005 that Crystal Healthcare was the preferred supplier of 2,000 PanFlu VacPacs. There was no advice provided by the Department to the effect that a contract had been awarded. No Department officer was in contact with Crystal Healthcare on Saturday 4 or Sunday 5 June 2005.

(9) Both statements are accurate. The Department did not request that Crystal Healthcare begin work immediately, despite the equipment being required rapidly. The Department requires an executed contract between the parties be in place prior to any work commencing. The process to purchase 2,000 packs did proceed as quickly as possible. There was no direction that work was to commence prior to execution.

(10) (a) and (b) All companies were provided the same information at the same time and one day to submit a quote for the supply, packing and storage of the required goods.

(11) The Letter of Offer was based on the email quoted (received 7.57am on 6 June 2005). This email contained information and a quotation limited to Crystal Healthcare’s offer to supply, pack and store 2,000 PanFlu VacPacs.

(12) The use of the term ‘initial order’ did not imply that there would be a subsequent order with Crystal Healthcare. The term was used to indicate that the purchase of 2,000 packs was to fulfil the first portion of the Department’s requirements and that a subsequent contract with an, at that time, undetermined supplier may be entered into.

The Department took the decision to buy the total quantity of PanFlu VacPac equipment in two separate procurements after the closing time for submissions to the RFQ on Friday 3 June 2005.

(13) A Departmental officer telephoned Mr Bullen on 3 June 2005 and advised the Department had assessed the submissions received and Crystal Healthcare was the preferred supplier for 2,000 PanFlu VacPacs. A Letter of Offer to supply 2,000 packs was also faxed to Crystal Healthcare on 3 June.

(14) The decision not to purchase the entire 100,000 packs was made after the submissions to the RFQ were evaluated and, prior to any offer being made, Crystal Healthcare was advised (telephone con-
(15) The decision not to purchase the entire 100,000 packs was made after the submissions to the RFQ were evaluated.

(16) No contract existed between the Department and Crystal Healthcare on 3 June 2005 for the purchase of PanFlu VacPacs. On 3 June 2005 Crystal Healthcare was advised they were the preferred supplier and faxed a Letter of Offer.

(17) The contract was signed on 31 August 2005. The commencement date of the contract between the Department and Crystal Healthcare is 31 August 2005. The Purchase Order was raised on 26 September 2005.

(a) See above.

(b) See above.

(18) Yes, there was a telephone conversation and an email on 3 June 2005 (not on Saturday 4 June 2005) regarding the number of gloves offered.

(a) On 3 June 2005 Mr Bullen was invited to provide a quote for the supply, packaging and storage of 2,000 packs. A total of 2,000,000 gloves were required for 2,000 packs. Mr Bullen was invited to provide a revised quote for 2,000,000 gloves, which he did.

(b) As the Department was only proceeding with 2,000 packs the number of gloves to be supplied was 2,000,000. Crystal Healthcare provided a quote for 2,000,000 gloves.

(c) No, however telephone conversations were followed up with emails to Crystal Healthcare which confirmed the information provided in the telephone conversations.

(19) No.

(20) The decision to separate the procurement into two discrete projects or phases was made after the submissions to the RFQ had been evaluated. The basis of this decision was that evaluation of the submissions revealed several issues required further consideration by the Department (ie offered storage solutions, storage costs, large volume of goods, stock management and supply chain matters). The 3 June 2005 Letter of Offer to Crystal Healthcare clearly indicates Crystal Healthcare was the preferred supplier of 2,000 PanFlu VacPacs.

(21) The decision to separate the procurement into two distinct processes was taken on 3 June 2005 and conveyed to Crystal Healthcare on that day.

(22) The RFQ released on 2 June 2005 sought quotes for the supply, packing and storage of 100,000 PanFlu VacPacs. The decision to separate the procurement into two discrete projects or phases was made late on the afternoon of Friday 3 June 2005 after the submissions received had been evaluated and on the basis of the need to urgently purchase an immediate supply whilst also ensuring value for money principles to the Commonwealth were met.

(23) The RFQ was a request for quotes and not an offer to enter into a contract with any single supplier or multiple suppliers. The RFQ stated “This Expression of Interest and Statement of Capability is expressly not a contract between the Commonwealth and the tenderer. Nothing in this Expression of Interest and Statement of Capability is to be construed as to give rise to any contractual obligations, expressed or implied.”

(24) On 3 June 2005 a contract had not been awarded to Crystal Healthcare. At that stage Crystal Healthcare had been advised they were the preferred supplier of 2,000 packs and a Letter of Offer was faxed to them for that quantity. Evaluation of submissions to the RFQ and choosing a preferred supplier based on value for money complies with the Commonwealth Procurement Guidelines.
(25) Storage solutions offered and storage costs, together with the large volume of goods (which involved stock management considerations) and supply chain issues emerged as matters highlighted by the evaluation panel as requiring further consideration by the Department.

(26) (a) No contract had been awarded to Crystal Healthcare on 3 June 2005. (b) The decision to separate the procurement into two discrete projects or phases was made on 3 June 2005 after the submissions to the RFQ had been evaluated.

(27) (a) See response to question 25 above. (b) Section 8.30 of the CPGs states:

“Where, during the course of a procurement, an agency modifies the evaluation criteria or technical requirements set out in an approach to the market or in response documentation, or amends or reissues an approach to the market or request documentation, it must transmit all modifications or amended or re-issued documents:

a. to all the potential suppliers that are participating at the time the information is amended, if known, and in all other cases, in the same manner as the original information; and

b. in adequate time to allow potential suppliers to modify and re-lodge their initial submissions.”

Neither of these requirements were relevant to the case at hand.

(28) Departmental officers dealt with Crystal Healthcare on the basis that it was the preferred supplier of 2,000 packs.

The phone call between a Departmental officer and Mr Roger Bullen on 3 June 2005 referred to the fact that the Department had taken the decision to proceed with the purchase of 2000 PanFlu VacPacs only.

The Letter of Offer from the Department to Crystal Healthcare referred only to the supply, assembly and storage of 2,000 packs.

(29) That information was not materially relevant to the preparation of submissions to the RFQ. The complexities formed part of the Department’s considerations when developing revised documentation, that is, a template was included in RFQ phase 2 to assist potential tenderers provide the Department with information in a standardised format to assist the evaluation of submissions.

(30) (a) Crystal Healthcare was invited to submit, and did provide, a quote for 2,000 PanFlu VacPacs (on 3 June 2005 and again on 6 June 2005 when a Departmental officer identified an error in the calculations in the 3 June 2005 quote). (b) The assessed risk in relation to potential pandemic influenza impact was a major factor in the Department’s decision to continue with the immediate purchase of 2,000 PanFlu VacPacs.

As storage was not a significant issue for the first 2,000 packs and given that Crystal Healthcare’s submission provided a value for money solution for that purchase, the decision was made to procure the first 2,000 packs immediately.

(31) Crystal Healthcare is able to access information under the Freedom of Information Act 1982.

(32) (a) (i) The assessed risk in relation to potential pandemic influenza impact was a major factor in the Department’s decision to continue with the immediate purchase of the initial supply of 2,000 PanFlu VacPacs. This constituted a direct sourcing arrangement under the CPGs section 8.65 and this is consistent with section 8.65(b) of the CPGs.

(ii) Crystal Healthcare was not awarded a contract on 3 June 2005.

(iii) Crystal Healthcare provided the Department with the best value for money for the supply, packing and storage of 2,000 PanFlu VacPacs.

(iv) The assessed urgency of the situation necessitated the purchase of PanFlu VacPacs as quickly as possible. A decision was taken to purchase 2,000 packs immediately and the re-
remaining 98,000 packs as soon as possible by means of a further procurement process, ie, RFQ phase 2.

(v) As in (iv) above.

(b) Crystal Healthcare is able to access information under the Freedom of Information Act 1982.

(c) The difficulty experienced by the evaluation team was in respect of assessing the relative merits of storage facilities and storage costs on an equitable basis. This was addressed with the template provided with RFQ phase 2 to ensure a standardised format for the submission of this information by tenderers.

(33) Crystal Healthcare is able to access information under the Freedom of Information Act 1982.

(34) All potential tenderers received the same information from the Department in relation to storage costs and stock management. Crystal Healthcare submitted a proposal in response to the RFQ phase 2 issued on 9 June 2005. It was evaluated with all other proposals received.

(35) The Phase 2 RFQ released on 9 June 2005 indicated the equipment would be held “in a place or places that would facilitate rapid deployment by the Department”. Although it was also stated that “the equipment will be held in an Australian capital city or cities”, this was not a mandatory requirement.

(a) There were no changes to the storage requirement specifications prior to the close of tender on 17 June 2005.

(b) Of the proposals received by the 17 June 2005 closing date, a number of tenderers did not address storage site/location in their proposal. Some tenderers indicated storage location without identifying specific details.

(c) Cleanroom Garments did not address the storage site in their response to the RFQ.

(36) It is usual practice not to advise unsuccessful tenderers that their proposal has been unsuccessful until a contract has been signed with the preferred tenderer/s. During the contract negotiation period, it is usual practice to respond to inquiries regarding progress of the matter by indicating that the Delegate’s decision is still pending. This same representation is made to all tenderers until the Delegate is able to provide written advice to unsuccessful tenderers. This is consistent with Departmental policy.

(a) Crystal Healthcare is able to access information under the Freedom of Information Act 1982.

(b) All unsuccessful RFQ tenderers, including Crystal Healthcare, were sent written advice on 17 September 2005 that their proposal had been unsuccessful. It is usual practice to advise unsuccessful tenderers once a contract or contracts have been signed with the preferred tenderer/s.

(c) Crystal Healthcare was not given misleading advice. The Departmental officers ensured equity and fairness in all communications with potential tenderers to make certain all parties received the same information at the same time.

Passenger Movement Charge

(Question No. 3160)

Senator Sherry asked the Minister for Justice and Customs, upon notice, on 24 April 2007:

With reference to the passenger movement charge at airports and seaports: For each of the financial years from 2000-01 to 2005-06 and each of the financial years up to and including 2010-11: (a) how much revenue was, or is projected to be, collected; and (b) how many movements were, or are projected to be, levied.
**Senator Johnston**—The answer to the honourable senator’s question is as follows:

(a)

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Passenger Movement Charge Revenue</th>
<th>Status of Passenger Movement Charge Revenue</th>
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</thead>
<tbody>
<tr>
<td>2000-01</td>
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<td>Revenue collected</td>
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<tr>
<td>2001-02</td>
<td>$284.0 million</td>
<td>Revenue collected</td>
</tr>
<tr>
<td>2002-03</td>
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<tr>
<td>2003-04</td>
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<tr>
<td>2004-05</td>
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<tr>
<td>2005-06</td>
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<td>2006-07</td>
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<tr>
<td>2008-09</td>
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<tr>
<td>2009-10</td>
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<tr>
<td>2010-11</td>
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<td>Revenue projected</td>
</tr>
</tbody>
</table>

(b)

<table>
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<tr>
<th>Financial Year</th>
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<th>Status of Passenger Movements</th>
</tr>
</thead>
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<td>2001-02</td>
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<td>Projected to be levied</td>
</tr>
</tbody>
</table>

*The Passenger Movement Charge (PMC) in the financial year 2000-01 was $30.

**The number of passenger movements identified in the table will differ from actual passenger movements for the reason that it includes only passengers who were liable to pay the Passenger Movement Charge.

It should be noted that PMC projections are revised each time the PMC model incorporates ‘actual’ PMC data for the current period. Therefore, PMC projections for the current and forward years provided above may vary from projections previously advised or to be advised in the future.

**Duty Free Cigarette Sticks**

( Question No. 3183)

**Senator Sherry** asked the Minister for Justice and Customs, upon notice, on 2 May 2007: How many cigarette sticks were purchased duty free in each of the financial years 2004-05 and 2005-06; and (b) of this number, how many were purchased by: (i) inbound passengers, and (ii) outbound passengers.

**Senator Johnston**—The answer to the honourable senator’s question is as follows:
Customs does not collect data of this nature and it is not required to be reported by duty free licensees under their licence conditions.

Defence: Travel Entitlements
(Question No. 3186)

Senator Allison asked the Minister representing the Minister for Defence, upon notice, on 3 May 2007:

In relation to the international and domestic travel arrangements of the Minister and his staff: Does the Minister or his personal or ministerial staff ever travel domestically or internationally by business class; if so: (a) under what circumstances; and (b) does the department have specific guidelines in place in respect of these circumstances.

Senator Ellison—The Minister for Defence has provided the following answer to the honourable senator’s question:

The policy and administrative arrangements for international and domestic travel undertaken by Ministers and their staff is the responsibility of the Special Minister of State and the Department of Finance and Administration.