INTERNET

The Journals for the Senate are available at

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

For searching purposes use
http://parlinfoweb.aph.gov.au

<table>
<thead>
<tr>
<th>Month</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>February</td>
<td>6, 7, 8, 9, 26, 27, 28</td>
</tr>
<tr>
<td>March</td>
<td>1, 20, 21, 22, 26, 27, 28, 29</td>
</tr>
<tr>
<td>May</td>
<td>8, 9, 10</td>
</tr>
<tr>
<td>June</td>
<td>12, 13, 14, 18, 19, 20, 21</td>
</tr>
<tr>
<td>August</td>
<td>7, 8, 9, 13, 14, 15, 16</td>
</tr>
<tr>
<td>September</td>
<td>10, 11, 12, 13, 17, 18, 19, 20</td>
</tr>
<tr>
<td>October</td>
<td>15, 16, 17, 18, 22, 23, 24, 25</td>
</tr>
<tr>
<td>November</td>
<td>5, 6, 7, 8, 12, 13, 14, 15, 26, 27, 28, 29</td>
</tr>
<tr>
<td>December</td>
<td>3, 4, 5, 6</td>
</tr>
</tbody>
</table>

RADIO BROADCASTS

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

- CANBERRA 103.9 FM
- 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
<table>
<thead>
<tr>
<th>Senator</th>
<th>State or Territory</th>
<th>Term expires</th>
<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abetz, Hon. Eric</td>
<td>TAS</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Adams, Judith</td>
<td>WA</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Allison, Lynette Fay</td>
<td>VIC</td>
<td>30.6.2008</td>
<td>AD</td>
</tr>
<tr>
<td>Barnett, Guy</td>
<td>TAS</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Bartlett, Andrew John Julian</td>
<td>QLD</td>
<td>30.6.2008</td>
<td>AD</td>
</tr>
<tr>
<td>Bernardi, Cory(5)</td>
<td>SA</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Birmingham, Simon John(6)</td>
<td>SA</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Bishop, Thomas Mark</td>
<td>WA</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Boswell, Hon. Ronald Leslie Doyle</td>
<td>QLD</td>
<td>30.6.2008</td>
<td>NATS</td>
</tr>
<tr>
<td>Boyce, Suzanne Kay(3)</td>
<td>QLD</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Brandis, Hon. George Henry, SC</td>
<td>QLD</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Brown, Carol Louise(4)</td>
<td>TAS</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Brown, Robert James</td>
<td>TAS</td>
<td>30.6.2008</td>
<td>AG</td>
</tr>
<tr>
<td>Calvert, Hon. Paul Henry</td>
<td>TAS</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Campbell, George</td>
<td>NSW</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Carr, Kim John</td>
<td>VIC</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Chapman, Hedley Grant Pearson</td>
<td>SA</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Colbeck, Hon. Richard Mansell</td>
<td>TAS</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Cormann, Mathias Hubert Paul (8)</td>
<td>WA</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Conroy, Stephen Michael</td>
<td>VIC</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Coonan, Hon. Helen Lloyd</td>
<td>NSW</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Crossin, Patricia Margaret (3)</td>
<td>NT</td>
<td></td>
<td>ALP</td>
</tr>
<tr>
<td>Eggleston, Alan</td>
<td>WA</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Ellison, Hon. Christopher Martin</td>
<td>WA</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Evans, Christopher Vaughan</td>
<td>WA</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Faulkner, Hon. John Philip</td>
<td>NSW</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Ferguson, Alan Baird</td>
<td>SA</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Fielding, Steve</td>
<td>VIC</td>
<td>30.6.2011</td>
<td>FF</td>
</tr>
<tr>
<td>Fierravanti-Wells, Concetta Anna</td>
<td>NSW</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Fifield, Mitchell Peter(2)</td>
<td>VIC</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Fisher, Mary Jo (7)</td>
<td>SA</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Forsyth, Michael George</td>
<td>NSW</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Heffernan, Hon. William Daniel</td>
<td>NSW</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Hogg, John Joseph</td>
<td>QLD</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Humphries, Gary John Joseph (3)</td>
<td>ACT</td>
<td></td>
<td>LP</td>
</tr>
<tr>
<td>Hurley, Annette</td>
<td>SA</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Hutchins, Stephen Patrick</td>
<td>NSW</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Johnston, Hon. David Albert Lloyd</td>
<td>WA</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Joyce, Barnaby</td>
<td>QLD</td>
<td>30.6.2011</td>
<td>NATS</td>
</tr>
<tr>
<td>Kemp, Hon. Charles Roderick</td>
<td>VIC</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Kirk, Linda Jean</td>
<td>SA</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Lightfoot, Philip Ross</td>
<td>WA</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Ludwig, Joseph William</td>
<td>QLD</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Lundy, Kate Alexandra (3)</td>
<td>ACT</td>
<td></td>
<td>ALP</td>
</tr>
<tr>
<td>Macdonald, Hon. Ian Douglas</td>
<td>QLD</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Macdonald, John Alexander Lindsay (Sandy)</td>
<td>NSW</td>
<td>30.6.2008</td>
<td>NATS</td>
</tr>
<tr>
<td>McEwen, Anne</td>
<td>SA</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>McGauran, Julian John James</td>
<td>VIC</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Senator</td>
<td>State or Territory</td>
<td>Term expires</td>
<td>Party</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>-------------------</td>
<td>--------------</td>
<td>-------</td>
</tr>
<tr>
<td>McLucas, Jan Elizabeth</td>
<td>QLD</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Marshall, Gavin Mark</td>
<td>VIC</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Mason, Hon. Brett John</td>
<td>QLD</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Milne, Christine</td>
<td>TAS</td>
<td>30.6.2011</td>
<td>AG</td>
</tr>
<tr>
<td>Minchin, Hon. Nicholas Hugh</td>
<td>SA</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Moore, Claire Mary</td>
<td>QLD</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Murray, Andrew James Marshall</td>
<td>WA</td>
<td>30.6.2008</td>
<td>AD</td>
</tr>
<tr>
<td>Nash, Fiona Joy</td>
<td>NSW</td>
<td>30.6.2011</td>
<td>NATS</td>
</tr>
<tr>
<td>Nettle, Kerry Michelle</td>
<td>NSW</td>
<td>30.6.2008</td>
<td>AG</td>
</tr>
<tr>
<td>O’Brien, Kerry Williams Kelso</td>
<td>TAS</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Parry, Stephen</td>
<td>TAS</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Patterson, Hon. Kay Christine Lesley</td>
<td>VIC</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Payne, Marise Ann</td>
<td>NSW</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Polley, Helen</td>
<td>TAS</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Ray, Hon. Robert Francis</td>
<td>VIC</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Ronaldson, Hon. Michael</td>
<td>VIC</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Scullion, Hon. Nigel Gregory</td>
<td>NT</td>
<td></td>
<td>CLP</td>
</tr>
<tr>
<td>Sherry, Hon. Nicholas John</td>
<td>TAS</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Sievert, Rachel</td>
<td>WA</td>
<td>30.6.2011</td>
<td>AG</td>
</tr>
<tr>
<td>Stephens, Ursula Mary</td>
<td>NSW</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Sterle, Glenn</td>
<td>WA</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Stott Despoja, Natasha Jessica</td>
<td>SA</td>
<td>30.6.2008</td>
<td>AD</td>
</tr>
<tr>
<td>Troeth, Hon. Judith Mary</td>
<td>VIC</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Trood, Russell</td>
<td>QLD</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Watson, John Odin Wentworth</td>
<td>TAS</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Webber, Ruth Stephanie</td>
<td>WA</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Wong, Penelope Ying Yen</td>
<td>SA</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Wortley, Dana</td>
<td>SA</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
</tbody>
</table>

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

**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 The Hon. John Winston Howard MP
Minister for Transport and Regional Services and Deputy Prime Minister The Hon. Mark Anthony James Vaile MP
Treasurer The Hon. Peter Howard Costello MP
Minister for Trade The Hon. Warren Errol Truss MP
Minister for Defence The Hon. Dr Brendan John Nelson MP
Minister for Foreign Affairs The Hon. Alexander John Gosse Downer MP
Minister for Health and Ageing and Leader of the House The Hon. Anthony John Abbott MP
Attorney-General The Hon. Philip Maxwell Ruddock MP
Minister for Finance and Administration, Leader of the Government in the Senate and Vice-President of the Executive Council Senator the Hon. Nicholas Hugh Minchin
Minister for Agriculture, Fisheries and Forestry and Deputy Leader of the House The Hon. Peter John McGauran MP
Minister for Immigration and Citizenship The Hon. Kevin James Andrews MP
Minister for Education, Science and Training and Minister Assisting the Prime Minister for Women’s Issues The Hon. Julie Isabel Bishop MP
Minister for Families, Community Services and Indigenous Affairs and Minister Assisting the Prime Minister for Indigenous Affairs The Hon. Malcolm Thomas Brough MP
Minister for Industry, Tourism and Resources The Hon. Ian Elgin Macfarlane MP
Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service The Hon. Joseph Benedict Hockey MP
Minister for Communications, Information Technology and the Arts and Deputy Leader of the Government in the Senate Senator the Hon. Helen Lloyd Coonan
Minister for the Environment and Water Resources The Hon. Malcolm Bligh Turnbull MP
Minister for Human Services Senator the Hon. Christopher Martin Ellison

(The above ministers constitute the cabinet)
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
Deputy Leader of the Opposition, Shadow Minister 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 Minister 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 Tourism
Shadow Minister for Defence
Shadow Minister for Climate Change, Environment 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 Opposition 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

Kevin Michael Rudd MP
Julia Eileen Gillard MP
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
CONTENTS

WEDNESDAY, 20 JUNE

Chamber
Australian Postal Corporation Amendment (Quarantine Inspection and Other Measures) Bill 2007 and
Therapeutic Goods Amendment Bill 2007—
First Reading .................................................................................................................................................. 1
Second Reading............................................................................................................................................... 1

Business—
  Rearrangement............................................................................................................................................... 4
Workplace Relations Amendment (A Stronger Safety Net) Bill 2007—
   In Committee .................................................................................................................................................. 4
   Third Reading ............................................................................................................................................... 14

Business—
  Rearrangement............................................................................................................................................... 14
National Health Amendment (Pharmaceutical Benefits Scheme) Bill 2007—
   Second Reading ........................................................................................................................................... 14
   In Committee ............................................................................................................................................... 30

Matters Of Public Interest—
  Trade Practices Act ........................................................................................................................................ 51
  Intellectual Property ....................................................................................................................................... 54
  Macquarie Marshes ...................................................................................................................................... 56
  Child Abuse .................................................................................................................................................. 60

Questions Without Notice—
  Broadband .................................................................................................................................................. 63
  Defence Procurement ................................................................................................................................. 65
  Broadband .................................................................................................................................................. 66
  Broadband .................................................................................................................................................. 67
  Broadband .................................................................................................................................................. 68
  Child Protection .......................................................................................................................................... 70
  Asia-Pacific Economic Cooperation ............................................................................................................. 71
  Parliamentarians’ Entitlements ....................................................................................................................... 71
  Housing Affordability ................................................................................................................................. 72
  Child Protection .......................................................................................................................................... 73
  Health .......................................................................................................................................................... 75
  New South Wales Floods ............................................................................................................................. 76
  Westpoint ................................................................................................................................................... 77

Questions Without Notice: Additional Answers—
  Superannuation ........................................................................................................................................... 78

Questions Without Notice: Take Note Of Answers—
  Broadband .................................................................................................................................................. 78

Petitions—
  Mabo .......................................................................................................................................................... 85

Notices—
  Presentation .................................................................................................................................................. 85
  Postponement ............................................................................................................................................. 87

Independent Contractors Amendment Bill 2007 (No. 2)—
  First Reading ............................................................................................................................................. 87
  Second Reading .......................................................................................................................................... 87
Mr George Burarrwanga ............................................................................................................................... 89
Mr Alan Johnston................................................................. 90
Climate change ................................................................................................................. 90
Anvil hill coalmine ........................................................................................................... 91
Notices—
Postponement ................................................................................................................ 91
Tasmanian Pulp Mill ......................................................................................................... 91
Notices—
Presentation ................................................................................................................... 93
Committees—
Scrutiny of Bills Committee—Report ................................................................. 93
Senators’ Interests Committee—Documents ............................................................... 95
Environment, Communications, Information Technology and the Arts Committee—
Report ......................................................................................................................... 95
Rural and Regional Affairs and Transport Committee—Report ............................. 102
Public Works Committee—Report ................................................................................ 106
Documents—
Register of Senate Senior Executive Officers’ Interests .................................................. 108
Auditor-General’s Reports—
Report No. 46 of 2006-07 ......................................................................................... 108
Committees—
Treaties Committee—Report ....................................................................................... 108
Committees—
Membership.................................................................................................................... 113
Tax Laws Amendment (Simplified Gst Accounting) Bill 2007—
First Reading .................................................................................................................. 114
Second Reading ............................................................................................................... 114
Wheat Marketing Amendment Bill 2007—
First Reading .................................................................................................................. 115
Second Reading ............................................................................................................... 115
Native Title Amendment (Technical Amendments) Bill 2007—
Returned from the House of Representatives .............................................................. 118
Committees—
Rural and Regional Affairs and Transport Committee—Reference .......................... 118
Representation Of Western Australia ............................................................................. 124
Senator sworn .................................................................................................................. 124
Committees—
Rural and Regional Affairs and Transport Committee—Reference .......................... 124
National Health Amendment (Pharmaceutical Benefits Scheme) Bill 2007—
In Committee ................................................................................................................ 128
Third Reading ................................................................................................................. 130
Communications Legislation Amendment (Content Services) Bill 2007—
Second Reading ............................................................................................................... 130
Business—
Rearrangement ............................................................................................................... 139
Communications Legislation Amendment (Content Services) Bill 2007—
In Committee ................................................................................................................ 139
Third Reading ................................................................................................................. 142
Documents—
Aboriginal and Torres Strait Islander Social Justice Commissioner Social Justice
Report .............................................................................................................................. 142
CONTENTS—continued

Aboriginal and Torres Strait Islander Social Justice Commissioner Native Title Report ......................................................................................................................... 143
Consideration .................................................................................................................. 144
Adjournment—
    Indigenous Issues ........................................................................................................ 145
    Micah Challenge ........................................................................................................... 147
    Prisons: Education ....................................................................................................... 149
    Australian Political Parties for Democracy .................................................................. 152
Documents—
    Tabling ......................................................................................................................... 153
    Tabling ......................................................................................................................... 154
Questions On Notice
    In-Home Care Program—(Question No. 3087) .............................................................. 155
    Council of Australian Governments’ Indigenous Trials—(Question No. 3097).......... 155
    Families, Community Services and Indigenous Affairs: Programs—
      (Question No. 3106) .................................................................................................. 156
    Families, Community Services and Indigenous Affairs: Programs—
      (Question No. 3107) ................................................................................................. 157
    Community Business Partnership—(Question No. 3182) ........................................... 160
The PRESIDENT (Senator the Hon. Paul Calvert) took the chair at 9.30 am and read prayers.

AUSTRALIAN POSTAL CORPORATION AMENDMENT (QUARANTINE INSPECTION AND OTHER MEASURES) BILL 2007

THERAPEUTIC GOODS AMENDMENT BILL 2007

First Reading

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (9.31 am)—I move:

That the following bill be introduced: A Bill for an Act to amend the Australian Postal Corporation Act 1989, and for related purposes and A Bill for an Act to amend the law relating to therapeutic goods, and for related purposes.

Question agreed to.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (9.31 am)—I move:

That the bills may proceed without formalities and be now read a first time.

Question agreed to.

Bills read a first time.

Second Reading

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (9.31 am)—I table the explanatory memoranda relating to the bills and move:

That the 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—

AUSTRALIAN POSTAL CORPORATION AMENDMENT (QUARANTINE INSPECTION AND OTHER MEASURES) BILL 2007

The Australian Postal Corporation Amendment (Quarantine Inspection and Other Measures) Bill 2007 amends the Australian Postal Corporation Act 1989 to provide for the inspection and examination of postal articles carried by Australia Post for interstate quarantine purposes.

The bill will implement recommendation 13 of the November 2005 report of the House of Representatives Standing Committee on Agriculture, Fisheries and Forestry entitled Taking Control: a national approach to pest animals.

The bill will also make other minor amendments to clarify the operation of certain provisions of the Australian Postal Corporation Act 1989.

The Australian Postal Corporation Act 1989 currently prohibits the opening of postal articles except in specified circumstances. These exceptions include the opening of articles suspected of containing drugs or articles on which customs duty is payable.

Incoming international mail may also be opened in accordance with powers set out in the Quarantine Act 1908. However, opening of postal articles for interstate quarantine purposes is currently not allowed under the Australian Postal Corporation Act.

The inspection regime proposed in the bill provides that certain procedures must be followed by State or Territory quarantine inspection authorities and that specified records be kept. The record keeping requirements will be set out in amendments to the Australian Postal Corporation Regulations 1996, which will be prepared with a view to commencing at the same time the Interstate Quarantine measures commence.

The bill has been developed in consultation with State and Territory governments and Australia Post. There is general consensus about the proposal, including that the reserved services be exempted from inspection under the scheme because of the low risk of standard letters carrying quarantine material and to ensure Australia Post's ability to meet its regulated performance standards is not adversely affected.

The scheme will allow prescribed State and Territory inspection agencies to identify and examine articles in the course of normal mail processing, and enable them to deal with the article under the
applicable State and Territory laws. It is expected that participating Quarantine inspection agencies will bear the costs of inspection, and will assume responsibility for identifying and isolating articles which are believed to contain quarantine material.

The bill also addresses the concern that Australia Post is currently treated differently from other delivery agents, whose articles are potentially already able to be inspected under the applicable State and Territory law. It is expected that once the bill is enacted, Australia Post will no longer be treated differently to other private delivery agents.

At this stage, Western Australia, Tasmania and the Northern Territory have indicated a wish to be prescribed in the regulations, which will enable them to take advantage of the bill’s provisions to inspect postal articles carried by Australia Post for interstate quarantine purposes. The other jurisdictions have taken the view that they consider the biosecurity risks associated with the interstate mail system to be relatively low and that their focus is better directed at the general risk posed by people and personal effects moving across state borders. The bill will enable them to participate in the scheme by the making of further regulations should they later decide to participate.

It is proposed that the interstate quarantine provisions, and other provisions in Schedule 1 to the bill, commence on proclamation, but not later than 6 months after Royal Assent. This will allow sufficient time for those quarantine inspection authorities which intend to implement an interstate quarantine inspection scheme to make appropriate administrative arrangements.

The bill also contains a number of other amendments.

The bill includes amendments to allow compliance agencies such as the Australian Customs Service and the Australian Quarantine Inspection Service a discretion to pass information to Australia Post regarding seized articles. This information will in turn be able to be passed to other postal administrations. This will ensure that Australia Post is not unnecessarily liable to other postal administrations under the Acts of the Universal Postal Union and is better able to respond to queries about missing mail.

The bill also contains a measure which will streamline the disclosure of scam mail to consumer protection agencies. Once the bill is enacted, Australia Post will be able to hold suspected scam mail for inspection by a consumer protection agency. If upon inspection the mail is found to be evidence of a breach of a consumer protection law, the mail will be able to be dealt with by the relevant consumer protection agency in accordance with the laws they administer. If mail is not found to be scam mail, it will be returned to the mail system as soon as possible. These changes will better protect consumers by allowing the earlier interception of scam mail than is currently possible.

The bill also contains minor technical amendments to ensure that the Australian Postal Corporation Act reflects the introduction of the GST and wine tax.

A further measure will provide the Minister with the flexibility to exempt Australia Post from the current requirement to prepare a service improvement plan where the Minister considers the preparation of the plan is unnecessary in the circumstances. These would include circumstances where the failure to meet a performance standard was beyond the control of Australia Post or if Australia Post had already implemented measures to address any drop in performance.

The bill also includes an amendment to allow regulations made under the Act to deal with determining the level of mail delivery service. For example, this would enable a regulation to set out processes to be used by Australia Post for polling communities to determine whether delivery services should be provided ‘to the property’ if regulation in this area became necessary.

——

THERAPEUTIC GOODS AMENDMENT BILL 2007

I am pleased to introduce the Therapeutic Goods Amendment Bill 2007.

The amendments provided for in this bill are necessary to allow many devices currently marketed in Australia that are essential for patient treatment and for the ongoing provision of health care services to be supplied beyond 4 October this year.
whilst under reassessment by the Therapeutic Goods Administration (TGA).

The amendments provided for by this bill create certainty for patients, for healthcare providers, and for the medical device industry in Australia.

In 2002, the Government introduced a new regulatory system for medical devices, which allowed a five year transition period, ending on 4 October this year, for previously marketed devices to comply with new legislative requirements.

These requirements are based on principles developed by the Global Harmonisation Taskforce for medical devices, which comprises regulators and industry representatives from Europe, the United States of America, Canada, Japan and Australia.

Under the existing terms of the transition period, sponsors who wish to continue to supply previously “registered” and “listed” therapeutic devices after 4 October 2007 are required to have their products re-entered in the Australian Register of Therapeutic Goods (ARTG) as “included” medical devices following assessment against the new legislative requirements by the TGA by 4 October this year.

The framework introduced by the Government was, and continues to be, at the vanguard of medical device regulation globally. The framework is one that is in line with international best practice and ensures that products newly available to the Australian community comply with current internationally accepted requirements.

However, when the scheme was introduced it was estimated that in excess of 30,000 devices would need to make the transition to the new scheme and, consequently, require reassessment by the Therapeutic Goods Administration (TGA). This has posed significant challenges for both the medical device industry and the TGA to ensure there is continued supply of vital medical devices after October 2007.

A belated influx of applications and the likelihood of further, last minute applications means the TGA may not be able to complete its assessment of all outstanding transition applications in time for the 4 October 2007 deadline.

Many sponsors who have submitted applications to transition their products are now faced with uncertainty about whether they will be able to continue to supply those products after 4 October 2007. Similarly, purchasers and end-users of devices are faced with the uncertainty about continued access to transitioning products.

Disruption to the supply of medical devices due to failure to transition by 4 October this year could have a significant impact on consumer access to vital medical devices, the supply of medical devices to health care facilities, the operation of health care facilities, consumer confidence in the health system, as well as the economic viability of Australian medical device companies.

The amendment provided for by this Bill substitutes the existing requirement for medical device sponsors to have their products entered in the ARTG as “included” medical devices by 4 October 2007 with a requirement to lodge an application with the intention of transitioning their products to the new scheme by 4 October 2007.

Under these amendments sponsors and end users of medical devices will have certainty of continued supply/access because it will depend solely on the sponsor submitting an effective and successful application to have their product transitioned by 4 October 2007.

The Government places a high priority on the availability of and access to important treatments by Australians and the presence of a strong, vibrant medical devices industry in its therapeutics policy planning.

This new amendment is an important part of that planning, for it allows for continued access to important treatments by Australian consumers and health care providers, whilst ultimately ensuring that all medical devices available in Australia comply with current, internationally accepted requirements.

The PRESIDENT—In accordance with standing order 111, further consideration of these bills is now adjourned to the first day of the next period of sittings.

Ordered that the bills be listed on the Notice Paper as separate orders of the day.
BUSINESS

Rearrangement

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (9.32 am)—I move:

That government business notice of motion No. 3, to approve a works proposal in the Parliamentary Zone, be postponed till a later hour of the day.

Question agreed to.

WORKPLACE RELATIONS AMENDMENT (A STRONGER SAFETY NET) BILL 2007

In Committee

Consideration resumed from 19 June.

Senator SIEWERT (Western Australia) (9.33 am)—I move Greens amendment (28) on sheet 5285:

(28) Page 83 (after line 20), at the end of the bill, add:

Schedule 6—Redundancy and hours of work

Workplace Relations Act 1996

PART I—REDUNDANCY

1 After Division 6 of Part 7

Insert:

Division 6B—Redundancy pay

316G The guarantee

If an employer has made a definite decision that the employer no longer wishes the job an employee has been doing to be done by anyone, the employer will pay the occupant of that job an equitable payment in accordance with this Division.

316H Definitions

In this Division:

a week’s pay means the ordinary time rate of pay for the employee concerned, provided that such rate excludes:

(a) overtime; and
(b) penalty rates; and
(c) disability allowances; and
(d) shift allowances; and
(e) special rates; and
(f) fares and travelling time allowances; and
(g) bonuses; and
(h) any other ancillary payments of a like nature.

business includes trade, process, business or occupation and includes part of any such business.

redundancy occurs if an employer has made a definite decision that the employer no longer wishes the job an employee has been doing to be done by anyone and that decision leads to the termination of employment of the employee.

transmission includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and transmitted has a corresponding meaning.

316I Transfer to lower paid duties

If an employee is transferred to lower paid duties by reason of redundancy, the same period of notice must be given as the employee would have been entitled to if the employment had been terminated and the employer may, at the employer’s option, make payment in lieu thereof of an amount equal to the difference between the former ordinary rate of pay and the new ordinary time rate of pay for the number of weeks of notice still owing.

316J Redundancy pay

(1) An employee, whose employment is terminated by reason of redundancy, is entitled to the following amount of redundancy pay in respect of a period of continuous service:

<table>
<thead>
<tr>
<th>Item</th>
<th>Period of continuous service</th>
<th>Redundancy pay</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Less than 1 year</td>
<td>Nil</td>
</tr>
<tr>
<td>Item</td>
<td>Period of continuous service</td>
<td>Redundancy pay</td>
</tr>
<tr>
<td>------</td>
<td>-------------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>2</td>
<td>1 year and less than 2 years</td>
<td>4 weeks' pay</td>
</tr>
<tr>
<td>3</td>
<td>2 years and less than 3 years</td>
<td>6 weeks' pay</td>
</tr>
<tr>
<td>4</td>
<td>3 years and less than 4 years</td>
<td>7 weeks' pay</td>
</tr>
<tr>
<td>5</td>
<td>4 years and less than 5 years</td>
<td>8 weeks' pay</td>
</tr>
<tr>
<td>6</td>
<td>5 years and less than 6 years</td>
<td>10 weeks' pay</td>
</tr>
<tr>
<td>7</td>
<td>6 years and less than 7 years</td>
<td>11 weeks' pay</td>
</tr>
<tr>
<td>8</td>
<td>7 years and less than 8 years</td>
<td>13 weeks' pay</td>
</tr>
<tr>
<td>9</td>
<td>8 years and less than 9 years</td>
<td>14 weeks' pay</td>
</tr>
<tr>
<td>10</td>
<td>9 years and less than 10 years</td>
<td>16 weeks' pay</td>
</tr>
<tr>
<td>11</td>
<td>10 years and over</td>
<td>12 weeks' pay</td>
</tr>
</tbody>
</table>

*a week’s pay is defined in section 316H*

(2) Provided that the redundancy pay does not exceed the amount which the employee would have earned if employment with the employer had proceeded to the employee’s normal retirement date.

(3) Continuous service has the same meaning as in section 228.

### 316K Alternative employment

(1) An employer, in a particular redundancy case, may make application to the Commission to vary the amount of redundancy pay if the employer obtains acceptable alternative employment for the employee.

(2) This provision does not apply in circumstances involving transmission of a business as set out in section 316M.

### 316L Job search entitlement

(1) During the period of notice of termination given by the employer in accordance with subsection 661(2), an employee must be allowed up to one day off without loss of pay during each week of notice, for the purpose of seeking other employment.

(2) If an employee has been allowed paid leave for more than one day during the notice period, for the purpose of seeking other employment, the employee must, at the request of the employer, produce proof of attendance at an interview in order to receive payment for the time absent. A statutory declaration is sufficient proof of attendance.

### 316M Transmission of business

(1) The preceding provisions of this Division are not applicable if a business is, before or after the commencement of the Workplace Relations Amendment (A Stronger Safety Net) Act 2007, transmitted from an employer (in this subsection called the transmittor) to another employer (in this subsection called the transmittee), in either of the following circumstances:

(a) if the employee accepts employment with the transmittee which recognises the period of continuous service which the employee had with the transmittor, and any prior transmittor, to be continuous service of the employee with the transmittee; or

(b) if the employee rejects an offer of employment with the transmittee:

(i) in which the terms and conditions are substantially similar and no less favourable, considered on an overall basis, than the terms and conditions applicable to the employee at the time of ceasing employment with the transmittor; and

(ii) which recognises the period of continuous service which the employee had with the transmit-
tor, and any prior transmittor, to be continuous service of the employee with the transmi,

tee.

(2) The Commission may vary the operation of subparagraph (1)(b)(ii) if it is satisfied that the application of that provision would operate unfairly in a particular case.

316N Employees exempted

This Division does not apply to:

(a) employees terminated as a consequence of serious misconduct that justifies dismissal without notice; or

(b) probationary employees; or

(c) apprentices; or

(d) trainees; or

(e) employees engaged for a specific period of time or for a specified task or tasks; or

(f) casual employees.

Note: serious misconduct is provided for in section 661.

316O Incapacity to pay

The Commission may vary the amount of redundancy pay provided for in section 316J on the basis of an employer’s incapacity to pay. An application for variation may be made by an employer or a group of employers.

Part 2—Hours of work

2 Paragraph 226(4)(g)

After “employee’s hours of work”, insert “, including the pattern of hours worked and any shift work.”.

3 At the end of section 226

Add:

Minimum rest periods – breaks

(6) An employer must take all measures necessary to ensure that if the working day is longer than six hours, every employee is entitled to a maximum rest break of at least 30 minutes.
more appropriate rather than just extending the time that such payments are protected. We believe that all employees should be entitled to redundancy pay regardless of their instrument of employment.

As you will note from the table in our amendment, it scales back to 12 weeks after 10 years because this is the time when long service leave becomes available to all employees. Some states have better long service leave provisions that are available earlier, but 10 years is the latest. We believe rest breaks are also matters where there should be broad minimum standards, and that further protection can occur on an industry basis. We are facing a crisis at this point in balancing work and family life and yet no-one seems prepared to provide even the most minimal regulation to help employees out. We believe that these amendments go to providing a stronger safety net, which will be beneficial for occupational health and safety and our longer-hours culture that puts many workers at risk.

We believe that these are minimum conditions that should be part of the Australian Fair Pay and Conditions Standard. Redundancy is an area of importance. We know that it has been a matter of controversy and conjecture through the process of Work Choices and, through this amendment, we are working to address the problem of redundancies not being adequately provided to all employees. We commend this amendment to the chamber.

Senator WONG (South Australia) (9.36 am)—I would like to indicate Labor’s position in respect of these provisions. Labor have previously moved amendments which protect redundancy entitlements for all employees who make workplace agreements by including them in the list of protected award conditions. As we have previously outlined, the policy we are taking to the federal election will provide a statutory right of redundancy entitlements to all employees save for those employed in businesses with fewer than 15 employees.

As I understand Senator Siewert’s amendment, there are in essence two propositions. The first extends the period of operation of preserved redundancy entitlement when an agreement is terminated or transmitted from 12 months to the end of the employee’s employment with their employer. I have dealt with that by indicating Labor’s policy position. The Greens have also proposed an amendment to insert a statutory redundancy entitlement in accordance with the AIRC test case. Whilst this is largely in accordance with Labor’s outlined policy position, it does not provide an exemption from redundancy payments for small business, which our policy contains. On that basis, Labor will not support this amendment. We have made our position on redundancy clear in our Forward with Fairness document, which provides both flexibility and fairness.

Senator MURRAY (Western Australia) (9.37 am)—The Australian Democrats support the view that redundancy provisions should be provided through the Workplace Relations Act. However, we take the view that you have to be much more flexible than the amendments put before us. We believe that the broad basis for redundancy provisions has been outlined by the Australian Industrial Relations Commission in its test case and that the proper extension of that test case should be to the safety net—namely, through the award system. The Democrats have the view that awards should vary. We believe awards should be industry based and national rather than state based. They should be limited to a minimum number of allowable matters—we recommended at least 16—but the redundancy provisions should be designed as appropriate for the industry and, where an award is not applicable, they need
to be worked out in an enterprise. Obviously, where there is a collective agreement, it should take into account those provisions. So we tend to prefer that the principles of redundancy are established in legislation but that the application of redundancy provisions be varied according to both enterprises and awards.

Furthermore, we are of the view that there are businesses that are just never in a position whereby they can provide redundancy. Micro and small businesses sometimes fall into that category, and it would be unwise to impose a legislative provision which they would simply be unable to meet. Whilst we respect the intention and the initiative of the Greens amendments for similar reasons to Labor but with our own slant on these things, we regret that we are unable to support them.

Senator FIELDING (Victoria—Leader of the Family First Party) (9.40 am)—Family First support greater protection for redundancy and the issues of hours of work, breaks and those sorts of things. The intention of the Greens amendments is to strengthen that protection. Family First has two amendments coming up, and the second of those will achieve what needs to be set out in a more flexible way than what is being proposed here. For those reasons we will not support the Greens amendments but certainly we support the idea of greater protection for workers’ redundancy entitlements and their hours of work.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (9.41 am)—The government opposes the amendment. It basically deals with two issues: redundancy and hours of work. The government considers that parties should be free to bargain the terms and conditions that best suit their circumstances, and adding redundancy provisions to the standard reduces their ability to do so. Most importantly from the government’s perspective, the amendment does not include any protection for small business. The government legislated to protect small business with fewer than 15 employees from redundancy pay obligations.

The amendment would undo that protection. It will result in a cost imposition that may be unaffordable for many small businesses and a disincentive to growth in the small business sector. However, the government is keenly aware of the importance that some employees may place on redundancy entitlements. It is for this reason that the government last year moved amendments to preserve redundancy arrangements for 12 months when agreements are unilaterally terminated by the employer. Having said that and considered the matter further, we will support Senator Fielding’s amendment to extend this period to 24 months.

In relation to the issue of hours of work, the government opposes this aspect as well on the basis that the proposed amendment is unnecessary and, in many cases, unworkable. It seeks to adopt the one-size-fits-all approach that would severely hinder enterprise level flexibility. It is important to note that rest breaks are a protected award condition. This means that an entitlement to a rest break cannot be excluded or modified without fair compensation. The act already provides employees who are instrument-free with a new entitlement to a meal break if they work more than five hours continuously. Agreements and contracts can provide for meal or rest breaks. The proposed amendment would require an employer to provide a rest break in the following circumstances: a 30-minute rest period for each six hours worked; an 11 hour rest period in every 24-hour period and a 24-hour rest period in each seven-day period. These proposals limit the ability of employers and employees to negotiate arrangements that best suit their needs at the enterprise level. Senator Siewert, coming from
Western Australia as she does, and Senator Murray would undoubtedly be aware of the situation that exists within the mining sector, where people work 14 days on and then have one week off.

That is by way of arrangement, whereas that which Senator Siewert is proposing would make that sort of arrangement impossible. That is why we as a government once again say that when you try to impose what you think from your office desk is a good, fair system, it might not necessarily take into account the needs of a particular enterprise or indeed the wishes of the workers. That is why we say these things need to be carefully balanced. They are matters that we say are important but, if people want to trade these things away on the basis of fair compensation, then they can. Often workers and their employers have come to arrangements that suit both sides and, as a result, assist the productivity of the country and the wealth that we are able to create and then share with our fellow Australians.

Question negatived.

Senator FIELDING (Victoria—Leader of the Family First Party) (9.45 am)—by leave—I move Family First amendments (1) and (2) on sheet 5302:

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

8. Schedule 7, Parts 1 and 2 The day on which this Act receives the Royal Assent.

9. Schedule 7, Part 3 Immediately after the commencement of Schedule 1.

(2) Page 83 (after line 20), at the end of the bill, add:

Schedule 7—Preserved redundancy provisions

Part I—Length of period of preservation

Workplace Relations Act 1996

1 Subsection 347(7) (note) Omit “12”, substitute “24”.

2 Paragraph 399A(3)(a) Omit “12”, substitute “24”.

3 Paragraph 598A(3)(a) Omit “12”, substitute “24”.

4 Subclause 3(4) of Schedule 7 (note) Omit “12”, substitute “24”.

5 Paragraph 6A(4)(a) of Schedule 7 Omit “12”, substitute “24”.

6 Subclause 18(3) of Schedule 7 (note) Omit “12”, substitute “24”.

7 Paragraph 20A(4)(a) of Schedule 7 Omit “12”, substitute “24”.

8 Paragraph 21A(4)(a) of Schedule 8 Omit “12”, substitute “24”.

9 Paragraph 21D(4)(a) of Schedule 8 Omit “12”, substitute “24”.

10 Paragraph 27A(3)(a) of Schedule 9 Omit “12”, substitute “24”.

11 Application The amendments made by this Part apply to agreements terminated after the commencement of item 31 of Schedule 3 to the Workplace Relations Legislation Amendment (Independent Contractors) Act 2006.

Part 2—Notice requirements

Workplace Relations Act 1996

12 Paragraph 603A(3)(c) Omit “12”, substitute “24”.

13 Paragraph 6B(3)(c) of Schedule 7 Omit “12”, substitute “24”.

14 Paragraph 20B(2)(c) of Schedule 7 Omit “12”, substitute “24”.

15 Paragraph 21B(3)(c) of Schedule 8 Omit “12”, substitute “24”.

16 Paragraph 21E(2)(c) of Schedule 8 Omit “12”, substitute “24”.

17 Paragraph 29A(3)(c) of Schedule 9 Omit “12”, substitute “24”.

CHAMBER
The amendments made by this Part apply to notices given after the commencement of this item.

**Part 3—Contingent amendments**

19 *Subparagraph 346YA(3)(b)(i)*

Omit “12”, substitute “24”.

20 *Subparagraph 346ZA(2)(b)(i)*

Omit “12”, substitute “24”.

This set of amendments, by doubling the protection period of workers’ redundancy benefits from 12 months to two years, tries to avoid the Tristar fiasco happening again. Family First’s restoring family work balance bill proposed that to be extended to five years, and we have been able to get support for two. The amendments would deter employers from trying to avoid paying workers their full redundancy entitlements, which are vital for workers and their families. Currently workers’ redundancy payments are protected by law for up to 12 months after workplace agreements are terminated. Twelve months is not adequate, and Tristar shows this to be particularly the case.

You may recall that Tristar is trying to slash its redundancy bill by keeping its 29 staff at a Sydney plant without any work for them. You may recall that, under its workplace agreement which expired in February, the workers would be entitled to a total of about $4.5 million if they were made redundant now but would get only about one-quarter of that, or just over a million dollars, if they were made redundant more than a year after the employment contract expires. The Tristar situation is totally unfair and un-Australian, and for an employer to try to exploit the law to take away the redundancy entitlements of workers in that way is just not on. Family First appreciates the support of the government and the opposition to extend the protection to two years.

**Senator WONG** (South Australia) (9.47 am)—I will outline Labor’s position on Senator Fielding’s first set of amendments. As I have indicated to Senator Fielding, the opposition will support these amendments, but I do want to make a couple of comments. First, I make this point. The Tristar issue primarily revolved around the fact that the company refused to dismiss employees, as Senator Fielding outlined. Whilst the move from 12 to 24 months might assist with that, the reality is an employer could still choose to simply refuse to engage in the triggering event for the entitlement, which is in fact the dismissal. To some extent these provisions will not ameliorate that, although I recognise Senator Fielding’s motivation. It is a fact that 24 months is certainly better than 12, and Labor will support these provisions. I reiterate federal Labor’s policy, which is to provide a statutory right of redundancy entitlement to all employees, save for those employed in businesses with fewer than 15 employees. This constitutes real protection for redundancy entitlements and this would have protected Tristar employees from day one.

I also note that the government states that it will support this amendment. I will wait with interest to see if the government intends to support Senator Fielding’s next set of amendments, which are intended to include redundancy pay within the definition of protected allowable award matters. Of course, that would in fact require that any subsequent agreement altering a redundancy entitlement would need to be assessed against the new fairness test. I also make the point that, under the government’s laws, people’s redundancy entitlements can be abrogated by a new agreement and that, unless the government supports Senator Fielding’s amendment or something similar, the fairness test will not ensure that an employee is at least fairly compensated should such redundancy entitlements be traded away in that new
agreement. So the government’s colours on redundancy will be demonstrated again later in the chamber unless the minister has instructions to support both of Senator Fielding’s amendments, in which case we would say it is belated but appropriate.

Senator MURRAY (Western Australia) (9.50 am)—The Democrats support these amendments as a modest improvement to the existing system.

Senator SIEWERT (Western Australia) (9.50 am)—The Greens will also support the amendments. We do not think that the amendments go as far as our amendments did. We have tried to move a series of amendments that we believe provide much better protection as to redundancy and, instead of limiting it to 12 months, we tried to extend it so it was open-ended. We think that would have been a better approach, but an extra 12 months is better than nothing, I have to say.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (9.51 am)—Briefly, the government, as Senator Fielding has indicated, support the amendments. We do not think that the amendments go as far as our amendments did. We have tried to move a series of amendments that we believe provide much better protection as to redundancy and, instead of limiting it to 12 months, we tried to extend it so it was open-ended. We think that would have been a better approach, but an extra 12 months is better than nothing, I have to say.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (9.51 am)—Briefly, the government, as Senator Fielding has indicated, support the amendments. We do not think that the amendments go as far as our amendments did. We have tried to move a series of amendments that we believe provide much better protection as to redundancy and, instead of limiting it to 12 months, we tried to extend it so it was open-ended. We think that would have been a better approach, but an extra 12 months is better than nothing, I have to say.

I must say that, in this day and age, and I may well be wrong on this, I am not sure that redundancy provisions are being made which go for more than 104 weeks. As a result, I would think that this proposal really does cover the field and provides the security for those workers who see their redundancy provisions as being important. We believed in our first legislation that 12 months would be enough. But, as we have always said, we are willing to learn from experience and see what needs to be done to further enhance workers’ protections. This is a reasonable and balanced approach, and that is why we as a government are willing to support these Family First amendments.

Question agreed to.

Senator FIELDING (Victoria—Leader of the Family First Party) (9.53 am)—by leave—I move Family First amendments (1) and (2) on sheet 5310:

(1) Clause 2, page 2 (at the end of the table), add:
8. Schedule 7 The day on which this Act receives the Royal Assent.

(2) Page 83 (after line 19), at the end of the bill, add:
Schedule 7—Protected allowable award matters etc.

Workplace Relations Act 1996

1 Subsection 354(4) (after paragraph (h) of the definition of protected allowable award matters)
Insert:
(ha) redundancy pay;

2 After subsection 513(3)
Insert:
(3A) To avoid doubt, the matter of redundancy pay is, and is taken to have always been, a matter covered by the following provisions:
(a) paragraph (1)(a);
(b) paragraph (1)(n).

3 After subclause 17(1) of Schedule 6
Insert:
(1A) To avoid doubt, the matter of redundancy pay is, and is taken to have always been, a matter covered by the following provisions:
(a) paragraph (1)(b);
(b) paragraph (1)(p).
4 Subclause 25A(4) of Schedule 8 (after paragraph (h) of the definition of protected allowable award matters)

Insert:
(ha) redundancy pay;

5 Subclause 52(3) of Schedule 8 (after paragraph (g) of the definition of protected allowable award matters)

Insert:
(ga) redundancy pay;

6 Application of amendments

The amendments made by items 1, 4 and 5 apply in relation to a workplace agreement lodged after the commencement of this item.

The evidence given by the ACTU and others to the committee inquiry into the Family First bill, the Workplace Relations (Restoring Family Work Balance) Amendment Bill 2007, was that even if Family First managed to extend the redundancy protection to five years—although it has now been cut back to two years—Work Choices does not protect retrenchment pay, because there is no guarantee that retrenchment pay will be included in an agreement. Family First is concerned about that. Workers may easily sign workplace agreements without realising that redundancy is not a protected award item—and maybe without realising the full implications of that not being a protected award item. In fact, workers and their families tend to concentrate on day-to-day issues and may assume that they will be entitled to redundancy payments as a matter of course. So Family First moves this second group of amendments as a way of tightening up the issue of redundancy for workers and making it part of a protected award condition.

Senator WONG (South Australia) (9.54 am)—I note the minister’s indication in discussion of the previous amendments that the government will not support this aspect of Senator Fielding’s amendments. I want to be clear with the chamber about what that means. Yet again, the Howard government is indicating that it is not prepared to protect redundancy entitlements, which have existed within the Australian industrial relations scheme for many years. This is the government again saying that it is not prepared to place redundancy pay into the category of protected award conditions. So that means they are not protected—even though ‘protection’ under the Work Choices legislation is one of those Orwellian terms which certainly in the past has had very little meaning and will only have some meaning after the introduction of the fairness test.

The fact that the government will oppose this amendment means that redundancy pay will not be considered as part of the fairness test. What that means in practical terms is that an employee who has negotiated a reasonable redundancy entitlement over a period of employment—or who simply has the minimum redundancy entitlement as per the standard AIRC test case—can have that removed by a ‘take it or leave it’ AWA or by a new agreement. Under the government’s new so-called fairness test, they will not receive any fair compensation for those redundancy entitlements being traded away. So we are, yet again, very clear on the Howard government’s attitude to redundancy entitlements. I do agree with Senator Fielding that, for many working families, this is often a significant source of security. It is something that people and families rely on. It has been in place for many years, in recognition of the financial dislocation that being made redundant causes an employee and their family.

Senator MURRAY (Western Australia) (9.56 am)—The Democrats support the view that awards should be limited in extent. We supported the fact that federal awards were reduced from an open-ended approach to 20 allowable award matters. We now think that, in view of the way modern industrial rela-
tions is progressing, the safety net will permit further reduction in allowable award matters. In our own policy we think that 16 is the appropriate number. Having got to that position, you then have to ask: what should those allowable award matters be? In our view, redundancy should be one of those. It is a vital and integral part of the safety net that should apply.

What I like about Senator Fielding’s approach is that it replicates the Democrats long-term approach that, firstly, redundancy is important and should be protected in these ways; and, secondly, it should not be overly prescriptive—in other words, the development of the actual terms of redundancy should be relevant to the industry, relevant to the enterprise and relevant to the individual. The statute should not seek to be overly prescriptive in that area; it should merely require that redundancy pay be properly protected. So, in view of our long championing of this particular aspect of core conditions that should apply to Australians in a First World society, we of course do support these amendments.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (9.58 am)—The government oppose this amendment, as previously indicated. The law provides that redundancy provisions are allowable, but if the parties do not want to have them as part of their agreement then we believe that is appropriate for them to consider.

If it were something that were to be considered as an absolute, then of course you would not be giving exemption to small businesses that employ fewer than 15. So there is already an undermining of the assertion that this is an absolute fundamental, because I think we are all agreed—other than the Greens—that small businesses that employ fewer than 15 should be exempted. We also have the situation where there may be project-specific employment and also casual workers for whom it may be inappropriate, and that is why we say that these matters should be allowed to be dealt with in the marketplace on the basis of what is best suited to the needs of the workers and the employers. As a result, we as a government oppose the amendments.

Senator SIEWERT (Western Australia) (10.00 am)—The Greens, as will have become evident during the debate, think that redundancy is a very important issue. We did seek to move an amendment to deal with the issue of redundancy by ensuring that it was a minimum condition of the Australian Fair Pay and Conditions Standard. Family First has taken a slightly different tack, but again it addresses the issue of redundancy. I think none of us on this side of the chamber is surprised that the government will not support it. A range of amendments should have been made to this bill to make it a true Stronger Safety Net and to provide fairness, because there are many holes and loopholes in the so-called safety net that in fact have not been amended. Honestly, of course I am not surprised that the government will not support it.

The minister was right when he said that the Greens would not support an exemption for small business. We believe that these rules should apply, the same as we believe that unfair dismissal rules should apply, to everybody—all workers and all businesses. That is the same as we believe should apply for people’s expectancy of redundancy. So, while we think that our amendment was better, obviously we support moves to improve redundancy and require it as a protected allowable matter. It is a bit of a different approach, but we support it—but I am not surprised that the government does not.

Question negatived.

Bill, as amended, agreed to.
Bill reported with amendments; report adopted.

Third Reading
Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (10.03 am)—I move:
That this bill be now read a third time.
Question agreed to.
Bill read a third time.

BUSINESS
Rearrangement
Senator ABETZ (Tasmania—Manager of Government Business in the Senate) (10.03 am)—I move:
That government business order of the day no.
2 (Communications Legislation Amendment (Content Services) Bill 2007) be postponed till a later hour of the day.
Question agreed to.

NATIONAL HEALTH AMENDMENT (PHARMACEUTICAL BENEFITS SCHEME) BILL 2007
Second Reading
Debate resumed from 12 June, on motion by Senator Scullion:
That this bill be now read a second time.

Senator McLUCAS (Queensland) (10.04 am)—The National Health Amendment (Pharmaceutical Benefits Scheme) Bill 2007 has of course been the subject of a fair bit of attention in recent days, although Labor certainly would have welcomed greater scrutiny of such a significant change to the legislation which manages the PBS. Given the fundamental importance of the Pharmaceutical Benefits Scheme to the health of Australians, Labor would have appreciated more time for the parliament to undertake a longer and more substantial analysis of such complex and fundamental changes and to allow for improvements to be debated. For legislation that was flagged last November, it is extremely disappointing that the government was not able to make draft legislation available to the parliament or to key stakeholders until early May and only introduced this bill on 24 May. Then, without so much as a courtesy call to the shadow minister, the Minister for Health and Ageing threw some amendments to the bill into the mix a week later. Finally—with all respect to my colleagues on the Senate Standing Committee on Community Affairs, who did very well within the constraints served up to them—we saw what can only be described as an extremely truncated Senate inquiry process. The Howard government, I am afraid, makes a mockery of this parliament when it refers a bill to a committee on a Thursday, holds a hearing for half a day on the Friday and expects a report scrutinising the bill to be tabled the following Monday—but that is exactly what we saw with this bill.

While Labor acknowledges that there have been many months worth of planning and discussion about these changes and that industry has been well consulted, there has been too little time available with the legislation before us to really examine the impact of these changes. And, while industry has been generally supportive of the package, consumer groups, academics and other advocates have expressed concerns, too few of which have been adequately examined in recent weeks. The sort of time frame imposed on the Senate committee severely curtailed its capacity to perform the tasks charged to it. As the community affairs committee itself recorded in its report in respect of this bill:

... this very short inquiry has provided insufficient time to analyse the specifics of some concerns raised in evidence, especially in relation to longer term possible impact of these reforms.

Of course, this approach to legislation and long-term reform is exactly what we have come to expect from this government and
from this minister. Yet again we are in the position of having to ram through another significant piece of legislation with what many of us feel is totally inadequate analysis or scrutiny.

As my colleague the shadow minister for health emphasised in the other place, Labor knows that the PBS has been the envy of other countries around the world for its ability to control the cost to consumers yet also be a workable and predictable system for the industry. There is no doubt that the changes proposed in this bill are some of the most significant changes since Labor created the PBS. We want to be confident that this is the right step—something that this process has not allowed any participant to feel.

My colleague the shadow minister for health outlined a number of Labor’s concerns in her second reading speech. Firstly, the government asserts that this bill will deliver massive savings—some $3 billion over 10 years. Labor has been trying for months, without success, to uncover exactly where these savings will be drawn from. The government is hiding behind the general idea of ‘savings’ without explaining that the savings are to government, not consumers, and, in the worst-case scenario, may be at the expense of the consumer. These issues were not clarified to Labor’s satisfaction in the Senate committee process, which actually heard evidence from the Generic Medicines Industry Association, or GMiA, which completely contradicted the government’s claim.

The stated aim of the PBS reforms, of which this bill is part, is to ‘give Australians continued access to new and expensive medicines while ensuring that the PBS remains economically sustainable into the future’. This is an aim which, of course, Labor endorses. The shadow minister for health outlined Labor’s concerns in her second reading contribution when she stated that we wanted ‘to be assured and convinced that there were adequate protections for consumers within this package so that family budgets do not bear the brunt of the price reductions to government through increased costs at the pharmacy counter’. When the Senate Standing Committee on Community Affairs asked the department what savings from these changes might be expected to accrue into the hands of the customers of pharmacies, it was told that, while the department was aware of the Pharmacy Guild’s estimates, the department itself had not done any independent modelling. Labor remains concerned that the impacts on consumers have not been satisfactorily explored. The committee itself recognised its own concerns in this regard. In its report on the inquiry into the bill, it stated:

The Committee considers that as the changes implemented by the Bill will have major implications for the sustainability of the PBS and will impact on consumers and taxpayers, the Government should monitor the reforms as they are being progressively implemented and make as much information publicly available as possible.

The committee recommended that, 12 months after the implementation of the reforms, the minister report to the Senate on the impact of those changes, particularly the cost of medicines to consumers. Labor supports this recommendation and will move amendments to this effect.

The second area of concern is the impact of these legislative changes on the generics industry. As was noted in the committee’s hearings, generics have not had the market share in Australia that they have had in other countries, and the changes in this legislation do not provide any price signal to consumers to encourage greater use of generics. The common theme and criticism of this reform is that it does not do enough to facilitate the development of—and, indeed, may lead to the erosion of—the Australian generic medi-
cines sector. Labor has always seen a strong generic sector as essential to increasing price competition in the Australian medicines sector, to reduce the cost to government and to ensure the future sustainability of the PBS. Labor would have welcomed a greater opportunity to explore some of these suggestions put forward by representatives of the generics industry at the Senate inquiry—for example, the use of financial incentives for consumers to use generic medicines—but, as I have already commented, the time frame in which we have been operating has severely curtailed any investigations of this nature. The government did announce in the budget a $20 million public awareness campaign to promote the use of generic medicines. Labor supports this campaign and will be monitoring its rollout to ensure that it is effectively targeted.

In addition to the issues already raised by Labor, a number of additional issues were explored in the Senate inquiry—firstly, concerning the transparency of processes being implemented by the department. As I noted earlier, the industry has been well consulted with regard to this package and is generally supportive of the reforms. However, it seems that not all have been equally consulted in the negotiations. Concerns have been expressed by the generics industry, consumer groups, academics and other advocates that they have been locked out of some discussions, with particular concern regarding the composition of the Access to Medicines Working Group. While the department argued that this working group essentially formalises the long-term, frequent and informal relations between the Department of Health and Ageing and Medicines Australia, and sometimes also the PBAC, concerns remain among other stakeholders that this group would inform decision making and that those stakeholders excluded from the group would also be excluded from the decision-making process. While representatives of the department argued that there would be a process of consulting and engaging with other stakeholders if anything were to come out of this group that would affect others, concerns around the transparency of the body remain. The Senate committee recognised these concerns in its third recommendation, which was that the department make publicly available information on the outcomes of the process being employed to effect the changes contained in the bill.

The treatment of combination products was another area of considerable discussion in the committee process. Combination products are products made up of more than one chemical, where pricing is usually based on the sum of the cost of the individual components, in accordance with PBS guidelines. The bill proposed a separate list for single brand fixed dose combination products and states that the price of these products would be linked to the price of the component parts. This would mean that the price of the combination products would fall in accordance with the mandatory price reductions for the component parts of the products. As I said, this is a complex piece of legislation and a half-day inquiry is not enough to be able to get your head around these sorts of issues.

Medicines Australia suggested to the Senate committee that the reform package could be improved by amendment to the way in which combination products were treated, recommending that single brand combination products should be classified into the F1 formulary, where they would effectively be protected from the mandatory price reductions to the F2 formulary. The department in turn argued that ‘the treatment of single brand combination products under these proposed reforms is highly consistent with the way in which combination products are currently priced’ and would ensure that the combination products would not be ‘priced
in a different way to the component parts’. The committee considered this evidence and in its conclusions acknowledged the need to ensure that, ‘when a combination drug has been demonstrated to be no more effective than its component drugs, the level of the subsidy for the combination drug should be no more than that justified on the basis of its components’.

The committee subsequently recommended that the bill be amended to allow the minister, in determining the price of a combination drug when a statutory price reduction applies to its component drugs, to take into account the advice of the PBAC on whether the combination drug has advantages over its component drugs or other alternative therapies. In providing such advice the PBAC should consider evidence of significant improvements in compliance, clinical benefit or reduced toxicity associated with the combination drug compared to alternative therapies.

The government has moved amendments to the bill to reflect this recommendation. The amendments essentially represent a compromise between the proposed approach in the bill and Medicine Australia’s argument that combination products which provide an intrinsic value over and above their component parts should be treated differently in the formularies framework. Labor supports the government amendments, which will require PBAC to determine and advise the minister whether a combination product itself has an intrinsic value over its component parts which compels that the combination product should have a price advantage.

New section 101(4A6) provides guidance to the committee as to the factors it should consider when determining whether a therapy involving a combination item provides greater intrinsic value than its component parts. These factors include a significant improvement in patient compliance with the therapy or a significant improvement in efficacy or reduction in toxicity.

The department has noted that there are currently around 50 combination products on the PBS and that it is their inclination to send this entire list to the PBAC for assessment prior to the implementation of the 1 August 2008 price reductions. Labor believes that this is a sensible approach which will provide certainty to the pharmaceutical industry and flexibility to government.

A further area of concern noted in the Senate inquiry process but not explored sufficiently was around the concept of interchangeability. The bill adds a new provision in section 101(3BA) requiring the PBAC to consider whether or not a drug is ‘interchangeable on an individual patient basis’ and inform the minister. Dr Thomas Faunce, who appeared before the committee, argued that this new concept should be defined in the legislation. Departmental representatives argued before the committee that interchangeability:

... means that these drugs are pharmaceutically related, have the same mechanism of action and provide similar therapeutic outcomes at equivalent doses at the individual patient level.

While departmental officers were able to provide this definition verbally before the committee, it was a more complex exercise locating exactly where this definition was located. The department has argued that there is no need for a definition in the legislation as this is:

... one of the things that the PBAC looks at ... it is really formalising a role that the PBAC already has that has not really been mentioned.

However, the lack of transparency around the concept remains a concern to Labor, particularly as critics of this change maintain that this new concept of interchangeability will raise the burden of proof required to list a
drug in the new F2 formulary, creating an opening for drug companies to argue that their drugs are not interchangeable and hence that they should remain in the F1 formulary. Labor remains concerned that this area remains unresolved—and we will keep an eye on how the legislation plays out in this area.

Labor’s approach to health is a compassionate one—we must care for those around us who are ill and need our support. But our approach is also one that goes hand in hand with our economic strategy. Clever health spending cannot and should not be seen merely as a cost but also as an investment in the nation’s future. Drugs play an important role in chronic disease management—they always have and they increasingly will.

Medicines funded under the PBS play a vital role in prolonging the active working lives of Australians. Used responsibly, medicines have the potential to improve both workforce productivity and participation, in addition to saving money in other parts of the health system. Responsible spending on the PBS contributes to improved economic growth and should be seen as an investment, not simply a cost.

To continue to improve participation in the workforce, we will need to maintain and enhance the health of our ageing Australian population. Continued access to medicines through the PBS will play a significant role in improving productivity. Medicines can positively contribute to workplace productivity and economic growth. By treating symptoms and extending life, medicines improve peoples’ activities and functions in daily life, including their physical, social, emotional and cognitive wellbeing. These all contribute to a person’s ability to participate in the community and in the economy—a value we must not forget. Labor will support this bill and the amendments that I have highlighted, but, as I say, we will continue to keep a close eye on how the legislation plays out.

**Senator MOORE** (Queensland) (10.21 am)—We have heard and we will continue to hear just how complex the National Health Amendment (Pharmaceutical Benefits Scheme) Bill 2007 is. I am not going to take time up in the chamber today working through the various technical aspects of this bill. We have had that and we will continue to have that, and Senator McLucas has passed on a few of the issues that are important for us to consider. But I felt I needed to put some statement on record today as a member of the Senate Standing Committee on Community Affairs, which considered this bill.

I know that Senator McLucas mentioned our concerns about the focus and the process of our legislative committee, but I think it is essential to put on record the fear and anger that I have as a member at the lost opportunity that has been inflicted on the Senate and the wider community to effectively consider the impact of the PBS changes that are before us today. I do not pretend that there will be a large number of individual citizens in our community who will want to know every detail of the changes that are proposed in this legislation, but there are some who will. Even with the outrageous time frame that the government imposed on this committee, we were able to receive nine full submissions, and a number of other organisations and individuals made phone inquiries and raised concerns.

What was clear and what continues to be clear to all of us is that the Australian medical industry, the Australian pharmaceutical industry and many individual Australians have a great deal of regard for our PBS system. We have heard before here and we have seen in the literature and in the academic institution research that there is wide respect
for the PBS. There is almost an individual relationship between people in our community and this system. It has been respected, it has grown with people over the last 40 years and there is a sense of ownership around the way it operates. People understand that there is a system provided by their government which gives them support to obtain safe, effective and cost-effective medicines in this country. So, when it is proposed that complex changes be introduced to this legislation, people demand to be advised about what is happening; they need to know what the impact on their own processes and on their safety is going to be.

When we had the American free trade agreement discussions, I think two years ago now, there was a huge component of public interest, media interest and also industry interest about whether that free trade agreement would have an impact on the PBS system. You would remember that there was extensive discussion in this place that varied between fear about what may happen and a commitment to ensure that the core values of the PBS would be retained by all governments into the future. That was a promise that was made. Now, as always, as legislation is introduced down the track, people need to know what is going on, and they are asking the questions.

We know that there is an ongoing process—no legislation remains untouched—and, particularly with the PBS, ongoing attempts need to be made to ensure that cost effectiveness is not only maintained but also backed up by an absolute security in the safety of all pharmacy products that are put before the Australian public. We have had that. There has been a sense of security in the process. All discussions around the, I think, almost iconic institution of the PBS must be based on safety being the No. 1 consideration, and after that comes the cost effectiveness of the process. Of course, we know that every system must be economically viable, and the cost effectiveness of the PBS to the government must be maintained. There is a shared commitment to that. Everyone understands that we must have the best possible way of ensuring that best prices are maintained so that effective innovation in the industry can continue. When people start talking about the figures involved in the cost of drug innovation and exploration, I get completely overwhelmed, because it does cost a lot of money for organisations to scientifically research and develop effective medications. We need to understand that, and we do. There is no question about the need to have the best spend for the Australian taxpayers’ dollar around ensuring that the PBS system is strengthened and maintained.

Underlying that, there must be a sense that the consumer is going to receive the best possible product. That is not just with the ongoing debate around this legislation, with the difference between drugs that have patents on them and the time when they come off patent, and we have that wide, burgeoning industry of generic medicines. A lot of the debate around these particular changes before us today is about the process of maintaining that, so that we are able to ensure that drugs are assessed adequately and that, when there are options, people are made aware of those options and the costs are maintained so that we are able to keep a solid base cost and people can receive good medication without either themselves or the government overpaying for it.

The various technical aspects of the different formularies and what drugs are going to go into them will be spelt out in detail in the legislation. What detail is not in the legislation is going to be placed in regulations that will evolve as the process continues. I want to say yet again, as I do consistently, that, when we have complex legislation before us which indicates that a lot of the detail
is going to be in regulations and we have not got the regulations, I always have trouble. I cannot guarantee that I would understand all the regulations, but I am sure I would be able to get effective advice so that at least I would be able to see how the whole package operates. Very rarely can one stream in health legislation work by itself. We have the core legislation and then the regulation that works with it that allows the flexibility for things to be amended more quickly.

People in the industry do understand this legislation. They do study it, as we have found out through our committee process and through the range of visits that we have all had from people representing different areas of the industry. They do read and understand every element of the debate and they have quite specific questions, which they raised with us in the committee process. I return to my overwhelming concern of losing the valuable opportunity, through examining this bill in the committee process, to assuage some of the fears, to address some of the concerns and, most importantly, to keep the open discussion going. On a number of issues that came up in the committee process, we heard quite determined evidence by people who felt that things could be done better, who felt that there were threats to the PBS; there were specific allegations that things were put in the wrong area under the PBS. That came out in the committee process and the detail is available, for those who wish to read it, in Hansard and in our committee report.

When we were able to receive professional information from the department, when they came as witnesses to the committee, we were able to directly clear up a number of the issues. This is the value of the committee process: getting people together, making sure—through evidence, through submissions and through responses—that we are able to work effectively, through the Senate, to ensure that issues are clarified. It does not guarantee agreement, and we will probably see that when we go through the amendment process today. But nonetheless, we are able to work effectively towards coming to some understandings that make the legislation better. And we saw that even in the one-day process that we had on this bill. A number of the concerns that were raised about how people thought this legislation would work were cleared up simply by having that before us and being able to work through it. This is why I am disappointed. If we had had more time to get more discussion going, we may then have been able to have a stronger basis on which to move forward in this area. It is disappointing that, even at this stage of the process, we are still arguing about the lack of effective communication and consultation.

Now we know that the government, through the departmental processes, have regular meetings with the key stakeholders and certainly with the Pharmacy Guild. It was in evidence that there has been ongoing discussion with the Pharmacy Guild and their members about their role in this process, and we know there is a specialist agreement with the Pharmacy Guild and the government. That is strong and that should be maintained. We also had the same discussion with Medicine Australia and also with consumers in different times at different places. But there must be an opportunity for all of the stakeholders to get together at different times, to be able to at least hear—sometimes hear again, because there are certain people who do not move forward with their arguments, but nonetheless to get on the table again—what the key issues are.

Certainly a couple of the amendments that we have wanted to discuss with the government have been looking at that. We have been looking at clear definitions in the process. We have also been looking at a kind of
monitoring process that would re-establish the role of the consumer, because, as I have said, from my point of view the role of the consumer must be absolutely valued in anything to do with our health system and in particular with the PBS. We had evidence from health consumers during the committee hearings that they were keen to continue in this way, in particular to see exactly what the impact of changes would be on the cost to people across Australia of their medicines. We have seen over the last decade an enormous rise in the co-contributions, and that has gone through this place in terms of exactly how the PBS operates for people who are going to purchase drugs at their pharmacies. The co-contributions have risen dramatically over last few years, but generally when people have understood how the process works they have understood the cost of the development of medication and they have had the security that the drugs they are going to be receiving on the Australian market are absolutely safe, that they are the best in the world that can be available.

They also understand that there is a genuine commitment from the government to minimise the cost and also to ensure access to generic brands. This is an industry that has risen in our country, as it has across the world. Generic products give people a choice at every level about the purchase of the medication that they are going to receive. This is something that we on this side of the chamber celebrate with the government—that is, the decision to have the education campaign about the best use of generic products. There was some discussion at the committee about the best way of doing the program, and of course that is something that will evolve as it develops. But it seems to me one of the absolutely critical elements of how this legislation is going to work is the community understanding of exactly how the process operates, their understanding about the safety elements of using generic products, their understanding of their rights as consumers to work with their doctors so that they have some ownership over the types of medications they are purchasing and to be able to question that. It is part of the ongoing education process, which we have talked about many times, that an individual takes ownership of their own health, and the individual ownership of their health extends to the PBS process because this is an area where, once again, the person who is having treatment should have the knowledge about the treatment they are receiving and be able to engage effectively with the health providers who prescribe the medication as well as those who give it out at the pharmacy. That is something that we do celebrate, and it is an ongoing aspect of the legislation.

We are disappointed that there has not been more open dialogue about the process. We hope that, once again, that is a message we can take into the future. We are supporting the recommendation about the combination drugs because that came out clearly in the evidence, both in the written submissions, particularly from Medicine Australia, and in the evidence given before us at the committee. This is an aspect that can be looked at, and we are looking forward to the government’s response on that.

We acknowledge, as part of the government and also as health consumers, that the PBS is something that should be valued in our community. It is at many levels. We do expect that there is an increased understanding in the community about the way it works, and that came out consistently. Over the last 15 years there has been a growth in understanding of the way it operates and more questions are being asked by consumers about their rights in the system about not only the co-payment but also their right to question the way it works and to question what processes are put before them.
I would like to thank the organisations who gave their time and who responded so quickly to our committee requests. They came up with extremely detailed submissions. I would like to thank the department in particular and the officers of the department who gave their time to brief the committee. We could have done with a lot more, and we will continue to ask for this support, because, as we know, the PBS changes will continue. This is not a finite process; it will continue. I particularly note the speed with which they came back to the committee with responses to question that were raised. I also want to take this opportunity to thank the department for helping us put together this report so quickly. We had the committee hearing and very detailed questions and comments came out and then we were reporting back to this place on Monday. If you do the maths, you can understand how speedily people had to get their heads across the process and get responses back. We are supporting the legislation, as Senator McLucas has said. There is a shared commitment to ensuring that the PBS is maintained and valued in this community. We do expect that there will be close monitoring of the impact on all stakeholders in this process and we do expect that, as changes continue to happen in this legislation, there will be a definite attempt to engage all of us so that we can work together to make this the best possible system we can have.

Senator STERLE (Western Australia) (10.37 am)—Before I begin I would like to acknowledge Senator Moore’s wonderfully informative and passionate contribution to this debate. I rise to speak on the National Health Amendment (Pharmaceutical Benefits Scheme) Bill 2007. There are a number of matters in respect of this bill which deserve the attention of the Senate and the concern of members of the community. As senators will be aware by now, I take particular interest in the government’s actions when they concern the integrity of Australia’s universal health system, Medicare.

This government is full of rhetoric about its ongoing commitment to Medicare; however, when its actions over the past 11 years with regard to health are looked at closely there is a huge chasm between rhetoric and reality. For example, in its 11 years in office the Howard government has presided over the greatest stuff-up of medical practitioner training this country has ever experienced. No amount of self-serving spin will explain away the critical shortage of doctors created by the Howard government, particularly as it will take a decade or more to recover from it. As a result of the Howard government’s mismanagement, small country towns have now been forced down the path of incredible incentive payments to get a doctor into their town. Just last week the story made the news that one local shire is supporting a payment of up to half a million dollars—and that is on top of a salary of almost a quarter of a million dollars—to get a doctor. The Howard government has betrayed rural communities on a scale never witnessed before. The outcome is that rural Australia is now paying big time for the Howard government’s ‘she’ll be right because the market will deliver’ attitude. When is the Prime Minister going to wake up and work out that market forces alone are not going to deliver medical services to rural Australia?

What is more important than having access to life-saving medical care? There is no alternative. The Commonwealth government has a responsibility to do something about this sorry state of affairs. In my view, this bill is setting up Australia’s highly regarded universal health system for another hit courtesy of the Howard government. Already we are seeing patients having to meet an increasing share of the cost of PBS medicines as the
gap between the cost of PBS medicines and PBS benefits widens.

There is now a real suspicion that the most significant changes to the PBS proposed in this bill have been driven by a need for the Australian government to appease US interests following Australia’s signing of the free trade agreement with America. We should be under no illusion: the pressure is on from the US drug manufacturers to bring about an increase in the price of PBS medicines in Australia. US drug companies and players in the US administration are very antagonistic to the fact that the prices of many medicines in Australia are significantly lower than they are in the US. For the US drug manufacturers, free trade with the US translates to Australians paying the same exorbitant prices for medicines as do US citizens.

Historically, the actions of our nation’s government have ensured that all Australians have affordable access to world’s best practice pharmaceutical treatments. This is something we cannot afford to have put at risk. Government involvement in the pricing and availability of PBS medicines extends to ensuring that Australians, regardless of where they live, are able to access required medical and pharmaceutical services. We know that the availability of medical practitioners, particularly GPs, often depends on where you live. We also know that, despite progressive improvements in average health status and longevity, there are far too many Australians whose health status and longevity remain well below those of the rest of the population.

Australians have a right to know how much of this difference can be attributed to sharp differences across the country in access to medical services. Available statistics indicate that people living in the mining and pastoral electorate of Kalgoorlie, which takes in all the Kimberley and the Pilbara, have half the access to Medicare GP services of people living in the leafy harbour side and North Shore electorates of Sydney. On a population basis, the Howard government spends in the order of $50 million to $60 million per annum less on Medicare GP services in the electorate of Kalgoorlie than what it is prepared to spend on Medicare GP services for people living in the well-heeled suburbs of Sydney. The statistics are not available but I suspect that the story with regard to access to PBS medicines would be similar.

The fact is that, the further from the centre of a capital city or the eastern seaboard you live, the more difficult it is to get timely access to comprehensive medical care when you need it. Take my home state of Western Australia as an example: the average per capita Medicare medical and PBS services are well below the national average. In other words, Western Australians on average have significantly less access to medical and PBS services than do other Australians. Lack of access to medical practitioner services invariably results in lower levels of access to PBS medicines. It is difficult not to conclude that the lower health status and higher death rates of many people living in the Pilbara and Kimberley, particularly Indigenous Australians, are related in large part to poor access to Medicare medical practitioner services and PBS medicines. There is absolutely no point in the government claiming to be a supporter of Australia’s universal health system when it has allowed such uneven access to Medicare services to remain unaddressed after over a decade in government.

The truth is that the Howard government has no real commitment to protecting the rights of all Australians, no matter where they live in Australia, to access high-quality health care under the Medicare scheme. In 2005-06, average national per capita access to Medicare, medical and PBS services was,
respectively, 14 per cent and 16 per cent higher than in Western Australia. Clearly, Western Australians are not receiving the same level of medical care as other Australians are. In 2005-06 the figures show Western Australians received three million fewer medical practitioner services and 2½ million fewer pharmaceutical services than the rest of the country. The provision of a lower level of Medicare, medical and PBS services to Western Australians saves the Howard government approximately $250 million annually. No wonder the Howard government has got hundreds of millions of taxpayer dollars to splash around on blatant, self-serving propaganda in the run-up to an election.

There are other examples that show how the Howard government is all talk and no substance when it comes to ensuring that all Australians have access to a fair and universal health system. The Howard government’s callous disregard to ensuring all Australians have universal and comparable access to needed medical and pharmaceutical services falls most heavily on, sadly, Indigenous Australians. Approximately 26 per cent of Indigenous Australians live in remote or very remote parts of Australia. I do not need to remind senators that Indigenous Australians continue to experience on average an appalling health status compared to other Australians who live in Australia’s capital cities and who have ready access to medical practitioners and required medicines. As the Australian Institute of Health and Welfare has reported, the death rate of Indigenous Australians is over 1.4 times that of non-Indigenous Australians. Even worse, the death rate of Indigenous infants is 3.1 times greater than that of non-Indigenous infants.

These are scandalous figures when put against the relatively lavish way the Howard government is prepared to fund Medicare medical services in the well-off electorates of Sydney. Take for example access to Medicare safety net payments. I draw your attention to the Medicare safety net payment figures for 2005-06. To cite an example, the New South Wales electorate of Wentworth received $7.8 million in safety net payments. This was 16 times more than the total Medicare safety net payments received by people living in the large rural federal seat of O’Connor in Western Australia, despite the electorates having similar populations. The median annual family income in the Wentworth electorate at the 2001 census was no less than $86,000; however, in 2001 the median annual family income in the electorate of O’Connor was $38,000. In the electorate of Wentworth, only 10.5 per cent of families had a weekly income of $500 or less, while in the electorate of O’Connor 32.3 per cent of families were living on a family income of $500 or less. Under the Howard government, the higher your income, the better access you have to medical and PBS services.

On top of that, if you live in a higher income area you get a Medicare safety net bonus. In 2005-06 the top 10 Medicare safety net electorates with a total resident population in excess of one million people, and who in 2001 had a median family income of approximately $80,000, received in total over $50 million in Medicare safety net payments. In comparison, the bottom 10 Medicare safety net electorates—located almost exclusively in Western Australia, South Australia, Tasmania and the Northern Territory, with an average median family income of approximately $40,000—received in total only $3.7 million. That is 13 times less than the top 10 Medicare safety net electorates. Where is the universal access in that? Where is the equity for all Australians? I will tell you where it is—out the window; unless you reside in the leafy Sydney harbour-side suburbs or on the North Shore, which includes the electorates of Wentworth, North Sydney, Bradfield, Warringah and Mackellar.
Australian patients, and patients throughout the world, deserve to have the best treatment options made available to them. One way to ensure this remains the case is for publicly employed Australian medical practitioners and researchers to continue to be actively supported by the Commonwealth—both on our shores and within the global pharmaceutical market. Australia’s public health system and its publicly funded medical researchers are, and continue to be, significant contributors in the advancement, development and use of therapeutic pharmaceuticals. Very recently, two Western Australian medical researchers who worked in Perth’s public teaching hospitals were awarded a Nobel Prize for their outstanding contribution to medical science. It is, therefore, well to remember that it is not unusual for advances in drug therapies to have come from research conducted in research laboratories attached to the country’s major public teaching hospitals, not just from laboratories of transnational pharmaceutical companies.

This bill has neatly packaged two important changes to the PBS arrangements. Firstly, it contains a measure that should have the effect of putting downward pressure on the prices of generic drugs. This is a good thing. Secondly, it contains a measure that may seriously weaken price competition between generic medicines and branded medicines. It would be a rather pointless exercise if this bill opened the door for drug companies to exploit the PBS to reduce price competition, rather than consumers getting the benefit from the lower cost generic medicines that the bill professes to support. In regard to generic drug pricing, I think it is true to say that the major pharmaceutical companies are not very supportive of the encroachments of generic medicines into the lucrative branded medicines market. I might also add that the medical profession have not been great advocates of prescribing generic medicines to their patients. It is typically pharmacists, rather than doctors, who are more likely to bring a patient’s attention to a lower priced equivalent generic medicine as a substitute for the brand name medicine on the doctor’s prescription.

This bill purports to strengthen the government’s stance on the pricing of generic medicines and, if all goes to plan, it could result in substantial savings to the government in respect to the cost of the PBS. That is good news. The bad news is that these savings will only be passed on in full measure to patients if doctors prescribe generic medicines where these are available for the required treatment. That is because the government subsidises a PBS listed medicine based on the competitive pricing of multibrand medicines available in the market. When a medicine comes out of a patent and is able to be manufactured by multiple drug companies, this invariably has the effect of reducing the price of the drug due to competition. If doctors fail to prescribe the lower priced generic medicines and patients are not offered an alternative at the point of sale, patients will end up having to pay a larger gap for medications.

There is evidence that this may already be occurring. In the period from 2002-03 to 2005-06, the direct cost to patients of PBS listed drugs increased by 30.7 per cent, while the cost to the government increased by only 17.7 per cent. In other words, there has been a significant shift in PBS cost from the government to individuals in recent years. The question arises as to whether the legislative changes proposed in this bill will increase the incentive for the Liberal coalition government to shift an even greater share of the cost of PBS to individual patients. It will hardly be a great outcome for patients if the main result of the government’s proposed amendments to the PBS legislation is to shift more of the cost of medicines from the gov-
government to individual patients. Ultimately, the government’s attempt to reap the economic benefits of multibrand medicine price competition will only flow to patients if doctors are conscientious in their prescribing habits. The Australian Medical Association would do well to take this point to heart and aggressively encourage its members to help drive taxpayer health dollars further by prescribing generic medicines wherever possible as a valid substitute to a brand name medicine.

I would now like to move on to the measure contained in this bill that proposes two separate lists of PBS drugs: one for single brand medicines—medicines regarded as not interchangeable with any other; and one for multibrand, or generic, medicines. In Australia, as the government has stated, generic medicines account for approximately 18 per cent of medicines dispensed under the PBS. This is less than half the market share of generic medicines in the United States and the United Kingdom. The pharmaceutical industry knows full well that any substantial expansion in the number of generic drugs dispensed in Australia through the PBS will see a financial loss for them.

In the Weekend Australian of 9 June 2007, Professor David Henry, an expert in clinical pharmacology from the University of Newcastle, had this to say:

While accepting that a drug, on average, is no better than an older product, a doctor can often find a reason why a new product is not strictly interchangeable in every patient. As a consequence companies will likely argue for higher prices for drugs that do not offer better measurable performance, on the grounds that someone, somewhere, has a unique need for their products.

If the proportion of generic medicines used in Australia was in line with the US and the UK, this would reduce Australian taxpayer payments to pharmaceutical companies by several hundreds of millions of dollars annually. Hence, it is logical that the pharmaceutical industry is keen to see measures enacted which have the potential to lessen competition from generic drugs.

The Department of Health and Ageing has estimated that patents of over 100 medicines are due to expire over the next 10 years. With the enactment of this bill as it is, a new game will come to town: when is a generic medicine a generic medicine? I refer again to Professor David Henry in the Weekend Australia where, in referring to the amendments in this bill, he says:

On the one hand these aim (laudably) to cheapen generic drugs. On the other hand they appear to be designed to protect the patented products of the big drug manufacturers from having their newer products compared, for pricing purposes, with cheaper older products that work just as well.

He goes on to say:

The first formulary (F1) will list drugs that are only available as a single brand and are not considered “interchangeable” at the patient level. The drugs listed in F1 will not be pricelinked to the drugs in the second formulary (F2), which will mainly be older drugs available in multiple brands. By requesting that drugs be proven “interchangeable” before they are priced down to the level of older equally effective products, the industry has made it harder for the Pharmaceutical Benefits Advisory Committee to base their decisions on the results of clinical trials. This is a move away from evidence-based medicine, which has become a major driving force in modern clinical care.

The idea of the two lists seems to have been adopted by the government following concerns from the pharmaceutical industry that, in certain low-volume situations, it is therapeutically useful for a relatively small number of patients to have access to a particular brand name medicine rather than to a very closely related generic substitute. In other words, the bill contains a device whereby medicine manufacturers may be able to sig-
nificantly reduce competition from generic medicines.

As medical patents expire, drug manufacturers may be inclined to tinker with the formulation of particular brand name medicines on the pretext of unique therapeutic benefit for particular patients. Given the hundreds of millions of dollars of sales revenue at stake from the expansion of generic medicine use in Australia, it is inevitable that drug manufacturers will have a strong incentive to test the government’s capacity to manage this device. I think it is alarming that experts in the field of pharmacology, such as Professor Henry, have identified the real possibility for drug manufacturers to protect their products from competition, yet the government seems oblivious to the problem.

This has already been pointed out in the other place but it needs to be stated again: Labor’s approach to the PBS is based on three core principles. I encourage the government to adopt the same principles. I know that the member for Warringah pays attention to my speeches about health. I hope he is tuned in on the other side. I am sure he will be paying attention to this contribution. The question is: will he and the government act? Sadly, I doubt it.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (10.57 am)—The Greens have real concerns about the National Health Amendment (Pharmaceutical Benefits Scheme) Bill 2007. In many ways, those concerns have been outlined by Senator Moore and Senator Sterle in the incisive speeches they just delivered to the chamber. This is very complicated territory, which is where we all need to concentrate a little more because otherwise it can lead to legislation that is not in the public interest getting through simply because it is not understood by the body politic.

The Pharmaceutical Benefits Scheme is an Australian institution which has been envied by countries around the world, but is also a matter of some chagrin for the globally big pharmaceutical companies which want to make more out of drugs. They are amongst the biggest income earners in the world. They earn phenomenal profits and they have huge political clout and the last thing they want to see is the Pharmaceutical Benefits Scheme as practiced in Australia, which is aimed at getting value for money in dispensing clinically effective drugs to the Australian community, spread elsewhere. Australians voted for this scheme in a 1946 constitutional referendum and therefore it has an unequivocal democratic mandate. The PBS provides universal subsidised access to medicines to the Australian community. Along with Medicare and the public hospital system, it forms a central component of Australia’s much envied health system.

The PBS has been in operation for almost 60 years, and some of the benefits were first made available way back in June 1948. It has evolved, from supplying a limited number of life-saving and disease-preventing drugs free of charge to the community, into a broader subsidised scheme. Currently the PBS subsidises access to more than 600 medicines available in 1,800 forms and marketed as 2,600 differently branded items. The PBS covered around 168 million prescriptions in the year to June 2006. That is about eight prescriptions per Australian. It covers all Australian residents when they fill a prescription for a medicine listed on the schedule. So it would be a very rare person indeed who has not, in some way or other, benefited from the scheme—and known about the benefit of the scheme.

General patients pay up to $30.70 for PBS medicines, while those with concession cards—over a million people on low incomes—pay up to $4.90. These payments are
called patient contributions or co-payments and they are revised annually, in line with the consumer price index, and on other occasions when the government seeks to further increase the share of the cost of the PBS borne by individual patients. For example, there was a 30 per cent increase in co-payments on 1 January 2005 which, you will remember, we opposed.

Government expenditure on the PBS for the year ending 30 June 2006—the last full year for which there are accounts—totalled $6.16 billion, compared with $6 billion for the previous years. That is up by 2.7 per cent. That amounts to about 83 per cent of the total cost of PBS prescriptions. The remainder of PBS expenditure is made up from those patient contributions—and that is increasing too. In this financial year’s budget papers it is suggested that PBS expenditure will increase to $6.433 billion in the current year and $7.279 billion the next year. Other governments are looking at this, and it worries the pharmaceutical industry greatly. I understand the Korean government is one of those that are studying the system at the moment.

The bill before us seeks to create a distinction between the way that generic drugs are priced and the way that new drugs with patent protection are priced. If the bill goes through, the US negotiators under the United States-Australia Free Trade Agreement—we warned about this during the debate some years ago in this chamber—will have taken a step towards cutting the nexus between the price that will be paid for new patent protected drugs, largely coming from the big international corporations, and the existing drugs that deliver the same benefits. The result will be that Australian consumers and taxpayers will be paying higher prices for new drugs that are yet to be listed or that come on to the listing in Australia.

We were the only party to unequivocally oppose the inclusion of the PBS in the United States-Australia Free Trade Agreement, which we opposed generally, because of its impact on a whole range of Australian economic and social considerations, from the agricultural industry right through to the health industry and the matter before us today. We predicted that the very thing that is happening in this bill would happen. In 2004, the chamber was told that the PBS would never be included in the free trade agreement. Then, after it was included almost from the start of negotiations, we were informed that no fundamental aspects of the PBS would change as a result. With the furor that arose through the passage of the evergreening amendment, little attention was paid to the creation of the medicines working group. I will be asking the government about that during the debate in the committee stages of this bill. Two key issues to focus on were the removal of the reference pricing and the role of the Medicines Working Group.

When it comes to reference pricing—as the previous two speakers from the opposition have made clear—Australia’s PBS is underpinned by this reference pricing system which links the amount paid for a drug by the Commonwealth on behalf of the Australian people to the relative effectiveness of that drug compared to drugs already available on the market and doing the same job. The US companies loathe reference pricing as they make their money inventing new drugs, patenting them and bringing them onto the market. I do not think things have changed since I was a general practitioner. I well recollect the bombarding of busy medical practitioners with information about new drugs—branding them as the thing your patients should have—and in practice finding no benefit over that available through other
The notion that a drug should be priced according to what it can do to help patients rather than how much they claim it costs to produce is anathema to the big drug companies. They want to talk about getting a return on their investment and their research and development. That is how corporations work—they look at the bottom line—but the PBS is designed to give maximum benefit at the cheapest price to the Australian public. That is quite a different philosophy, and it clashes with the corporate philosophy. We will see the corporate philosophy have a win through the legislation before us, if it goes through this chamber.

Three years ago, when the US-Australia Free Trade Agreement was being negotiated, the US companies wanted reference pricing abolished. I have seen no evidence to say that they do not still want to see reference pricing abolished. Both governments on either side of the Pacific denied that this was a United States government objective. Mr Vaile, the then Minister for Trade, said:

... the Labor Party still cannot get the message. They cannot understand simple English: they are not going after the PBS.

That is, the drug companies are not going after the PBS. After it became clear that the drug companies were going after the PBS, the Prime Minister denied that they had succeeded. He said:

We have secured an absolute protection of the Pharmaceutical Benefits Scheme. Yes, some of the American drug companies did try and get in under the radar on that subject, but we didn’t agree.

But it appears that the US drug companies are winning. They are getting their way. It is not a lay-down misere yet. This is a gradual process. However, we are seeing evidence of that in the legislation before us today. At the end of the day, it will be Australia’s pensioners and, indeed, all Australians who rely heavily on pharmaceuticals who will be paying the biggest price, or the taxpayers through the subsidy to the scheme paid by the government itself.

The Australia-US Free Trade Agreement included the formation of the access to medicines working group, which is made up of Medicines Australia and health department bureaucrats, to continue discussions about changes to the PBS. I will be asking some questions about this group, their role, where they are headed and what their philosophy is. The only substantive agenda item on the meeting of the first medicines working group that I am aware of was concerned with the pricing of pharmaceuticals.

The National Health Amendment (Pharmaceutical Benefits Scheme) Bill 2007, which is now before the Senate, undermines the reference pricing system that underpins and is a heartland to the success of the Pharmaceutical Benefits Scheme, going back for decades. The changes proposed in this legislation are exactly what the US drug companies are after and what they were after back in 2004. My questions about the Medicines Working Group include: isn’t this group and the department working closely and secretly—where are their minutes?—to change the nature of the Pharmaceutical Benefits Scheme to the detriment of all Australian consumers? The process is effectively outsourcing policy development on medicines in the PBS. Medicines Australia is the pharmaceutical equivalent of those policy working groups that benefit big corporations in other matters such as coal, tobacco, uranium and a whole range of other industry outcomes. I am putting that proposition, and I want to hear the government’s response to it, because we are here not to protect the interests of big pharmaceutical corporations but to protect the interests of Australians who are pre-
scribed medicines for their health and at the lowest price possible. Where is the transparency in this process?

Let me finish with this: we trenchantly opposed the US-Australia Free Trade Agreement. One of its problems is that, where there is a dispute between Australia and the US, arbitration goes to faceless organisations which are not obliged to report to this parliament. During that debate it was made abundantly clear that, when it came to arbitration, the appointees—three by the Minister for Trade in Australia and three by the President of the US—made a determination that there would be no input from this parliament or from the Australian public without their leave and that there would be no report back to this parliament, no transparency and no minutes. Even if there were a report to this parliament, it has no power left. This parliament was disempowered by that legislation, which was supported by both the big parties, from reviewing what those faceless arbiters would do and the impact that would have on Australians, whether they be in agriculture, in manufacturing, in the workplace or in issues like this.

This is not a dispute mechanism that we are talking about here; it is a policy development mechanism. This group ought to be accountable to this place. I will be asking the minister to table the minutes of this group so that we and the public are able to see how it functions, what it discusses, how its decisions are made and what its outcomes are. And if not, why not? Why the secrecy? This group is supposed to be acting on behalf of the Australian people. The Australian people cannot have faith in a process that is secret or when FOI applications have to be made to find out what it is doing. The deliberations and outcomes of this group should automatically come to this parliament for us and the people of Australia to investigate.

There are real concerns about this legislation and about the process that we are having in this place at the moment. Senator Moore spoke about how truncated the committee process was. That has been happening to everything since the government got control of the Senate and turned it into a rubber stamp for decisions made in the Prime Minister’s office and around the cabinet table. There will be an opportunity for Australians to change that and to take away that government majority at the election which is coming up later this year. But, for now, we are dealing with a situation where the government has the numbers to ram this legislation through, regardless of what the debate is. However, let us get more information about this matter and make sure that it is an informed chamber before this legislation comes to a vote, presumably later today.

The ACTING DEPUTY PRESIDENT (Senator Murray)—Minister Brandis, if you do not have a speech on the second reading, I will put the question. The question before us is that the second reading motion be agreed to.

Senator Bob Brown—I would just like it recorded that the Australian Greens oppose the motion.

The ACTING DEPUTY PRESIDENT—That will be done, Senator Brown. Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator BRANDIS (Queensland—Minister for the Arts and Sport) (11.17 am)—by leave—I move:

(1) Schedule 1, item 81, page 29 (after line 3), at the end of subsection 99ACC(3), add:

Note: The new price for the single brand of the combination item
may be the same as the existing agreed price.

(2) Schedule 1, item 81, page 29 (lines 4 to 12), omit subsection 99ACC(4), substitute:

(4) If the Pharmaceutical Benefits Advisory Committee gives advice to the Minister under subsection 101(4AC) in relation to the combination item, then, in working out the new price of the single brand of the combination item, the Minister may have regard to that advice in considering the extent (if any) to which to reduce the existing agreed price.

(4A) If:
(a) subsection (4) applies; and
(b) the Minister decides to reduce the existing agreed price;
then, in agreeing the new price of the single brand of the combination item, the Minister:
(c) may have regard to the advice referred to in subsection (4) in relation to the combination item; and
(d) must take into account, in relation to the listed component drug, or each listed component drug, that became subject to statutory price reduction:
(i) the approved price to pharmacists, on the reduction day, of each brand of a pharmaceutical item that has the drug that is the listed component drug; and
(ii) the quantity of the listed component drug contained in the combination item.

(4B) If subsection (4) does not apply, then, in agreeing the new price of the single brand of the combination item, the Minister must take into account, in relation to the listed component drug, or each listed component drug, that became subject to statutory price reduction:
(a) the approved price to pharmacists, on the reduction day, of each brand of a pharmaceutical item that has the drug that is the listed component drug; and
(b) the quantity of the listed component drug contained in the combination item.

(3) Schedule 1, item 81, page 31 (lines 17 to 23), omit subsection 99ACD(3).

(4) Schedule 1, item 81, page 31 (line 28), omit “reduction”, substitute “determination”.

(5) Schedule 1, item 81, page 31 (lines 35 and 36) to page 32 (lines 1 to 5), omit subsection 99ACD(6), substitute:

(6) If, on a day before the determination day:
(a) one or more of the listed component drugs contained in the drug in the existing item had been subject to a 12.5% price reduction; and
(b) because of that price reduction, the approved price to pharmacists of the existing brand of the existing item was reduced;
then the reduction referred to in subsection (5) is to be adjusted to reflect:
(c) the extent to which the 12.5% price reduction was taken into account in working out the amount of the reduction to the approved price to pharmacists; and
(d) the quantity of the listed component drug contained in the drug in the existing item.

(6) Schedule 1, item 81, page 34 (lines 21 to 27), omit subsection 99ACE(5), substitute:

(5) If, on a day before the reduction day:
(a) one or more of the listed component drugs contained in the drug in the related item had been subject to a 12.5% price reduction; and
(b) because of that price reduction, the approved price to pharmacists of the related brand of the related item was reduced;
then the reduction referred to in subsection (3) or (4) is to be adjusted to reflect:

(c) the extent to which the 12.5% price reduction was taken into account in working out the amount of the reduction to the approved price to pharmacists; and

(d) the quantity of the listed component drug contained in the drug in the related item.

(7) Schedule 1, item 83, page 62 (after line 18), after subsection 101(4AB), insert:

Function relating to Minister’s decisions about prices of combination items

(4AC) If the Committee is satisfied that therapy involving a combination item provides, for some patients:

(a) a significant improvement in patient compliance with the therapy; or

(b) a significant improvement in efficacy or reduction in toxicity;

over alternative therapies, then the Committee must advise the Minister accordingly.

(8) Schedule 1, page 66 (after line 23), after item 99, insert:

99A Transitional provision—approved price to pharmacists

If the determination day or reduction day referred to in subsection 99ACD(6) or 99ACE(5) of the National Health Act 1953 is a day that is on or after this Schedule commences, then the reference in those subsections to the approved price to pharmacists on a day (the relevant day) before the determination day or reduction day is a reference to the approved price to pharmacists within the meaning of subsection 98B(3) of that Act as in force on the relevant day.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.17 am)—Firstly, I ask the minister to give the rationale for the amendments to the legislation. There has been a long time to consider the legislation but amendments have come forward. It would be good to get those amendments explained. Secondly, I ask the minister to tell us who is on the medicines working group, what its function is and how its deliberations are made.

Senator BRANDIS (Queensland—Minister for the Arts and Sport) (11.18 am)—Senator Brown, are you referring to the access to medicines working group? You asked about a body called the medicines working group. Is that a reference to the access to medicines working group?

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.18 am)—It is.

Senator BRANDIS (Queensland—Minister for the Arts and Sport) (11.18 am)—I am just getting the answer for Senator Brown, but he seems to have vacated the chamber.

The TEMPORARY CHAIRMAN (Senator Murray)—I think you are both in the position of taking advice, Minister. Parliamentary Secretary, do you need the question put to you again by Senator Brown?

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (11.18 am)—Mr Chairman and Senator Brown, I apologise, and I apologise to the Senate.

The TEMPORARY CHAIRMAN—Senator Brown, I wonder if you would put the question to the parliamentary secretary again. That would probably make for an easier commencement to this debate.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.19 am)—I would just comment that the government seems to be having revolving chairs over there. That is the third person I have seen representing the government in the min-
isterial role in the last 10 minutes. We have a right to expect more consistency and organisation. The government is in control of the chamber, but it seems like it does not know where it is at the moment. I will again put the questions about the medicines working group: who is on it, how does it deliberate, what is its bailiwick and what have its outcomes been? I also asked for the government to explain its amendments. I thought it might want to do that, but I am not sure which of the government spokespersons would have the best information on that.

The TEMPORARY CHAIRMAN (Senator Murray)—I am sure the parliamentary secretary will motivate the amendments. Before you do so and before you answer that general question, Parliamentary Secretary, I wonder if you would table the supplementary explanatory memorandum which you have.

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (11.20 am)—I table a supplementary explanatory memorandum relating to the government amendments to be moved to this bill. The memorandum was circulated in the chamber on 20 June 2007. Senator Brown, I am not quite certain what you want—whether it is information about the access to medicines committee or the medicines committee under the free trade agreement. They are two different committees.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.21 am)—Who is Medicines Australia?

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (11.22 am)—Medicines Australia is a group that represents the pharmaceutical industry in this country.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.22 am)—What are the names of the people from Medicines Australia, and indeed the people from the department, who are on the access to medicines working group?

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (11.21 am)—I will address the access to medicines working group first. The Department of Health and Ageing and Medicines Australia are working together to consider issues relating to timely and appropriate access to effective new drugs on the PBS through the access to medicines working group. The work of this working group will complement other projects currently being progressed between Medicines Australia, the PBAC and the department such as the outcomes of the joint policy conference convened in July 2006 and the development of key performance indicators as part of the review of post-PBAC processes. the group will provide advice and recommendations to the Minister for Health and Ageing for the consideration of the Australian government. The first meeting of the group was held on 24 April this year, and the communique from this meeting is being finalised.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.22 am)—What is Medicines Australia?

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (11.22 am)—Medicines Australia is a group that represents the pharmaceutical industry in this country.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.22 am)—What are the names of the people from Medicines Australia, and indeed the people from the department, who are on the access to medicines working group?
Senator BOB BROWN (Tasmania— Leader of the Australian Greens) (11.24 am)—You have said that they provide advice and recommendations to the minister. How does the group work? Is it a consensus group or do deliberations come to a vote? What is the constitution of this group? Could the minister acquaint the committee with what that constitution is and maybe table at a later time the structure and how this group works and deliberates?

Senator MASON (Queensland— Parliamentary Secretary to the Minister for Health and Ageing) (11.24 am)—It is a consultative group; an advisory body that consults, advises and discusses issues.

Senator BOB BROWN (Tasmania— Leader of the Australian Greens) (11.24 am)—Does it work by consensus? Is that the model that is used?

Senator MASON (Queensland— Parliamentary Secretary to the Minister for Health and Ageing) (11.25 am)—It has only met recently, and a communique will be released relating to the outcomes of that meeting.

Senator BOB BROWN (Tasmania— Leader of the Australian Greens) (11.25 am)—I am going back to the structure. What is the structure? Do those eight people sit around the table and, if so, do they have to come to a consensus for a recommendation to go forward to the minister or is this done ultimately by a vote? What are the working parameters for this group? Surely there must be some.

Senator MASON (Queensland— Parliamentary Secretary to the Minister for Health and Ageing) (11.25 am)—I understand that it is simply an advisory group or a consultative group to discuss issues relating to the pharmaceutical industry with respect to Medicines Australia and, on the other hand, the Department of Health and Ageing. That, as I understand it, is its role. It is a forum to continue normal dialogue.

Senator BOB BROWN (Tasmania— Leader of the Australian Greens) (11.26 am)—So it does not produce recommendations or advice for the government or the minister?

Senator MASON (Queensland— Parliamentary Secretary to the Minister for Health and Ageing) (11.26 am)—It has not produced advice, as I understand it, at this stage because it has only recently been constituted. But in the future it may have advice for the government. I am not certain, but it may.

Senator BOB BROWN (Tasmania— Leader of the Australian Greens) (11.26 am)—How will it resolve it if there is a disagreement on the group? If you are going to make advice, you have to come to an agreement. How do you get around disagreement on this group? Obviously it does agree from the outset—otherwise it would be superfluous—so there are different points of view coming forward. How does it determine how it will make advice or recommendations to present to the minister?

Senator MASON (Queensland— Parliamentary Secretary to the Minister for Health and Ageing) (11.27 am)—My understanding is that if there is disagreement then there simply would not be advice per se. I think the strength of bodies like this is that when both the department and the industry in effect agree on policy proposals that gives the outcome strength. If there is no agreement then clearly recommendations to government would not be forthcoming, nor indeed would they have much cachet because the department and industry groups could not agree.
Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.27 am)—So, Minister, you agree with me—through you, Mr Temporary Chairman—that that means the pharmaceutical industry group represented there has a power of veto on advice and recommendations going forward because if there is no agreement then, on what you said, advice or recommendation does not proceed?

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (11.28 am)—No, it is simply a forum for discussion—like so many of the other undertakings of this government, or indeed various governments, that they maintain a dialogue with industry groups. I think that is important, and I think we all agree that that is important. That is what this access group does.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.28 am)—So what we have discovered here is that this is a group that works to come forward with recommendations and advice but not if there is dispute. That simply means that advice and recommendations will not come forward to the government unless the pharmaceutical industry agrees with them. I am not going to further squeeze the good senator on this matter—but I cannot. We have discovered here that the access to medicines working group, which is to advise government and the minister on the very matters that we are discussing in this legislation, will come forward with advice if there is agreement. The department can advise the minister—obviously it can—but, as far as this influential group is concerned, if the corporations do not agree, that advice does not go to the minister. Let us make that clear. Yes, it is a discussion group, but it is not discussing things for the sake of having morning tea and pleasantries; it is discussing things because it wants to give advice and recommendations to government about the workings of the PBS and therefore about the best outcomes—as this working group sees it. We have established here that, if the drug corporations, represented by the gentlemen that I have mentioned, do not want advice going forward, the working group does not have agreement and the advice will not go forward from that working group. It is still made from the department, but as far as the working group is concerned it will not proceed. I just ask again whether the senator could tell the committee which corporations the four gentlemen named as representing the industry themselves represent.

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (11.29 am)—To correct Senator Brown: I said this before, but let me reiterate that this government consults with industry bodies. It does so in relation to all sorts of different industries, right across governmental action. Sometimes departments in their liaisons will agree with industry; sometimes not. But this is just another forum for advice to government. Industry groups do not have vetoes over departments or governmental advice. This government does not work like that.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.30 am)—No, sure, if we were to take that on face value—and I cannot. We have discovered here that the access to medicines working group, which is to advise government and the minister on the very matters that we are discussing in this legislation, will come forward with advice if there is agreement. The department can advise the minister—obviously it can—but, as far as this influential group is concerned, if the corporations do not agree, that advice does not go to the minister. Let us make that clear. Yes, it is a discussion group, but it is not discussing things for the sake of having morning tea and pleasantries; it is discussing things because it wants to give advice and recommendations to government about the workings of the PBS and therefore about the best outcomes—as this working group sees it. We have established here that, if the drug corporations, represented by the gentlemen that I have mentioned, do not want advice going forward, the working group does not have agreement and the advice will not go forward from that working group. It is still made from the department, but as far as the working group is concerned it will not proceed. I just ask again whether the senator could tell the committee which corporations the four gentlemen named as representing the industry themselves represent.

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (11.31 am)—Again, Senator Brown, I will clarify this. There are all sorts of consultative and advisory bodies across government. In this portfolio, I know
for example that the AMA—the Australian Medical Association—is often in consultation with the department. Sometimes the department and the AMA agree; sometimes they do not. Government takes their advice sometimes; sometimes it does not. That is government. This particular group, Medicines Australia, is no more and no less than any other industry group that government consults with. It is as simple as that.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.32 am)—No, it is a meeting of the departmental four, who were named, and the Medicines Australia four, and Medicines Australia is the representative of the US drug corporations and other international drug corporations. If it is not then let the minister’s representative tell the committee who else they represent. It is actually a peak body representing the interests of international drug corporations, meeting with the department to forward advice and recommendations where there is agreement, and that effectively means that the corporations have a veto role here as far as the access to medicines working group is concerned.

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (11.33 am)—In the industry portfolio, I know that there is often discussion about the car industry. The car industry and the Department of Industry, Tourism and Resources sit down and discuss policy with respect to the manufacture of cars in Australia. Those industries are US corporations. There is no plot behind that; it is just a simple fact that, in this country, when government is soliciting advice from consumers, which also happens, but also in relation to industry, some corporations are American—the Ford Motor Company and General Motors. I think, Senator Brown, the idea that somehow the pharmaceutical industry is different and that the government has a different approach to the advice from pharmaceutical companies—as opposed to, let us say, the car industry or any other industry—is ridiculous.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.34 am)—We are not dealing with the car industry; we are dealing with the pharmaceuticals industry and we are dealing with the world-best Pharmaceutical Benefits Scheme in making sure that Australians get value for money in the medicines that are required for their good health. It has nothing to do with the car industry, and the comparison is simply false. Let me try once more: could you please tell the committee the corporations that Mr Will Delaat, Mr David Grainger, Mr Ian Chalmers and Mr Duncan O’Brien represent. It is not hard. After all, there has been an agreement by the government for this group to be set up.

The senator says that they first met in April and they have a report, but we do not have it available. I am so used to this from this government. Here we have a parliament determining very crucial and complex legislation, and a report from a working group that is very germane to this legislation, but the government is saying: ‘You’ll get that after the vote has being taken on this matter. We won’t give you that information.’ I would have thought—and I will ask this: is there a draft report? Is it available, and can we have it tabled? If not, what is the expected date of arrival of this report from the first meeting of the access to medicines working group, and will the minutes of that and future meetings be made available to members of parliament, to this chamber?

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (11.36 am)—Just to remind the chamber: this group has met once, and I think basically that was about how the
group was going to go about its business. It just had an initial meeting. In relation to the gentlemen you mentioned before, Mr Will Delaat works with Merck Sharp & Dohme; David Grainger with Eli Lilly; and Mr Ian Chalmers and Mr Duncan O’Brien are in fact employees of Medicines Australia. That is the group. In relation to the minutes of those working groups, they are not made available. But I understand that a communique of the discussions held—a report on outcomes—will be on the website of the Department of Health and Ageing when it is finalised.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.37 am)—I am not going to draw this out much further, but there we have it. I did ask earlier about the structure of these meetings and how they were going to work. We have at least found out that it is not up to us in this parliament to have a say in that—in fact, the government has not had a say in it; it is up to the four members of the department and the two representatives of the drug companies Merck Sharp & Dohme and Eli Lilly to come to an agreement on that. We will be told about the structure of this very powerful advisory group but not until after this legislation has been dealt with by the parliament. That is an appalling process. If that meeting has taken place, the department knows the outcome. For the department and the government to refuse to give details of the working structure of this committee is a slight on this chamber; it is an insult to us. We ought to have that information so that we can at least see how this body is going to work.

Underpinning this is our real concern that the drug companies involved—and let me reiterate that they have been the most lucrative sector of the market on average over recent times—are undoubtedly going to be moving to do what they can about getting better returns out of the Australian Pharmaceutical Benefits Scheme. The government has set up a system through the US-Australia Free Trade Agreement. The government said that it would shelter the PBS, and we now know that the PBS is not sheltered. We now see the chief advisory group actually representing the drug corporations with a power of veto, with secret minutes and with a report that parliament does not get at a time when it needs to legislate on crucial legislation like this. It is a committee that is actually in the service of the drug corporations and their profit line. It does not serve the public of Australia, the pensioners, the people using the PBS, the doctors and pharmacists. Ultimately, it is in the control of the drug corporations.

Yes, the government can take the advice or it can leave the advice. But where we have a secret organisation that is giving advice that is not available to the parliament but is going to go to the minister after this legislation is passed, we have to be very concerned. I object to that process. The government has the numbers in the Senate—I hope that it will not have the numbers after the next election—but I object to that process. It is undemocratic. It is simply an anathema to the proper role of the parliament, which is to be adequately informed and have access to the information—particularly with regard to schemes that cost millions of dollars of taxpayers’ money and save us from the US style system whereby the corporations call the tune and receive the monetary reward. We have to protect our Pharmaceutical Benefits Scheme against that, but we are not going to do that with the secret arrangement that has been described here this morning whereby drug companies hold the veto.

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (11.41 am)—This notion that there is some link between this bill and the United States-Australia Free Trade Agreement is nonsense. There is no conspir-
acy; indeed, there is no link. The Australia-
United States Free Trade Agreement does not
impact on the ability of the government to
set domestic policy on the pricing and listing
processes of the PBS; that is a fact. The
changes to the PBS effected through PBS
reform are clearly a matter of domestic pol-
cy and were designed to create budgetary headroom for the listing of new medicines
and to increase the transparency of the mar-
ketings arrangements used by companies
when medicines are subject to competition. I
was listening to the second reading debate
earlier today. Labor Party senators all agreed
that this bill was necessary. Why? Because it
actually strengthens the PBS system and al-
 lows budgetary headroom for more drugs to
be listed.

Senator McLucas—We hope.

Senator MASON—That is the policy in-
tention of this bill. Australia’s obligations
under the free trade agreement in relation to
the PBS are limited to ways to improve the
transparency of the processes undertaken by
the Pharmaceutical Benefits Advisory Com-
mittee in assessing submissions by com-
panies for the listing of drugs on the PBS.
These obligations have been fully imple-
mented through public hearings before the
PBAC, the release of public summary docu-
ments and the establishment of a process of
independent review for certain PBAC deci-
dions. The fundamental architecture of the
PBS has not been changed by the free trade
agreement. There will not be any changes to
the fundamentals of the way in which the
PBAC undertakes its work as a result of the
PBS reform. The aspects of PBS reform that
relate to the pharmaceuticals industry were
negotiated with domestic stakeholders, as
government always negotiates and discusses
with industry stakeholders. No negotiations
were undertaken with the US government or
industry on the reform package.

I know that certain sums were mentioned
this morning and in evidence to the Senate
Standing Committee on Community Affairs.
The savings to the taxpayer of $580 million
over four years and $3 billion over 10 years,
which Senator Brown mentioned before, will
strengthen and enable more drugs to be listed
on the PBS. This is not some sort of conspir-
acy. This will in fact assist this great scheme
to develop and it will give budgetary head-
room for the listing of even more drugs and a
more comprehensive medical system.

Senator BOB BROWN (Tasmania—
Leader of the Australian Greens) (11.44
am)—Let me tell you that more drugs is not
necessarily better medicine. It is not a matter
for this debate today, but I would point out
that the increasing use of drugs in itself
comes with a penalty clause. There are thou-
sands of people in Australian hospitals today
because of the use of drugs rather than be-
cause of the original illness they had. The
whole medical system is under huge pres-
sure—look at the series of articles in the Age
a few months back—from the drug corpora-
tions, because they make their money out of
it. They have a different philosophy to what
we as legislators have, which is to look after
the best interests of Australians—both their
pockets and their health—and to what medi-
cal experts have in wanting to deliver good
health to their patients.

So more is not necessarily better. In fact,
what underpins the Pharmaceutical Benefits
Scheme is the need to ensure that drugs do
not come onto the scheme unless they have a
very clear advantage over drugs which are
already on the scheme—unless the drug has
some new capability to improve people’s
health or to reverse the symptoms of an ill-
ness which they are suffering. There is the
problem. We are concerned that the legisla-
tion we are seeing today will allow the cor-
porations to get more drugs onto the system
without improving the outcomes for Austra-
lians. Their interest is to sell drugs; our interest is to get the best health outcome at the lowest price possible for the Australian people. We are concerned that this legislation gives more power to the pharmaceutical corporations. We looked at that advice group. It has certainly given the pharmaceutical corporations, as far as its advice to government is concerned, veto power—the power to ensure that advice that is not in the interests of their profit line simply does not go forward to the minister. The department might give contrary advice, but that is a different matter. I ask Senator Mason to inform the chamber how this particular legislation improves the reference pricing system, which is so important and fundamental to the PBS.

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (11.47 am)—Again, consultation with industry by this government happens across a range of portfolios; again, there is nothing unusual about that. The Pharmaceutical Benefits Advisory Committee make decisions about the listing of drugs on the PBS, not politicians. They are experts and they make decisions based on cost-effectiveness and medical efficacy. The PBAC will continue to recommend only those medicines that have been assessed as safe, efficacious and cost-effective. This is a robust and successful system admired internationally for listing a wide range of medicines that offer the most clinical benefits to patients at the best value for money. This system will not change under the PBS reforms. I heard Senator Moore earlier today during the second reading debate. She said—I think I am right in saying this—that this is a great system and we have to protect it. I agree with that. The aim of this bill is to do just that.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.49 am)—Of course the government position is going to be that this will be a good thing for the dissemination of the best drugs at the cheapest prices to Australians. Of course it will say that; it is not going to say anything other than that. But my advice is that the access to medicines working group was a specific outcome of the US-Australia Free Trade Agreement process. If it is not and it was just set up separately, it would be good to hear that from the senator—that it was not something that came out of that discussion at the time of the US Free Trade Agreement.

I would ask Senator Mason, through the chair, to explain where the access to medicines working group came from, why we did not have it before, what it has replaced and what its role is. The government has been talking to industry for 100 years, I am sure. So there was not a need to set up talks with industry; that has been going on all the way down the line. Why this particular working group and why has it come hard on the heels of the US-Australia Free Trade Agreement?

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (11.50 am)—I can inform Senator Brown that the establishment of this group was simply as a result of ongoing PBS reforms to formalise the process. That was all—to consult further with industry. It had nothing to do with the Australia-United States free trade agreement.

Senator MOORE (Queensland) (11.51 am)—Senator Mason would be aware that these issues that Senator Brown has been raising about the public transparency of the processes of this group were raised during the inquiry and we had an interaction about that. My understanding of the response Senator Mason made to Senator Brown’s question earlier regarding the public statements about what happens at the working group was that there would be a public communique on the website of what had gone on at the meeting.
I want to clarify if that is going to be the ongoing operating practice for the group—that the questions asked by Senator Brown today and questions during the inquiry by a number of witnesses, about a transparent understanding of the outcomes, will be the process.

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (11.52 am)—My understanding is that yes, that will be the ongoing process. The results of those meetings will be published on the website of the department.

Senator McLUCAS (Queensland) (11.52 am)—I want to go to the membership of the access to medicines working group. On what basis was the Generic Medicines Industry Association not included? Was consideration given to including the generics industry, given that they are not members of Medicines Australia? On what basis was the decision made not to include the generics industry and who made that decision? What will be the procedure that the department and therefore the government will adopt to formally consult with the generics industry? You will probably tell me that you have their phone numbers and you will ring them up, but the access to medicines working group is a formalised committee. Generics are not represented on it. The committee talked about this last Friday. I think it has to be a bit more substantive than to say that we have an ongoing commitment to consult.

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (11.53 am)—The access to medicines working group is about drugs that are not already listed. They are ones that may be listed in the future. In relation to consultation with the generic pharmaceutical industry, as you say, that is ongoing. At present there is an implementation working group for the generic medicines awareness campaign. I think the government is spending $20 million promoting that. Senator Moore mentioned that in her speech.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.54 am)—I am not quite sure that that answered the question about whether it is about new drugs. We still have not had the reasoning, by the way, for the government’s amendments. We will need that before that comes to a voting consideration. I also ask the minister: would you give your explanation of the difference between F1 and F2?

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (11.55 am) Subject to the passage of this bill from 1 August 2007, drugs on the PBS will be separated into two groups, each subject to different pricing arrangements. Drugs where there is only a single brand listed will be F1. F1 will contain single-brand drugs—both on patent and off patent, but generally on patent—that are not interchangeable at the patient level with drugs that have multiple brands. Approximately 410 drugs will be on F1 as of 1 August this year. PBS expenditure on these drugs, for your interest, in 2005-06 was about $3 billion. Drugs with multiple brands listed on the PBS that are interchangeable at the patient level with a drug that has multiple brands will form the F2 formulary.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.56 am)—So that means that the access to medicines working group will be dealing with F1 drugs. Is that right?

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (11.56 am)—The access to medicines working group is about drugs that are not already listed. They are ones that may be listed in the future. So in regard to
F1, you are right in the sense that we are talking about single-brand listed drugs, but the working group you are referring to talks about drugs that are not yet listed.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.56 am)—When you talk about multiple brand drugs you are really including there the generics that are also available. That includes generics. But you know and I know—we all know—that what begins as a single-brand drug, after the discovery, the research and development and the marketing of it, leads to other companies picking up on the same drugs and producing them later down the line. What we are really seeing here with this division is the opportunity for an exclusion of the generics industry and competitors and a discrete point of lobbying to have new drugs brought on the market.

I asked about reference pricing. Under the existing system, if you are going to bring a new drug onto the market that is going to fix rheumatoid arthritis, there are lots of drugs there at the moment that will look after components of that. The reference pricing system says that you have got to be able to show that this is going to do better: it is going to alleviate pain, reduce stiffness, increase mobility or have much less side effects than drugs already existing on the market if you are going to get there. Is that still going to be the same or is this medicines working group going to be able to look at any new brand drugs that come onto the market? Where is this reference pricing system, which is so central to the PBS, brought into the discussions of the access to medicines working group and how is it divined there?

Let me ask this question: when the department goes to meet up with these drug corporations in this group and the drug corporations come along and say, ‘We’ve got this new drug. We’ve tried out. It’s been used in children in Ethiopia and here are the results,’ how does the department backup counter that? Where is the department’s backup to be able to assess the information being brought forward by the corporations—or is it not going to be at that level? Are they not going to be talking about drugs, per se—that is for somebody else; they are simply talking about the process of how F1 drugs are assessed as they move on to the conveyor belt with the huge power of the drug corporations before them to push their way onto the Pharmaceutical Benefits Scheme with a great premium going back to the corporation, even though there may be no real improvement on drugs that are already available at much lower prices and on the market and with which doctors and dispensers are much more familiar?

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (12.00 pm)—Senator Brown, I think we discussed this earlier in the committee stage. The working group has nothing to do with recommending listing new medicines; it is the Pharmaceutical Benefits Advisory Committee, the PBAC, which all sides have mentioned this morning, that recommends listing new medicines. The PBAC will continue to recommend only those medicines working group going to be able to look at any new brand drugs that come onto the market? Where is this reference pricing system, which is so central to the PBS, brought into the discussions of the access to medicines working group and how is it divined there?

Let me ask this question: when the department goes to meet up with these drug corporations in this group and the drug corporations come along and say, ‘We’ve got this new drug. We’ve tried out. It’s been used
heard very few people in the community opposing it—very few.

In relation to reference pricing, you are quite right: reference pricing was one of the key factors in the pricing of groups of medicines under the act. But there are problems with it. In a sense, what I am about to discuss is all about trying to get, as I think we all want to do, the best value for money for the consumer and also for the taxpayer. Current reference pricing arrangements limit the capacity to pay lower prices for multiple-brand drugs as price reductions may flow directly to other drugs in the same reference pricing group. This is highly problematic when a price reduction flows to a single-brand drug in a reference pricing group and therefore a suitable alternative may not be available for an individual patient. Therefore, that group of medicines cannot lower in price because people would miss out because, with a single brand, a particular company may not be able to reduce the cost of the drug. If the supplier of the single-brand drug does not agree to reduce the price, the minister must determine that either another special patient contribution premium applies or the supplier may withdraw the drug from the PBS. That is the problem. While all drugs in a reference pricing group provide similar health outcomes at the population level—that is what a reference pricing group is—not all treat exactly the same condition, nor may they be equally suitable for an individual patient.

There will be some cases where a patient cannot easily move from one drug to the next. There may be similar health outcomes, but that does not mean they can necessarily move from one drug to the next. The withdrawal from the PBS of some single-brand drugs in these circumstances would therefore create difficulties for prescribers and also for patients. Finding a way to significantly reduce prices and not endanger the continued listing of a single-brand drug that is not interchangeable has been a key consideration in developing the PBS reform package.

What has developed in Australia and is developing overseas is that, with the arrival of generic drugs, drugs are becoming a commodity. What the government wants—I think what the taxpayer wants—is for the government, the taxpayer who foots the bill, to take advantage of lower priced drugs where there is a market for those drugs. At the moment the price is artificially inflated. I was looking this morning at the department’s submission to the Senate committee inquiry. I noticed on page 9 of that submission the comparison of United Kingdom and Australian prices for some commonly prescribed drugs. Senator Moore would be aware of this table, I am sure. Two of the most expensive drugs in terms of PBS expenditure are pravastatin and simvastatin; I think they are both for lowering cholesterol. In 2005-06, the cost of pravastatin to the taxpayer was $72.4 million and simvastatin in the same period was $153.1 million. We all agree that is a lot of money.

The aim of this bill is to ensure that the market operates with respect to those generic drugs that are artificially held up because of reference pricing. That is the key to it. The example that is in the submission from the department to the Senate community affairs committee is that pravastatin in Australia costs $50.82 and in the United Kingdom it is $9.32. Less than one-fifth of the price is being paid in United Kingdom for the same drug. For simvastatin, the cost in Australia is $52.02 and in the United Kingdom it is $9.11—again, less than one-fifth of the cost. What the government is arguing, and I understand the opposition agrees with this, is that those savings should be passed on to the taxpayer and to the patient, because we are talking here about hundreds of millions of dollars and, over 10 years, billions of dollars.
I do not see why the taxpayer should foot that bill.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.06 pm)—I could not agree more, but there is the other side to that coin—that is, the push for new drugs to be brought onto the PBS, which are not subject to the stringencies of the reference pricing system, that will not have the value for the people who purchase those drugs above and beyond drugs already existing on the market. We need to protect that system. I want to go back to the access to medicines working group, which we have been able to get information about from Senator Mason this morning. Could Senator Mason tell me what the Medicines Working Group is and the difference between the two?

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (12.07 pm)—The Medicines Working Group is a group established under the free trade agreement. It meets annually to discuss issues relating to general information sharing.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.07 pm)—As I understand it, the Medicines Working Group is a meeting between delegates of the Australian and US governments to discuss those matters. The question that comes from the minister’s concern about the obvious price win for the big companies as against the UK, which you were just talking about, is: will this new system deliver lower prices for new drugs and what assurance do we have that it will? You are arguing that this legislation is required to do that, but can you tell us how it will achieve that and can you give us an assurance that that will be the case?

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (12.08 pm)—In relation to the Australia-United States Free Trade Agreement and the Medicines Working Group, I understand that information about that working group is available on the departmental website. In relation to savings on drugs, for the group that I described before as F2, the answer is yes, when the market is able to operate in relation to those drugs. They are now a commodity. They are effectively copies of drugs which were originally patented, so they are generally now off patent. When drugs go off patent there is competition, and that will certainly have an effect on the price of drugs. As I have said repeatedly, that will save the community, the taxpayer and the patient hundreds of millions of dollars—in fact, billions of dollars—over the next 10 years.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.09 pm)—We know that. We were talking about the F1 single-brand drugs before they come off patent. The minister gave examples of how some of these drugs are much cheaper in Britain than they are in Australia. The PBS is paying through the nose for them. I asked if these drugs coming onto the PBS will be at lower prices or equivalent prices to those overseas, at the lowest possible price, because of these amendments.

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (12.10 pm)—When they are generics, yes, they will.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.10 pm)—They are not generics; they are single-brand drugs.

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (12.10 pm)—Sorry, I misunderstood the question. The arrangements with respect to new drugs going onto what we call the F1 formulary will not be
changed by this bill. The cost of those will remain the same—this bill does not affect them. When those F1 drugs come off patent—and generally they are copied by other companies—the community will save hundreds of millions of dollars, or possibly thousands of millions of dollars, by taking advantage of competition in the market for generics.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.11 pm)—That leads to concern that for those drugs coming onto the F1 listing the highest prices can still be paid under the PBS against other countries. You are not giving us an assurance that these newly listed single-brand drugs are going to be at world’s lowest prices. That is not going to be assured through this.

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (12.11 pm)—As I mentioned, the process for new brand name drugs coming onto the market in the F1 category has not changed. Whether those drugs will be listed in F1 will depend upon the evaluation, as I mentioned before, by the Pharmaceutical Benefits Advisory Committee. They will make that decision. They make a decision based upon medical efficacy and cost-effectiveness. That will not change. The drugs will be accepted by the PBAC only if they are the most cost-effective drugs available.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.12 pm)—Of course, that still can lead to a situation in which new drugs will come onto the market which we are going to pay five times as much for here as they are paying in Britain, won’t it?

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (12.12 pm)—No. When a new drug comes onto the market—it is not generic; it is a new drug—it is assessed for cost-effectiveness. If it is not cost-effective in terms of its medical efficacy, it will not be listed. There is no reason why the new drugs will be more expensive than those in the United Kingdom or elsewhere.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.13 pm)—So how have we arrived at the situation where that is the case with existing single-brand drugs that the PBS is paying for?

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (12.13 pm)—Senator Brown, if you supported this bill then we could fix the problem. This is the problem—that the drugs I mentioned before are generic drugs and the market has not been able to operate with respect to them. They are copies of drugs. If you supported this bill, as I think you should, you would find that these drugs would be potentially one-fifth of the cost currently being charged to taxpayers. The drugs I mentioned before are generic drugs and they will be about 70 per cent or 80 per cent cheaper if you support this bill.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.13 pm)—That is a good thing, but how are we going to assure that the hugely lucrative new drugs being brought onto the PBS are not going to be at a higher price than the same drugs going on the market in the UK or the US?

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (12.14 pm)—I understand, Senator, that you are now not talking about generics?

Senator Bob Brown—No, I am talking about single-brand drugs.

Senator MASON—If you are talking about single-brand drugs generally in the F1
category, then, as I mentioned before, the process for listing those drugs will remain with PBAC and they will only be listed if they are the most cost-effective and medically efficacious drugs. Clearly, they would not be listed by PBAC or recommended for listing by PBAC if they were far more expensive than the United Kingdom because the market would not operate like that as they would not be the most cost-effective option.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.14 pm)—Not quite. It is complex, but we will continue. We could go round in circles on this. The pharmaceutical corporations have immense power and they have had hundreds of millions of dollars of taxpayers’ money going towards paying higher prices in Australia than in the UK because of that power. Legislation could prevent that, but I admit we are over a barrel with the big pharmaceutical corporations. It is a very difficult matter and it always has been. I think it is very important to recognise that they have a huge say on how this system will work and how advice will go forward to the minister. I go back to the reference pricing system. That is complex in itself, but that is our safeguard. Are you, Senator Mason, and the government giving an assurance that this bill will have no impact on the reference pricing system?

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (12.16 pm)—It will clearly have an impact on the reference pricing system with respect to generics in the F2 group. The entire idea of the bill is to, in a sense, disaggregate them. As I explained in my previous answer, if you do not, the taxpayer and patients will be paying too much for generic drugs. The reference pricing cannot remain for generic drugs, because if it does, the savings to taxpayers and to patients will never occur.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.16 pm)—I will just take that one step further. Yes, there will be savings in that situation, you assure us. Can you also assure us that there will not be the ability to price-hike because of the change to the reference pricing system by corporations negotiating to keep their drugs on the pharmaceutical benefits system?

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (12.17 pm)—Again, as I mentioned, the PBAC will ensure that only the most cost-effective drugs and medically efficacious drugs are listed. Those are the criteria.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.17 pm)—No assurance there. I want to ask about the Medicines Working Group—not the earlier group we were talking about—which is listed on the department’s website. The website says:

Australia and the United States agreed to establish a Medicines Working Group (MWG), with the objective of promoting discussion and mutual understanding of issues relating to the Pharmaceuticals Annex of the AUSFTA.

The Medicines Working Group provides a forum for discussion between officials of federal government agencies responsible for healthcare programs and other appropriate federal government officials. No industry representatives attend these meetings.

By crikey, they are in the wings, though; particularly with representatives from the United States government. Back to the website:

The framework in which the Medicines Working Group operates is detailed in the agreed Standard Operating Procedures (SOPs) which cover the group’s composition, chair arrangements and
meeting procedures. The first meeting of the Medicines Working Group was held in Washington, DC on 13 January 2006. The second meeting was held in Sydney on 30 April 2007. The discussions at both meetings were on issues relating to the pharmaceutical provisions of the AUSFTA. The Agendas and the Joint Statements for these meetings may be found below.

Then there are matters relating to trade opportunities:

The AUSFTA will create significant new benefits and opportunities for Australia. Opportunities relevant to the health sector include:

- Full access for Australian goods and services to the $200 billion US federal government procurement market.
- Enhanced legal protections that grant market access and non-discriminatory treatment for Australian service providers in the US market, with only limited exceptions.
- The Australia-only E-3 Visa (10,000 a year) complements the FTA by allowing a growing number of skilled Australians and their spouses to live and work in the United States.

There is nothing mentioned about the PBS and the advantages that may flow. There is another section on intellectual property and generic medicines. Are the minutes of the Medicines Working Group deliberations available? Who specifically is or was on the Medicines Working Group; where is it next due to meet and what discussion, if any, of the Pharmaceutical Benefits Scheme or reference pricing was had at those two meetings held to date?

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (12.20 pm)—I understand that information regarding the composition and membership of the Medicines Working Group is on the website. There is nothing unusual to various industries’ officials—whether agricultural, manufacturing or indeed pharmaceuticals—about different countries getting together once a year, or sometimes more often, to discuss free trade agreement issues. Whether it is with the United States, New Zealand or Thailand, that is perfectly normal. I would have thought it was good policy practice. But the information you require, Senator Brown, is largely on the department’s website.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.21 pm)—I could not find them on the website: could you tell me about those?

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (12.21 pm)—The department’s website is www.health.gov.au/ausfta and that contains information about the Medical Working Group and its second meeting. As agreed with the United States, the department has made the following two documents publicly available at its website: standard operating procedures, which cover the group’s composition, chair arrangements and meeting procedures; and a joint statement following the meeting on 30 April 2007. We can expect an agenda to go up shortly.

I will take the opportunity while I am up to speak briefly on the amendments proposed by the government, which we have not specifically done and Senator Brown drew that to my attention. I will take the opportunity to do that right now. I would not want to disappoint Senator Moore. The amendments, which I understand were moved by my colleague Senator Brandis on behalf of the government, relate to a recommendation from the Senate Standing Committee on Community Affairs for the pricing of single-brand combination items. Where single-brand combination items provide no additional health benefits over their component drugs, the current arrangements for the pricing of these items will continue to apply. However, there may be cases where a combination item
provides significant health benefits compared to alternative therapies. The bill as proposed does not allow these benefits to be taken into account when the prices of component drugs are reduced following statutory price reductions. The amendments will enable the Minister for Health and Ageing to take into account the advice of the Pharmaceutical Benefits Advisory Committee on whether a combination item has advantages over alternative therapies. The PBAC will be required to consider evidence of significant improvements in compliance efficacy or reduced toxicity associated with a combination item compared to alternative therapies. Where the PBAC provides this advice, the minister may decide not to flow on some or all of the price reductions for the component drugs to the combination item. There is also a technical amendment to the bill to correct a drafting error where the expression ‘reduction day’ was used instead of ‘determination day’.

Finally, I would like to thank the committee for its prompt and thorough handling of the inquiry into the bill and record the government’s support for the other recommendations made by the committee. These relate to the minister reporting to the Senate 12 months after the implementation of the reforms on their impact, particularly on the cost of medicines to consumers, and the Department of Health and Ageing making publicly available information on outcomes of the processes being employed to affect the changes contained in the bill. These recommendations will be implemented according to the committee’s recommendations. I did note Senator McLucas’s and Senator Moore’s comments about the short timeframe for this committee. That is a pity. Having served as chair of a committee that had to put through a report in very quick time, I understand the enormous frustrations of that.

**Senator McLucas** (Queensland) (12.24 pm)—I want to indicate that Labor will be supporting the government’s amendments. I said as much in my speech in the second reading debate. To be frank, to be dealing with substantive amendments in this way, and given the complexity of the issues we are talking about, a half-day inquiry and a reference on a Thursday for an inquiry on a Friday to report on the Monday is really just not good enough. It is not just that it is an abuse of the Senate processes; it limits the ability of the community to understand what is being done to their PBS.

Senator Moore is absolutely right. We in Australia value our PBS very much. When we are going to change it, I think our responsibility is to take the community with us and not just throw things together quickly at the end, as we seem to have been doing here this morning. Three different ministers have sat in that chair since we started debating this. When we started the committee stage, we did not know who to ask the questions of. That is no way to run a parliament and it is no way to run the PBS. We want to be assured that changes that we make to the PBS will in fact achieve the outcomes that the government is expressing that it desires.

As a former full member of the Senate Standing Committee on Community Affairs, and now a participating member of the committee, I am very proud of the work it has done. We have been able to look at issues objectively and come up with very sensible suggestions. It is not a committee that has worked in a political way for a very long time. To give the committee only half a day for its inquiry—and during a time when the Senate was sitting, so when divisions occurred we had to move out and then come back in—made it very difficult for the members of that committee and the secretariat to really understand such complex legislation.
We have had a look at the government’s amendments. We think that they probably—and ‘probably’ is no way to be making policy—will deliver the intended outcomes. We will be supporting them. But I say again to the government: if your credibility as policymakers is not going to be questioned in the future then, I am sorry, but these sorts of Senate processes will not do legislation justice.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.27 pm)—I will not be opposing the further passage of the legislation, but I was wondering if Senator Mason could take on notice the question of whether the reference pricing system was brought up during the meetings of the medicines working group.

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (12.27 pm)—I will take that on notice.

The TEMPORARY CHAIRMAN (Senator Sandy Macdonald)—The question is that government amendments (1) to (18) be agreed to.

Question agreed to.

Senator McLUCAS (Queensland) (12.28 pm)—I move opposition amendment (1) on sheet 5308 revised:

(1) Schedule 1, page 22 (after item 73), after line 10, insert:

73A After section 98AA

Insert:

98AB Notification by Department of Alterations to pharmaceutical benefits scheme

The Secretary must cause to be made publicly available on the Department’s website information on the outcomes of the changes to the pharmaceutical benefits scheme resulting from the introduction National Health Amendment (Pharmaceutical Benefits Scheme) Act 2007.

This amendment essentially reflects recommendation 3 of the Senate inquiry. It essentially requires that information about the process of transition and changes to the Pharmaceutical Benefits Scheme resulting from the introduction of these amendments will be made publicly available. The amendment suggests that that information be made publicly available on the website. I think the parliamentary secretary indicated a minute ago that he had no problems with the recommendation from the Senate Standing Committee on Community Affairs. This amendment simply puts that into effect. It is a very straightforward, simple amendment which provides transparency for the community on the process. I am not sure how you could vote against it, to be frank.

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (12.30 pm)—In relation to item 1—that is, 73A after 98AA—regarding notification by the department of alterations to the Pharmaceutical Benefits Scheme and making information publicly available, the government supports that amendment.

Question agreed to.

Senator McLUCAS (Queensland) (12.30 pm)—I move opposition amendment (2), which puts into effect recommendation 2 of the Senate inquiry:

(2) Schedule 1, Part 1 page 63 (after line 14), at the end of the part add:

93A At the end of section 114

Add:

(2) In addition to matters referred for inquiry in accordance with subsection (1), the Pharmaceutical Services Federal Committee of Inquiry must prepare a report for the Minister on:
(a) the impact of the reforms made by the National Health Amendment (Pharmaceutical Benefits Scheme) Act 2007; and

(b) the impact on the cost of medicines to consumers as a consequence of the reforms.

(3) The report required by subsection (2) is to be completed by 30 July 2009.

(4) The Minister must cause the report required by subsection (2) to be tabled in both Houses of the Parliament within 5 sitting days of receiving the report.

This is a mechanism for an independent review of the impact of the reforms made by this bill by the pharmaceutical services federal committee of inquiry. The amendment requires the committee to prepare a report for the minister on the impact of reforms and the impact on the cost of medicines. This was the issue that was raised in hearings of the Senate Standing Committee on Community Affairs. It is hoped that there will not be an increase in costs for consumers as a result of the passage of this bill, but I think it is only sensible to monitor that. This amendment simply puts in place a formal process for a review of the impacts of this legislation on the PBS and on costs to consumers.

Like the last amendment, I do not know how you could vote against something of this nature. The appropriate body to undertake this review is, in our view, the pharmaceutical services federal committee of inquiry. The amendment requires the committee to prepare a report for the minister on the impact of reforms and the impact on the cost of medicines. This was the issue that was raised in hearings of the Senate Standing Committee on Community Affairs. It is hoped that there will not be an increase in costs for consumers as a result of the passage of this bill, but I think it is only sensible to monitor that. This amendment simply puts in place a formal process for a review of the impacts of this legislation on the PBS and on costs to consumers.

Finally, the amendment requires the minister to provide that report on the impacts of these changes to the parliament within five working days of receiving it. I think it is sensible policy to put into all significant legislation a review of change, and I am sure that the community would also like to know whether they have been impacted on, in terms of the cost of their drugs.

**Senator Mason** (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (12.33 pm)—Senator McLucas’s amendment reflects the report of the Senate Standing Committee on Community Affairs. I understand that, and I understand that it is an issue that goes to the transparency of the operation of the act, but the government has concerns with it and, in terms of accountability, believes that the minister should prepare a report for parliament rather than the pharmaceutical services federal committee of inquiry, not only because the minister is always responsible to parliament but because it would be more appropriate in this context for that to happen. Senator McLucas, I do not know if you would be minded to adopt that suggestion, but that would certainly be the government’s position.

**Senator McLucas** (Queensland) (12.33 pm)—Just for clarification, Parliamentary Secretary: are you saying that the minister would conduct the inquiry? Is there a point of negotiation somewhere between your position and ours? The important point that we are trying to make is that it needs to be an independent body of review. To maintain the faith and trust that we, as a community, have in our PBS, we would need some sort of independence to that review process. To ask the minister to conduct the inquiry does not give the level of transparency that our comm-
munity would expect of us so I request that there might be an opportunity to find something a little bit closer to an independent body of review—rather than the minister undertaking the review.

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (12.35 pm)—Thank you, Senator McLucas. I understand your argument, but my understanding is that the minister believes that he should prepare the report. He is the one accountable to parliament and, if the Senate were of the view that the report was not sufficiently transparent, the Senate could conduct its own inquiry. The minister believes that he is in the best position, in consultation with the Department of Health and Ageing, to provide that transparency. If the Senate were uncomfortable with that it could launch its own inquiry.

Senator McLucAS (Queensland) (12.35 pm)—Under the current legislation the minister is not required to prepare a report. There is no element of the bill, as it stands, that will ensure that this Senate and the House of Representatives will receive a report that assesses the impact on the PBS or, potentially, on the cost to consumers of changes to the PBS. If this amendment is not carried, we have your word that there will be a report. That is terrific—thank you very much—but I think we need something a bit more substantial than the words that are passed across the chamber in this esteemed place. We will stick to our guns. We will move this amendment and we will be disappointed if you do not support it.

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (12.36 pm)—Senator McLucas, I can do little better than give you my word. You will be pleased to know that in terms of process either the government could move an amendment substituting the words ‘pharmaceutical services federal committee of inquiry’ for ‘the minister’ or I could move a government amendment to that effect. In other words, I agree that there should be a 12-monthly report on the operation of the act—you are quite right—and as the committee said, there should be transparency about the operation, but the minister is determined that he should prepare the report. In terms of process, either you could adopt my suggestion or the government could move an amendment of its own volition, incorporating your amendment but substituting the words ‘the minister’ for ‘pharmaceutical services federal committee of inquiry’.

Senator McLucAS (Queensland) (12.38 pm)—How about ‘the minister in consultation with an independent group of experts’?

Senator Mason interjecting—

Senator McLucAS—All right. If you do not support my amendment, we might see what happens next.

Question put:

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

The committee divided. [12.42 pm]

(The Chairman—Senator JJ Hogg)

Ayes........... 32
Noes........... 35
Majority........ 3

AYES

Bartlett, A.J.J. Bishop, T.M.
Brown, B.J. Brown, C.L.
Campbell, G. Crossin, P.M.
Evans, C.V. Faulkner, J.P.
Fielding, S. Forshaw, M.G.
Hogg, J.J. Hurley, A.
Hutchins, S.P. Kirk, L.
Ludwig, J.W. Landy, K.A.
Marshall, G. McEwen, A.
McLucas, J.E. Milne, C.
Moore, C. Murray, A.J.M.
Nettle, K. O'Brien, K.W.K.
Ray, R.F. Sherry, N.J.
I wanted to take the opportunity today to speak about the path that has led to historic legislation, which has been introduced to the House of Representatives today and will come up to the Senate probably at the next sitting, to amend the Trade Practices Act and particularly to strengthen the misuse of market power provisions of the act, which promote fair competition and protect business from unfair practices undertaken by their more powerful competitors. The legislation represents a big win for small business. For many years I have promoted trade practices reform to strengthen small business in the face of misuse of market power by market dominant firms.

In the late eighties, when Labor was in power, I went to then Minister Duffy and explained to him why he could not get his favourite yoghurt from the supermarket anymore. The retailers were charging such high upfront fees to suppliers that the yoghurt producer could no longer afford to buy the shelf space. I also had a good relationship with then Senator Chris Schacht, who had a soft spot for small business and some favours owed to him from the hierarchy of the previous Labor government. I suggested to him that he needed to call in some of those favours and help small business by strengthening the merger test. The outcome of this conversation contributed to Labor changing its position on trade practices reform and supporting a change to the merger provision to refuse those that substantially lessen competition in the market. The new definition changed the structure of markets in Australia by denying mergers of dominant players that would decrease competition.

My interest in trade practices issues began with my experience as a manufacturer’s agent before entering parliament. I saw the increasing market domination in retail as a danger to healthy competition in Australia. I believe that a realistic aspiration to own your
own business is the best way to maintain an equitable distribution of wealth in our society. This has been at the core of my work as a senator for 24 years. This week is a landmark in trade practices reform in this country. Today I want to explain its significance and importance to small business, whether a newsagent, chemist, car dealer, service station owner, grocer, hotelier, farmer or independent retailer. Yesterday the Treasurer introduced the Trade Practices Legislation Amendment Bill (No. 1) 2007. This will be the legal foundation on which Australia will build defences for its small business against the misuse of market power by dominant firms. The Treasurer deserves accolades for his foresight and determination to get this legislation right and get it through. It is a difficult job to balance the big and small business players and take both into consideration.

Small business has suffered from anti-competitive forces of misused market power. The High Court’s Boral decision in 2003 raised the threshold to the point where a business virtually had to hold a monopoly before it could be deemed to hold the legally required substantial degree of market power to proceed on a case alleging a breach of section 46 misuse of market power provisions. The ACCC has brought no new section 46 cases to court since Boral.

Small business was more hopeful when the most recent of these inquiries, chaired by Senator Brandis, gave support to recommendations to change section 46 of the TPA. Section 46 is vital to small business, as it sets the rules against the misuse of market power, including the practice of predatory pricing, where a business sells a product below cost to drive a competitor out of the market. Still, there was political inertia as long as the stalemate between big and small business continued.

The real breakthrough came when the Fair Trading Coalition, a small business group, talked with big business about measures advocated by the Dawson report, which the government was proposing to legislate. The government was proposing to legislate a change to section 46 and to collective bargaining, which small business needed. The outcome, after considerable effort, was the historical acceptance between small and big business sectors of a way forward for Dawson and trade practices reform. At this stage, February 2006, I went to the Treasurer armed with a single achievement. Essentially this consisted of three key areas: firstly, clarification in section 46 that a company can hold a substantial degree of market power without actually controlling the market and without complete freedom from the constraints of competition. This included legislative clarification that there can be more than one player in a market who can hold a substantial degree of market power without actually controlling the market and without complete freedom from the constraints of competition. This new legislation would make it clear, for instance, that both Coles and Woolworths could be deemed by the court to hold a substantial degree of market power in a market. This new legislation would make it clear, for instance, that both Coles and Woolworths could be deemed by the court to hold a substantial degree of market power in the Australian grocery market and, hence, could be prosecuted under
section 46 if they misused their market power against a small grocery store.

Secondly, there was a broad consensus on a predatory pricing amendment to section 46 to enable a court to consider the operation of a business supplying goods or services below cost and the reasons for this behaviour when deciding if that business holds a substantial degree of power in the market. This means that a court can consider below-cost selling over a significant period of time as an element in determining if a business holds a substantial degree of power in a market for the purposes of a section 46 case. Predatory pricing—where a business sells its product below cost to put a competitor out of business—is an example of the misuse of market power. If it could be shown that a national company was selling 500 gram packs of butter for an average of $1.50 across its stores whilst selling the same product for $1—below cost—in one small town with the purpose of knocking its competitor out of that market, then that would be a case of misuse of market power and predatory pricing.

Finally, the small business parties wanted to address concerns that the current section 46 does not enable adequate consideration of whether a misuse of market power action has resulted through coordination between two or more companies or through leveraging between two different markets. They wanted clarification that two businesses, when acting together, could be deemed to be unfairly competing. The Treasurer, encouraged by this new-found consensus, proceeded with reintroducing the Dawson bill. This would deliver much to big business, including the formal merger clearance process, and valuable collective bargaining provisions for small business. After my earlier personal discussions with the Treasurer, the proposed third-line forcing provision changes were dropped due to their damaging effect on small business. After further negotiations, the ACCC was made a full party to merger authorisation applications in the Australian Competition Tribunal. The bill passed the Senate.

Several discussions were held between the Treasurer’s office and small business groups—groups like NARGA and the Fair Trading Coalition, which includes chemists and newsagents—motor traders associations, hoteliers, HIA, the National Farmers Federation and COSBOA about delivering on the other agreed changes to trade practices. Roundtables were widened to include the Minister for Small Business and Tourism, Fran Bailey, and more lately Senator Fielding. General agreement was reached on the thrust of proposed legislative reforms by this group. The government’s additional changes to section 51AC of the act, dealing with unilateral contract variations, were also discussed.

As part of these discussions on unconscionable conduct, concerns were raised by small business about the problems many businesses were having in negotiating fair retail tenancy leases. I applaud the Treasurer for announcing a Productivity Commission retail lease inquiry yesterday to address this important issue for small business. The bill will come to the Senate in due course, and I am confident that it truly reflects the breakthrough consensus reached between business and government. The outcome which has been negotiated with those most keenly affected, the leaders of respected industry groups, is a mark on the wall of trade practices reform in Australia. It is a credit to all involved and will do much to abate the negative impact of the unfortunate Boral decision, which was a key catalyst for renewed efforts for change. The trade practices amendments are long-awaited stabilisers for market conduct which threatens competition. There will always be more items on the agenda for trade
practices, but this item deserves a standing ovation from all business.

**Intellectual Property**

Senator MARK BISHOP (Western Australia) (12.58 pm)—A few months ago, I spoke about the government’s appalling record at that time on managing intellectual property. I showed how its indifference to fixing the issues associated with the problem was contributing to Australia’s brain drain and threatening the viability of indigenous ICT companies. I pleaded with the government to take heed and address its management of intellectual property as a matter of urgency. As I pointed out in my speeches earlier this year, it had been promising such action for over four years. Finally, just two months after I called for urgent action, it appears the government has listened to some degree. Could it be that this government, noted for its nonchalant attitude towards the Senate, is finally listening? Is it finally acting on a call from Labor, acting on advice from two independent audit reports and acting to fix its four-year record of broken promises?

The government has just announced sweeping changes to the management of intellectual property. At last, the government is relinquishing its default ownership of IP on software purchases. Finally, there is recompense for small Australian owned IT companies who want to sell their software to the government. Hopefully these changes to the government’s management of IP will deliver a more level playing field for those companies. It will help them to commercialise their product for government work.

At long last this government is listening to Labor and helping small businesses achieve their particular business goals, for intellectual property is emerging as this clever country’s latest growth industry. A quick recap: intellectual property covers inventions, design, copyright and circuit layouts. As such, it is a driving force behind our fledgling but burgeoning ICT industry. This is an industry which covers more than 24,000 specialist firms. That is the 13th largest ICT market in the world, and it generates an annual income of nearly $80 billion. As such, our ICT industry accounts for 4.6 per cent of Australia’s GDP. It drives 85 per cent of productivity growth in the manufacturing sector, and it is behind intangible assets such as computer software—which should be protected by intellectual property rights—which have mushroomed in the last decade. In 1996, the value of such intangible assets amounted to little more than half a billion dollars. By last year, they were worth nearly $8 billion alone. Looking at those figures, you begin to understand and realise just how important intellectual property is, for it is that which protects this huge and growing industry.

I acknowledge the government is finally moving on managing its own IP. But, having made that comment, I should enter the caveat that I am appalled that it has taken so long to act. After all, we have had the promise of activity each year for the last four years. The government promised to have in place a whole-of-government approach to IP management by May last year, but it was only last month that the government sprang into action, and that was only after two damning audit reports into its mismanagement of IP and after I raised the issue twice in the Senate.

But the government is adopting a minimally decent attitude towards its IP management responsibility. It released nine IP principles to all government agencies, most of which are couched in floral language. For instance, the first principle calls on government agencies to manage IP in an ‘effective, efficient and ethical’ manner. More motherhood statements follow. The third principle is: ‘Agencies are expected to periodically review their IP management frameworks.’
There is also disturbing elasticity in the time frame given to agencies to implement these principles. They have until July next year, which is seven years behind an original commitment to a whole-of-government approach to IP. But the principle in which we are most interested is No. 7. This states: ‘Agencies should adopt a flexible approach in considering options for the ownership, management and use of IP.’ Agencies are also encouraged to only procure the IP needed for their agency—one small step, albeit delayed, for the government, but a quantum leap for thousands of small businesses. Why? Because they can now sell the software they have developed to other, non-government companies, effectively giving them control over their own invention.

It is a pity that the government could not have acted sooner. After all, they were warned of the problems regarding management of IP back in 2001. Then, the auditors fired the first warning shots of what has become a multibillion-dollar industry. The Auditor’s report showed that piracy threatened nearly $4 billion of computer software because of government inertia towards IP management and that a three-year recommendation for a whole-of-government approach to IP management had not then been implemented. As mentioned, the government had promised to fix the problem just before the 2004 election but never got around to it. That report also warned that government policy was stifling ICT industries’ growth. Meanwhile, industry experts told how Australia was lagging behind the rest of the world with regard to IP ownership as well as IP management. It was this Luddite approach by government that contributed to Australia’s brain drain and, as mentioned, threatened the viability of indigenous ICT companies.

Just to show how important IP is becoming, it is emerging as a growth market for superannuation funds. Earlier this year, a state owned super fund invested $30 million into an international intellectual property fund. Another Melbourne based fund specialising in IP assets reported an investment return of more than 50 per cent, year to date. There is now even an intellectual property index in the United States.

It is critical, then, that the government addresses its management of IP to ensure the success of small businesses in this area—to allow smaller ICT companies, in selling their software to government agencies, to retain the intellectual property. Hopefully, these new IP principles will go part of the way to rectifying that particular anomaly.

It is a pity that the government did not act sooner and take a leaf out of the statute books of Victoria and South Australia. Years ago, they came to an agreement that IP is better served with the supplier than with the government, where it is just not being used. So the Victorian and South Australian governments decided to remedy the situation. They effectively struck a balance between access to and control of intellectual property. In those states, the governments have access to the IP necessary for their usage of, for example, a software package yet the ICT company maintains the IP necessary for innovation and to help maintain its business. Governments pay for an ICT solution but do not need IP ownership to receive the benefits from that procurement. IP rights are simply those stopping others from doing certain things, different things or developmental things with that material.

It is not as if the IP is a valuable asset for government, for much of the value of ICT is in its commercialisation. Most IP relating to ICT has little or no commercial potential; it is particularly oriented towards tasks or solutions. Governments procure the software
under a licence to maintain and upgrade the product. As such, the IP of that software is redundant. Its management, however, is critical. Hopefully, these new guidelines will offer some way forward, for the anomaly has been a longstanding source of frustration for custom software developers. Hopefully the change in policy will mean that, for the first time, companies can keep ownership of products made for the government and later commercialise them. The guidelines allow government agencies to decide whether they need to retain IP management or relinquish that right. It gives them the power to set up their own IP management framework under a whole-of-government approach. Critically, the final IP guideline states that if commercial activities are not central to the agency’s core business then commercialisation of that IP should ‘remain an ancillary activity’. So if they fail to nominate a position, ownership defaults to the seller. In this way, both government and industry can realise significant benefits in terms of cost savings, innovative solutions, reduced compliance overheads and greater participation in government markets.

Finally, it is useful, I suspect, that the Attorney-General is accepting responsibility for the government’s management of IP. I mention this because ownership of IP was ambiguous when the auditors carried out their latest report into IP management. They noted that the delays in implementing a whole-of-government approach to the issue were caused by the shillyshallying between the office of the Attorney-General, Mr Ruddock, and the office of the Minister for Finance and Administration, Senator Minchin.

It is not as if the government has not recognised a need to address IP management, for it developed a policy statement on IP management in the lead-up to the 2004 election. As mentioned earlier, that election pledge came to nought. If the government manages IP well, it will boost competitiveness, generate revenue and stimulate economic growth. I trust that these new guidelines will go part of the way to solving the issue of IP management. I trust, too, that the government will continue to listen to the Senate and act on its advice, as it has done in this particular matter. The government’s more flexible approach to procurement policies for software and other intangibles is encouraging. I realise that there are some areas of government where IP is critical and properly needs to reside within the department. By way of example, the IP for some Defence contracts would probably fall into this category. I am pleased that the government has finally seen fit to mend a promise which, to date, it has broken. It is finally tightening up the regulations on intellectual property management. Let us hope that that is one of the many steps that are necessary to help stem the brain drain from this country.

**Macquarie Marshes**

Senator SIEWERT (Western Australia) (1.11 pm)—I rise to speak on what I believe is a matter of great national public importance—that is, our dying wetlands and the inaction by both state and federal governments which seems to be making this happen even faster. In this instance, I am going to talk about water theft from the Macquarie Marshes because it typifies some of the bigger problems that are occurring around water management. This highlights the major problems that need to be addressed if we are to have any hope of recovering our wetlands and rivers. It goes directly to the future of water management in the Murray-Darling Basin and directly relates to the legislation on the future governance arrangements for the Murray-Darling Basin which is out for public comment at the moment.

An important report is about to be released on the findings of the continuing investigation by the Inland Rivers Network...
into alleged water theft in the Macquarie Marshes. This builds on preliminary evidence that was provided not that long ago to the Senate Standing Committee on Rural and Regional Affairs and Transport inquiry into water policy. The report investigates allegations of environmental water theft in the Macquarie Marshes—and I have to say that its findings are damning. We all know that the Macquarie Marshes are an icon in Australia. In 2005, most of the water in the Macquarie Valley was diverted and extracted for cotton irrigation. With the small amount of water that was left at the end of the year to wet a tiny area of the internationally significant Macquarie Marshes, the evidence strongly indicates that a small number of landholders siphoned off some of it for their own use. By the time the remaining environmental water reached the parched marshes, the quantity was significantly diminished, denying the wetlands the water they so desperately needed. River red gums died and bird breeding failed last summer because there was not enough water.

Professor Kingsford, who is probably one of the most knowledgeable people on the Macquarie Marshes, says that they are ‘probably the most important site for the breeding of colonially nesting waterbirds in Australia, and colonies in the marshes are among the largest and most diverse in New South Wales’. The marshes once supported 20 million birds that bred every year, and the wetlands provide a major drought refuge for waterbirds and other wildlife. The marshes also have the largest river red gum woodlands and reed beds in northern New South Wales. For these reasons, the marshes have been listed as an internationally significant wetland under the Ramsar convention. However, according to the State of the environment report 2006:

… there has been a significant long-term decline in river flows as a result of river regulation and subsequent diversions upstream. There are now fewer waterbirds, and fewer species of waterbird, than ever before.

It is estimated that at least 40 to 50 per cent of the wetland has already been lost, and what is left is sick and dying—for example, around 2,000 hectares of river red gums are dead or dying due to lack of water. Overall, less than 10 per cent of the original wetland is considered to be healthy. The lack of water has led to the longest recorded period without a colonial bird-breeding event. There has been no such event since 2000.

Currently Macquarie Marshes has an allocation of 160,000 megalitres, which is held in the Burrendong dam. This is general security water, which means that the marshes only receive that amount of water in 50 per cent of years. Current estimates are that the marshes need almost twice that—around 300,000 megalitres of water, which would mean that in 50 per cent of years they would receive about 150,000 megalitres of water. This volume is negotiated and it is required to provide a core of the marshes with only a moderate chance of survival. It is not anticipated that the entire marshes can be returned to health, even with a better water entitlement.

The fact is that our wetlands are dying and they desperately need some water back. Currently there is not enough water for the wetlands and when water does get released it appears it is getting diverted. The report that I am talking about provides clear evidence of this. Some of this evidence has been presented before. Investigations have been undertaken and they indicate there are huge problems, but unfortunately it appears that nothing is happening. No-one is paying attention. There appears to have been no action to date from either the state government or the federal government to protect these wetlands and their water.
Investigations have revealed a range of evidence that strongly indicates that some of the environmental water has been taken illegally. I understand that officers of the New South Wales Department of Environment and Conservation flew over the marshes when the water was released to monitor the spread of the environmental water into the wetland. They took a range of photos during these flights, which indicated that water specifically released for the benefit of the environment was being diverted by landholders above and in the marshes. The photos show banks and water diversion channels cut into the flood plain, and it is clear that the water was part of the environmental release because it has tannin stains from passing through part of the wetland. This evidence led to several freedom of information requests to the New South Wales Department of Natural Resources, and State Water, to determine whether or not this water was indeed stolen. On the information provided, there is no evidence that this water was ordered by the landholders or that any approvals existed for the works in question.

I would note that, even if the dams, banks and channels were authorised and the owner had a water licence, it is still illegal to take environmental water. It is worth noting that water licences are usually for taking water directly from the river channel and that in many of these cases the water was diverted from a wetland, not from the river channel, which is again not likely to be legal. Evidence has also been corroborated by local landowners. The locals have also been helping to clarify local rules and water management rules. It is fair to say that one of the sayings up there is that you know when the environmental water has been released because you can hear the pumps humming.

Even though there was very little water available at the time all this happened, the decision was made to release it in a desperate attempt to keep the core wetlands alive at a time of severe stress. If this water had not been diverted it would have spread through the wetlands and improved the health of the river gums, the vegetation and the marshes, giving the fish and birds a better chance of survival until the next big flow event, whenever that may be. The health of the Macquarie Marshes is in dire straits, with river red gums dying and bird breeding failing last summer because there was simply not enough water. As I said, birds have not bred in that area since the year 2000.

Not only has this information and evidence been presented and collected, but no action has been taken. Now we hear, almost as I am speaking, that this is happening again. There has been some rain in the region in recent weeks, which has led to small flows into the Macquarie Marshes. It appears that environmental water is again being diverted by one or more of the alleged offenders listed in the report in relation to the previous diversion of water.

Triggers for release of the environmental water in the dam have been met, but the locals have been informed that the water will not be released. Why? Because it is being used for other purposes. Flows below the dam are meant to meet legislative environmental requirements and other basic rights before they are available for irrigation. Clearly, at the moment environmental requirements have not been met, as the core amount of environmental water in the dam cannot even be assessed. However, it appears that at the same time a number of irrigators have been allowed to extract water. I believe this is outrageous. If the marshes were a person, right now we would be turning off the power to the life support.

What is the Commonwealth doing about this? It raises very large questions, because this is both a state and a Commonwealth is-
sue. What guarantee can the government give that water purchased for the environment will not be illegally diverted, as is being investigated in the case of the Macquarie Marshes in New South Wales? How will the National Plan for Water Security and the draft water bill guarantee that water theft and flood plain harvesting are properly dealt with? Will the government do anything?

When I have raised this issue before I have been told (a) it is not a Commonwealth issue, it is a state issue; and (b) the Commonwealth had put money into environmental flows—for example, into the Gwydir and into the Macquarie Marshes—so, ‘We are doing our thing.’ I am sorry; you do not get off that easily—the Commonwealth cannot get off that easily. For a start, this is a Ramsar wetland and therefore the Commonwealth has clear obligations. The Commonwealth government has clear commitments under Ramsar. It appears that there has been no progress or work by either the Commonwealth or the state to try to stop this happening. This is a Ramsar wetland. It is dying. The Commonwealth has international responsibilities to look after this wetland. When I have been pursuing the Commonwealth over Ramsar management—not only of this site but others—I was given to understand both in this place and in estimates that the Commonwealth was going to undertake a review of Ramsar wetlands. I have subsequently heard that all they are doing is reviewing the management plans. It is critical that this government reviews the conditions of our Ramsar wetlands.

On top of that—and, at the moment, even more importantly—the government has a bill, which is out for consultation with stakeholders at the moment, on how it is going to take control of and look after the Murray-Darling Basin. For a start, the plan on which that is based does not have any targets in it. While you could be forgiven for thinking that, for the Murray, they already have a target, inadequate as it is—and that is 500 gigalitres for environmental flows—in the Darling, which is dying, there is no such commitment. That is problem No. 1.

Secondly, the Commonwealth wants to assume control of the Murray-Darling Basin, yet it cannot even act to protect the Macquarie Marshes. There is very clear evidence that environmental flows are being stolen and diverted and that no action is being taken by the New South Wales government. Despite the Commonwealth having obligations to ensure management and protection of our Ramsar wetlands, it is not doing it. If it cannot take action to ensure that an icon site like the Macquarie Marshes is being protected, how on earth is it going to protect the Murray and the Darling systems? Why isn’t the government taking action?

A classic example happened just weeks ago—clearing occurred in the Gwydir wetlands. That is another Ramsar wetland of international value. It is listed as being of international significance. Up to 500 hectares or more were cleared. The Commonwealth knew nothing about it. To date, as I understand it, it has taken no action on that site. It is looking at investigating whether illegal clearing did occur and what sort of clearing occurred. The point is that that clearing should never have happened in the first place. How can the government be thinking that it can take control of the Murray-Darling Basin if it cannot even stop the theft—and this is theft—of water from our icon wetlands?

This then goes to what action the Commonwealth is taking in other areas as well. For example, in South Australia they are currently temporarily disconnecting water supply to Ramsar wetlands. I have noticed that this action has been referred to the Commonwealth under the EPBC Act. But, in the
meantime, the South Australian government is cutting off water to these wetlands. Again, these are wetlands of international significance. Their water is being cut off. In many cases, that will result in irreparable damage. Lake Bonney will not recover from that sort of reduction of environmental flows.

We believe that the Commonwealth need to indicate what they are going to be doing about protecting environmental flows and environmental water provisions under the new act that they are bringing in. They need to be able to enforce the provisions to protect environmental flows. At the moment in that bill there is no detail on how they will protect these environmental flows and how they will deliver on their Ramsar obligations to protect wetlands and deliver adequate environmental flows. There is no detail on how they will ensure that floodplain development and harvesting are adequately managed under the bill and where responsibilities will lie between governments. This is absolutely critical information that will go to the very heart of whether the Commonwealth will be able to adequately deliver on their commitment to ensure a healthy Murray-Darling system. (Time expired)

Child Abuse

Senator BARTLETT (Queensland) (1.26 pm)—I want to speak in this matter of public interest debate about the issue of child abuse. A matter that I have spoken about a number of times before is what I would call the crisis with regard to child abuse and neglect around Australia. It is an issue that has particular focus at the moment with regard to Indigenous children in the Northern Territory. Certainly, there are very significant problems in many communities in the Northern Territory with regard to sexual assaults on and abuse of children. But, as that report itself makes clear, whilst there are severe problems in the Territory and some communities, the problem of child sexual assault is certainly not confined to Indigenous communities or to the Northern Territory.

I might also make the point that, as that report also makes clear, with regard to those Indigenous children who are subjected to appalling sexual assault in the Territory, a number of the offenders are not Aboriginal men but are non-Indigenous men in positions of authority and trust. None of that is to try to downplay the serious challenge faced by Indigenous communities; it is simply to try to put the full facts and some of the wider context into the situation.

I want to move from the issue of sexual assault in Indigenous communities to the broader issue of child protection across the country. This is not just a matter that I have spoken about a number of times; this is an issue that the Senate itself has passed resolutions about. It has passed at least two that I can think of that have expressed support for national action and stronger action in regard to child protection issues. I think it is very important that, when the Senate actually agrees to resolutions—and we all know that we get asked to vote on a whole range of them pretty much every sitting day—we do actually have some genuine support for what we are putting our votes behind, otherwise I think it rightly generates increased cynicism in the community. If the Senate passes a resolution saying that we should all take responsibility for setting a national agenda with regard to abuse and sexual assault of children then that is what we should do. Frankly, I do not think that to date there has been sufficient done with regard to really taking a national approach and setting a national agenda with all stakeholders—state, territory and local government; key community groups; wider organisations; and child protection organisations—working together on this issue.
One thing to me is clear: whilst we do need more resourcing of child protection agencies—and I note that in my own state of Queensland there has been a significant increase in recent times; that is welcome, although whether it is sufficient to really cover or make up for decades of underfunding is another issue—even if further resourcing of child protection agencies occurs, as it must in most areas, that in itself is not going to be enough.

Child protection workers, broadly speaking, tend to be dealing with the consequences of child abuse and neglect rather than trying to get in at the preventative level at the early stages to prevent abusive behaviour and violence. That is where we need to have a national debate about our attitudes and our social approach towards children and we need a greater recognition—as that report from the Northern Territory was titled just last week—that \textit{Children are sacred}. We should not just give lip-service to that attitude but seek to infuse it into our culture and our society much more than it is now. The levels of child abuse are such that we cannot just kid ourselves and say that it is just a few isolated misfits, weirdos and sickos. There are tens of thousands of children suffering from substantiated serious abuse and neglect around Australia every year and there are many more reported incidents on top of that, a number of which—quite a large proportion—we have not had the resources to properly investigate. It is almost impossible to accurately establish precisely the number of seriously neglected and abused children around Australia but it would be ludicrous to suggest that it is not much greater than the tens of thousands of substantiated incidents and the tens of thousands of children already recognised as having been subjected to serious abuse and neglect.

In 2005 we had 25,000 children on care and protection orders around the country. Again, that is far from the total number subjected to significant abuse and neglect. That is the number at such a serious stage that they need to be placed under a care and protection order. It is important to emphasise that when we are talking about child abuse, that is, of children under nine years of age where you are a proven victim of abuse and neglect, 93 per cent are harmed by someone they know and trust and 71 per cent are harmed by their natural parent. That is according to statistics through the Kids First Foundation. So it is not stranger danger. It is not even the stereotype of the step-parent. In the majority of circumstances it is the natural parent.

As well as adopting an ethos of all children being sacred, I think we also need to recognise—if you want to get down to a more utilitarian approach—that it is immensely damaging to our whole community and our whole society. All of us know instinctively, if not through reading the research—though if we need to be convinced there is plenty of research there—that harming children, beating children, abusing children, neglecting children, subjecting them to sexual assault, will harm them and many of them will be harmed seriously and permanently. It is not only a breach of their human rights and their basic human dignity, it inevitably means flow-on costs and consequences for the wider society that they are part of. We have to recognise that and that is why extra resources into preventing and addressing abuse and neglect before they become more serious is going to be a saving in the long term.

A few weeks ago I called for a national debate with regard to our attitudes towards protecting children from abuse and neglect. That was in response to, or as a consequence of, legislation passed in the New Zealand parliament that was portrayed as making smacking illegal. That is the easy shorthand
description of it but it is not actually what was done. The legislation there was not about banning the smacking of children but about removing the defence of reasonable force, which parents have used to excuse brutal and, indeed, sometimes even fatal violence against children. That does not mean that every time there is brutal and sometimes fatal violence against children that the perpetrator would always get off, but it does mean that in some cases, certainly, they do. In other cases they may still be convicted but of a lesser offence with a lesser penalty, and when it is in those areas on the margins then it makes it less likely that police or other authorities will follow through with charges.

So it is not a debate about whether or not smacking children should or should not be banned. We may all have our views on that but that is not the debate I think we need to have. In some respects, it is a distraction. It is an important issue but it is a distraction from where the debate needs to be in a law reform sense, which is about how much extra lawful defence parents should have with regard to hitting children than anybody else in the community.

We all know that corporal punishment—the hitting or beating of children—is now not permitted in schools around Australia. Frankly, I was appalled to hear the health minister, of all people, talking last week about the need to consider bringing back the smacking or caning of children—corporal punishment—in our schools. To even suggest that is a desirable idea is a horrendously backward step. His statement that as our teachers get gentler our kids get more brutal might be a bit of pop psychology from the health minister. I would love to see the peer reviewed academic research that backs that up. The research that I have seen suggests that those children and young adults who are violent are far more likely to have been subjected to violence themselves, whether in the home or elsewhere. I have seen plenty of peer reviewed research that demonstrates that. If the health minister wants to show us some research that says hitting children in schools has merit, I would be interested to see it. We all know how caning and strapping and beating children was used to excuse extreme violence and abuse in schools and institutions—we have had the Senate committee inquiries into that and the harm it caused.

Show us the research that says this will actually help and then we can have an informed debate on it. But to just make a blanket assertion that stopping teachers from hitting kids means that they get more violent because of the lack of discipline is an incredibly dangerous and irresponsible thing for a health minister to do. It is equally worrying that the education minister has—at least reportedly—left the door open for a return to physical punishment of children by backing autonomy for school principals to decide on its use. To have a duopoly of the health minister and the education minister even pondering the concept of legally enabling the hitting of children in schools by people who are not their parents is a very backward step. Unless they back that up with very strong, peer reviewed research showing that it actually helps in reducing violence amongst older children and adults then I suggest they stop floating these dangerous ideas. This is not just about what is in the law and whether or not teachers should be subjected to disciplinary action and those sorts of things; it is actually about our attitudes. That is why I made the point at the start of my speech that we need a national debate on this issue. We need to consider our attitudes towards children and why we think it is okay to hit children, of all people. It is something we would never be able to do with another adult but it can be used as a legal excuse to justify force against children.
I am not just floating the idea that we need to have a national debate about this because I think it is an interesting philosophical concept but because of the statistics that I mentioned at the start—the national crisis in child abuse and neglect which is at chronic, serious and growing levels. Something is wrong in our society, in our attitudes, and that is why we need to talk about it. To be told by the health minister that such a call is just ‘gesture politics’ I find contemptible. I do not particularly care what he thinks of me as an individual, but he is saying that to child protection groups, academics and people with expertise on the ground—and most people, including academics, have expertise as parents and we all have expertise in being parented in various ways, whether by our parents or others, as we were growing up. To dismiss all of that research and argument as gesture politics when its genesis is the desperate desire to try to do something to prevent more child abuse, rather than just putting more money into child protection workers to mop up the pieces, is pretty offensive—especially coming from the health minister, of all people. And for him to have come out, weeks after his comment about gesture politics, and advocate beating children in schools was quite extraordinary.

This is not some fringe, hippy notion. As I mentioned, the New Zealand parliament has just passed legislation with a conscience vote, so it was not some party deal. It was passed with a vote of 113 to eight, so it was across the political spectrum and almost unanimous, after the issues had been looked at by a comprehensive public inquiry. It is one of 15 countries—and I read the other day that South Africa is moving down this path as well—to remove or reduce the legal defence of being a parent as an exemption from the defence of reasonable force when hitting children. That is a debate we need to have. Anybody who suggests we do not need to have that debate should come up with a better idea about what to do about the chronic and serious crisis with regard to child protection, abuse, neglect and sexual assault around Australia. It is not just something we can lecture Indigenous communities about. We have our own problems. If we are too gutless to face up to them and we just dismiss them by saying it is ‘gesture politics’ then, frankly, that is pretty weak. It is betraying the children and it is certainly dismissing the concept that our children are sacred.

**Sitting suspended from 1.41 pm to 2.00 pm**

**QUESTIONS WITHOUT NOTICE**

**Broadband**

**Senator WORTLEY** (2.00 pm)—My question is to Senator Coonan, the Minister for Communications, Information Technology and the Arts. Does the minister recall her commitment on the John Laws program on 8 February that she would not spend taxpayers’ money to duplicate an existing broadband service? Didn’t the minister promise that she would only provide a service where one was not otherwise available? Is the minister aware that coverage maps of her new network and the existing Telstra wireless network clearly show that the new network duplicates the existing network? Why is the minister spending up to $1 billion to duplicate an existing service? Isn’t that a clear breach of the minister’s promise in February?

**Senator COONAN**—Thank you to Senator Wortley for the question. Unfortunately, the premise of the question is entirely wrong, because there is no duplication, which is the same coverage right over the entire network. Of course there is not. With what is being provided with the OPEL proposal, in fact, duplication of any areas at all has been minimised—

**Opposition senators interjecting**—
Senator COONAN—It has been minimised because you cannot push out to 99 per cent of the population without having some minimal duplication of coverage. Duplication, to my way of thinking, is where you have a blanket network over another blanket network. That is certainly not what has been provided. In fact, duplication has been completely minimised. Any kind of coverage where there are already existing services has been minimised—backhaul, for instance, has been leased. Where there are existing towers or existing infrastructure, those, to the extent possible, are being used.

The other important part of the proposal is that it has a degree of commercial leverage, and the government has been very careful to ensure that that portion of taxpayers’ money is to be used in underserved areas where these services are not already available. The commercial part of the proposal is being used to provide whatever coverage on a competitive basis that the operators choose to roll out.

I have been very interested to hear some of the very unsubstantiated and uninformed comment from the Labor Party about the government’s far-reaching plan to provide fast broadband to 99 per cent of the population. I again repeat my clear challenge to Senator Wortley, to Senator Conroy and to all of those over the other side who have a totally unformulated, uncosted proposal—a totally flimsy proposal.

Opposition senators interjecting—

The PRESIDENT—Order on my left! This week there has been continual noise coming from my left and a refusal to obey the chair. I am calling you all to order and I am serious. If people continue to interject they will be named.

Senator COONAN—In fact, I can tell the Senate that it has been 89 days since the Labor Party put out their so-called broadband plan. There has been nothing more that has been provided for public scrutiny other than a press release. So I say to the Labor Party that if they think they can spend almost $5 billion of taxpayers’ money—

Senator Lundy—Is that the best you can do?

The PRESIDENT—Senator Lundy, come to order!

Senator COONAN—with no greater level of accountability than a mere press release, this is really just a clear example that the Labor Party does not have the experience or the economic clout to be trusted with this country’s economy.

Senator WORTLEY—Mr President, I ask a supplementary question. Why is the government subsidising the duplication of Telstra’s commercially funded 3G wireless broadband network? Can the minister now guarantee that none of the wireless base stations or backhaul funded by Broadband Connect will be used to duplicate HSDPA 3G mobile coverage in the future?

Senator COONAN—I distinctly heard Senator Wortley accuse the government of subsidising Telstra’s 3G network. The only subsidy that I can recall that we have provided in relation to 3G has been in fact the CDMA towers that have been used in the deployment of the earlier technology. I cannot recall the figure; I think it is something like $150 million that Telstra has received as part of the CDMA rollout, but we certainly have not subsidised the 3G rollout and we...
have certainly not subsidised any commercial rollout under the OPEL network. The only deployment of the government funding has been to underserved areas.

**Defence Procurement**

Senator SANDY MACDONALD (2.06 pm)—My question is to Senator Minchin, the Minister representing the Prime Minister. It involves an area in which I know he has more than a passing interest and concerns the announcement this morning of the design and/or builder of the new amphibious lift ships and air warfare destroyers. Will the minister advise the Senate of how the government is building Australia’s naval capacity and how this will benefit Australian industry?

Senator MINCHIN—I thank Senator Sandy Macdonald for his question and acknowledge his fine record in the Defence portfolio. The government announced this morning the details of the largest acquisition of new naval capacity in Australia’s history. Not only will the five major new ships give the Navy a greatly enhanced capability both in military and humanitarian operations but they also represent a great opportunity for Australian industry right across this country. After a very careful three-year selection process, the government has finally chosen the Spanish Navantia F100 design as the next generation of air warfare destroyers. The F100 is the right ship for a number of reasons: it is an existing design that has proven itself already in interoperational exercises with the US Navy; it incorporates the Aegis combat system; it has the speed, range and endurance to meet the Navy’s needs; it has 48 missile cells; it has sufficient helicopter capacity; and, importantly, the F100 can be delivered at least four years earlier and at a significantly cheaper cost than the alternative.

The cost of the project is nearly $8 billion, which is greater than the initial indicative cost. I am very conscious of ensuring value for money in Defence acquisition, but in this case I am satisfied that the work undertaken by DMO in analysing this acquisition does demonstrate it is a fair and accurate cost. I want to congratulate DMO on the way in which they have approached and managed this project so far. Defence projects do increase in cost. That is inevitable when you are dealing with cutting-edge technology, as these ships will have. As we had previously decided, the shipbuilder for the AWDs will be ASC in my home state of South Australia. The project will ultimately create more than 1,500 shipbuilding jobs in Adelaide. But, equally, with 70 per cent of the hull block and module fabrication to be undertaken across Australia, another 1,500 jobs will be created in the rest of the country. The proposed Navantia ship design gives the Navy the best capability not just for military operations but also for very important humanitarian and disaster relief work, which these ships will be engaged in.

The government also announced today that the preferred tenderer for the amphibious ship project is Tenix. I congratulate Tenix, a great Australian company, with their shipbuilding based in Melbourne. That two-ship project is valued at $3 billion and, like the AWDs, has gone through a very thorough costing assessment process. Value for money is being achieved through a partial overseas build but the final consolidation and all the so-called smart end of the work will be done in Australia—in this case, principally in Melbourne, but about $100 million of combat system and integration work will occur in Adelaide. For both AWDs and amphibious ships, the building of the ships domestically will mean that Australian industry has the skills and capability to provide the through-
life support for the entire life of these great ships.

This is an $11-billion investment in our Navy’s infrastructure and is fully funded through our defence capability plan. With strong surpluses, we do not have to go into debt or deficit to fund this infrastructure. But, as the Labor states have shown through their recent state budgets, especially New South Wales yesterday, Labor governments simply cannot budget in a disciplined way. The Labor state governments are collectively borrowing some $70 billion over the next five years to make up for their neglect of infrastructure over previous years. We have two important roles: managing the economy and providing for national defence. It is because our budget is strong, the economy is strong, we can make these very significant investments in naval infrastructure to ensure strong naval capability for decades to come.

Broadband

Senator MARSHALL (2.10 pm)—My question is to Senator Coonan, the Minister for Communications, Information Technology and the Arts. Can the minister confirm that the wireless broadband network being funded by the government uses shared space public spectrum in the 5.8 gigahertz band? Won’t the minister’s second-rate system share this space with common household appliances like cordless phones, automatic garage doors and microwave ovens? Can the minister guarantee that when Australians answer their cordless phones or shut their garage doors their wireless broadband won’t drop out or be interfered with? Aren’t Australians living in rural and regional areas entitled to an assurance that they will not have to stop surfing the internet when they are microwaving their meat pies?

Senator COONAN—It will be diverting, to say the least, to see how many automatic garage doors there are on very large rural properties. There might be a few. I suppose rural properties have the odd microwave oven and maybe a few other devices. My information is that that will not be an issue in relation to interference and spectrum. OPEL is able to utilise a class licence spectrum—the 5.8 gigahertz band—if licensed spectrum is not available commercially. This class licence spectrum band is utilised by the majority of wireless broadband providers in regional areas and is capable of supporting the high quality of services which OPEL will be implementing, including 12-megabit speeds.

The Australian Communications and Media Authority, ACMA, has provided advice that interference is in fact a minimal issue in rural areas at the point where OPEL would be using it because there are fewer operators—which is logical, when you think about it, but it is good that there is technical backup for my view. Even so, licensed spectrum would overcome some potential risks of interference from other users. OPEL has indicated that opportunities for purchasing licensed spectrum in the marketplace will be pursued as well as investigating using apparatus licenses where available.

It is very interesting that this government’s costed, fast broadband deliverable to 99 per cent the population—that can and will be delivered—stands in stark contrast to nothing but a back-of-the-envelope proposal put out by the Labor Party 89 days ago with nothing to support the fact that it cannot reach beyond 72 per cent of the population. I would be very interested to know where the Labor Party thinks it can actually run its build to. And where are the three million premises that are going to miss out under the Labor Party’s proposal? I am going to be calling upon the Labor Party to produce some information, some technical plans, some coverage maps—anything that could actually prove that the Labor Party can deliver a plan. Until they do that, every Austra-
lian is entitled to say that this is nothing more than pie-in-the-sky ‘fraudband’.

Senator MARSHALL—Mr President, I ask a supplementary question. Is it the case that under the minister’s second-rate system people in rural and regional areas will not be able to surf the internet without interruption unless they live in a flat area, there is a cloudless sky, their neighbours are not online and their microwave is not being used? Does this mean that the minister agrees with the statement by her colleague Senator Adams yesterday that people in the bush cannot expect to have proper services?

Senator COONAN—The answer to the senator’s question is no, the government only has an absolutely first-rate system, it does not have a second-class system. The only second-class system is a pie-in-the-sky proposal without a document, without a plan, without any technical details to prove that the Labor Party can stand by their proposal. In fact, we know that the cat has now been belled on the Labor Party’s plan. I call on the Labor Party to prove that they can even go to 72 per cent on $8 billion.

Opposition senators interjecting—

The PRESIDENT—Order! Senators on my left!

Senator Carr—Steam driven microwave!

The PRESIDENT—Senator Carr!

Broadband

Senator JOYCE (2.16 pm)—My question is to the Minister for Communications, Information Technology and the Arts, the Hon. Helen Coonan. Will the minister inform the Senate of details of how the government will deliver world-class broadband services to all Australians regardless of where they live?

Senator COONAN—I thank Senator Joyce for a very perceptive question. As someone who lives in rural and regional Australia, he actually has some idea what he is talking about. On Monday I announced, as Senator Joyce has since commented upon very favourably, that the Australian government is providing $958 million to enable the construction of a new state-of-the-art network that will extend high-speed broadband to 99 per cent of the population by 2009—and, I might add, with very minor consequential overbuild to be able to reach underserved premises. The government is strongly committed to the proposition that all Australians, regardless of where they live, should have access to high-speed, affordable broadband. Unlike the Labor Party, we would not dream of leaving out three million premises in any plan that we put forward for the Australian people to look at.

Senator Lundy interjecting—

Senator COONAN—The government has obviously leveraged a high level of commercial contribution towards building the new national wholesale network, with the government’s contribution assisting the business case for rolling out to non-commercial areas and premises. It was industry experts who came forward with the best mix of technologies to meet our policy aim of providing high-speed affordable broadband to 99 per cent of the population.

Senator Lundy—Why have your experts disagreed with your decision?

The PRESIDENT—Senator Lundy, come to order!

Senator COONAN—One of the mix of technologies advocated by industry experts, WiMAX, is a proven fixed wireless technology that has already been deployed and trialled by 275 operators across 65 countries, including the United States, Canada and much of Europe. I think it is commercially rolled out in about 35 countries. In fact, I received a letter dated 19 June 2007 from
Nortel, a leading global vendor of telecommunications equipment, confirming:

WiMAX will provide a leap forward in the delivery of broadband services to rural and regional Australians.

Nortel goes on to say:

WiMAX is the world’s most advanced global standards based wireless technology. It has been designed to provide users with a true broadband internet experience while enjoying the benefits of wireless freedom.

In fact the global WiMAX forum now has over 420 companies signed on to support this technology. It includes companies such as British Telecom, Motorola, Samsung, Fujitsu, AT&T and Alcatel. These are major companies that perhaps even the Labor Party might credit with some capacity to understand this. They certainly would not be investing in unproven technology. It goes to show that any serious commentator who is not trying to push their own commercial interests would tell you that you do need a mix of technologies to deliver world-class high-speed affordable broadband.

A year ago Senator Conroy was on record praising the virtues of a mix of technologies when he told the Connecting Up conference:

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

Well goodness me, Mr President, that appears to be what our policy does. But poor old Senator Conroy has been forced into a one-size-fits-all solution that is very inferior and can only reach 72 per cent of the population and would leave three million premises without a high-speed broadband service. The challenge is for the Labor Party— (Time expired)

Senator JOYCE—Mr President, I ask a supplementary question. I thank the Minister for Communications, Information Technology and the Arts for that answer, but I am wondering: are there any alternative policies?

Senator COONAN—What I was saying is that the challenge for the Labor Party is to front up for a bit of public scrutiny for a change with the same level of detail on their proposal, on coverage, costings and, importantly, price to consumers. Not a word about that. We have now got a shadow cabinet confirming Labor’s proposal leaves many behind. It does not even cover the Hunter. Labor has picked a technology with no technical backing on how it could be built out to 98 per cent. And until Labor provide substantial detail on this proposal, all Australians, particularly those three million premises that will miss out under Labor’s plan, will know that this is just an inexperienced Labor team out of its depth with important decisions that affect all Australians.

Broadband

Senator CONROY (2.21 pm)—My question is to Senator Coonan, the Minister for Communications, Information Technology and the Arts. Can the minister explain which of her confusing and contradictory claims about her second-rate wireless broadband package is her current policy? Is it Monday’s claim that the network would deliver up to 12 megabits per second for 99 per cent of Australia, or Tuesday morning’s claim that the network would deliver a minimum of 12 megabits per second for 100 per cent of Australia? Why can’t the minister get her story straight, and what grandiose claim will the minister make today about what her second-rate broadband package will deliver?

Senator COONAN—The only second-rate broadband package I know of is the Labor Party’s, which does not have a technical
plan or one piece of paper to support it. I am very happy to talk about mine. As I have said on dozens of occasions this week, high-speed broadband will be available to 99 per cent of the population. I said it again in answer to an earlier question. The Australian Broadband Guarantee ensures that the remaining one per cent of the population, those in the most remote areas of the country who cannot get an alternative service, are entitled to a subsidy of $2,750 per customer for satellite broadband services.

The Howard government has always been firmly committed to providing a world-class broadband network to all Australians regardless of where they live. The OPEL network will extend high-speed services to 99 per cent of the population and provide speeds of 12 megabits per second by mid-2009. Under this government, 100 per cent of the population are guaranteed a broadband service and 99 per cent of the population will have high-speed broadband by 2009—about five years earlier, I think, than the very best the Labor Party can do. It is, of course, very cheeky of the Labor Party to run around trying to make a point about the difference of one per cent when with Labor’s plan we are talking about high-speed broadband coverage to only 72 per cent of the population—

Senator Abetz—that’s a 25 per cent difference.

Senator COONAN—and then only by 2013, Senator Abetz. Under Labor, the remaining 25 per cent will be left stranded without any broadband service. I repeat my clear challenge to Mr Rudd and the Labor Party to provide costings, coverage maps and technical information about their broadband proposal for the full scrutiny of the Australian public. I do not think they can and I think that is their problem. It has been 89 days since the Labor Party put out a plan and nothing more than a press release. I say to the Labor Party: if you are really serious about this you ought to get on with standing up for a bit of public scrutiny. We are very happy to do this. We have a fully costed, fully deliverable plan for fast broadband to 99 per cent of the population. No-one will be left out. A hundred per cent of Australians will be covered by broadband.

Senator CONROY—Mr President, I ask a supplementary question. Why did the minister last night secretly doctor her own media release of yesterday, which originally made the farcical claim that the government would deliver a minimum speed of 12 megabits per second to 100 per cent of Australia? Given that the minister also made this absurd claim in question time yesterday, why didn’t the minister immediately come back to the Senate and correct the record, as the standing orders require? Doesn’t the minister stand exposed as being grossly deceptive in trying to spin her second-rate service?

The PRESIDENT—Senator, I think the accusation you made against a minister may be unparliamentary.

Senator CONROY—I am happy to withdraw that and replace it with ‘misleading’.

The PRESIDENT—Not deliberately misleading?

Senator CONROY—No, she is grossly misleading.

Senator COONAN—Apart from throwing around a few descriptions here and there, poor old Senator Conroy could not even turn up to question time yesterday, so it is good to see him back and it is good to know that he thinks a mix of technologies is a very important thing to have. As we know, he has had to do an embarrassing backflip, having told a whole conference—

Senator Chris Evans—I raise a point of order, Mr President, which goes to the question of relevance. I know the minister cannot
spend more than two minutes trying to explain her own policy, but the question was: did she in fact doctor or withdraw her press release yesterday, which carried the claim of 100 per cent coverage; why didn’t she come into the Senate and correct the record; and, what is the current claim she makes? It was a very clear question and she has made no attempt to answer it.

The PRESIDENT—There is no point of order.

Senator COONAN—As I was saying, the Labor Party are the ones who are all over the place on this. They have Senator Conroy suggesting there should be mixes of technologies and then coming in here and worrying about whether or not there has been some secret doctoring of a press release. What nonsense! Of course I have not secretly doctoried anything.

Child Protection

Senator ADAMS (2.27 pm)—My question is to Senator Johnston, the Minister for Justice and Customs. Will the minister update the Senate on the recent success that Australian law enforcement agencies have had in fighting against the online abuse and exploitation of innocent children?

Senator JOHNSTON—I thank Senator Adams for her question and acknowledge her longstanding commitment to law enforcement, particularly in rural and regional Western Australia. The Howard government is totally committed to being a world leader in the global fight to eradicate the abhorrent practices associated with the sexual exploitation of children. As part of this commitment, the Australian Federal Police have been very active partners in the much-publicised Virtual Global Taskforce, an alliance between local and international law enforcement agencies which aims to make the internet a safer place for children. This taskforce, which was formed in 2003, includes amongst its members the Australian Federal Police, the Australian High Tech Crime Centre, the United Kingdom Child Exploitation and Online Protection Centre, the US Department of Homeland Security, the Royal Canadian Mounted Police, the Italian national police and Interpol. The Australian Federal Police have collaborated with their international partners in this alliance to create a strong deterrent to online predators who engage in this type of child abuse.

Let this be a clear message: no form of child abuse will be tolerated in Australia or anywhere in the world. Our global online presence as part of this task force is actively policing the internet community 24/7. I can confirm that the Australian Federal Police has been an active partner in the international operation to crack the transnational paedophile ring which exploited and abused innocent children. This operation was code named Operation Lobate and began its investigations in December 2006, when the AFP’s Online Child Sex Exploitation Team was contacted by the United Kingdom’s Child Exploitation and Online Protection Centre to conduct a joint investigation of users of a known paedophile chat room as part of a virtual global task force. Three Australian Federal Police agents were deployed to the United Kingdom in early 2007 to work alongside their international partners. I pause to say that I am very proud of the technical skill and professional ability of these AFP officers. Their expertise and skills are in demand to participate with these very important international law enforcement agencies. They have worked very successfully, as I say, alongside their international partners to help crack an insidious paedophile ring.

As part of the undercover operations, our agents worked as part of the team that actually took over the website, and gathered information on some 700 people around the world who were accessing this website. The
Australian federal agents operated in real time and were instrumental in investigating the activities of Australians who were subsequently arrested in relation to their accessing of images relating to the exploitation and abuse of children. In Australia, Operation Lobate has led to the execution of five warrants, the arrest of four people and the conviction of one person on child pornography offences. This carries on from operation WinMX of March 2006, during which the AFP executed search warrants on four people throughout Victoria, New South Wales and Queensland. I want to finish by again underlining that the Australian Federal Police bring to law enforcement a very technically skilled and professional degree of capability which is sought after throughout the world. I want to congratulate them and I believe the parliament can be very proud of them.

**Asia-Pacific Economic Cooperation**

**Senator Nettle** (2.32 pm)—My question is to the Minister representing the Prime Minister, Senator Minchin. What involvement do Commonwealth agencies such as ASIO and the Australian Federal Police have in the preparation of the APEC black list of citizens that bans people from being in most of the CBD of Sydney? Does the government support the creation of the list? How will somebody know whether they are on the list and why don’t they have a right of appeal about their placement on the list? Am I or any other member of parliament on the black list for APEC?

**Senator Minchin**—I do not have a brief on that matter, although I am happy to find out as much as I can for Senator Nettle. If I can find it by the end of question time I will give her an answer then, but I do not have any information on that matter at the moment.

**Senator Nettle**—Mr President, I ask a supplementary question. Can the minister outline what role the Australian Defence Force will have in APEC in relation to protesters? In particular, will the special powers within the Defence Legislation Amendment (Aid to Civilian Authorities) Bill, including the Army’s shoot to kill powers, be evoked for APEC?

**Senator Minchin**—I will seek a definitive answer for Senator Nettle on that matter. I accept APEC is going to be a very significant event in the history of this country. My understanding is that the New South Wales Police will be responsible for ensuring law and order with respect to APEC, and we are providing specific funding to the New South Wales police to enable them to perform that task. Obviously the Australian military will have a role in the protection of the leaders of government who will be here, and we have some of the world’s most significant heads of government coming to Sydney. The military will have a role in their protection because they all are potentially vulnerable, but the New South Wales Police will be primarily responsible for law and order in the streets of Sydney with respect to the APEC meeting. I will obtain further information as available.

**Parliamentarians’ Entitlements**

**Senator Ludwig** (2.34 pm)—My question is to Senator Johnston, Minister for Justice and Customs. I refer the minister to reports that the federal member for Bonner, Mr Ross Vasta, has repaid $24,000 worth of entitlements to the Commonwealth. Can the minister indicate whether the need for this repayment was identified through the Australian Federal Police investigation into the ‘Printgate’ affair involving Mr Vasta and his Queensland Liberal colleagues Mr Andrew Laming and Mr Gary Hardgrave? Given the absence of an AFP statement about the repayment, can the minister advise whether the investigation into Mr Vasta’s activities will continue even after he has repaid the money?
Will Mr Laming and Mr Hardgrave also be given the opportunity to repay money that they may have allegedly misused before the AFP investigation is finalised?

**Senator JOHNSTON**—Firstly, it should come as absolutely no surprise to the learned senator that I know nothing of the intricacies of this investigation. Indeed, I have made it my primary business not to involve myself or to be aware of what is, in fact, happening with this investigation, given the obvious conflicting circumstances that prevail. This government conducts itself at all times with the utmost propriety. That question does not sit well with a shadow minister in the nature of a shadow Attorney-General or a member of the bar. To infer and to presume guilt in an inquiry where no charges have yet been laid is a disgrace. To impugn a fellow parliamentarian, to imply that he is guilty, with no skerrick of knowledge or evidence, is typical of the sort of kangaroo court we would expect from these people were they ever to get the reins of power. He knows that I have not involved myself in this inquiry and would not. Indeed, that question does him no honour.

**Senator LUDWIG**—Mr President, I ask a supplementary question. It is a pity that the minister could not provide information about the general matter. It has not been a specific question about the actual incident itself. But, be that as it may, has the minister sought or received an explanation from the AFP about the length of time it has taken to investigate the behaviour of the three Queensland MPs? Has the minister sought an explanation or been advised by the AFP when it will be completed?

**Senator JOHNSTON**—The honourable senator well knows that the answers to those questions are no and no.

### Housing Affordability

**Senator HUMPHRIES** (2.37 pm)—My question is to the Minister for Community Services, Senator Scullion. Home ownership remains the great Australian dream. Will the minister inform the Senate of the measures undertaken by the government to assist with housing affordability? Is the minister aware of any alternative policies?

**Senator SCULLION**—I thank the senator for the question. I would like to recognise Senator Humphries’s longstanding interest in housing affordability both for renters and first-time buyers in the Australian Capital Territory. The Australian government recognises the concern in the community. There is no doubt about that. In fact, we welcome the active involvement through the media and other processes of community concerns throughout this debate. I think it is very important that we have information and views from all sides. But this debate cannot happen unless we have the entire story and the debate is actually based on fact. The Australian government has met all of our responsibilities in this matter and we will continue to meet them.

Just to give you a bit of a thumbnail sketch of the contribution of the Australian government, we have provided those people in the low socioeconomic demographics who need rental assistance with $2.2 billion. That is rental assistance for a million Australians a fortnight. I know that is very well-received. There is the first home owners grant of $7,000. For a number of years, when the $7,000 was handed over, states took the handout and it was absolutely gobbled up by stamp duty. It has not really been arriving at the target audience for some time. We have a program of early intervention for the homeless, ensuring that we are targeting those people who are most at risk of homelessness. That has been extremely well-received and
very successful, even on an international level. There are the tax concessions of negative gearing and capital gains. These have all been the levers under which the Commonwealth has ensured that we provide affordable housing. The $4.75 billion that we provide through the Commonwealth State Housing Agreement is our most substantial contribution to ensuring both renting and buying a house remain affordable.

This is really an issue of supply and demand. There is no rocket science involved. There are not many houses about the place and that is of great concern to the Commonwealth. We have invested $4.75 billion. It is amazing to the Commonwealth because, when you make that sort of investment, you make the assumption that it is targeting new housing and that we would have a lot more houses. After the investment of $4.75 billion, the state and territory governments have delivered us 13 fewer houses than we started with in 2005. For those in the gallery, and I am quite sure Senator Humphries will be interested to hear this, the Australian Capital Territory has managed to achieve 637 fewer houses since 2005.

We are talking about supply and demand. We are talking about the acuteness of supply. I think everybody in this place should be absolutely and chronically aware that the issue of supply lies clearly and directly with the states and territories.

Senator Robert Ray—Shift the blame.

Senator SCULLION—It is not about blame, to take that interjection from Senator Ray. Labor are all about blame. There is no blame; there are just the facts of the matter, which are quite clear. Speaking of allocation of responsibilities, supply is actually constrained by land release and the financial issues—

Senator Chris Evans interjecting—

Senator SCULLION—We are not releasing Commonwealth land for airports; I know that, Senator Evans. At a time when people really need a hand, the states and territories are gouging out a brand new—actually, it has been going on for a while now—housing affordability tax. $11.9 billion— (Time expired)

Child Protection

Senator BARTLETT (2.42 pm)—My question is to the Minister representing the Minister for Families, Community Services and Indigenous Affairs. It relates to the issue of sexual assaults on children. The minister would be aware of the recently tabled report, Little children are sacred, on the sexual abuse of Aboriginal children in the Northern Territory and of the very first recommendation of that report, which calls on the Territory and national governments to designate child sexual abuse as an issue of urgent national significance. I also remind the minister of the resolution passed by this Senate in March last year, supported by all senators, including government senators, calling for a national strategy on child sexual assault to be developed in conjunction with all stakeholders. In light of this renewed recognition of the urgent need for concerted national action on child abuse, will the government, firstly, reconsider its previous rejection of unanimous Senate committee recommendations on child sexual abuse and assault and, secondly, in accordance with one of those recommendations, move to establish a national commissioner for children to drive a national strategy and reform agenda for child protection?

Senator SCULLION—I thank Senator Bartlett for the question. I would also like to recognise his longstanding interest in this matter and the contribution he has certainly made to the Senate on this very important matter. I think that, right throughout the Sen-
ate, everybody has made a unanimous contribution to the matter of the protection of our children.

I, like every Australian, am extremely concerned when I hear about the levels of violence and child abuse in Indigenous communities. I am personally dismayed at the extremely stark findings in the report—the title of which is *Little children are sacred*—that has been well-publicised by the Northern Territory government. I think that this can be couched in terms of no less than a national disaster. Senator Bartlett asked specifically about what the Australian government has done. I will be able to provide him with a whole range of things that the Australian government has done, but I want to preface that by stressing that this government is ready and willing to provide any level of amenity to ensure that this scourge is stopped and stopped now.

The Australian government has made significant progress on this issue. Whilst recognising that responsibility for child protection lies with the state and territory governments, we are there to help and assist them where necessary in this matter. That is why, on 26 June last year—almost a year ago to the day—we called the states and territories to a summit on violence and child abuse in Indigenous communities. We offered up to $130 million on a whole range of measures to directly address the issue of family violence. This was predicated on information from the state and territory enforcement divisions and from the Australian Federal Police about ways in which we could throw the spotlight on this and try to provide an environment across the community that would enable us to better deal with an issue which, I have to say frankly, is poorly understood by most of us. I heard Noel Pearson say yesterday, ‘I don’t think you can educate somebody to change the way they feel where they see a 12-year-old as a sexual opportunity.’ I tend to agree with him, but what we can do is provide an environment that provides safety.

We formed a comprehensive package that established the National Indigenous Violence and Child Abuse Intelligence Task Force. It is very important to coordinate the Federal Police and all the resources of the state and territory governments. They really have done a fantastic job. With regard to the police infrastructure in remote areas, we have provided a great deal of assistance to the states and territories when they have requested it. This is not an area where you want to point the finger at who is not playing ball. You may be very pleased to understand that Queensland was one of the areas where this was not able to take place. They believed that they had the infrastructure required, but later on they requested an aeroplane.

We have provided additional sniffer dog teams, and additional drug and alcohol treatment and rehabilitation services. And of course, one of the most important provisions is the assistance to the states and territories to provide child health checks. We provided locations so that all the children’s health issues can be continually checked. This is a very important aspect of our contribution on this matter.

Senator BARTLETT—I have a supplementary question. Minister, with regard to the various actions you have outlined, does that constitute a national strategy for dealing with child sexual assault or is the government planning to develop one? Secondly, I ask for a specific response—if not now, then when you can bring it back to the chamber—to my question about whether the government will reconsider the unanimous recommendations of the Senate committee regarding this issue, including the establishment of a national commissioner for children.

Finally, can the minister indicate what other measures he will take with regard to
non-Aboriginal people who are involved in child sexual assault? The report makes it clear, on pages 59 and 63 amongst others, that this includes offences perpetrated by non-Aboriginal people on Aboriginal children. Indeed, child sexual assault occurs at totally unacceptable levels in other parts of the community as well.

Senator SCULLION—I thank the senator for the supplementary question. I do not think it is useful to get into the particular demographic of offenders. One of the things I will say is that the 2007-08 budget made some further forward commitments in this regard—and I think they are very important—worth $13.8 million for playgroup services. This is less about playgroup services and child care than it is about ensuring that we have a focused place. These are the places that will be providing continuous assessment in terms of the welfare of children in those environments. We are providing 25 childcare hubs, under which a whole range of services are provided, particularly for young Indigenous Australians. There we can provide a check on their safety and their health. Having that level of amenity is important. We have made a significant contribution to that. The government will obviously very carefully consider the report and look at how we can further assist the states and territories with regard to the protection of Indigenous children.

(Time expired)

Health

Senator LUNDY (2.49 pm)—My question is to Senator Ellison, the Minister for Human Services. Is the minister aware that the managing director of Health Services Australia, Mr Walter Kmet, has again corrected his evidence to a recent Senate estimates hearing? Doesn’t Mr Kmet’s latest correction completely contradict his earlier assurances to the Senate? Can the minister now confirm that Mr Kmet privately alerted a former colleague, and no-one else, of the opportunity to apply for a $3.75 million worth of contracts? Mr Kmet personally approved those contracts without any public tender or competing bids and, in awarding those contracts, Mr Kmet did not disclose his former working relationship with the provider. Doesn’t the seriousness of this evidence justify referral of this matter to the AFP for proper investigation?

Senator ELLISON—I am aware that Mr Kmet has supplied a supplementary statement. That is part of the subject of the inquiry which is being undertaken by the Secretary of the Department of Human Services, Ms Williams. She is conducting that inquiry, as I advised the Senate the other day. I await that report, which I hope I will have very soon. I anticipate that. I am not going to pre-empt any outcome; I think it would be unwise to pre-empt that. That is a proper course of action to take in view of the circumstances. I took questions on notice, and I have done that. I have the matter being dealt with by the secretary of the department.

Senator LUNDY—I have a supplementary question. Was the minister aware that Dr Peter Macintosh, who was awarded the $3.75 million worth of contracts, and Mr Kmet worked together at the company MIA Group? Weren’t both Mr Kmet and Dr Macintosh executives in this company when it was subjected to an investigation over the Michael Wooldridge scan scam, involving taxpayer funded MRI machines? Will the minister suspend the contract until a proper AFP investigation has been concluded?

Senator ELLISON—the question of HSA contracts is for the board and the CEO to enter into. I am not about to suspend or attempt to interfere in any process until I have the report from the secretary. To do so...
wrongly could expose the Commonwealth. To take inappropriate action whereby I could lay the Commonwealth open to civil action would be irresponsible. I am awaiting the report of the secretary, and I will consider that when I receive it.

New South Wales Floods

Senator FIERRAVANTI-WELLS (2.52 pm)—My question is to the Minister for Human Services, Senator Ellison. Will the minister update the Senate on the continuing work being done by the Australian government and its agencies to assist those affected by flooding in the Hunter and on the Central Coast of New South Wales?

Senator ELLISON—I thank Senator Fierravanti-Wells for this question and I note her interest in regional New South Wales. A very large area—the Hunter and Central Coast—has been affected by extensive flooding. The significance of that is demonstrated by the number of claims and inquiries that Centrelink has received. To date I can report to the Senate that over 8,500 calls have been received and that, by way of claims, at close of business yesterday a total of more than $4.1 million had been paid to over 5,000 people—about 3,300-odd adults and over 1,800 children. This relates to the measures that the Prime Minister announced, where payments of up to $1,000 could be made to an adult and up to $400 for a child where someone had been either hospitalised or their residence had been rendered uninhabitable.

I am pleased to say that, during my visit to the Hunter and the Central Coast last week, this announcement made by the Prime Minister was warmly received. A further announcement of additional assistance was made with the New South Wales government. Two community recovery funds of half million dollars each—one for the Hunter region and one for the Central Coast—are to provide grants to community service organisations who provide recovery services, tourism, small business initiatives, economic development initiatives and heritage and cultural site activities—just to name a few. In addition, the Prime Minister announced a grant of up to $15,000 for small businesses and farmers who have been affected by the floods. During my visit, it was pointed out to me that many of the farms had had their feed washed away by the floods. Of course, this was a great loss to them. This grant of up to $15,000 will also help small business recover. Urgent clean-up and re-establishment costs are the things that we are looking at here. This is another important aspect in addressing the loss that people have suffered.

On the ground, I saw great work being done. I visited Chittaway Point with the member for Dobell, Mr Ticehurst. The Wyong Centrelink office had been affected by the floods to such an extent that its staff worked from the pavement, side by side with state authorities, to address the issues and concerns of local residents. Wherever I went, I had extremely positive feedback on the great work being done by Centrelink staff, the SES workers and the state authorities as well as, importantly, on the way that they coordinated their responses and worked side by side. I spoke to SES workers who had come from all over Queensland, Victoria and New South Wales to assist in the clean-up.

This is an ongoing issue. It will take a great deal of time to get the situation back to as it was. The area has been undergoing further bad weather, and we are on the watchout for any further damage. There is a hotline number, 180 2211, that people can call; it is a Centrelink number. I would urge anyone who thinks they may be eligible for assistance to come forward and put their case to Centrelink, not just to make an application but also to be referred, if appropriate, to other state bodies that are closely involved in the recov-
ery operations in what has been a significant flood in a very important part of Australia.

Westpoint

Senator SHERRY (2.56 pm)—My question is to Senator Coonan, the Minister representing the Minister for Revenue and Assistant Treasurer. I refer to the Westpoint scandal—one of a string of property investment structures that have collapsed over the past two years, costing 20,000 mainly elderly investors up to $1 billion worth of their savings, much of it superannuation. Wasn’t the Westpoint collapse in part due to a loophole exempting promissory notes greater than $50,000 under the Corporations Act? Can the minister confirm that the figure was set in 1981 and some 26 years later has not been increased? Why did the minister, in her answer of 22 June last year, deny time and again that any loophole existed? Can the minister now indicate, almost a year after being questioned on the matter, what action has been taken to close the loophole?

Senator COONAN—I thank Senator Sherry for the question. I am representing the Assistant Treasurer, and I am advised that there is no gap in the law. The Supreme Court of Western Australia handed down its decision on the nature of the investments offered by Westpoint last year. The court has confirmed that the fundraising activities of Westpoint amounted to the offering of an interest in managed investment schemes. The law covers this area quite clearly. Managed investment schemes are fully regulated through chapter 5C in the Corporations Act. The act imposes a number of duties on managed investment schemes, including meeting a number of licensing and conduct requirements. Because managed investment schemes are a financial product, as defined in the act, they are also subject to the licensing and disclosure requirements of the act.

Investors are entitled to a product disclosure statement which contains all the information required for them to make an informed decision, including details about commissions. It appears that those running Westpoint chose to structure their fundraising activities so as to avoid the disclosure requirements of the Corporations Act. ASIC has commenced action against a number of Westpoint directors, including the freezing of assets for the benefit of creditors. In December 2006, charges were laid against a Mr Neil Burnard in relation to his fundraising activities. The charges include dishonest, false and misleading statements. The government expects the full force of the law to be applied to those people who deliberately mislead investors.

Senator SHERRY—Mr President, I ask a supplementary question. Isn’t it true that the former chair of ASIC, Mr Lucy, has himself referred to this as a loophole since that case you referred to. Why hasn’t the government lifted a finger to close this loophole? Is the minister aware that it is now four years since her former Senate colleague Ian Campbell, the then Parliamentary Secretary to the Treasurer, promised in January 2003 to close the loophole quickly? When will the government act to improve regulatory oversight and improve the protection of the savings of Australians? How many more collapses will it take before the government closes this loophole?

Senator COONAN—My former answer stands, but I understand that Mr D’Aloisio, who now heads up ASIC, has identified a number of priorities and he wishes to work through any issues that arise in relation to this case and indeed others more recent. So my brief, which is current, says that as the law currently stands there is no loophole. That is not to say that Mr D’Aloisio is not cognisant of the matters raised in relation to
the case and has identified a number of priorities, one of which is this matter.

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Superannuation

Senator MINCHIN (South Australia—Minister for Finance and Administration) (3.00 pm)—Yesterday in question time I had a question from Senator Murray on the government’s better superannuation reforms and undertook to provide further information. I would like to table further information provided in response to his questions and seek leave to have it incorporated in Hansard.

Leave granted.

The answer read as follows—

RESPONSE TO QUESTIONS RAISED SENATOR ANDREW MURRAY ON 19 June 2007

1. Should tax-free super income be declared on annual tax returns?

The Government considers that providing tax free superannuation to those individuals who have already paid tax on their contributions and earnings throughout their working life is well deserved.

In particular, the reforms are targeted at boosting incentives to work by lowering tax on non-superannuation income and will increase the reward from making voluntary savings to superannuation.

2. Will wealthier retirees be able to qualify for the low-income tax offset?

As a result of the 2007-08 Budget tax cuts, from 1 July 2007, some low income tax offset can be claimed up to an income of $48,750.

Tax free superannuation will not count in determining whether an individual can claim the low income tax offset. This will reduce tax paid on other income, including work income, increasing the incentive to undertake work while drawing down on superannuation.

This is consistent with the Government’s policy of encouraging workforce participation by older workers to address the challenges of our ageing population.

3. Can the minister confirm that the Medicare levy is not defined as income tax and therefore should not be included in tax-free super?

Tax free superannuation income will not be subject to the Medicare levy.

4. Can the minister confirm that all retirees over 65, well off or not, will qualify for the concessional Commonwealth seniors health card?

The eligibility test for the Commonwealth Seniors Health Card has not been amended.

Tax free superannuation income will not count towards determining whether an individual is eligible for the Commonwealth Seniors Health Card.

5. If that concession is available to all, does the government think that better-off retirees should pay the Medicare levy on their income?

The Government is of the view that imposing the Medicare levy on tax free super would maintain all of the current administrative requirements, such as requiring retirees only earning super income to lodge annual tax returns and requiring superannuation funds to withhold Medicare levy from super payments. The Government believes this would be an inefficient approach that would outweigh the benefits of collecting revenues in this way.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Broadband

Senator CONROY (Victoria) (3.01 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.

What we have seen yet again today is a minister struggling to understand the technology issues in her own portfolio. She exposed her-
self yesterday. Yesterday she put out a press release called ‘Wireless is great for the bush—just ask Labor’. Let me read to you from a paragraph that she included:

What the Coalition Government has very clearly said is that we will provide broadband coverage to 100 per cent of Australia through a mix of technologies and regardless of the technology that is used, we are guaranteeing a minimum speed of 12 megabits per second.

Let us be clear. When challenged on this, Senator Coonan went to her website, without issuing a correction, without putting out a press release to say, ‘I made a mistake,’ and she amended one paragraph on her website to change it to:

What the Coalition Government has very clearly said is that we will provide broadband coverage to 100 per cent of the population. The rollout of a new, independent, competitive and state of the art national broadband network—the OPEL network—will extend high speed services out to 99 per cent of the population and provide speeds of 12 megabits per second by mid 2009. The remaining 1 per cent of consumers will be served via a $2750 satellite subsidy.

That is fine. Everybody is entitled to make a mistake and everybody is entitled to correct the record. But the problem the minister has here is that she repeated that in question time yesterday. So, on the quiet, last night she slipped the old paragraph out and put the new paragraph in—no correction of the record in here, no standards from this government. The Leader of the Government in the Senate should be saying to Senator Coonan, ‘Look, I’m sorry, Helen; I know you don’t have a clue about technology, but you’ve got to go in there and correct the record.’

Senator Patterson interjecting—

Senator CONROY—Yes, that is actually part of the rules, Senator Patterson. When you mislead the Australian parliament, when you mislead the Australian public, you are meant to correct the record at the first opportunity. Let us be clear: this is a clear breach of parliamentary standards, it is a clear breach of your government’s alleged standards and you should be doing something about it, Senator Minchin, as the Leader of the Government in the Senate.

Let us get onto some equally substantive issues. It would not matter if the minister had learnt her lesson, but she was at it yet again this morning, on the 9am with David and Kim show. She was misleading the Australian public again. She said that everyone will get the same speed by 2009—that is, 12 megabits per second. She had to correct the record last night because she knows she cannot give 12 megs to everyone. God could not deliver 12 megabits by satellite.

Senator Joyce interjecting—

Senator CONROY—Senator Joyce knows it—he lives out in rural Australia—and any other senator here who is on satellite will tell you that they cannot deliver this. The minister, having not made the correction yesterday, then proceeded to go out and do it again today. But let us be clear about the technology that is being used here. According to the technology chief of phone giant Ericsson, the technology ‘could be equivalent to the ill-fated Beta video’. It is what you have signed up to, Senator Barnaby Joyce. That is what you are delivering—the Beta equivalent—

The DEPUTY PRESIDENT—Senator Conroy, address your comments through the chair, please.

Senator CONROY—Sorry, Mr Deputy President; I accept your admonishment. Senator Joyce has delivered the Beta option instead of the VHS option. Australians who live in regional and rural Australia, the millions of families who are going to be trapped in this cul-de-sac, will not forgive you for trapping them in this area. The minister has demonstrated that she has no grasp whatso-
ever. Do you know what the minister said the other night? When challenged by Kerry O’Brien on the 7.30 Report, the minister said that fibre is affected by the number of users. It is actually so embarrassing you do not know what to say next. The minister for technology has not got a clue.

Senator CHAPMAN (South Australia) (3.06 pm)—All of this bluff and bluster from Senator Conroy is simply trying to hide the fact that Senator Coonan, on behalf of the Howard government, has announced a broadband access program that is far superior, far more detailed, costed and technologically savvy than the shallow announcement by Labor some three months ago. The fact is the policy announced by the government provides world-first policy initiatives and it will ensure that all Australians, regardless of where they live, will have access to affordable broadband—quite a contrast to what Senator Conroy said today. And of course, in contrast to that, the policy Labor released about three months ago is uncosted, untested and undeliverable. They have misled, or attempted to mislead, the Australian population into thinking that they can deliver fibre to the node to 98 per cent of Australians. You only have to look at their flimsy costings to demonstrate that this simply does not add up.

It is generally recognised that $4 billion alone will be required for the cities that cover 36 per cent of our population. So if you are quite generous and assume that you can get another 36 per cent in the less populous areas for another $4 billion, you still only have a total coverage of 72 per cent for $8 billion. That is nowhere near the 98 per cent the Labor Party have promised in their policy. What that means in practical effect is that, under Labor’s policy, some three million premises will be left without a broadband service, and they will have absolutely no prospect of getting one in the future.

Clearly, Labor’s proposal is demonstrably flawed. It is already unravelling because not long ago we heard Labor’s shadow minister for defence, the member for Hunter, Joel Fitzgibbon MP, bell the cat in a media doorstep when he was asked by a journalist, ‘Who misses out in that region’—his own region—’under your plan?’ He said:

Well those things are yet to be tested; we will roll out fibre to the node right throughout the Hunter region. Obviously there may be some people excluded from that. We haven’t... don’t have the technical backing to make those final conclusions.

So there we have one of Labor’s senior shadow cabinet ministers confirming that many are going to be left behind, including in his own Hunter region. So this is not a plan for the future. This is a fraud on the Australian people attempted by the Labor opposition. That is absolutely clear again today from what Senator Conroy said, and it reinforces the fact that we have an inexperienced Labor team. They do not have the necessary economic or policy clout. They still have not done their hard yards on policy development after how many years opposition?

Senator Trood—Eleven.

Senator CHAPMAN—More than the 11 years in opposition and still no hard, detailed facts in terms of policy development. How hopeless the Labor opposition are in this area of communications. They simply do not have the capacity to deliver in this area, just as they do not have the capacity to manage a trillion-dollar economy. All they are going to do is raid the Future Fund, put at risk Australia’s future prosperity and bandaid over their lack of hard policy work.

Let us see their costings. Where are their costings? All we have is a one-page summary announced three months ago. There is no further detail. There are no costings, no coverage maps, no back-up detail of the
technical cognisance of their program. They are simply not competent in this area. There is nothing to support their wild claim that an $8 billion outlay will bring fibre to the node to 98 per cent of the population. Until they release the details of their plan, particularly with regard to people in rural and regional Australia, we simply can have no confidence that they are an alternative government, both specifically in terms of delivering communications networks and, more importantly, in terms of managing our economy and managing the Australian community.

We heard Senator Conroy refer to the Ericsson criticism of the WiMax facility. Of course Ericsson are going to criticise that. They have a direct interest in HSDPA or 3G mobile phones, which is a direct competitor with the WiMAX technology. So—surprise, surprise—of course they are going to criticise the WiMAX technology: it is their direct competitor. It is purely a business decision on the part of Ericsson to promote that criticism. In contrast, we ought to have a look at what Nokia have said. They are the world’s largest mobile telephone manufacturer and, of course, a competitor of Ericsson, but they have said that there is a very strong business case for the introduction of WiMAX. (Time expired)

Senator STERLE (Western Australia) (3.11 pm)—I rise to take note of answers to questions today by Senator Coonan, the Minister for Communications, Information Technology and the Arts, and I am more than happy to take up the line used by Senator Chapman and talk about hopelessness. If you want to talk about hopelessness, Senator Chapman, then let us talk about 11 years in government—

The DEPUTY PRESIDENT—Senator Sterle, address your comments through the chair.

Senator STERLE—Through you, Mr Deputy President, there have been 11 years of hopelessness. The government have been playing catch-up to Labor’s announcement about a broadband plan for Australia. In 11 years they have done nothing. They have sat on their backsides for 11 years and tried to fool the Australian people, but the Australian people will not be fooled. I will continue my comments about hopelessness by referring to the hopeless answer by Senator Coonan today when she was asked about the promise she made to John Laws and 2UE listeners about government funding on infrastructure duplication. She threw around a few weasel words and finally got to ‘minimalise’. What a hopeless effort that was. I take it from the minister’s answer that she did mislead John Laws and the listeners of 2UE.

Another example of the government’s hopelessness being uncovered was an article that I read with interest today on the front page of the Australian from that very professional and well-regarded journalist Mr Sid Marris. He certainly is very clear in his mind in what he says in the opening paragraph:

Optus will make significant inroads into potentially lucrative broadband markets in Brisbane and Perth—

and these are the key words—

and these are the key words—

despite the Government’s claim that taxpayers would not be used to build networks where the market should fight it out.

Well, here we go: hopelessness for 11 years has been uncovered. This minister dithers. In answer to question after question, we get five minutes of psychobabble from the minister. We never get a definitive answer. She has perfected psychobabble. And on the subject of confusion, this minister, as Senator Conroy remarked, sneaks around after hours and makes changes to websites—I think we are on mark 4 of the government’s broadband plan. But I could not make any sense out of
the answers—and I feel like I am misleading the Senate in saying that, Mr Deputy President, because they were not answers; they were absolute embarrassments to this government. The government had a clean-out of their frontbenchers a few months ago but I think they stopped short before they got to the last quarter.

Someone should throw this minister a lifeline. This minister is clearly out of her depth. She really has no idea what mark we are up to at this stage. I urge those on the other side to do your mates a favour, for God’s sake, and interrupt, help her out—do something—because I learned one thing in my previous days: when you are in a hole, you normally should stop digging.

I also want to talk about the minister for communications—but maybe that should be ‘the minister for leaked communications’, when we find out that 40 Liberal Howard seats were targeted for this plan in some sort of kit. There had to be 40 Liberal held seats. In my home state of Western Australia, those seats—I will share them with you, Mr Deputy President, and with honourable senators opposite—are Hasluck, Stirling, Kalgoorlie and Canning, four Liberal seats. Let us not talk about Brand, Cowan, Swan, Perth or Fremantle, which are all in dire need of a quality high-speed broadband plan. No, they do not get a mention. They do not get a mention because they are Labor held seats.

There is an article in the West Australian that I would like to bring to your attention, and it was written in today’s paper by Mr Nick Butterly. The heading was ‘Broadband plan stays secret’. So, not only are we confused and not only can we on this side of the chamber see what is actually going on—a poll driven, tired, arrogant, out-of-touch government playing catch-up politics—but the newspapers around the country have got it and the voters of Australia have got it. They know damn well that they do not have a quality broadband plan or broadband access, and they can see through this government’s rhetoric. Mr Butterly says that some of the fastest-growing parts of Perth, which is the capital of my home state, including ‘the booming centres of Rockingham and Mandurah’ are ‘likely to be denied’ world-class services.

Just to let you know, Mr Deputy President, down in Brand, according to the data collected in the 2001 census, there were 15 secondary schools, 56 primary schools and 12,268 businesses in a population of 188,000 people. Quite clearly, why should the people of Brand be denied access to quality broadband? I will tell you why: because it is not a Liberal held seat. (Time expired)

Senator JOYCE (Queensland) (3.17 pm)—I do not know what the Labor Party are on today, but if they had tested them for it at the door they would not have let them in! Something has really got to Senator Conroy. He was coughing, he was spluttering and he was drinking water. He pivoted, he turned, he frothed at the mouth, and he walked out. Then he was followed by Senator Sterle. Senator Sterle has just informed us that Perth is his home state. That is very interesting. I thought it was a town in his home state, but it is actually his home state. They are under pressure. The pressure is getting to them.

And then we have this Labor pluck-a-duck technology and the Labor pluck-a-duck policy—’We’re just going to try and morph some policy, completely uncosted; we’re going to foist it out there’—because they have to come up with something. This is ‘Captain Kevin’. Captain Kevin has given them something to talk about. Right now, Senator Conroy is back with Captain Kevin saying, ‘I can smell burning flesh, and I think it’s the Labor Party’s.’ He will be talk-
ing to Captain Kevin, saying: ‘Look, Kev, I don’t know what’s going on. It’s coming un-stuck.’ And Kevin will be saying to him: ‘Mate, this is your baby. If it doesn’t float, you go down with it.’

I sympathise with Senator Conroy because he is not a bad bloke, but he has just blown this one. It has blown up in his face, and he does not know what to do with it. He came up and said, ‘It’s the Beta option,’ but I think he meant to say, ‘It’s the better option.’ It is those notes—they are letting him down again.

This $8 billion to 98 per cent of Australians is fascinating. The Labor Party policy is based on the premise of your having a node, a post in the ground from which the fibre gets to you. They must believe that these nodes are interspersed through the countryside like tree stumps—that you just wander around and up pops a node. Here’s a gnome; there’s a node! It is the Labor Party pluck-a-duck policy. The trouble is that there are not nodes just randomly associated around the countryside. That is why you have to go to a wireless technology. If you do not use the wireless technology, you do not get delivery.

Look at some of the comparatives. They talk about 98 per cent of the population. I do not know why they did not say 100 per cent. It is the premise of the attitude. It is the reasoning behind their logic. There is no reasoning, just their pluck-a-duck policy: pluck a figure out the air, jot it on a piece of paper, walk it into the chamber and start praying. And then, when it comes unstuck, pivot, drink water, cough, splutter, acknowledge that the pressure is on you, then spin, pivot and walk out the door, like Senator Conroy has done.

It is going to be interesting. I am looking forward to the Labor Party actually tabling the statistical analysis, the costings and the relevance of their policy. It is going to be interesting to see whether anybody on that side of the house has actually done the homework. Or is this what we are looking for as we walk towards the election: these sorts of random assertions about general directions, about possible outcomes that might happen if certain things all line up? It is just rubbish.

The government has delivered an outcome that will get to more people. That is what we want to do: get to more people—as opposed to Labor’s outcome, which gets at more people! So this is the position. They always talk about 98 per cent. The Labor Party, the party that want to close down the Regional Partnerships program, then use this sense of concern. They always talk about the 98 per cent. Well, I am one of those people who live in the other two per cent. I am the senator in this chamber who lives furthest from the coast. They always seem to want to leave us out. Whenever you get a minority, the Labor Party’s approach is to marginalise it even further.

The position is that we are actually delivering something that can assist people in the remotest corners of our country. The other thing is that the Labor Party believe that this is just a line in the sand, that it all just stops here, that there will never, ever be another—(Time expired)

Senator Wortley (South Australia) (3.22 pm)—I also rise to take note of answers provided the Minister for Communications, Information Technology and the Arts, Senator Coonan. It is easy to see who is under pressure—boiling point, I would say. In the past week, Senator Joyce has been reported as saying, ‘There’s a lot more that needs to be done.’ Last week he said that he was concerned that the government planned to deliver fibre to the kerb in Brisbane, Sydney, Melbourne, Adelaide and Perth and wireless options in the bush. He went on to
say that wireless has inherent limitations; it cannot deliver the same quality. Well, Senator Joyce, your colleagues have left you out in the cold on this one. The Australian people are unhappy with the government’s inaction on broadband. We know that. That is what their polling has obviously told them. That is why they are now attempting to do something about it.

Senator Joyce—Mr Deputy President, I do not think I did say that the federal government was going to deliver fibre to the—

The DEPUTY PRESIDENT—Are you taking a point of order, Senator Joyce?

Senator Joyce—I am—and whether it is correct. I know that Senator Wortley is not endeavouring to mislead; I just want to check that.

The DEPUTY PRESIDENT—There is no point of order.

Senator WORTLEY—There has been 11 years of inaction by the Howard government and now, only months away from a federal election, they have a plan. Let me correct that. They have two plans: one for the city and one for rural and regional Australia. The government’s proposal will create a two-tiered system using fibre-optic cable in the cities and wireless in the country. It is a second-rate system for rural and regional Australia, a cobbled-together broadband plan, that only delivers high-speed fibre networks in the areas of five major capital cities, leaving students and small business operators in rural and regional areas to struggle along with an inferior wireless service. The government now have to deal with misleading gaffes, where they have tried to hoodwink the Australian people for their own political agenda.

The communications minister has said that Labor’s broadband policy was irresponsible. What Australians would like to know is: how can improving every Australian householder’s access to broadband speeds be irresponsible? Why is it irresponsible to invest in the pathway to our future? Why is it irresponsible to strengthen our position in the global economy? Why is it irresponsible to provide improved communication standards to Australians? Labor has steadfastly taken the initiative on broadband policy after inaction by the communications minister. While it is good to know that Labor’s plans on broadband have finally pushed the government into some action, although it is somewhat stumbling, the reality is that one cannot turn vinegar into wine. The government’s catch-up broadband policy is simply a poor second to Labor’s solid initiative on this issue.

Mr Howard says that working families have never been better off. Well, the government’s handling of broadband reflects a government that has lost touch and become arrogant. The fact is that the performance and reliability of wireless suffers because of the distance issues, bad weather, geography and congestion problems with the number of people using the service at any one time. A letter from a Queenslander, which appears in today’s Australian newspaper, says:

Living in regional Queensland, our only broadband option was a ... wireless internet service provider who placed an antenna on our roof which picked up a signal from a receiver tower ... When it rained, no internet, or occasional interrupted services, sometimes for days if there was a prolonged wet period. The ISP technical support admitted to us that “signals can’t travel through water”. The service is great in prolonged drought periods, but unreliable and often non-existent in downpours. As our business is internet-dependent, we required constant service. So we cancelled and are now back to dial-up speed ...

The regional wireless solution is a second-rate, unreliable service. That’s John Howard’s future broadband vision. Maybe he should advise the bush to stop praying for rain.
This is the 18th time the government has claimed it is going to fix Australia’s broadband problems, and now, in the government’s poll-induced terror, they have come up with a second-rate plan for rural and regional Australia. As part of it, we had the minister stating on Monday, as Senator Conroy pointed out, that her government, under wireless network, will deliver up to 12 megabits per second for 99 per cent of Australia. Then the minister changed her tune. On Tuesday she said that it was a minimum of 12 megabits per second, and then later on the same day she said that it was a minimum of— (Time expired)

Question agreed to.

PETITIONS

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

Mabo

To the Honourable the President and Members of the Senate in Parliament assembled:
The Petition of the undersigned shows:
The citizens of Australia recognise that by its decision in the Mabo case the High Court restored the rights of Indigenous Australians to be recognised in our/their own country. The Mabo decision finally overturned the legal fiction that Australian land belonged to no one at the time of colonisation and thereby corrected a fundamental flaw in the foundation of Australia’s nationhood.

Your Petitioners ask that the Senate declare the anniversary of the Mabo decision an Australian Public Holiday to assist Australians in their celebration of this triumph of justice.

by Senator McLucas (from 1,152 citizens)

Petition received.

NOTICES

Presentation

Senator Siewert to move on the next day of sitting:

That the Senate:

(a) acknowledges that 2007 is the half-time progress mark in the global effort to meet the Millennium Development Goals, which aim to halve extreme global poverty by 2015;

(b) notes that, since the Millennium Declaration was signed by the Prime Minister (Mr Howard) and other world leaders, there has been progress, with:

(i) an additional 34 million children worldwide afforded the opportunity to enter and complete primary school,

(ii) more people than ever receiving treatment for HIV, and

(iii) 30 of the world’s poorest countries receiving debt cancellation or some reduction;

(c) affirms the positive contribution that Australia has already made, by:

(i) providing up-front, Australia’s 10-year contribution to multilateral debt relief for poor nations,

(ii) increasing Australia’s aid budget to approximately $4 billion by 2010,

(iii) strengthening Australia’s commitment to coordinate aid with other donors and better aligning Australia’s aid with partner countries’ own priorities and processes, and

(iv) renewing the focus of Australia’s aid on education and health;

(d) notes that on current progress, the promise of the declaration will not be fulfilled and that many of the Millennium Development Goals will not be achieved unless new action is taken and new resources are mobilised;

(e) affirms the work of the ‘Make Poverty History’ and ‘Micah Challenge’ campaigns in raising public awareness and generating new support for international poverty reduction efforts; and

(f) calls on Australia to continue to play its part in supporting the achievement of the Millennium Development Goals by maintaining and increasing its efforts through:
(i) a generous, effective and poverty-focused aid program,
(ii) a commitment to reducing the unsustainable debt burden of poor countries,
(iii) the promotion of good governance in developing country institutions and communities,
(iv) advocacy for fairer international trade rules, and
(v) addressing the development challenges posed by climate change.

Senator Johnston to move on the next day of sitting:
That the following bill be introduced: A Bill for an Act to amend legislation relating to aviation, and for related purposes. Aviation Legislation Amendment (2007 Measures No. 1) Bill 2007.

Senator Murray to move on the next day of sitting:
That the Senate requests the Government to require that an appropriate examination or review be undertaken of the remuneration and entitlements of members and senators by the Remuneration Tribunal, with the requirement that it take a holistic view with respect to members’ and senators’ salary packages and allowances, what they need to do their jobs, and their superannuation entitlements; and that the tribunal report to the Government in 2008.

Senator Bob Brown to move on the next day of sitting:
That Determination 2007/04: Principal Executive Office (PEO) Classification Structure and Terms and Conditions, made pursuant to subsections 5(2A), 7(3D) and 7(4) of the Remuneration Tribunal Act 1973, be disapproved. [F2007L01327]

Senator Fielding to move on the next day of sitting:
That the following bill be introduced: A Bill for an Act to amend the Australian Securities and Investments Commission Act 2001 to limit unfair banking and credit card penalty fees, and for related purposes. Australian Securities and Investments Commission (Fair Bank and Credit Card Fees) Amendment Bill 2007.

Senator Minchin to move on the next day of sitting:
That the following operate as a temporary order until the conclusion of the 2007 sittings:
If a division is called for on Thursday after 4.30 pm, the matter before the Senate shall be adjourned until the next day of sitting at a time fixed by the Senate.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (3.27 pm)—I give notice that, on the next day of sitting, I shall move:
That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the Aged Care Amendment (Residential Care) Bill 2007, allowing it to be considered during this period of sittings.
I also table a statement of reasons justifying the need for this bill to be considered during these sittings and seek leave to have the statement incorporated in Hansard.
Leave granted.
The statement read as follows—
Purpose of the Bill
The Bill amends the Aged Care Act 1997 to replace the Resident Classification Scale (RCS) with the Aged Care Funding Instrument (ACFI) as the means of allocating Australian Government subsidy to approved providers of residential aged care. These changes are required to implement the Government’s commitment to reduce the number of funding categories for basic care and introduce new payments to target residents with complex nursing or behavioural needs.

Reasons for Urgency
Software providers to the sector require approximately six months lead time to develop new products and incorporate changes into the computer systems used by aged care homes. These changes are complex and highly interrelated. Passage of the Bill in the Winter sitting period and timely subsequent amendments to the Aged Care Principles (the Principles) will enable soft-
ware providers to commence product development. An earlier commencement date was deferred at the request of the aged care industry because software providers would have been unable to deliver ACFI products on time.

The ACFI legislative changes are a discrete component of the Securing the future of aged care for Australians package announced by the Prime Minister. Delays in the passage of this Bill create the risk that the commitment for these amendments to commence on 20 March 2008 will not be met. Other components of the Securing the future package require amendments to the Act to be introduced later in the year.

The Principles detail the rules which form the basis of national aged care industry training prepared for approximately 3,000 aged care staff in September and October 2007 and a further 7,000 in February and March 2008. There is a potential risk that any delayed amendments to the aged care legislation would result in incorrect information being provided at this training.

Postponement
The following items of business were postponed:

- Business of the Senate notice of motion no. 1 standing in the name of Senator Bartlett for today, proposing the reference of a matter to the Rural and Regional Affairs and Transport Committee, postponed till 21 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 15 October 2007.

INDEPENDENT CONTRACTORS AMENDMENT BILL 2007 (No. 2)

First Reading

Senator STERLE (Western Australia) (3.29 pm)—I move:

That the following bill be introduced: A Bill for an Act to amend the Independent Contractors Act 2006, and for related purposes.

Question agreed to.

Senator STERLE (Western Australia) (3.29 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 STERLE (Western Australia) (3.29 pm)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

I rise to present to the Independent Contractors Amendment Bill 2007.

This bill exempts the Western Australian Owner Driver (Contracts and Disputes) Act 2007 from the Commonwealth’s Independent Contractors Act 2006.

This Bill will provide the same rights to Western Australian owner drivers that exist for New South Wales and Victorian owner drivers.

This Bill is about the take-home income of owner drivers in Western Australia, but it is about so much more as well.

The industry in my state wants this set of laws to set up a sustainable industry.

Families want to see more of their truckies who are often pushed into working unsustainably long hours.

Motorists want safer roads.

Also we know fuel prices have been rising, increasing the financial pressure in the trucking industry.

Owner drivers need a break from the Howard government.

They need more certainty to put the industry on a safe and sustainable footing.

This Bill makes it clear that Labor is on the side of the trucking industry, owner drivers, their families and wider road safety.
And yet it comes about because the Minister for Workplace Relations has declared that the Howard government will not exempt the Western Australian Act that will help achieve these goals.

The Minister also intends to review owner driver legislation exemptions in New South Wales and Victoria. This would be a disaster for the owner drivers in New South Wales and Victoria as well.

This so-called review process is code from the Minister that the government intends to repeal the long held rights of owner drivers in New South Wales and Victoria. It is also an explicit announcement that the rights enacted by the Western Australian government for owner drivers will not be respected by the Commonwealth either.

This Private Members Bill represents a test for the government - will it join Labor to promote a sustainable industry, better road safety and owner driver conditions - or will it declare that these hard working owner drivers are the next group in society that will be harshly affected by its laws.

If this Bill is not passed by the Commonwealth Parliament, the Western Australian Act will not have an effect on owner drivers in my proud state.

This is what is at stake. It is a challenge for this Parliament to back owner drivers.

The actions of the government in declaring that it will not exempt the WA Act might be understandable if the trucking industry had objected to the creation of those laws.

Yet the opposite is true! The trucking industry wants the WA Act to apply.

The Chief Executive of the Transport Forum WA, Debra Goostey, has stated in regard to the WA Act:

‘It is essential that the Independent Contractors Act drafted by the Federal government does not become an obstacle in the development of sensible legislation that only provides a safety net for subcontractors ...

Transport Forum WA also argues the WA Act is a critical step toward achieving competition in the industry within a framework of minimum safe sustainable freight rates and industry standards of practice and behaviour.

The WA laws are pro-competition designed to encourage safety and improve business performance. According to the WA Treasury they will assist and encourage appropriate investment by owner drivers into the industry.

The WA Act provides a basic set of minimum standards and promotes good faith bargaining and behaviour taking the trucking industry forward into the future.

It is what the industry wants!

Isn’t this what we should all want as well?

And it appears that everyone does want it except the Howard government. You have the Western Australian government leading and acting - in consultation with industry and the Transport Workers Union, which strongly back the changes.

Only the Howard government stands in the way as a recalcitrant. There it is again, acting out of nasty ideology and nothing more.

These WA laws are about the take-home income of owner drivers, but they are about road safety and family lives as well.

There is a barrage of academic opinion that justifies setting guideline minimum freight rates.

Many studies have indicated that excessive competition in the trucking industry has resulted in lower than economic freight rates, leading to driving hours above safe levels, the use of stimulants, reduced maintenance and unsafe work schedules and loads.

Low freight rates have been linked to increased speeding by owner drivers.

Where they are under heavy financial pressure owner drivers are more likely to break road rules, overload or overdrive to complete more trips.

Owner drivers who are paid a flat load system are more likely to report high levels of fatigue.

And, international studies have linked freight rates and industry safety performance.

This is why setting guideline freight rates in Western Australia are so important. And yet, the Howard government is indifferent.

The WA Act also sets an industry standard for pay dates. They must not be beyond 30 days from invoice in a contract. This is about creating security of payment and cash flow for owner drivers.
Where there is no date specified for payment in a contract, the payment must be made within 14 days.

Interest on overdue payments is the rate of interest prescribed in the Civil Judgement Enforcement Act 2004.

This is a comprehensive system to promote cash flow security in the trucking industry in Western Australia.

It is about a healthy culture of supply-chain management and practice that promotes prompter payment for owner drivers.

These WA laws also give owner drivers the benefit of protection from unconscionable conduct.

This means that large hiring companies cannot abuse their power in letting a contract with an owner driver.

Contractual negotiation must be based on good faith bargaining.

Owner drivers may challenge unreasonable conditions set in a contract, especially if the condition was not clearly communicated.

So, what is at stake in this bill?

In human terms, the government has rejected the rightful wish of my state’s trucking industry to improve long term security for those working in it.

The government has rejected the evidence that guideline freight rates promote a long term sustainable industry.

The government has rejected the evidence that road safety would improve if owner drivers were facing less financial pressure.

The government has rejected the views of the Transport Forum WA, the Western Australian government and the Transport Workers Union who all have worked together to ensure that the laws enacted in the Owner Driver (Contracts and Disputes) Act 2007 promote the long term health of the industry.

This is arrogance in the extreme from the Howard government.

The government which has often claimed to be a friend of business and independent contractors is no friend of owner drivers in Western Australia.

This shows how out of touch and extreme this government has become under the Prime Minister.

On the Labor side of politics, we are for the trucking industry and the hard working men and women who work in it.

We are for sustainable practices based on good faith relationships and minimum standards to promote safety.

The purpose of the WA Act is to ensure safe and sustainable rates for owner drivers in the road transport industry.

We expect heavy haulage drivers to operate in a safe manner, with proper fatigue management practices in place.

But owner drivers must receive reasonable rates in order that the industry meets these community requirements. Otherwise the evidence is that the industry will be forced into dangerous behaviour.

This is why the government should support owner drivers by supporting this bill. I commend this bill to the Senate.

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

Leave granted; debate adjourned.

MR GEORGE BURARRAWANGA

Senator CROSSIN (Northern Territory) (3.30 pm)—I move:

That the Senate—

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

(b) pays tribute to Mr Burarrawanga’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 Burarrawanga’s heritage as a proud saltwater Gumatj man who also developed strong links in Central Austra-
lian 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.

Question agreed to.

MR ALAN JOHNSTON

Senator NETTLE (New South Wales) (3.30 pm)—I move the motion standing in my name and thank the Senate for its anticipated support:

That the Senate—

(a) notes that:

(i) the respected British Broadcasting Corporation journalist Mr Alan Johnston was abducted whilst on assignment in the Gaza Strip more than 3 months ago and his whereabouts remains unknown,

(ii) the Army of Islam group has claimed responsibility for that abduction, and

(iii) the major Palestinian factions and the Palestinian authority have condemned the abduction;

(b) expresses its:

(i) concern at the plight of Mr Johnston and the effect of the kidnapping on his family, friends and colleagues, and

(ii) unreserved condemnation of the taking of hostages for political purposes; and

(c) calls for Mr Johnston’s immediate and unconditional release.

Question agreed to.

CLIMATE CHANGE

Senator MILNE (Tasmania) (3.31 pm)—by leave—I move the motion as amended:

That the Senate:

(a) notes that the Australian Government has called for a new global framework on climate change that includes all major emitters;

(b) 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

(c) agrees with the above resolutions of the G8 meeting.

Question put.

The Senate divided. [3.36 pm]

(The President—Senator the Hon. Paul Calvert)

Ayes........... 31
Noes........... 34
Majority........ 3

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.
Evans, C.V. Faulkner, J.P.
Forshaw, M.G. Hogg, J.J.
Hurley, A. Hutchins, S.P.
Kirk, L. Ludwig, J.W.
McLucas, J.E. Milne, C.
Moore, C. Murray, A.J.M.
Nettle, K. O’Brien, K.W.K.
Ray, R.F. Sherry, N.J.
Siewert, R. Stephens, U.
Sterle, G. Stott Despoja, N.
Webber, R.  
Wortley, D.  

NOES  
Abetz, E.  
Bernardi, C.  
Boswell, R.L.D.  
Brandis, G.H.  
Chapman, H.G.P.  
Coonan, H.L.  
Ellison, C.M.  
Fielding, S.  
Fifield, M.P.  
Humphries, G.  
Joyce, B.  
Lightfoot, P.R.  
Mason, B.J.  
Nash, F.  
Patterson, K.C.  
Ronaldson, M.  
Troeth, J.M.  

PAIRS  
Conroy, S.M.  
Lundy, K.A.  
McEwen, A.  
Polley, H.  

* denotes teller  
Senator Marshall did not vote, to compensate for the vacancy caused by the resignation of Senator Ian Campbell.

Question negatived.

ANVIL HILL COALMINE

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

Question negatived.  

NOTICES

Postponement

Senator NETTLE (New South Wales)  
(3.39 pm)—by leave—I move:  
That general business notice of motion no. 827 standing in my name for today, relating to Afghan Member of Parliament, Ms Malalai Joya, be postponed till the next day of sitting.

Question agreed to.

TASMANIAN PULP MILL

Senator BOB BROWN (Tasmania—Leader of the Australian Greens)  
(3.39 pm)—by leave—I move:  
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 GEORGE CAMPBELL (New South Wales)  
(3.40 pm)—I seek leave to make a short statement about the motion.

Leave granted.

Senator GEORGE CAMPBELL—Labor welcomes grassroots political activity such as that demonstrated by the 10,000 demonstrators referred to in this motion. However, Labor opposes this motion as it is merely an act of political sabotage rather than a genuine attempt to advance the debate on the proposed pulp mill. The government
has established an environmental assessment process under the Environment Protection and Biodiversity Conservation Act 1999 for the proposed pulp mill near Launceston. The government has committed to achieving balanced environmental, economic and social outcomes and using due process and great thoroughness in the assessment of the pulp mill proposal. Senator Bob Brown is attempting to muddy the waters with regard to the proposed pulp mill with this motion. Senator Bob Brown wants to debate issues that are not related to the environmental assessment process that the government is undertaking. Instead, Senator Bob Brown wants to sidetrack the debate so that he can fight against the proposed pulp mill on a purely emotional basis rather than on the basis of informed judgements based on environmental studies. Labor opposes the motion. However Labor has always supported grassroots participation in the political process and will continue to do so in the future. Senator Bob Brown’s motion has nothing to do with grassroots politics and everything to do with distorting the true debate.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.42 pm)—I seek leave to make a short statement.

Leave granted.

Senator BOB BROWN—The motion reads:

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.

Labor and, indeed, the government cannot have it both ways. If ever there was an expression of grassroots support for a cause—which is for the protection of the living environment and the forests in Tasmania and against the pulp mill—it was the 10,000 or more citizens of Tasmania who turned out in Launceston on Saturday. When the Premier, Paul Lennon, called a meeting in favour of the pulp mill some weeks ago, 47 people turned up. My submission here is that the people opposed to this pulp mill have every right to express that opinion peaceably, as they did.

Senator Robert Ray interjecting—

Senator BOB BROWN—It might embarrass the Labor Party and the coalition, but the people turned out in their thousands on Saturday because they oppose this pulp mill—and they have a right to do so. They are not supported—

Senator Robert Ray interjecting—

Senator BOB BROWN—Labor and the coalition are going to oppose this motion, as is their right. So be it. Mr Deputy President, I now seek your determination that there be a division on the matter, because there were two voices calling for a division.

Senator Murray—Mr Deputy President, on a point of order: apart from my personal feelings about the propriety of the motion, it seems to me that it is very difficult for the Senate to congratulate 10,000 Tasmanians. The Senate cannot write to 10,000 individual Tasmanians.

Senator Robert Ray interjecting—

The DEPUTY PRESIDENT—Senator Murray, ignore the interjection.

Senator Murray—I take the interjection. My point of order is that it is not possible for the Senate to do this. The President cannot communicate with 10,000 Tasmanians individually and we are not going to take out an advertisement.

The DEPUTY PRESIDENT—Senator Murray, that is not a point of order.

Question put:

That the motion (Senator Bob Brown’s) be agreed to.
The Senate divided. [3.49 pm]
(The Deputy President—Senator JJ Hogg)
Ayes…………… 7
Noes…………… 51
Majority……… 44

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

NOES
Abetz, E. Adams, J.
Bernardi, C. Birmingham, S.
Bishop, T.M. Boyce, S.
Brandis, G.H. Brown, C.L.
Campbell, G. * Carr, K.J.
Chapman, H.G.P. Colbeck, R.
Coonan, H.L. Crossin, P.M.
Ferguson, A.B. Eggleston, A.
Fierravanti-Wells, C. Fifield, M.P.
Fisher, M.J. Forshaw, M.G.
Hogg, J.J. Humphries, G.
Hurley, A. Johnston, D.
Joyce, B. Kemp, C.R.
Kirk, L. Lightfoot, P.R.
Ludwig, J.W. MacDonald, J.A.L.
Mason, B.J. McGauran, J.J.
McLucas, J.E. Moore, C.
Nash, F. O’Brien, K.W.K.
Parry, S. Patterson, K.C.
Payne, M.A. Ray, R.F.
Ronaldson, M. Scullion, N.G.
Sherry, N.J. Stephens, U.
Troeth, J.M. Trood, R.B.
Webber, R. Wong, P.

* denotes teller

Question negatived.

NOTICES
Presentation
Senator FAULKNER (New South Wales) (3.52 pm)—I give notice that, on the next day of sitting—

Senator Robert Ray—Nice of you to come down for it.

Senator FAULKNER—And unusual to see you here too, Senator Ray.

The DEPUTY PRESIDENT—Senator Faulkner, don’t worry about interjections. Address your comments to the chair.

Senator FAULKNER—I should not have responded to that aggravation, Mr Deputy President, and in future I will not. I give notice that, on the next day of sitting, I shall move:

(1) That the following matter be referred to the Foreign Affairs, Defence and Trade Committee for inquiry and report by 31 August 2007:
Whether the inquiries conducted by the Board of Inquiry and the Coroner of Western Australia into the fire on HMAS *Westralia* in May 1998 resulting in the death of four crew members, were fully informed of all the circumstances leading up to the tragedy, including alleged prior warnings of poor engine maintenance standards in Navy ships, and HMAS *Westralia* in particular, and of any other matters relevant to maintenance procedures affecting the safety, reliability and capability of ships at sea.

(2) That the committee, in the course of its inquiry, examine relevant evidence provided in the estimates hearings of the committee and the Legal and Constitutional Affairs Committee in February and May 2007.

COMMITTEES
Scrutiny of Bills Committee

Report

Senator ROBERT RAY (Victoria) (3.52 pm)—I present the seventh report of 2007 of the Senate Standing Committee for the Scrutiny of Bills. I also lay on the table Scrutiny of Bills *Alert Digest* No. 7 of 2007, dated 20 June 2007.

Ordered that the report be printed.

Senator ROBERT RAY—I move:

That the Senate take note of the report.
In tabling the committee’s seventh report of 2007, I would like to draw the Senate’s attention to provisions in the Fisheries Legislation Amendment Bill 2007 that may be considered to trespass on personal rights and liberties. I drew these provisions to the attention of the Senate when tabling the committee’s Alert Digest No. 6 of 2007 and would like to comment further following receipt of advice from the Minister for Fisheries, Forestry and Conservation.

Proposed new subsections 100B(1A) and 101AA(1A) of the Fisheries Management Act 1991 apply strict liability to the element of the location of a foreign fishing boat in Australia’s territorial sea. The result of these proposed amendments is that, in a prosecution under either of those sections, the prosecution will only have to establish that fishers were in the territorial sea of Australia, not that they intended to be there. The committee sought advice from the minister about the imposition of strict liability in these circumstances and was advised:

The territorial sea is not generally depicted on Australian charts or charts issued under other jurisdictions. Consequently, it is highly unlikely that the person would enter the coordinates for the territorial sea into their technical navigational equipment. For this reason, it has not been possible to successfully prove that someone was intentionally in the territorial sea. The requirement to prove fault for the territorial sea aspect of the offences is therefore undermining the deterrent effect and the offence provisions are not operating as effectively as intended.

While the committee is sympathetic to the need to ensure that the law acts as a deterrent to illegal fishing in Australia’s territorial waters, the committee remains concerned about the fairness of applying strict liability in circumstances where ‘the territorial sea is not generally depicted on Australian charts or charts issued under other jurisdictions’, thus apparently making it virtually impossible for a foreign fishing boat to know whether or not it has entered the territorial sea. The committee considers that these provisions may trespass on personal rights and liberties but leaves it to the Senate as a whole to determine whether they do so unduly.

I would also like to draw the Senate’s attention to a provision in the Australian Centre for International Agricultural Research Amendment Bill 2007 that may be considered to make rights, liberties or obligations dependent upon insufficiently defined administrative powers, in breach of principle 1(a)(ii) of the committee’s terms of reference. Proposed new section 41 of the Australian Centre for International Agricultural Research Act 1982 would permit the minister to delegate to ‘any person’ all or any of the minister’s functions and powers under the act. The committee has consistently drawn attention to legislation that allows delegations to a relatively large class of persons, with little or no specificity as to their qualifications or attributes. The committee sought the minister’s advice on whether this power of delegation should be limited in some way. In response to the committee’s concerns the minister has sought to justify this very wide delegation to ‘a person’ on the basis that the new section is replacing an existing section of the act which does not limit the power to delegate to a particular class of persons and that it provides the minister with ‘flexibility to ensure that any of his powers are delegated to a person with the requisite skills and experience, which could be a person working within the Australian Centre for International Agricultural Research or elsewhere within the foreign affairs portfolio’.

The committee’s view is that the fact that an existing provision in an act fails to put appropriate limits around the power to delegate does not justify a new provision that has the same failings. Amending an act provides the executive and the parliament with an opportunity to critically review the provisions...
of that act to ensure that they meet current standards of good practice. Unfortunately this opportunity appears to have been for-gone in this instance. The committee has sought the minister’s further advice as to whether the limitations placed on the delegation in his response—that is, that the dele-gate would be a person working within the centre or elsewhere in the foreign affairs portfolio—could be included in the bill. Pending the minister’s response, I draw sena-tors’ attention to this provision as it may be considered to make rights, liberties and obli-gations dependent on insufficiently defined administrative powers.

Question agreed to.

**Senators’ Interests Committee**

**Documents**

Senator WEBBER (Western Australia) (4.00 pm)—On behalf of the Standing Committee of Senators’ Interests, I present the following documents:

(a) Register of gifts to the Senate and the Parliament, incorporating declarations of gifts lodged between 5 December 2000 and 18 June 2007; and

(b) Register of senators’ interests, incorporating statements of registrable interests and notifica-tions of alterations of interests of senators lodged between 5 December 2006 and 18 June 2007.

**Environment, Communications, Information Technology and the Arts Committee**

**Report**

Senator EGGLESTON (Western Australia) (4.00 pm)—I present the report of the Environment, Communications, Information Technology and the Arts Committee, *Indigenous Art: securing the future. Australia’s Indigenous visual arts and craft sector*, to-gether with the *Hansard* record of proceed-ings and documents presented to the commit-tee.

Ordered that the document be printed.

**Senator EGGLESTON**—I move:

That the Senate take note of the report.

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

Leave granted.

*The statement read as follows—*

The indigenous arts industry has grown from very small beginnings to now involve some estimated 6000 artists producing work valued at more than $500 million per year, the uniqueness and quality of which is recognised around the world.

Even though about 70% of Australia’s indige-nous people live in the big cities and larger re-gional towns of Eastern Australia and in the southwest of WA most of the artists working in what is regarded as the indigenous arts sector live and work in the more remote parts of Australia in the Northern Territory, Queensland, the Kimber-ley and the Pilbara in Western Australia.

As I said, indigenous art has now become re-nowned around the world as a very special and unique art form representing the life and stories of the indigenous people of the more remote parts of Australia.

Unfortunately while the industry has now be-come quite large there have been concerns ex-pressed about exploitation of indigenous artists by unscrupulous people and of the need to provide improved resources and assistance to the indige-nous communities from which the artists come to ensure that the artists are able to conduct their work more effectively. Also there has been a growing view that there should be a system pro-viding authentication of indigenous art so that purchasers can be confident that works of art they purchased are genuinely the work of the artists who it is claimed produced them.

In view of these concerns the previous Minis-ter to the Arts, Senator the Hon Rod Kemp, in August 2006 had the Senate refer to this commit-tee an inquiry into the indigenous visual arts and crafts sector with particular reference to:

- the current size and scale of Australia’s indigenious visual arts and crafts sector
- the economic social and cultural benefits of the sector
the overall financial cultural and arts artistic sustainability of the sector

the current and likely future priority infrastructure needs of the sector

opportunities to strategies and mechanisms that the sector could adopt to improve its practices capacity and sustainability including to deal with unscrupulous or unethical conduct

opportunities for existing government support programs to indigenous visual arts and crafts to be in to be more effectively targeted to improve the sector’s capacity and future sustainability and

future opportunities for further growth of Australia’s indigenous visual arts and crafts sector including through development of international markets

Over the 10 months since then the committee has visited art centres in the Kimberley, Darwin, Alice Springs and in Sydney, held seven hearings in Canberra, Kununurra, Darwin, Alice Springs and Sydney and received submissions from 89 different individuals and organisations.

As it is said in the introduction to the report the committee is extremely grateful to the many artists and workers in the sector who took the time to show the committee the industry and to talk about it and about the issues confronting the industry.

The committee was honoured by the opportunity to meet with and in some cases hear from artists in their communities and to receive evidence from a wide variety of people whose commitment to the cause of indigenous art was plain for all to see and very impressive.

The committee made 29 recommendations the most important of which in my view at the least were:

Firstly, that $25 million be provided by the Commonwealth to establish an infrastructure fund to assist indigenous visual arts and craft. The $25 million was to be made available over a period of five years and the fund should be administered by the Department of Communications Information Technology and the Arts.

Secondly, the committee recommended that as a matter of priority the ACCC be funded to increase its scrutiny of the Indigenous art industry, including conducting educational programs for consumers as well as investigation activities, with a goal of increasing successful prosecutions of illegal practices in the industry.

Thirdly, the committee recommended that the Commonwealth introduce appropriate legislation to provide for the protection of indigenous cultural and intellectual property rights.

Fourthly, the committee recommends that, once the Indigenous Art Commercial Code of Conduct has been developed, the Commonwealth undertake a project examining and making recommendations regarding further initiatives to enhance the integrity of the Indigenous art market. This work could include, but need not be confined to considering:

- what role governments might play in giving effect to an industry code of conduct; and
- whether further steps should be taken toward a system of dealer accreditation.

The committee recommended that further consideration be given to whether a label or trade-mark for indigenous art and craft should be introduced, drawing on lessons learned within the industry and from the schemes in Canada and New Zealand.

It drew attention to the role of art collections in providing leadership in the indigenous art market through acquisition and display policies.

The committee also made recommendations concerning improving the running of Art Centres which were seen as playing a crucial role in fostering indigenous art especially in remote locations and in addition expressed the view that the needs of urban based indigenous artists should not be overlooked nor be excluded from eligibility to access funding programs.

This enquiry has been very interesting and satisfying to have been involved in and the committee hopes that it will as the title suggests help secure the future for indigenous visual art and craft in Australia.

I would like to thank the members of the committee for their assistance in this inquiry.

I like to thank all the witnesses and submitters who contributed to the inquiry and most impor-
tantly I would like to thank the Secretariat in particular the Secretary to the committee, Dr Ian Holland, for the enormous amount of work they together put in to this inquiry and in assisting in the writing of this report.

Senator KEMP (Victoria) (4.02 pm)—I rise to speak on the very important report of the Senate Standing Committee on Environment, Communications, Information Technology and the Arts which Senator Eggleston has just tabled, after many long labours by the committee stretching over many months. Senator Eggleston, as everyone in this chamber would know, is the very distinguished chair of the committee. I would personally like to congratulate him on the leadership that he has shown in bringing the report through many tortuous shoals and finally delivering, as my remarks will show, what I think is an excellent report. I have a special interest in this report because in my previous position as Minister for the Arts and Sport I proposed that the Senate conduct this very important inquiry. On stepping down from the ministry in February this year, I was appointed to this committee—which was a rather curious development, I have to say—and was able to take part in the finalisation of the report.

In my view the committee has done its work very effectively, and I too would like to compliment my colleagues from all sides of the chamber and the committee secretariat under the leadership of Mr Ian Holland. This report provides a very important analysis, I believe, of the state of the industry and its future potential. The report starts off by suggesting that Australian Indigenous art is the story of the flowering of one of the world's greatest contemporary movements in art. I think that is a true statement. There is no doubt that the demand for Australian Indigenous art continues to grow, both domestically and internationally. The question the committee had to address was: how can the Indigenous community, and indeed the wider community, build on this very strong base? The report makes recommendations in a range of areas concerned with arts centres and the infrastructure which is needed. It also deals with important issues such as governance and training for those arts centres and the individuals who work in them.

Amidst this great success, however, there is, as the report points out, growing concern about the sustainability of the sector and in particular the unethical business practices within it. I believe that the report has come at a crucial time in the history of the sector. It deals frankly with issues of unethical conduct and examines closely how the future of the industry, as the title of the report itself indicates, can be secured. The report makes recommendations across a wide range of areas. There is a long discussion on the issues around a code of conduct, which the report supports, increased activity for the ACCC and, of course, further education programs. The ACCC provided a very interesting submission earlier this month. This is published in appendix 4 of the report. I think the ACCC has done an excellent job in its submission for those who want to get a feeling for the complexity of this issue, the legal problems which are involved, and how we work our way through these to find the best way forward. I congratulate Graeme Samuel and his officers for the interest that they have shown. It makes the point that law enforcement is, whilst very important, only one of the strategies which need to be followed to deal with many of the issues in the sector. As I indicated, some other strategies would include education, provision of resources and infrastructure, and more support for Indigenous artists. This is in general the approach followed by the committee. The committee makes a very wide range of proposals for the sector. I believe these proposals are sensible and practical.
The funding requests which have been made in the report are appropriate. There is no doubt that we need to provide increased support for arts centres; there is also no doubt that we need to provide a significant capital program for arts centres. We need to make sure that arts centres adopt best practice. We need to assist arts centres. There are business programs which can assist arts centres to work towards a position where some of them will not need government assistance, and there are a number of very fine examples included in this report. The $25 million infrastructure fund which the report calls for will provide a significant boost to the sector. The report also calls for additional ongoing funding for arts centres.

Interestingly, one of the proposals in the report is for the establishment of a specialised arts centre in Alice Springs. This is one of the areas where the report specifies some work in progress and suggests that a proposal should be developed for an arts centre in Alice Springs that artists from the outlying areas can visit and live in in a safe and secure environment. I think such a proposal, provided it can be done with the cooperation of the major stakeholders, is very sensible. I would like to see this report moved on in a very smart and expeditious way. As I said, the funding requests are not large but they are important. They will be particularly important to the sector.

At the moment, almost every other day issues to with Indigenous communities are on the front page of our newspapers and in the first couple of items on the TV news. Indigenous arts is one of those areas where there are many good news stories, where very important things are happening. The Indigenous community can help build on Indigenous arts to provide a very important source of revenue to the artists and communities involved in the years ahead. It is important that we deal with the problems in the sector. I do not think this report will solve all those problems, but it will facilitate a significant step forward being made. We have proposed a more significant role for the ACCC. We would expect that, where criminal conduct is involved, the relevant territory and state governments become more effective in their own policing arrangements.

Government senators, including me, differed with others in a couple of areas. That is spelt out in the report and it will not come as a surprise to many people. Prior to my joining the committee, a great deal of work was done by a range of senators, and I thank them for their very conscientious work. As I said, it was a pleasure and a privilege to be involved in such an important report, which I hope will have widespread positive consequences for the future of the Indigenous arts industry. I commend the report to the Senate.

Senator SIEWERT (Western Australia) (4.11 pm)—I likewise believe that this report of the Senate Standing Committee on Environment, Communications, Information Technology and the Arts is an extremely important report. I think many important issues are discussed in the report—far too many for me to touch on now, so I will touch on some of the critical ones. It is obvious that this is a critical industry for Aboriginal Australians. It provides one of their few opportunities for economic development. Aboriginal arts play a central role in cultural maintenance and are also a window into Aboriginal culture for other Australians—and, for that matter, for the world, because the international market is growing. The industry has huge economic, cultural and social benefits for the community. I believe it is of particular importance in addressing social and health issues.

Arts centres are clearly essential infrastructure in many communities, particularly rural and remote communities. There are a great variety of arts centres. There is no one
label that you can have for what arts centres should be; their roles vary widely. They are not just arts centres. They play a multitude of roles, including those in the social, cultural and economic development of communities. They face many great challenges, which are outlined in the report, such as staffing issues, governance and infrastructure support. Some centres are able to provide greater economic benefits to communities than others and have much more independence. They are of great value to the community and, with a relatively small investment, they can play an even greater role.

I am pleased that the No. 1 recommendation in the report very strongly recommends increased funding. I strongly urge the government to take that on board. The other issues that came to light are that urban Indigenous artists are often ignored and that there is a massive role for education and training and a huge need for increased funding and resources in that regard.

Although the report was unanimous, there are two areas in particular on which I think government and non-government senators had some varying views. I will come back to those in a minute. I would particularly like to point out recommendation 11, because the changes to CDEP were identified through the report as being of critical importance to arts centres. Recommendation 11 states:

The Committee recommends that the Commonwealth pursue the conversion of CDEP-funded positions in art centres into properly funded jobs, taking an approach similar to the 2007-08 Budget initiatives in other portfolio areas; and that this initiative be independent of future NACIS program funding.

This is particularly important, because, for arts centres in regional areas where CDEP is being phased out, there are many staffing positions that are supported through CDEP. This is having a critical impact on those arts centres and on communities. In fact, there was an article in the media today about the impact of the winding back of CDEP in Broome. I visited an arts centre in Broome, where I heard firsthand about the impact that rolling back CDEP is having on people in that centre and the impact it will have on that centre. So I am very pleased that we have got a recommendation that looks at covering the conversion of CDEP funded positions in arts centres. I think that is extremely important.

The other area in particular that I would like to touch on is the permit system. You will see in the report that the non-government senators believe that the evidence presented to the committee was overwhelmingly in favour of retaining the permit system. Several witnesses wrote and spoke in favour of the permit system, and none spoke against it. No dealers or collectors argued for the relaxation of the permit system. The permit system was one area that was brought up in a number of communities. They brought it up particularly in relation to what are commonly called ‘carpetbaggers’ in the trade. A number of witnesses thought that the retention of the permit system was important to be able to control carpetbaggers coming into the community and what they saw as ripping off artists.

What became evident during the inquiry was that there is some unscrupulous activity going on in this sector and artists are under a great deal of pressure. I very strongly support the recommendation around the Alice Springs arts centre, because I believe that that is a way of helping to protect artists. There are a number of recommendations that address these issues and I think they are very important recommendations.

The other area where there is some difference of opinion is on resale royalties. We differ from some of the government senators on that issue. The other recommendation that I would like to point out to people—because
I think it is particularly important—is recommendation 24:

The committee recommends that as a matter of priority the government introduce revised legislation on Indigenous communal moral rights.

That issue is very important and came up a number of times.

I congratulate the secretariat and thank them for all their support. This is a very important report and I hope the government takes on board these recommendations very quickly and does not wait as long to respond to it as has been its record on a number of other committee reports. In view of the time, I seek leave to continue my remarks.

Leave granted.

Senator CROSSIN (Northern Territory) (4.17 pm)—I rise to provide some comments on the tabling of the report Indigenous art: securing the future. I was a replacement for Senator Lundy on the Standing Committee on Environment, Communications, Information Technology and the Arts for the purposes of this inquiry. I want to start by recognising the work of the secretariat. When reports are tabled, we often get to the end of our contributions in this chamber and forget to acknowledge the tireless work that we expect of committee secretariats, and the efforts that they undertake. I express our thanks to Dr Ian Holland, Peter Short, Dr Andrew Gaczol, Joanna Woodbury, Jacqueline Hawkins in particular and Mrs Dianne Warhurst.

This has probably been a longer inquiry than most of us who put it up originally had wanted it to be, but this secretariat managed to produce quite a number of position papers on issues that were raised in this inquiry. Since we received the first draft only two weeks ago, there has been a substantial amount of work in rewording a lot of it and rewriting a lot of the recommendations. That demands a large effort on the part of the secretariat, and minimal and very fast turn-around times. I want to place on record that their hard work and their efforts do not go unnoticed and are much appreciated.

I want to make some initial comments about Senator Kemp’s recollection of how this report and the inquiry came into being. I do not want to dwell too long on the politics of this, but a number of us had been pushing for a while for an inquiry into this sector. People may remember that I and, if I recollect correctly, some of the minor parties put up terms of reference in this chamber. That was at about the same time that Senator Kemp, who was at that time the Minister for the Arts and Sport, was circulating terms of reference among the industry. At the end of the day, we conceded to the wording that the government wanted. As they have the numbers in this chamber, we probably did not have much choice, but I do think we could have got this inquiry under way a lot sooner than we did.

We initially wanted to have this report completed in time for this year’s budget, but that was not to be. We now have it before us, and I hope that it is not shelved and forgotten by either party in the lead-up to the election this year. There are recommendations in here that commit to resourcing the sector, which I believe could be done now. I do not think they need to wait until next year’s budget. I would be looking to see, hopefully, this government respond to this report as quickly as possible.

This report is about anything but Indigenous art. This report is about proving to the Australian public and reaffirming to the industry that Indigenous art can be, and is, a very vibrant and economically viable industry for Indigenous people in this country. We heard that there had been some calculations that in the Central Australian area the industry was worth about as much as the cattle
industry. But, when we look at the protection, the kudos and the national recognition that the cattle industry obtains, in comparison the Indigenous art industry has a long way to go.

This inquiry proved to me that there are Indigenous people in this country who paint to eat. It is as simple as that. When they are in abject poverty and are starving, they know that they can make a quick quid by producing a canvas, which they will sell at any price possible—usually not at its worth—in order to survive, if not that day then that week. These are some of the most talented artists that we have in this country. What we need to do as a nation is to pick up those artists and take them out of this poverty cycle by ensuring that they are supported, that the industry is well resourced and that they are painting.

This country and the international market want the product for its value. Indigenous artists need to be paid the thousands and thousands of dollars that their art is commanding on the market. I am not suggesting that it is not happening—it is happening in some cases, but there are art centres, such as the Papunya Tula industry, that have never received any government funding. In the course of this inquiry I was privileged to go out to Kintore and be part of the opening of their new art centre, which was totally funded by the work generated by the Indigenous artists of Papunya Tula. They are the tall poppies of the industry. We want to ensure that all of the other artists in the industry rise to that standard, but they will not do so unless everybody gets on board with resources and support.

I want to draw people’s attention to some of the major recommendations in the report. I think the most crucial one is that we make substantial statements about the benefits of art centres in communities. They play a pivotal role. This week, when this nation is uncovering the story in the Northern Territory of child sex abuse, art centres can play a major role by providing safe havens for families and providing them with economic opportunities. Art centres are places where Indigenous people can go in order to retain their culture, paint their culture, tell us about their culture and be adequately paid for the work that they produce. If we are to move people off the poverty merry-go-round that we sometimes keep them on—and I deliberately say ‘we’—then we have to be serious about committing resources to the arts industry.

Labor have suggested that $25 million be put towards the infrastructure of art centres so that people do have decent rooms with plenty of space for them to stretch canvas, mix paint and paint canvases that are huge in size. We suggest that the Indigenous commercial code of conduct that has been running in the industry for a very long period of time be finished. I say to the people in the industry: get on board and sign off on this very quickly, because Indigenous artists are waiting for it to happen. In respect of our recommendations about the code of conduct, we suggest that everybody opts in and makes sure that the industry operates under that code of conduct.

There is a huge role for the ACCC. I want to acknowledge and pay tribute to the ACCC for picking up what they perceive are possible breaches of the Trade Practices Act during this inquiry. They have already identified unconscionable conduct from some of the submissions. I thank the ACCC for acknowledging that there can be breaches of federal legislation in this industry. Finally someone is going to step up to the plate to have a really good look at this and make sure that the carpetbaggers that we talk about in this industry are brought to task. Perhaps we can do this is by strengthening the ACCC’s scrutiny of the industry through successful
prosecutions and by educating Indigenous artists about their roles.

We need to ensure that urban Indigenous artists are not kept out of the loop and that they are actually recognised. We make a recommendation based on an Office of Aboriginal and Torres Strait Islander Health initiative last year, whereby they fully funded CDEP positions in Aboriginal medical services. There is a recommendation in the report that the Commonwealth, through the Department of Communications, Information Technology and the Arts, pursue the conversion of CDEP funded positions into full-time properly funded jobs. That will bring a stop to the poverty cycle in communities.

In conclusion, I want to draw people’s attention to the two areas where we have disagreed. The Labor Party believe we should get on board and implement a resale royalty regime as quickly as possible. We do make a comment that, during the inquiry, there was overwhelming support for keeping and retaining the permit system in the Northern Territory. Our comments in that regard are contrary to those of the majority of the committee in the tabled report.

Senator BARTLETT (Queensland) (4.27 pm)—I will speak for one minute as Deputy Chair of the Senate Standing Committee on the Environment, Communications, Information Technology and the Arts. I think it is appropriate that I also acknowledge the report, which is a very significant one. I want to pay particular tribute to the secretariat, who did a lot of work with a large amount of material, a lot of differing views and a number of hearings, and to those senators who worked very hard to pull the report together while trying to maintain what was pretty close to unanimity. I certainly acknowledge that a number of them put a lot more work into the report than me; however, I certainly followed it as an issue of importance for a range of reasons.

When I was Chair of the Senate Environment, Communications, Information Technology and the Arts References Committee, that committee wanted to explore this area but could not get agreement from the then minister. Hence it is ironic that the minister himself later decided to have an inquiry into this area. So we got the inquiry it is a valuable report and I urge people to examine it closely. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Rural and Regional Affairs and Transport Committee Report

Senator NASH (New South Wales) (4.28 pm)—I present the report of the Rural and Regional Affairs and Transport Committee on the administration of the Department of Agriculture, Fisheries and Forestry, Biosecurity Australia and the Australian Quarantine and Inspection Service in relation to the final import risk analysis report for apples from New Zealand, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator NASH—I move:

That the Senate take note of the report.

Mr President, in tabling this report, I would like to make a few brief observations. This is a unanimous report, representing the views of all of the members of the committee. This committee has a longstanding interest in the importation of New Zealand apples. This is the committee’s third inquiry into this matter. The first one commenced in November 2000. The committee has grave concerns about the potential impact of the importation of apples from New Zealand on Australia’s competitive edge in the international market. In this
inquiry the committee gave particular consideration to the risk of the entry, establishment and spread of fire blight. The committee notes that the proposed protocol for the importation of New Zealand apples is based on the assumption that fruit contaminated with fire blight will be imported into Australia. Despite the claims of Biosecurity Australia, the committee remains to be convinced that the risk of establishment of the disease after the importation of contaminated fruit is ‘low to very low’.

The committee notes that the standard operating procedures currently being developed by New Zealand in consultation with AQIS and Biosecurity Australia are fundamental to containing the risk of fire blight becoming established in Australia. The committee has therefore indicated that it would like to examine the draft operating procedures that will underpin the protocol before they are approved by AQIS. The committee has also indicated that it would like to receive further detail of the scientific evidence and modelling undertaken as part of the IRA process to determine that the risk of establishment of fire blight under the proposed risk mitigation measures is low to very low.

In this inquiry, as in the committee’s previous inquiries, the committee has noted a strong perception within the industry that the risk analysis and appeals processes are not as robust as they could be. In particular the committee notes the limited role played by the Eminent Scientists Group in the apples IRA and appeal processes. The committee notes that these processes have subsequently been revised and that the role of the ESG will be strengthened in future IRA processes. The committee urges AQIS and Biosecurity to draw on the expertise of the Australian apple and pear industry in finalising the protocol for the importation of apples.

Finally, I would like to flag the committee’s intention to consider this matter further once it has received the material it has requested. The committee wishes to satisfy itself that the operating procedures will appropriately address the risks associated with the importation of apples from New Zealand. It is this committee’s clear view that the importation of apples from New Zealand should not commence before the committee has completed its consideration of this matter.

I commend the report to the Senate.

Senator O’BRIEN (Tasmania) (4.31 pm)—I am pleased to say that this, again, is a unanimous report from this committee, as Senator Nash has indicated. I think the unanimity of the committee on this issue must be of concern to the government because what the committee is saying is that we are not satisfied that the import risk assessment process in fact leads to the low risk of transmission of fire blight to the Australian industry. In that regard, we agree with the industry and not with the views of the officers of Biosecurity Australia.

As the next phase of this process is the examination of the possible protocols for the importation of New Zealand apples to Australia, the committee has expressed a specific concern that the matter of establishing that protocol not proceed to finality until the committee has had the opportunity to examine any proposal. We do not want to see this matter proceed without proper examination, given the risk to the industry and the fact that the committee is not satisfied, not convinced, that the science underpins the finding made by Biosecurity Australia.

There were concerns expressed about the appeals processes, which clearly limit the ability of industry participants to pursue material that they believe is germane to the consideration of this matter. The committee has
expressed a view on that. I would have to say that the opposition’s view remains—in fact, it is strengthened by the view of this committee—that there needs to be a thorough independent review of our import risk assessment process. Indeed, that is a policy that Labor will be taking to the next election, because this is yet another example of a failure of confidence in the process being expressed by members of this committee on a bipartisan basis—or perhaps I should describe it as a ‘multipartisan’ basis because of the structure of the committee and the participation of senators from not just the coalition and the Labor Party but also the Greens and Family First; I know Senator Fielding has some views on this matter as well.

We feel that the time for being satisfied with the performance of our import risk assessment processes is long past. We feel that the time for having a smug acceptance that nothing should change and we should just go ahead the way we have been is long past. This report again highlights the need for the sort of review that Labor believes is absolutely essential. We remain committed to that. In fact, our views are strengthened by this report.

Senator MILNE (Tasmania) (4.34 pm)—I rise today to note the report as well and to note the bipartisan, tripartite or unanimous view of the committee in relation to the import of apples from New Zealand and the threat that is posed to Australian apple and pear growers by the very idea of fire blight. What we have to raise here and face up to is the fact that we are dealing with this through World Trade Organisation procedures and that, increasingly, Australian growers, in order to get access to overseas markets, are in turn having threats imposed upon them by a regime which determines a range of probabilities of risk. In this case, it has been determined on the basis of those World Trade Organisation processes and risk assessments that the risk is low to very low. But in fact the Greens have been working on this for a very long time. I would like to acknowledge the work of Christine Sharp, who is a Greens member in Western Australia and has worked very hard in relation to this matter, and also my colleague on that committee Senator Rachel Siewert, because it is our view that it is time common sense prevailed here.

We have had evidence from Biosecurity Australia that fire blight can travel on a mature apple and that chlorine dips are not effective in killing fire blight in the calyx of the fruit. Biosecurity also explained that its modelling suggests that a low proportion of apples could be carrying fire blight bacteria and there is some risk of contamination but there is a lower risk of the disease becoming established. However, Biosecurity agreed that, once established, the risk of spread of the disease is very high.

Whilst they argue that there is a low to very low risk of establishment, we have to make the point that, should it become established in Australia, it would be an absolute disaster and wipe-out for most of Australia’s apple and pear growers exposed in overseas markets. It would be a disaster for us if this occurred. That is why the Greens say it is time for common sense. If Biosecurity Australia tells us that we will be importing apples with fire blight from New Zealand, and we know that it could easily spread, the question, to me, is not a matter of whether it will become established; it is a matter of when it will become established.

You can go through process after process and, as has occurred, set up as many expert committees as you would like to. Again, the task of the eminent scientists was to determine whether the submissions had been adequately examined and not whether the science actually backed up the conclusions; so it was actually an administrative role rather
than a scientific assessment role. The Greens are not satisfied at all with this process, because it just defies common sense. Day after day and week after week, we are told about our great biosecurity and quarantine procedures, yet we have been told that this very day common white snails have entered Tasmania through barley shipments from South Australia. Ten properties are now contaminated—and goodness knows what the compensation will be in that regard. This follows live fruit fly larvae only a couple of months ago coming into Tasmania from Queensland.

How can you be expected to have confidence in all these processes? We also know that, even though your apples can undergo a chlorine dip—which does not affect the calyx of the apple—as is required in the procedures and you can still have the inspection regimes in New Zealand, fire blight can still be brought into Australia. I just think that, as long as we have an understanding that we will be bringing fire blight into the country, the question then becomes whether it will become established, knowing that if it does become established it will wipe out large numbers of apple and pear growers. Our status in Tasmania is particularly important to us because of the 'disease-free' opportunities it offers us in global markets. Nevertheless, I return to my original point, which is that the World Trade Organisation’s procedures lock Australia in to a situation that I think is untenable in the long term.

Previously, Tasmania had to fight very hard on the same front over salmon; no doubt, we will be fighting it again in the longer term. But I do appreciate the fact that this committee is taking the issue extremely seriously. The Greens will continue to play a strong role in the committee, as we examine the protocol and the reasons behind it and, in fact, the information coming forward about the scientific basis on which the decision that the risk of establishment is ‘low to very low’ was made. I look forward to the ongoing deliberations of the committee. I certainly hope that the committee’s recommendation that no fruit be imported until the committee has had a chance to look at this further evidence is taken seriously. Tasmanian fruit growers, those in Western Australia and of course in Victoria—right around the country—are watching this very carefully, with the experience of constant breaches of biosecurity around the country. I commend the committee and my colleagues for this report.

Senator FIELDING (Victoria—Leader of the Family First Party) (4.40 pm) —Family First is concerned that fire blight could enter Australia following the government’s decision to overturn an 85-year-old ban on the importation of apples from New Zealand, which have been ravaged by bacterial disease. Notwithstanding the recommendations from this committee, the first apples look likely to come from across the Tasman next year, which is a huge concern.

Quarantine watchdog Biosecurity Australia has admitted that it is possible fire blight could come into Australia. While agriculture minister, Peter McGauran, says that the chances of an outbreak are very low, it could still happen. Family First supports fair competition, but the government really must not allow for there to be a risk of fire blight entering Australia. An outbreak could wipe out a reported $4.5 billion apple and pear industry in Australia.

Family First supports Apple and Pear Australia, which wants a tougher inspection regime, with an extra pre-harvest inspection in New Zealand orchards and a particular focus on orchards with a history of fire blight. Everything possible must be done to protect our farmers. Family First also shares the industry’s lack of confidence in the recent import risk analysis process, due to the limited role of the Eminent Scientists Group in assessing
scientific data. And Family First agrees with industry that the appeal panel should include independent people, including scientists.

New Zealand growers have complained about the quarantine measures and New Zealand has threatened to take Australia to the World Trade Organisation. So be it. We should fight it all the way and do all we can to protect our industry and our farmers, Mr Deputy President, I seek leave to continue my remarks.

Leave granted.

Public Works Committee

Senator PARRY (Tasmania) (4.43 pm)—On behalf of the Parliamentary Standing Committee on Public Works, I present the fifth report for 2007, Facilities for project single living environment and accommodation precinct – Phase 2. I seek leave to move a motion in relation to the report.

Leave granted.

Senator PARRY—I move:

That the Senate take note of the report.

In moving this motion, I will make some brief remarks and then seek leave to incorporate a tabling statement in Hansard. The Public Works Committee, of which I am a member, has been tasked with this parliamentary inquiry. It is a $1.2 billion inquiry into the suitability and the value for money for the Commonwealth for the Defence department concerning accommodation for Defence Force personnel around Australia.

In fact, every single state and territory, with the exception of Tasmania, has been included in receiving new facilities or refurbished living facilities for Defence Force personnel. There are 17 sites in Australia. This has been a very complex and difficult inquiry. In relation to the financial matters, it was a public-private partnership arrangement. In addition, we had to visit many places in all states of Australia—and some were not easily accessible—with the exception of Tasmania.

I particularly want to commend the efforts of the parliamentary Joint Standing Committee on Public Works, the staff and the committee members, for dedication in what has been a complex inquiry over the last few months and one that has involved a large amount of travel and time away from electorate offices and home. I now seek leave to incorporate a tabling statement in Hansard.

Leave granted.

The speech read as follows—

This project, involving the provision of 3,535 single rooms at seventeen Defence establishments in all of the Australian mainland States, is potentially the Commonwealth’s largest Public Private Partnership. The final decision as to the suitability of the project for this mode of delivery will be made when it has been tested in the market-place.

This project builds on an earlier project, Project Single LEAP Phase 1 that delivered a total of 1,295 single living-in rooms distributed between RAAF Base Amberley, Gallipoli Barracks Enoggera, both of which are in Queensland, and Holsworthy Barracks, NSW.

The need for these works is largely based on a review undertaken by Defence that concluded firstly, that the condition of the Defence estate had deteriorated to an extent that many of rooms were no longer appropriate for residential purposes, and secondly many rooms were located on sites within bases that are now unsuitable for accommodation.

In the case of the latter, Defence have acknowledged that the Defence estate has been neglected over the last decade. The review I referred to identified over 36,000 rooms that have deteriorated due to lack of maintenance. That the Defence estate has been allowed to become rundown to the extent that there is now a requirement to invest considerable Commonwealth funds in a rebuilding project is a disappointing reflection on the department.

The lack of maintenance of the Defence estate has been raised in previous reports of the Committee.
In the context of the current proposal the Committee has recommended that Defence ensure that irrespective of whether the project proceeds as a public private partnership or by traditional procurement, a maintenance plan be prepared and followed to ensure the whole-of-life viability of the project.

The second matter identified in the review of Defence accommodation relates to the location of buildings on sites now unsuitable for residential purposes. This goes to the heart of Defence planning. The Committee understands the dynamics of the ADF. It recognises that the ADF by definition needs to be responsive to issues affecting Australia’s security that includes new technology, improved equipment, the training of its members and so on, and that the Defence estate needs to reflect these imperatives.

But at the same time, Defence needs to be conscious of the requirement for adequate planning to ensure both the integrity of the operational needs of the ADF and the needs of its members, reflected in the facilities it provides. From a lay persons perspective it is by no means clear why in the planning process, there is no clear separation of precincts between those precincts needed for operational purposes, and those precincts used for recreational and accommodation purposes so that there is no overlap between the two.

Mr President, I turn to the quality of community consultation undertaken by Defence.

While the department has engaged in dialogue with local Councils and other interested community groups, overall community consultation is not a Defence strongpoint.

For example issues raised both in the context of this proposal and others by Randwick City Council continue unresolved. Of particular concern is an ongoing problem of remediation works at the Randwick Barracks site that was the subject of a Committee report in 2004. In regard to the current proposal, the Council has expressed concerns over traffic arrangements, the anticipated population density of Randwick Barracks on completion of these works, drainage of surrounding streets, and the anticipated increase in road traffic when the new accommodation is occupied.

The Committee acknowledges that Defence has sought to address some of the issues raised by Council, and this is a continuing dialogue. But Defence should recognise that while it may not share the concerns of Council’s views, they do need to be attended to.

The Committee has recommended that in addition to addressing the concerns of Randwick City Council, Defence also follow up the range of similar matters that are of concern to other local government agencies.

In a similar vein, the Committee felt that Defence had not given appropriate recognition to water sustainability.

Mr President, as you would be aware the issue of water management is attracting nation-wide interest. Recently both Federal and State agreed through COAG to formalise a National Water Initiative.

Many of the bases that will be the subject of this proposal are located in rural and regional Australia, areas most affected by water shortages. Regrettably there appears to have been no consideration by Defence on the impact these proposed developments will have on an already fragile water infrastructure.

The Committee would urge the department to examine on a ‘good citizen’ basis how it can be self-sustainable in terms of water by elevating the priority of the National Water Initiative, as these proposed works move forward. In the Committee’s Report, it has been recommended that against the background of the current difficulties facing Australia, Defence seek guidance from both Federal and State agencies as to how it can minimise its impact on the water infrastructure.

Mr President I turn now to the method of delivery for this project.

From the standpoint of the Committee it is important that it have access to all matters impacting on the final cost of this project to the taxpayer in order to effectively discharge its legislative obligations.

The Committee was not confident that in undertaking its role in examining this project it had all the information available to be in the position of concluding that the project represented value for money and should therefore proceed.
Rather, in a departure from normal practice the Committee has recommended that the works proceed subject to the relevant Minister being satisfied as to the overall cost of the project and that the project represents value for money.

Mr President, the Committee has found itself in this position because the relevant legislation does not take into account the evolving complexities associated with the delivery of projects under a public private partnership.

The estimated cost of this project is $1.2 billion; however, that estimate relates only to the cost of the project were it to proceed by traditional means of procurement – that is where the Commonwealth directly undertakes the work and assumes all responsibility for completing the project including whole-of-life maintenance works.

It does not take into account the situation where a successful bidder for the project takes full responsibility for delivering the project including whole-of-life maintenance of the completed project and any risks that may be encountered along the way.

Under the current legislation that total figure – that is the difference between the traditional procurement figure, and the estimated project value including risk allocation is not made available to the Committee at the time the project is referred to the Parliament.

Similarly, Mr President, the Committee is not privy to any preliminary costs associated with the delivery of the project which goes to the total financial commitment by the Commonwealth.

Furthermore the Committee is not privy to any adjustments to the costs of the project deriving from a public interest test, some of which I have previously referred to – in the context of water sustainability for example that may lead to additional costs arising from a need to implement an improved on-base water storage infrastructure.

Mr President, in summary the delivery of projects by way of public private partnerships is complex by virtue of the processes that these projects need to undergo – from inception through to final delivery.

Further, there is the potential for the numbers of projects delivered by way of public private partnerships to increase for the reason that the benefits they offer are attractive. However, as I have recounted, the Committee found during the course of giving consideration to the current project, it was at a considerable disadvantage in terms of an opportunity to fully exercise its legislative responsibilities which is an issue that should be addressed.

Finally Mr President, I should like to thank all those who contributed to this Inquiry, including my fellow Committee Members, and officials of the Department of Defence.

That said, Mr President, I commend the Report to the Chamber.

Question agreed to.

DOCUMENTS

Register of Senate Senior Executive Officers’ Interests

The ACTING DEPUTY PRESIDENT (Senator Hutchins)—I present the Register of Senate Senior Executive Officers’ Interests, incorporating notifications of alterations of interests of senior executive officers lodged between 5 December 2006 and 18 June 2007.

AUDITOR-GENERAL’S REPORTS

Report No. 46 of 2006-07

The ACTING DEPUTY PRESIDENT (Senator Hutchins)—In accordance with the provisions of the Auditor-General Act 1997, I present the following report of the Auditor-General: report No. 46 of 2006-07: Performance audit: management of the Pharmaceutical Partnerships Program: Department of Industry, Tourism and Resources.

COMMITTEES

Treaties Committee Report

Senator TROOD (Queensland) (4.46 pm)—On behalf of the Joint Standing Committee on Treaties, I present report No. 84 of the committee, Treaty tabled on 6 December 2006. I move:

That the Senate take note of the report.
I seek leave to make a few remarks on the report, if I may.

Leave granted.


There is more than a little irony in the treaties committee considering this agreement between the two countries. Some senators may recall that there was an earlier agreement between Australia and Indonesia with regard to security, the 1995 Agreement on Maintaining Security, which was subsequently abrogated in 1999, I think it was. That earlier treaty was negotiated in secret, and it entered into force without reference to the parliament. In fact, it was that earlier treaty which was the inspiration for the creation of the Joint Committee on Treaties. That earlier moment of negotiation was, in my view, a rather disgraceful moment in the making of Australian foreign policy, one not to be repeated. Happily, we have moved on from that point. I am pleased to note that, with a certain exception, this particular agreement has widespread committee support.

During the inquiry the committee received 56 submissions and held two public hearings in Canberra and a further hearing in Sydney.

Unlike the earlier agreement, this particular treaty is a comprehensive coverage of the issues and areas of cooperation and of common interest between the two countries. It specifically focuses on areas which might generally be called the non-traditional security area: law enforcement, counterterrorism, maritime security, transnational crime, people trafficking and illegal fishing. It is perhaps worth while noting that in many of these areas there is already a high degree of cooperation between Australia and Indonesia.

The committee found that the treaty is in Australia’s national interests and has made five recommendations, including the recommendation that binding treaty action be taken.

Perhaps I could just make a few remarks in relation to some of the areas of controversy that were identified during the course of the committee’s hearings. First, it was put to the committee that the agreement would be vulnerable to unresolved issues of the bilateral relationship. The committee acknowledges that some aspects of the bilateral relationship are stronger than others, but it regards the agreement as providing the basis to strengthen cooperation between the two countries.

It noted during the course of its inquiry that in 2006 the Lowy Institute in Sydney conducted a poll which showed that 77 per cent of Australians felt it was important that Australia and Indonesia work together to develop a close relationship. The relationship, however, is subject to some widespread public misperception, and it was in relation to that misperception that the committee decided that, particularly with regard to the progress of Indonesia’s democratisation, an effort to be made to try and address those misunderstandings. The committee has therefore recommended that the Australian government engage in a campaign to increase public support for the Australian-Indonesian relationship. The campaign would have the goal of increasing awareness of the democratic reforms in Indonesia and the value to Australia and regional security of a strong bilateral relationship between Australia and Indonesia.

The inquiry revealed that there is widespread concern with regard to article 2(3) of the agreement. This contains a commitment...
by both Australia and Indonesia that neither will support or participate in activities which constitute a threat to the stability, sovereignty or territorial integrity of the other party. Some witnesses argued before the committee that this would limit the activities of private individuals in Australia who wish to act, lawfully, to support issues such as human rights in Papua or Indonesia more broadly. Government representatives responded directly to this concern. They made it clear that the obligation in article 2(3) of the agreement does not in any way infringe individual rights to freedom of expression or freedom of association. The committee is satisfied that the article will not limit the lawful expression of individuals’ or groups’ support for Papuan human rights or independence in Australia, should they wish to do so.

In relation to the defence cooperation, the committee supports an approach which engages the Indonesian military, and the agreement provides the basis for cooperation which is intended to improve the professionalism of the Indonesian military. This is in both Australia’s and Indonesia’s national interest. However, many submissions to the inquiry expressed concerns about human rights abuses by the Indonesian military. To address these concerns, the committee recommends that the Australian government increase the transparency of defence cooperation agreements to provide assurance that Australian resources do not directly or indirectly support human rights abuses in Indonesia.

The committee is conscious that most of the submissions to its inquiry concern Papuan human rights and the defence cooperation provisions of the agreement. As media access to the province of Papua is restricted, the committee is not in a position to comment directly on human rights matters, particularly where they relate to the Indonesian military. However, the committee agrees that more open access to Papua would help to ensure greater respect for human rights. For this reason the committee recommends that the Australian government encourage the Indonesian government to allow greater access for the media and human rights monitors in Papua. The committee also recommends that the Australian government continue to address widely expressed concerns about human rights in Indonesia with the Indonesian government and in appropriate international fora.

The committee recognises the high degree of interest shown by particular groups and organisations in relation to this agreement. The committee considers the agreement to be in the national interest as it provides a basis for further cooperation on key issues of strategic importance to Australia.

The committee also considers close cooperation with Indonesia to be essential to maintaining security and combating terrorism in the Asia-Pacific region. The agreement provides the basis for that close cooperation to further develop, and for this reason the committee has recommended that binding treaty action be taken. I commend the report to the Senate.

Senator BARTLETT (Queensland) (4.54 pm)—The report Treaty tabled on 6 December 2006 is an important report, and I am pleased to have the opportunity to speak to it as a member of the Joint Standing Committee on Treaties. As Senator Trood alluded, there was not quite total unanimity in terms of the recommendation that the treaty should be ratified and adopted, and I was the dissenting voice with regard to that fact.

I do support the other recommendations the committee put forward, which I think were a genuine attempt to try to address the very genuine concerns that were raised through the three public hearings the committee had, as well as through the range of...
submissions—the 50-plus submissions that Senator Trood mentioned. Those extra recommendations attempt to address some of those concerns.

There is a key question here. I have spoken on the record in this chamber and more widely a number of times about the importance of our relationship with Indonesia, the need for us to strengthen that relationship and particularly, as one of the committee’s recommendations goes to, the need to much more properly acknowledge the quite incredible progress that Indonesia has made in a very short space of time with regard to democratisation, given not only the reality of that country’s history but also its enormous area, its large and diverse population and the difficulties of putting into place some institutions from scratch, particularly putting them in the place of what was basically an authoritarian regime. These are difficulties which we perhaps do not appreciate in Australia, given our history of democracy stretching back over a century. There has been incredible progress. I think that in Australia we very much underestimate that, and it is appropriate that we do a lot better to make our community aware of that.

That appropriately celebrated fact cannot ignore the reality that there are still very significant human rights problems in parts of Indonesia, particularly with regard to some elements—not all but some—within the Indonesian military. A key reason that makes this a very difficult issue to address and ameliorate quickly is that the military still obtains a significant part of its resourcing off-budget, outside of government funding, through other activities, so it is able to function, in part, independently of the government with regard to resourcing. We cannot ignore that area.

It is appropriate to learn from the history of the previous treaty, which was signed in 1995 by former foreign minister Gareth Evans, from memory, and Mr Ali Alitas, the Indonesian foreign minister at the time. It might even have been on a jet plane in mid-air; I do not know why I have that imagery in my head but that is what I recall. Senator Trood is right to criticise that as a disgraceful process, not just in terms of the secrecy and the lack of consultation—that was pretty much par for the course in those days—but also because it did what I still fear we may be at risk of doing here, even though a lot of the other circumstances are different, which is ignoring the reality of serious problems in some parts of the Indonesian military, including Kopassus. We knew that reality existed.

Leaving aside the inadequacies in the process of that agreement being reached, let us not forget what it also led to and the concerns the people raised at the time: that the defence cooperation component of that agreement could leave Australia open to training, in Australian facilities—including Canungra, in south-east Queensland, near Brisbane, where I am from—Indonesian military people who were later alleged to have been involved in very serious human rights abuses, particularly in relation to East Timor. We have got that history to be aware of and, whilst many things have changed for the better, I do not think we can ignore the fact that not everything has changed as much as we would have liked, particularly in that area.

I do not think we can just say that we are not in a position to comment on the human rights situation in West Papua with regard to the military. It is pleasing that there is a recommendation here—and I support it—that more be done in opening up access to West Papua, but of concern is the very fact that we are signing a treaty that involves defence cooperation with a government who will not let people in to see what is happening in the key area—not the only area but the key
area—where there are repeated, continual, regular allegations, and a lot of documented reports, of serious human rights abuses involving elements of the military. I do not think we can just say that we are not in a position to comment about it. We might not be able to make a completely fully informed comment, but I think there is enough information around to make a reasonable degree of commentary.

That said, that still leaves us with that balancing act that is often an issue in international relations. I very much bow to Senator Trood’s far greater expertise and experience than mine in this whole area of international affairs and the like, but I was very much taken with the evidence, particularly by Hugh White. We had two people involved in the Lowy Institute who made similar assessments but came to different conclusions about how the treaty would help in addressing them. There is obviously still a lot of mistrust between our two countries, based in large part on misunderstandings, a lack of awareness and simply a lack of knowledge. That is why it is worth supporting any recommendation that goes to improving that understanding and cooperation, not so much government to government but more people to people, civil society to civil society and institution to institution to help repair those misunderstandings or build that awareness and some of that shared engagement that we need to improve on. It is extraordinary really, when you think about it, to have Indonesia as one of our nearest neighbours—such a major country on a global level, not just significant regionally—and we have not only quite limited engagement with it in lots of ways but also such a poor basic understanding.

There is no doubt that Papua is an issue of extreme sensitivity for Indonesia, and I understand some of the reasons for that. I also appreciate that it is a bit much for Australia to be appearing to lecture Indonesia in some respects about places like Papua. I, as many people have, could go through the history of how Papua came under Indonesian rule and the disputes there, but, frankly, I do not think Australia has much to lecture other countries on when it comes to self-determination for indigenous people and original inhabitants of a land. Whatever people may say about resources in West Papua being exploited and going to other parts of the country, and the people indigenous to that region not having enough of a say, a whole lot of our country’s mineral and resource boom is on the back of resources taken from Indigenous land in the north of Australia with the immense wealth there, and we did not give them any sort of referendum about whether they wanted other people to move in. So I think we need to be conscious that every country has its own failings, including Australia. Indeed, I would say our lack of ability to acknowledge our own extremely flawed history with regard to Indigenous Australians is a bit of a parallel in terms of our extreme sensitivity to criticisms about that and our blind spots about that. It is not a perfect parallel, I certainly concede, but I think there are some similarities there about how every country has its areas that they have particular sensitivities over.

The key approach, I think, that Hugh White put forward is really whether this will help or hinder in the long term in strengthening cooperation or whether putting in place this treaty will mean we are more likely to kid ourselves that we can ignore some of those areas that do need a lot of work—to use an analogy, whether we are papering over a small crack that will just help seal that in or whether there is actually quite a large crack there which, by papering over it, we will ignore and be less aware of when bigger problems are emerging. I am not convinced that the level of understanding between countries at all levels, at the societal level as much as at the government level, is such that
this is the right time for this. I think more work on some of the other recommendations, particularly in terms of engagement, would assist with that—particularly judging from some of the other evidence that was given to the committee, for instance by Clinton Fernandes, about the potential consequences and impact of having defence cooperation in these areas.

It is an area I wrestled over a lot, but I do think that at this stage it is not the appropriate time. I think we can learn from history and see some of the reasons for that. That is not an anti-Indonesian view; in a way it is saying that I want as strong as possible a relationship with Indonesia and I think this may be premature in giving us the best chance of making that happen. There were a range of other issues that were raised that I do not have time to go through now. I seek leave to continue my remarks later.

Leave granted.

COMMITTEES

Membership

The ACTING DEPUTY PRESIDENT
(Senator Lightfoot)—I have received letters from a party leader seeking to vary the membership of committees.

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.04 pm)—by leave—I move:

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

Community Affairs—Standing Committee—
Appointed—Participating members: Senators Birmingham, Cormann and Fisher

Economics—Standing Committee—
Appointed—Participating members: Senators Birmingham, Cormann and Fisher

Employment, Workplace Relations and Education—Standing Committee—
Appointed—
Senator Fisher
Participating members: Senators Birmingham and Cormann
Substitute members: Senators Fifield and Birmingham to replace Senators Lightfoot and Fisher, respectively, on 25 June and 26 June 2007

Environment, Communications, Information Technology and the Arts—Standing Committee—
Appointed—Participating members: Senators Boyce, Cormann and Fisher

Finance and Public Administration—Standing Committee—
Appointed—Senator Boyce

Foreign Affairs, Defence and Trade—Standing Committee—
Appointed—Participating members: Senators Birmingham, Boyce, Cormann and Fisher

Legal and Constitutional Affairs—Standing Committee—
Appointed—Participating member: Senators Birmingham, Boyce, Cormann and Fisher

Procedure—Standing Committee—
Discharged—Senators Eggleston and Ellison
Appointed—Senators Abetz and Parry

Publications—Standing Committee—
Discharged—Senator Barnett
Appointed—Senator McGauran

Rural and Regional Affairs and Transport—Standing Committee—
Appointed—Participating members: Senators Birmingham, Boyce, Cormann and Fisher
Treaties—Joint Standing Committee—
Discharged—Senator Trood
Appointed—Senator Birmingham.
Question agreed to.

TAX LAWS AMENDMENT
(SIMPLIFIED GST ACCOUNTING)
BILL 2007

First Reading
Bill received from the House of Representatives.

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.04 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 JOHNSTON (Western Australia—Minister for Justice and Customs) (5.04 pm)—I move:
That this bill be now read a second time.
I seek leave to have the second reading speech incorporated in Hansard.
Leave granted.

The speech read as follows—
This Bill amends the A New Tax System (Goods and Services Tax) Act 1999 to extend simplified accounting methods to more small businesses.
As part of the 2007-2008 Budget, the Australian Government announced a package of measures to make it easier for small businesses to meet their GST obligations. The measures include:
• increasing the GST registration turnover threshold for businesses to $75,000 and
• increasing the GST-exclusive threshold to $75 before businesses will need to obtain a tax invoice to claim an input tax credit for purchases.

In addition to those changes, the amendments in this Bill deliver on the Government’s commitment in the Budget to expand existing simplified accounting arrangements for GST to reduce red tape and compliance costs for Australian small businesses.

Small businesses make a substantial contribution to our economy and to Australia and are a vital source of jobs, exports and innovation. The Australian Government is firmly committed to ensuring that enterprising Australians can create a business and prosper. As part of this commitment to helping the small business sector, the Australian Government is streamlining and reducing business compliance costs as much as possible, including assisting businesses to comply with their GST obligations.

Since GST began in July 2000 the GST law has enabled the Commissioner of Taxation to offer simplified accounting methods for use by eligible businesses. Over time, the availability of simplified accounting methods for GST has been extended to include a wider range of eligible small businesses. Simplified accounting methods are currently available for eligible food retailers, including supermarkets, convenience stores, restaurants, cafes and caterers.

This Bill amends the GST law to extend the existing range of entities for which the Commissioner of Taxation can determine simplified accounting methods. From 1 July 2007, the Commissioner of Taxation will be able to determine, in writing, simplified accounting methods for businesses, or other entities such as charities, that have an annual turnover of less than $2 million and that make either a mix of taxable and GST free supplies, or that have acquisitions of taxable supplies and GST free supplies.

With small businesses making up 95 percent of all Australian businesses, this Bill ensures that more small businesses in Australia will be able to benefit from applying a GST simplified accounting method to reduce their GST compliance costs. In particular, some of the types of businesses that are expected to benefit from this initiative include small businesses that export goods or services, optometrists, retirement village operators, child care operators, chemists, educational institutions,
travel agents, suppliers of medical appliances and health supplement retailers.

Small businesses will be able to approach the Commissioner of Taxation to use a simplified GST accounting method and potentially apply a single ratio to their total sales or total purchases. That is, under the additional simplified accounting methods businesses with an annual turnover of less than $2 million will be able to determine their GST liability by applying a ratio to their total supplies to establish the proportion of taxable supplies to GST free supplies. The same method would be applied to total purchases to establish the proportion of taxable purchases compared to those that are GST free.

This Bill implements positive improvements to Australia’s taxation system and full details of the measures in the Bill are contained in the explanatory memorandum.

Debate (on motion by Senator Johnston) adjourned.

Ordered that the resumption of the debate be made an order of the day for a later hour.

WHEAT MARKETING AMENDMENT BILL 2007

First Reading

Bill received from the House of Representatives.

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.06 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 JOHNSTON (Western Australia—Minister for Justice and Customs) (5.07 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—

It has been a difficult 18 months for Australia’s wheat growers. Last year they faced a devastating growing season as winter and spring rains failed and the drought continued to tighten its grip across the country.

Growers have also had to deal with continued pressure to dismantle their wheat single desk due to strong, but justified criticism of the corporate behaviour of AWB Ltd stemming from the findings of the Cole Commission of Inquiry.

In spite of these challenges, growers continue to voice their desire to take control of their industry. This bill is a direct response to that call.

The Wheat Marketing Amendment Bill 2007 retains Australia’s single desk for export wheat and reflects the fact that the Government has always acted in the best interests of Australian wheat growers.

The key elements of this Bill include:

- the extension of the Minister for Agriculture, Fisheries and Forestry’s temporary veto power over non-AWB (International) Ltd bulk exports until 30 June 2008;
- the inclusion of the power for the Minister to change the entity that operates the single desk, to operate from 1 March 2008 until 30 June 2008;
- improved powers for the regulator to obtain information, particularly from wheat exporters other than AWB (International);
- the inclusion of the power for the Minister to direct the regulator to investigate matters relating to its functions and pass this information on to other law enforcement and regulatory bodies as necessary;
- a range of structural and governance reforms to the Wheat Export Authority, in line with the principles espoused by the Uhrig Review; and
- the deregulation of wheat exports in bags and containers, but with the addition of a quality assurance requirement to safeguard the reputation of Australian wheat.

In coming to its decision to retain the single desk the Government undertook an extensive consulta-
tion process with growers. The Wheat Export Marketing Consultation Committee, an independent body established by the Government and headed by Mr John Ralph, conducted 26 public meetings across the wheat growing regions of Australia and received almost 1200 written submissions.

Overwhelmingly, growers stated their support for the single desk. Almost as overwhelmingly was the call for the single desk to be operated by an entity entirely separate from AWB Ltd.

The Government has decided to give growers until 1 March 2008 to establish a new entity to manage the single desk. This entity may be either a completely new, grower owned and operated body, or a completely de-merged AWB (International) Ltd (AWBI).

Let me be very clear on two points. First, the holder of the single desk will have to have complete legal separation from AWB Ltd. Second, there will be no extension beyond 1 March 2008 for growers to establish a new entity to operate the single desk.

The Government acknowledges that the challenge it has set the industry is a significant one. It will require strong leadership and unity within the industry to reach a satisfactory outcome in the time allowed. It is now time for the industry to act. The Government is giving industry the opportunity to set up what it has asked for, it is the responsibility of industry to deliver.

While the Government has agreed to maintain a single desk for wheat exports it is not willing to allow AWB to retain the power to veto other bulk exports. Growers have suffered through AWB’s lock out from the Iraqi market and seen the risk of an inability to export outside of the single desk. This risk has left growers short-changed.

This Bill provides for an extension of the power provided to the Minister for Agriculture, Fisheries and Forestry’s in December last year to direct the Wheat Export Authority (WEA) to either approve or reject bulk export applications until 30 June 2008. If, for any reason, the single desk privilege should still reside with AWB after 30 June 2008 then the Bill provides for the veto power to be permanently removed from it.

The Government has stated publicly that while the veto power resides in the hands of the Minister it will continue to be exercised in the public interest and in a way that treats any application for a consent on its merits.

The Australian Government’s principal concern is the wellbeing of Australian wheat growers, which is a consideration of the Minister when determining whether or not to exercise his veto.

While it is the Government’s intention that the single desk be retained, AWB must be removed as its commercial manager as soon as possible, in order to maintain the integrity of the single desk. However, the task of replacing AWB will take some time. The commercial practicalities are such that AWB could not be replaced in time for the forthcoming harvest and will be allowed to market the 2007 harvest.

While this was not the Government’s preferred course of action, we were not willing to jeopardise the export marketing of the upcoming harvest by putting in place a new company that may not have been ready for the task. The risks to growers would be too high.

The Government is aware that establishing a grower owned and operated body will take time. Growers will be given that time, so that the new entity operates in a manner that best serves the industry.

The wheat industry is a major Australian export earner of great social and economic significance. Growers must be given the opportunity to get it right.

The current Wheat Marketing Act does not include provision to change the single desk manager. To provide the Government with the ability to transfer the single desk power to the new grower entity, this Bill will empower the Minister for Agriculture, Fisheries and Forestry to designate which entity holds the single desk.

The Bill provides that the power to change the single desk holder will not come into effect until 1 March 2008 and will sunset on 30 June 2008. The Government decided on this timing so that there was no possible cause for uncertainty. AWBI will be allowed to manage the 2007-08 National Pool, and do so in the best interests of growers. In addition, once the new designated
company is in place it will have certainty that it will be the ongoing manager of the single desk. This power will maintain the system of just the one company being exempt from the bulk export controls in the Wheat Marketing Act.

Naturally, before the Minister designates a new entity to take over as the operator of the single desk it will have to demonstrate that it is financially viable and has the capacity to undertake the task. The single desk privilege will not be granted to just any entity.

This Bill also makes a number of changes to the operations of the Wheat Export Authority. The Authority will be provided with the power to request information from parties other than AWBI, where it believes the request relates to the performance of its functions. This could include other exporters of wheat and associate companies that facilitate the wheat export supply chain.

This amendment is a significant broadening of the scope of the Authority’s existing information gathering powers. It reflects the Government’s clear intention that efforts to undermine the interests of Australian wheat growers and damage Australia’s international trading reputation will not be tolerated.

Further, the Bill provides the Minister with the power to direct the Authority to investigate a broad range of issues relevant to its functions where he considers it in the public interest to do so. The Authority will also be provided with the ability to pass on information to relevant law enforcement and regulatory bodies where it has received or uncovered information that warrants further investigation. These changes will commence upon Royal Assent of this Bill.

In addition to a strengthening of its information gathering and powers of investigation the structure and governance arrangements of the Authority will also be overhauled. The changes are based on reforms recommended by the Uhrig review into the governance arrangements of Commonwealth agencies.

The Uhrig review recommended two governance models designed to promote best practice governance. The model that most appropriately suits the functions and operations of a regulatory agency like the Wheat Export Authority is the ‘executive management’ template. This model calls for the elimination of a traditional Board structure and for the governance arrangements to be transferred from the Commonwealth Authorities and Corporations Act to the Financial Management and Accountability Act.

The Government has agreed to implement this model for the Authority. However, to maintain a level of independence from the Government it has been decided that the Authority would be made into a commission and renamed the Export Wheat Commission.

The Commission will comprise up to six Commissioners, including the Chairman, and all will be appointed based on the skills required for the effective operation of the Commission. Consistent with the Uhrig review recommendations there will be no representational appointments or Government members on the Commission. All commissioners will be appointed by the Minister and will be appointed on a part-time basis.

The views of growers will continue to be represented on the Commission. The Minister will be required to appoint at least one, and up to two, commissioners based on their strong skills, knowledge and standing in grain production and also at least one, but no more than two, commissioners based on their skills, knowledge and standing in export wheat production.

The Commission will continue to be funded by the industry through the Wheat Export Charge and export consent application fees. These funds will be held in a special account for the Commission that can only be used to fund its operations.

The Authority and the new Commission operate as a link between the operation of Australia’s wheat marketing arrangements and growers. It is important that this link continues and the Government expects it will be strengthened by these changes. In the statement of expectations to the Commission I will request that it consult regularly with industry in relation to the performance of its functions.

To provide sufficient time for the Authority to prepare itself for these structural changes the change to a Commission will not occur until 1 October 2007.
The final key element contained in this Bill responds to another request of the industry - the deregulation of wheat exported in bags and containers. This will be done by removing the requirement for exporters to first obtain consent from the WEA to export in bags and containers.

This was not a decision taken lightly by the Government. However, the Government believes that deregulating this part of the market will encourage further investment in the industry and allow further development of high value niche and new markets. It is not expected that exports in bags and containers will overtake bulk exports, as the economies of scale inherent in bulk exports means that they have a cost advantage over bags and containers. Exports in bags and containers are likely to remain a small part of the market.

Growers have raised concerns that wheat exports outside the current arrangements could allow the potential for rogue traders to undermine the good reputation of Australian wheat. That is why this Bill will make it a requirement that all wheat exports in bags and containers will have to comply with a quality assurance (QA) scheme.

The purpose of the QA Scheme will not be to dictate the quality of wheat that can be exported, but rather to make sure that exporters are meeting the specification of their contracts with customers.

The QA scheme will be developed by the WEA in consultation with industry. The WEA will be asked to have the scheme in place as soon as possible so all parties know what will be required. It is the Government’s intention that the scheme will work with existing industry standards and practices and impose as small a burden as possible on exporters.

The changes to deregulate wheat exported in bags and containers will come into effect 60 days after this Bill receives Royal Assent.

Over the last 18 months the wheat industry has faced a range of confronting issues. During this period the Government has never wavered from its commitment to consider the interests of growers. It has kept their interests paramount in its policy considerations.

This Bill maintains that commitment to growers and most importantly delivers on what they have continued to vocally and passionately support – the single desk.

Debate (on motion by Senator Johnston) adjourned.

Ordered that the resumption of the debate be made an order of the day for a later hour.

NATIVE TITLE AMENDMENT (TECHNICAL AMENDMENTS) BILL 2007

Returned from the House of Representatives

Message received from the House of Representatives agreeing to the amendments made by the Senate to the bill.

COMMITTEES

Rural and Regional Affairs and Transport Committee

Reference

Senator O’BRIEN (Tasmania) (5.08 pm)—I move:

That the Wheat Marketing Amendment Bill 2007 be referred to the Rural and Regional Affairs and Transport Committee for inquiry and report by 7 August 2007.

This legislation was introduced into the House of Representatives in another form last Thursday and was passed by the House of Representatives earlier today. That is the period of time it has been before the parliament. I think it is important to note that on 22 May the Prime Minister announced the government’s plan for the future of wheat export marketing. The Wheat Marketing Amendment Bill 2007 incorporates those changes and was introduced into the House of Representatives last Thursday, 14 June without consultation with growers or traders as to its form.

The Prime Minister’s announcement imposes an ultimatum on growers; you either get your act together and form a new entity without our help or we will impose complete deregulation on the industry. That is how it
appeared to many in the industry. The effect of that threat is to further polarise an already divided industry, impose an incredible burden on the industry at a time it is busy planting the next crop and, if not facing the worst drought in history, trying to recover from the worst drought in history. All of this is in an election year and will make it even more difficult for industry to achieve what the government could not achieve, and that is unity.

I want to endorse the comments of my colleagues in the House of Representatives last night, Mr Crean and Mr Gavan O’Connor, who pointed out what this is: an appalling failure of leadership on the part of this government. Mr O’Connor described it as ‘the ultimate buckpass’. There are around 30,000 wheat farmers across Australia, and not one of them was given a chance to have a look at this legislation as far as we are aware—certainly none of them have come forward and said to us, ‘Well, we saw it.’ Nor have they had an opportunity to have a say on what they think is fair and reasonable. The fact is—and the Prime Minister has admitted as much—that this issue has divided the coalition party room. What they have concocted is not a plan for the future of the wheat industry; it is frankly a plan simply to get the government through to the next election. The fact is that in this regard growers have been denied natural justice in this process.

The government claims it has widely consulted growers through the Wheat Export Marketing Consultative Committee—or the Ralph committee process. This morning in the House of Representatives, Minister McGauran criticised Labor for not responding to the Ralph report. Frankly, what a stupid statement—the government has not released the Ralph report! Despite the fact that we called for its release some time ago, this minister declined to publicly released this report—not just to the opposition but to the public. Then the minister makes a goose of himself by suggesting that somehow the opposition is at fault for not responding to a report that it has not seen. Nobody has seen it, not even the growers who at least were part of that consultation. I called on the government to release the Ralph report back on 13 March. At that time I said growers had a right to know the basis upon which the government would be making its decisions.

The government keeps referring to this mysterious Ralph report, claiming that more than 70 per cent of growers support what the government is proposing. Why doesn’t the government release the report? It is relying on a secret document. The committee reported to the government on the results of the consultation in late March. I note that on the department’s website it states: ‘...whether the Committee’s report will be made publicly available is a matter for the government to determine.’

We know now that the government determined not to release it. Why? What has the government got to hide? Before I finish with the secretive Ralph report, I want to make a very important point: the Ralph committee only consulted less than 10 per cent of growers. Labor knows—because we are listening—that there are many more growers out there who do not support what the government is proposing. Apart from that, even assuming that the government is accurately quoting from the mysterious Ralph report, the government has not even done what the majority of growers have said they want done—that is assuming you believe the government when it allegedly quotes from the mysterious Ralph report. On 22 May, the Prime Minister told the parliament:

Very strong majority support was expressed during the consultations led by the respected businessman Mr Ralph with Australian wheat growers that they favoured the retention of the single desk.

CHAMBER
A figure was cited by him of 70 per cent of the people he spoke to, although only a small minority of that 70 per cent favoured the single desk remaining in the hands of AWB. That is a conclusion that the government completely shares and endorses.

However, despite this, the government introduced into the House last week a piece of legislation which in its current form will allow AWB to retain the single desk. I will say again: it will allow AWB to retain the single desk. Frankly, Minister McGauran tried to sneak this provision through. The legislation in its original form would have allowed AWB to be reappointed to run the single desk, including with the veto power.

According to the Prime Minister, this is in direct conflict with what the majority of growers want. Minister McGauran was rolled by Mr Tuckey and others, but the amendment they moved this week, which has been passed in the House of Representatives, will still allow AWB to run the single desk, albeit without the veto power. How could this happen? My understanding of this legislation is that, if the minister makes no decision to appoint a designated company, then after 30 June 2008, the single desk will revert to AWB, which is nominated company B only without the veto. That is how it works, that is how the legislation is structured at the moment, as it has been introduced into this place.

The minister knows full well that the single desk is defined by section 57(1A) of the act in combination with the constitution of AWB Ltd. Section 57(1A) of the act exempts nominated company B from applying to the Wheat Export Authority for a licence to export wheat. It is this exemption which bestows privileges upon AWB Ltd which are not conferred upon other wheat traders, and the minister has not proposed in this bill to amend this section of the act and has therefore somehow managed to hoodwink the entire government into believing that they have somehow removed the single desk from AWB. The fact is this legislation allows AWB to continue as a single desk holder—this is in the Prime Minister’s own words—contrary to what the majority of growers have told the government, through the Ralph committee, that they want. There can be no more damning evidence than this that the government has stopped listening to the farming community and has lost touch with them.

As I said earlier, up until last Thursday when the legislation was introduced, grower groups had not seen the detailed legislation and as such have not been provided an opportunity to consider the detailed nature of the changes. On Thursday, 14 June the government passed a motion to exempt the bill from the cut off in this place, which means it can be dealt with in this session—and that is the government’s intention. When the cut-off motion was introduced the bill had not been introduced. Since then, the government has moved significant amendments to the legislation, which I suggest means that the legislation was flawed upon its introduction and has been hastily amended. I suggest this indicates that the legislation is probably fatally flawed because, despite the fact that it has recently been passed by the House, the coalition, as I understand it, remains bitterly divided over what has been able to be agreed upon and what should be in it.

Why would the government deny growers a chance to have a say over this legislation? Why would the government deny the parliament an opportunity to have a say over this legislation through a committee inquiry? There is only one reason: the issue is still splitting the coalition party room and the government wants to get it out of the way. Now that is not fair to growers, it is not fair to the Australian people and it is not fair to the parliament. What guarantee can the gov-
ernment provide that the legislation as it currently stands is not still riddled with errors or tricks by Minister McGauran? I wonder if Senator Judith Adams is happy with this legislation, which she is apparently about to vote in favour of, paving the way for AWB to be reappointed to run the single desk.

My office has been in discussions with major growers and trading groups. We have done the best we can with the disgracefully short notice we have been given by the government in relation to this legislation. But what I can say is this: we have received many submissions, both in writing and verbally, which highlight concerns and, in some cases, serious flaws with the legislation. The number and nature of submissions my office has received demonstrates that the government has not adequately consulted the industry about its plans.

Last week, in response to these concerns, Labor announced its plan to move to split the bill to allow a bill extending the minister's power of veto to be passed this week and incorporate other non-urgent aspects of the legislation into a separate bill that can be referred to the Senate rural and regional affairs committee for inquiry, and that is the purpose of this process. We did this so that the parliament and growers and the public could have a say over the legislation.

Our call to refer the legislation to the Senate committee was widely supported by grower groups. The Grains Council said in their media release on 14 June:

"We note that the Opposition is seeking to refer the amended Act to the Senate's Rural and Regional Affairs and Transport Standing Committee, for examination of the detail of the legislation and its impact on the industry. We support this move. The Committee is respected across the industry and has a depth of knowledge of the wheat export system", Mr Jones said.

The Pastoralist and Graziers Association said:

Western Australian wheat growers are challenging agriculture minister Peter McGauran's defence of the wheat marketing amendment bill and are urging Western Australian Liberal senators to back opposition agriculture spokesman Kerry O'Brien's motion to split the bill.

And later:

We call upon Liberal senators to put the interests of wheat growers first with a close review of the legislation proposed by Minister McGauran.

And there are others. Labor also received support from other senators—from the Greens and the Democrats. There is obviously a need for more scrutiny, because the government itself found the original bill unacceptable and has amended it. But these amendments do not go far enough. Apart from the obvious flaw that the amended bill will allow the single desk to return to AWB, there is a range of other problems that we are aware of, and probably more that would come to light through the committee process.

In considering this legislation Labor has sought advice from the Grains Council of Australia, the National Agricultural Commodities Marketing Association Ltd, Australian Crop Forecasters, Grain Growers Association, Pastoralists and Graziers Association of Western Australia, the New South Wales Farmers Association, AWB Ltd, Graincorp Ltd, South Australian Farmers Federation's grains division, Western Australian Farmers Federation's grains division, Western Australian Grain Group, the Australian Grain Exporters Association, and the Rural Marketing and Supply Association representing the box and container sector.

Some of the problems we have become aware of—that is, the types of concerns that have been raised with us—include: first, there was not any consultation about the legislation; second, there was an inadequate time frame for these organisations to consider the legislation; third, there was no opportunity to provide input into the draft legis-
lation; fourth, widespread concern existed at the failure to limit how the minister plans to use his temporary veto power; fifth, there was a failure to provide for the assessment of export wheat applications ‘on merit’ as the Prime Minister announced to the House of Representatives on 22 May; sixth, there is no mention of the so-called ‘exceptional circumstances’ that the Prime Minister referred to in his announcement to the House; seventh, there is no threshold test to determine whether the new entity will be capable of managing the single desk after 1 March 2008—if it eventuates; eighth, some groups have grave concerns that the legislation does not provide adequate safeguards to ensure that the designated company does not simply start to behave as the corrupt AWB did; ninth, the government claims the new regulator powers have been strengthened, but there is a widespread view that they have been widened only to capture companies other than the current single desk operator; 10th, some groups are concerned that the bill does not provide further contestability; 11th, there is also concern that the bill removes the current prudential check applied to box and bag exporters, and therefore increases financial risks to growers; 12th, there is no additional power to allow the regulator to apply real-time monitoring and measuring to AWB or the designated company, which in the view of some means that the designated company could simply continue to indulge in speculative trading, just as AWB has done, and, in the process, lose hundreds of millions of growers’ dollars; and, last, the Grains Council is concerned that the bill repeals sections 14 and 15 of division 5 of the act, which are the functions relating to reporting to the industry. I am advised that the government did not even consult with the industry about this aspect at any stage—not during Ralph, nor at any time during the past 18 months—so this proposal has come out of the blue. How could the government possibly know whether this move had the support of the industry when it had not consulted them about it?

Labor acknowledges that there is widespread support for extending the minister’s so-called veto power. The basis for this support is that growers do not want the veto of the single desk conferred back upon AWB. It is now apparent that this legislation will ultimately allow the single desk to be run by AWB in certain circumstances.

Something else we need to focus on is the power for the minister to change the single desk arrangement from 1 March 2008. We note that this schedule was the subject of further amendments in the House only this week. The effect of these further amendments is to put a sunset clause around the time for which the minister can exercise this power. This means that the minister has to exercise the power at some stage between 1 March 2008 and 30 June 2008. I want to make the following point very clear to my fellow senators, especially those from Western Australia. I draw their attention to page 9 of the third reading of the Wheat Marketing Amendment Bill under schedule 3, clause 3AA, subclause 12. Subclause 12 means that, should the minister decide not to use his power to appoint a designated company, AWB will continue to run the single desk. I remind the Senate of the words of the Prime Minister on 22 May. He said:

… it remains my very strong view, that a retention of the status quo with AWB, given the circumstances revealed in the Cole inquiry, would not have been acceptable to the government, would not have been acceptable to me and would not have been acceptable to the Deputy Prime Minister and Leader of the National Party.

He also said:

… only a small minority of that 70 per cent favoured the single desk remaining in the hands of
AWB. That is a conclusion that the government completely shares and endorses.

Only two weeks ago the Prime Minister made it very clear in the House of Representatives that the regulator’s powers would be significantly increased, and the debate about WEA powers has been going on—and I have been conducting it—since 2000. The government ignored the recommendations of the National Competition Policy Review in 2000, the Senate committee report in 2003, several reports from WEA itself and ultimately the Cole commission. It simply ignored the Cole commission recommendation to review the Wheat Export Authority’s powers. From what we have seen, this legislation expands the reach of the regulator to companies other than ‘nominated company B’ but does not provide significant new powers to the regulator. The Labor Party finds this totally unacceptable. Also, how will the new Export Wheat Commission pay for the new responsibilities? There is no detail or financial impact statement. Will growers be forced to wear the cost? There is no new money for the Wheat Export Authority or the Export Wheat Commission in the budget.

Labor notes the amendment to put a 60-day limit on the time in which the minister must exercise his proclamation for bagged and boxed wheat deregulation, but some sections of industry have expressed concern about the proposal for quality assurance of bags and containers, with some groups claiming it is an unnecessary bureaucratic hurdle designed to put a false barrier in the way of trade. It is certainly arguable that there is no strong case for a quality assurance scheme. The market is more than capable of effectively dealing with these issues.

There are many other issues I could deal with, including the inadequacy of the Uhrig changes which this legislation contains. In relation to that proposition, we think the only way to deal adequately with this matter is to support Labor’s proposition, which will indeed allow for the urgent matters in the legislation to be dealt with while the rest of the bill is referred to the Senate Standing Committee on Rural and Regional Affairs and Transport, a committee which has the respect of the industry.

Senator MURRAY (Western Australia) (5.28 pm)—The problem with debating notice of motion No. 2 is that the motion does not effectively do what the shadow minister is suggesting it should—namely, allow for the immediate passage of the veto provision and separate consideration of the other provisions. We are sympathetic to that. We are encouraged by the fact that the original bill has been amended. Frankly, it was extremely flawed and, whilst I have not had the chance to study the amendments in detail, I am advised that they certainly are an improvement on what was originally proposed. The problem for the Senate is that this remains an extremely contentious issue. It is a public policy issue, not just an industry issue. It is one of whether choice and flexibility should be provided to the farming community rather than what has become an authoritarian and monopolistic practice. The public policy issues do deserve to be considered by the parliament in trying to address this bill and the future of wheat marketing.

As we all know, there is a great deal of support amongst many members of the coalition for a partially deregulated system with greater choice and, frankly, the interim provision of giving the veto power to the minister effectively means that for this period, as it was for the last period, the single desk is dead, because more than one exporter has been licensed in the recent past and I expect more than one exporter will be licensed in the future. If that is the reality—and so it should be the reality; quite frankly, the east coast National Party should be defeated in this matter—then that would be a good thing.
We would look forward to a situation where our Western Australian export farmers will have a choice of who they can export their product through. Of course they should be licensed, but that is the direction in which we should go. But in the meantime, to confirm that should be the choice, we need an inquiry. This is why the Democrats have been interested in the shadow minister’s reference and his proposal. My difficulty with the reference as it is put together is that events are overtaking us. It will be a while until we come back and the legislation is upon us. I would prefer it if the shadow minister would consider a differently phrased motion to be put to the bill tomorrow, to examine the public policy issues surrounding the provisions of the bill in a more general inquiry rather than on the specific bill itself. The bill, as I read the forward program, is bound to be passed tomorrow, so therefore the reference would be difficult to manage.

I would urge the Senate to consider that option favourably, despite the opposition of my good friends in the National Party to the idea of modern market economic mechanisms being introduced to the export of wheat. I know some of the Queenslanders have struggled to catch up to that, but I am sure they can be brought along.

Debate (on motion by Senator Abetz) adjourned.

Ordered that the resumption of the debate be made an order of the day for a later hour.

REPRESENTATION OF WESTERN AUSTRALIA

The PRESIDENT (5.32 pm)—I have received, through the Governor-General, from the Governor of Western Australia a copy of the certificate of the choice by the houses of parliament of Western Australia of Mathias Hubert Paul Cormann to fill the vacancy caused by the resignation of Senator Ian Campbell. I table the document.
wheat marketing because it is of such crucial importance to our farmers, our community and our regional centres. We are talking about the future of regional Australia when we talk about the future of our marketing system.

This debate is being rushed through so that the government can shut down debate on this issue in the run-up to the election not only within the coalition but within the community. The only urgent part is dealing with the veto. That could be dealt with while the rest of it is subjected to the proper scrutiny of a full inquiry of the Senate Standing Committee on Rural and Regional Affairs and Transport. I am a member of that committee. I know that we go through things with a fine tooth comb and I believe that is the appropriate way to look at this bill.

We saw the complete disaster of the previous arrangement. We certainly do not think that we should be exposing Australia and our farmers to that particular debacle again, because we do not believe the marketing of our wheat will survive another scandal like that. The way this bill is being rushed through means that it deliberately avoids scrutiny. Pushing it through will not enable us to have a full and complete debate on it and analysis of it. This bill has major ramifications for our future and the way that we sell wheat and we should have the opportunity to carefully consider it, to look at whether the appropriate approach is being taken and also to look for any loopholes.

We see loopholes coming up all the time. In fact, we were just debating some this morning on the safety net legislation. We had an inquiry into that, limited though it was, and the government introduced amendments to address some of the issues that came up during the inquiry. I strongly suspect that there may be the same sorts of loopholes written into this legislation, particularly as it has been so rushed and had such little time for outside scrutiny. I know that the coalition has had some consultation with some stakeholders on the bill, but this does not allow adequate time for people to do a proper, full, detailed analysis in public of the provisions of the bill. We believe, as I said, that the community needs to be able to have that debate in public.

The bill provides for the government to designate a company to hold the single desk and export privileges and make significant amendments to the Wheat Export Authority. What happens next year if farmers cannot put together an appropriate body is of concern to us. The failure of oversight is one of the biggest lessons to be learnt from the bribery scandal. We need to ensure that the oversight provisions are up to scratch and meet the accountability needs and that adequate safeguards are put in place. These are the sorts of issues that the community wants to look at and to be able to comment on.

The Greens can see no reason why the bill should not be referred to committee to allow the committee to look at it, to receive submissions and to look at these very significant issues. We strongly believe that, to maintain faith with the farmers of this country and the community, we should be referring this to committee. We will be supporting this motion. We are very deeply concerned, as I have said in this place before, about the contempt that is being shown to the community and to farmers by the fact that this is being rushed through in this manner.

Amendments to bills that are made on the run when further consultation is carried out before the bill comes before us is of concern. This is essentially what is happening here, which indicates to me that there are still issues that need to be looked at in this bill and that we should be allowed time to adequately consider them without the bill being rushed
through at a minute to midnight, which is virtually what we will be doing tomorrow. At a minute to midnight we will be looking at this bill. Everyone is dead on their feet already, so not only are we not even referring it to committee but we are dealing with it at the very last minute. That is not the appropriate way to legislate for the future of wheat marketing in this country. Doing this as the Senate is rising for the winter session, when we have been dealing with very intense issues for some considerable period, does not enable a fully considered debate. We certainly support this motion.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (5.44 pm)—First of all, can I say that it was a delight to be able to welcome Senator Cormann into the chamber. In relation to the motion that is before us, the government will oppose this motion to refer the legislation to a committee. As I have previously stated, the Wheat Marketing Amendment Bill 2007 provides extended certainty to the wheat-growing sector. I trust that Senator Siewert was not seeking to be too provocative to those of us on this side of the chamber with the suggestion that the Greens were championing the cause of the farming community. That is a very difficult one for us to swallow but I will leave it there.

The bill really deals with administrative issues and I am not going to go any further into the facts of this again. I have already put the government’s position on the record in relation to a previous debate, and once again I can indicate that the government opposes the motion.

Senator O’BRIEN (Tasmania) (5.45 pm)—Isn’t it amazing? We are talking about a piece of legislation, the Wheat Marketing Amendment Bill 2007, dealing with an industry that is worth billions of export dollars to Australia. It was introduced last week into the House of Representatives. It has not been shared, prior to introduction, in any form with the grower communities. All we hear is, ‘It’s just a technical matter and we’re not going to support a reference to a committee.’

We gave the government every opportunity to deal with the only matter that it considered was urgent, when this bill was exempted from the cut-off. On page 31 of today’s Notice Paper, there is a contingent notice of motion of mine. That would enable the splitting of this bill so that the urgent matters could be passed and these other matters could be the subject of an inquiry for report in the next sittings in August. It would allow an inquiry to take place expeditiously over the break. There has been no indication from the government that they have given any consideration to that whatsoever.

There has been no indication from those senators who have been vocal in their criticism of the positions taken by the minister in relation to the single desk. There is a complete picture of unity on the government’s side, and that is what this is all about. The government and the coalition party room want this legislation out of the way and the problem put to one side until after the next election. We know there is not real unanimity in the coalition party room. Indeed, the grower community is not united as to the future for export wheat marketing, but the only thing this legislation is intended to do is to put the problem to bed until after the election. It is remarkable that, with all of the issues which are being raised by grower representatives and other parties to the industry, this government is prepared to rush the legislation through with a minimum of scrutiny and a minimum of an opportunity for the parliament to look at it.

We really believe that it is responsible for us to propose that this legislation be referred to a committee—a committee on which the
government has a controlling majority. It is not a committee that is going to be hijacked by the opposition or the minor parties; it is a committee on which the government has a majority. It is a committee which, frankly, has a history of handing down unanimous reports. More often than not it has handed down unanimous reports. The Rural and Regional Affairs and Transport Committee has, on a variety of occasions, looked at the situation of the wheat industry and legislation of this type, but the minister has obviously extracted concessions from his party room, and senators are apparently not prepared to challenge the view of the minister in relation to the passage of this legislation, for the reasons that I have outlined.

If this motion is not carried then of course there will need to be an extensive committee stage of this legislation, and the opposition will be insisting on answers to questions about the construction of the legislation and its impact. We will not accept a deferral of those matters to some other time. I put the government on notice that they will need to have material available to be able to answer questions about the impact of the legislation, if we come to that point. That, frankly, is an inadequate way of dealing with the legislation and the suggested problems that exist with it.

In relation to the comments from Senator Murray, I privately clarified his statement. He expressed to me the view that he had the impression that the government were going to vote down this reference and therefore perhaps some other course of action might be open. He was well aware of our contingent notice of motion which would allow the splitting of the bill. I took it that he thought that was a preferable course of action. As I understand it, the alternative position that he put was on the basis that he was aware that the government were committed to a course of action, irrespective of the arguments put, to have this bill not referred to a committee.

I say again that this is a bill which deals with an industry which involves billions of export dollars and thousands of farming families’ livelihoods, but this government are so arrogant that they are content that it be rushed through the parliament—with a week from its introduction until its passage—with no real scrutiny through proper processes, and with a behind-closed-doors process negotiating some amendments, the impact of which will probably only become clear some time down the track. They ask growers to believe that they have acted in their interest. Frankly, that is a laughable proposition. It is laughable to suggest that this parliament’s conducting itself in this way will be in the interests of the community or the growers or, indeed, the probity of the parliament.

I suggest that it would be best for those coalition senators who support this bill to hang their heads in shame. I understand why they would vote for it. I understand that it is about party unity. But I suggest that it is much more important that legislation which affects growers be conducted in a way that allows growers to have a real say, a considered say, in the outcomes of it. This legislation, frankly, might be with us for some time. One does not know the intention of the government after the election. One does not know whether the Prime Minister is suggesting deregulation to one group of coalition party room members and something quite different to another group of coalition party room members. Perhaps that is academic anyway. Perhaps we will never know. But it is an incredible shame that the government is intent upon preventing appropriate scrutiny of legislation when it concerns such an important sector of the economy and when it can have such a great impact on this industry and, indeed, on Australia’s international trading reputation.
Question put:
That the motion (Senator O’Brien’s) be agreed to.

The Senate divided. [5.57 pm]
(The President—Senator the Hon. Paul Calvert)

Ayes.......... 31
Noes.......... 33
Majority....... 22

AYES
Allison, L.F. Barlett, A.J.J.
Bishop, T.M. Brown, B.J.
Brown, C.L. Campbell, G.
Carr, K.J. Evans, C.V.
Faulkner, J.P. Fielding, S.
Forshaw, M.G. Hogg, J.J.
Hutchins, S.P. Kirk, L. *
Lundy, K.A. Marshall, G.
McEwen, A. McLachan, J.E.
Milne, C. Moore, C.
Murray, A.J.M. Nettle, K.
Sherry, N.J. Siewert, R.
Sterle, G. Stott Despoja, N.
Webber, R. Wortley, D.

NOES
Abetz, E. Adams, J.
Bernardi, C. Birmingham, S.
Boswell, R.L.D. Boyce, S.
Brandis, G.H. Calvert, P.H.
Colbeck, R. Coonan, H.L.
Cormann, M.H.P. Coonan, H.L.
Ellison, C.M. Ferguson, A.B.
Ferravanti-Well, C. Fifield, M.P.
Fisher, M.J. Humphries, G.
Johnston, D. Joyce, B.
Kemp, C.R. Lightfoot, P.R.
Mason, B.J. McGauran, J.J.
Nash, F. Parry, S. *
Patterson, K.C. Payne, M.A.
Ronaldson, M. Scullion, N.G.
Troeth, J.M. Trood, R.B.
Watson, J.O.W.

PAIRS
Conroy, S.M. Chapman, H.G.P.
Crossin, P.M. Heffernan, W.

Hurley, A. Minchin, N.H.
Ludwig, J.W. Barnett, G.
Polley, H. Macdonald, J.
Stephens, U. Macdonald, J.A.L.

* denotes teller

Question negatived.

NATIONAL HEALTH AMENDMENT (PHARMACEUTICAL BENEFITS SCHEME) BILL 2007
In Committee

Consideration resumed.

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (6.01 pm)—I foreshadowed earlier today that the government would be moving an amendment, which I think has been circulated—item (1) on sheet QH363. The government amendment reflects recommendation 2 of the Senate Community Affairs Committee report into the National Health Amendment (Pharmaceutical Benefits Scheme) Bill 2007. The recommendation of the committee was that the minister report to the Senate 12 months after the implementation of the reforms on the impact of the reforms particularly on the cost of medicines to consumers.

What the government proposes here is just that the minister must prepare a report on the impact of the reforms made by the bill and the impact on the cost of pharmaceutical benefits to patients as a consequence of the reforms. I should point out, however, that the preparation of the report, according to the amendment, must be completed by 31 December 2009. I understand that the opposition agrees with that because it is only at that stage that sufficient information will be available to make sensible conclusions about public policy. I move amendment (1) on sheet QH363 on behalf of the government:

(1) Schedule 1, Part 1, page 63 (after line 14), at the end of the Part, add:

93A After section 104A
104B Report on impact of National Health Amendment (Pharmaceutical Benefits Scheme) Act 2007

(1) The Minister must prepare a report on:
   (a) the impact of the reforms made by the National Health Amendment (Pharmaceutical Benefits Scheme) Act 2007; and
   (b) the impact on the cost of pharmaceutical benefits to patients as a consequence of the reforms.

(2) The preparation of the report must be completed by 31 December 2009.

(3) The Minister must cause a copy of the report to be laid before each House of the Parliament within 5 sitting days of that House after the day of the completion of the preparation of the report.

I see Senator Bob Brown here and I just want to correct a statement I made earlier in relation to the earlier debate, and I shall do this, Senator Brown, for your benefit in particular. Earlier, in response to a question from Senator Brown, I advised that Mr Ian Chalmers from Medicines Australia was a member of the Access to Medicines Working Group. I have since been advised that this is not correct. Mr Chalmers is not a member of this group. The fourth member of the working group is Mr Stephen Crowley. Mr Crowley is a nominee of Medicines Australia and is an employee of Janssen-Cilag.

Senator McLUCAS (Queensland) (6.03 pm)—We are pleased to see that at least this amendment has come forward. But in saying that, this is the role of the committee. This is what usually happens in the community affairs committee. This is where you have discussions about what the appropriate date should be for reporting. If it had not been that there was an opportunity, because we went into matters of public importance, for the parliamentary secretary and I and our advisers to have a chat, we would be arguing about a date that was six months earlier. This is the appropriate date, 31 December 2009, for this to be reporting. At that stage we will have 12 months of real data and six months in order to conduct the inquiry.

That is why you do not truncate Senate inquiries—so that you have time to talk through and think through the implications of proposed amendments before the chamber across those people who are interested and involved. Unfortunately, because of the truncation of the inquiry, we have done that here. That is a bit of luck. I do not want to legislate by luck. I want to have a bit of time to think things through properly to make sure that we end up with the right result. Labor would have preferred our amendment in terms of the conduct of the inquiry—that it be done by the Pharmaceutical Services Federal Committee of Inquiry. We understand the government’s position on that. We would have preferred as a second option to have a group of people independent of the minister to conduct the inquiry. That would be our preferred position. But we will support this proposal as it stands given that it is better than nothing.

I am pleased to hear the parliamentary secretary confirm that this puts into effect recommendation 2 of the Senate committee of inquiry. The concern of Labor has always been around the cost to patients and consumers. The language, which has shifted slightly from our proposal, talks about the cost of pharmaceutical benefits to patients. As long as the cost of pharmaceutical benefits to patients means the costs of medicines to consumers including copayments and special patient contribution or premium payments is clear—and that is what the inquiry will be about—then we are somewhat happier than if we were not to have an inquiry at all. I thank the parliamentary secretary for at least negotiating as far as we have got on this—I think it is better than having nothing—and I
also want to put on record my thanks to the advisers for their assistance and to my adviser who has gone back over to the shadow minister for health’s office where she lives. Thank you.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (6.07 pm)—I also support this amendment. I would have preferred the ALP amendment but I recognise that the government wishes to keep control of this. I was not able to make a second reading contribution to this debate. It is a very complex bill and a difficult one to understand in a very short time frame. There were not a lot of submissions; there certainly were none, I think it is fair to say, that were able to make an in-depth critique of this legislation. So it was certainly our feeling that a review would assist us to know whether or not we were doing the right thing in supporting this legislation. The PBS is a fundamentally important part of our health system and we were very nervous about supporting something which might undermine it in any way.

We were very supportive of the idea that we should be moving to generic-brand medicines in this country, acknowledging that we pay more for them than other countries do. So it is a complex and difficult issue to deal with. As I said, we would have liked more time to look into this legislation, but that was not to be. We look forward to the review that this amendment provides for and hope that it is done in a very comprehensive and honest way so that we know whether this legislation has been effective or not.

Question agreed to.

Bill, as amended, agreed to.

Third Reading

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (6.09 pm)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

COMMUNICATIONS LEGISLATION AMENDMENT (CONTENT SERVICES) BILL 2007

Second Reading

Debate resumed from 12 June, on motion by Senator Scullion:

That this bill be now read a second time.

Senator McLucas (Queensland) (6.10 pm)—I rise to speak to the Communications Legislation Amendment (Content Services) Bill 2007. This bill is essentially designed to amend the Broadcasting Services Act 1992 to establish a new regulatory framework for live internet content, mobile content and convergent devices, such as mobile phones and other mobile communications devices that act as multimedia platforms and can deliver audiovisual content, so that children are protected from exposure to inappropriate or harmful content delivered via such devices. The bill will also amend the Telecommunications (Consumer Protection and Service Standards) Act 1999 to include the Indian Ocean territories of Christmas Island and the Cocos islands in reviews by the Regional Telecommunications Independent Review Committee. I might leave my contribution at that point as a little introduction. I understand that our shadow minister Senator Conroy is going to seek to incorporate his speech and that Senator Wortley is keen to make a contribution.

Senator Wortley (South Australia) (6.11 pm)—I rise to speak on the Communications Legislation Amendment (Content Services) Bill 2007. This bill is intended to amend the Broadcasting Services Act 1992 so as to establish a new regulatory framework for live internet and mobile content and convergent devices, including 3G mobile
phones and other mobile communications devices that act as multimedia platforms and are able to deliver audiovisual content, so that our children are protected from exposure to inappropriate or harmful content delivered via such devices. So the purpose of this bill is essentially to protect minors from damaging content so delivered, and this purpose is to be achieved by way of a coregulatory approach on the part of government and industry participants. It will also see amendments to the Telecommunications (Consumer Protection and Service Standards) Act 1999.

Labor supports the general intent of the bill. Labor has stated unequivocally that the protection of children from exposure to violent, pornographic, harmful and otherwise inappropriate material, whether via the internet or other convergent technologies, is paramount. Labor is committed to the protection of minors from damaging online content. All present in this place recognise the common ground on which this commitment is based: that young and vulnerable children must be protected from inappropriate and harmful content available on the internet and via mobile phones and other technologies.

This bill is based on the premise that clearly consumers are increasingly accessing avenues of information and entertainment through mobile phones and subscription internet sites. Mobile phones and other hand-held devices offer access to a range of media-rich services, including broadcasting, internet and telephone content. The scale of these related technologies is demonstrated by international research which, on the most recent data, puts the number of mobile phone subscribers globally at in excess of two billion; and the most recent data for mobile phone subscribers in Australia estimates the number to be more than 18 million. The adoption rate has been phenomenal, providing users with access to music, video, games, internet, SMS and video messages, to name just a few. In relation to the internet, there are in Australia 6.43 million active internet subscribers. A breakdown of this figure shows there are 761,000 business and government subscribers—this is subscribers, not users—and more than 5.6 million households that subscribe to the internet, with a varying number of users in each household having access to live streamed videos, chat rooms, blogs, video-file sharing and virtual worlds.

The benefits of such services to consumers and, through the creation of new commercial potentials, to carriage service providers and content service providers are enormous. There is also enormous potential for the dissemination of harmful, exploitative or otherwise offensive material, particularly to minors. Gone are the days when parents simply changed channels or turned off the television or radio if they considered broadcast material to be inappropriate in the context of their particular family circumstances and values.

This bill establishes a framework where content will be prohibited over the internet and on other convergent devices under certain circumstances including: when it has been classified RC or X18+ by the Classification Board; when it has been classified R18+ and access to it is not subject to an age verification system; and when it has been classified MA15+ and it has been provided by a commercial content provider, but it is not a news or a current affairs service, or it does not consist of text or still images, and it is not subject to an age verification system. This bill proposes that when such ephemeral content is accessed on a commercial basis it should be regulated via mechanisms that include pre-provision assessment, access restrictions or outright prohibition, and complaints protocols. Stored content will be similarly liable to regulation. There will be a significantly expanded role for the Australian Communications and Media Authority to
include registration and approval of industry codes of practice, the determination of industry standards and service provider rules and the potential for imposition of penalties should a content provider fail to comply with a notice issued by the authority.

The Senate Standing Committee on Environment, Communications, Information Technology and the Arts, which was recently charged with the role of examining this bill, accurately stated that industry and consumer groups that furnished submissions to its inquiry were generally supportive of the bill’s intent; however, it is important to note that each of these submissions articulated significant and specific concerns as to the bill’s terms and/or likely effect. Some submissions opposed the bill on civil liberties grounds or on the basis of general policy differences. Another submission looked to the needs of artists in setting out its concerns regarding the ambit of the proposed provisions. It submitted that the bill did not adequately take into account the needs of filmmakers and multimedia and digital artists.

ALP senators submitted a minority report highlighting some of the major concerns. They identified a number of issues, including the fact that the bill does not prevent prohibited material from being accessed through overseas content providers. A further issue was that content classified MA15+, which is now accessible to those aged 15 and over—for example, in movie previews—cannot be accessed from an Australian website without age verification. This would of course be problematic for minors between 15 and 17 years of age because credit cards are not available to those under the age of 18. A method of age verification would therefore need to be established. Other issues included: the fact that the bill would extend a prohibition to material rated RC and X18+, which would mean that this material could not be watched on the internet despite the fact that it would be legally available in some jurisdictions and could be legally purchased from other jurisdictions via mail order; that consultation with makers of content appeared to have been deficient; that there would be the potential for discrimination against artists using the convergent technologies for the creation and dissemination of artistic works including video art work, web and sound art, and short films; that the proposed mechanisms for furnishing a take-down notice to a hosting service that was hosting or was proposing to host content that was the same or largely similar to that identified in the notice, in their present form, would not be sufficiently certain for both the regulator and hosting services; that the reference to the provision of trained content assessors raised related questions as to the type and level of training required, the cost that would have to be borne and by what mechanism the cost would be met; and that the definition of ‘content service’, with its exemptions, is confusing and appears to confuse the roles of content service provider and of content carriage provider.

Labor support the intent of this bill but we are concerned that it may not be as effective as intended. It may also provide parents with a false sense of security because the bill only prevents children from accessing prohibited or potentially prohibited content when it is hosted on Australian sites. For children to be adequately protected today from accessing prohibited or potentially prohibited material via the internet, we must consider content filtering. Labor considers that this bill does not go far enough. Labor believes that we should make use of the available tools—including the use of internet service provider filtering—to protect Australian children from exposure to harmful and inappropriate internet content. A clean feed filtering service to homes, schools and public libraries can filter
out Australian and overseas sites containing content that is harmful or inappropriate.

In conclusion, I draw attention to the fact that once again—as has so often been the case—Labor senators have formed the view, from the evidence, that submitting organisations were not allowed sufficient time to formulate and to furnish their views on the proposed provisions. Once again, this unseemly haste in dealing with a matter of significant complexity and importance demonstrates the government’s reckless and—if it is possible—increasingly blatant obsession with ensuring that its bills are passed without the benefit of proper and comprehensive external scrutiny. While Labor supports the intent of the bill, we emphasise the importance of realising that intent via a sound and reliable legislative framework.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (6.21 pm)—I concur with the views that Senator Wortley has just put forward. I recognise that this is a growing and huge matter for debate. One only had to look at the Herald Sun on the weekend to confirm the concerns expressed by a lot of people in the community about the violence that passes for entertainment, no matter where you look. I was in Sydney on the weekend and I wanted to go to the pictures but it was very difficult to find a movie that was not predicated on the theme of violence. I was not going to pay $15 to be depressed about that.

However, the questions about the global culture of violence are ones that we are going to have to deal with. We will support any step along that road, and we support this legislation. But I expect that we are going to have to go into much more difficult territory to counter this culture of violence, before some sort of probity is brought into place to stop those people who want to capitalise on violence in order to make money and profit. They do our society no good.

Senator CONROY (Victoria) (6.23 pm)—I rise to speak on the Communications Legislation Amendment (Content Services) Bill 2007, which brings with it amendments to the Broadcasting Services Act 1992 and to the Telecommunications (Consumer Protection and Service Standards) Act 1999. The bill is far-reaching in both its intent and its design, and it builds on the government’s Online Content Scheme. It attempts to address community concerns about the ability of current regulation to prevent children and others from viewing harmful or inappropriate content over the internet and convergent technologies. In doing so, this bill attempts to draw together and address some of the key issues in Australia today: technology, how that technology is used and how to prevent it from adversely affecting our children.

This is no small task. Technology evolves rapidly. Mobile phones came into popular use in the early to mid-1990s. Since that time, they have become smaller and ‘smarter’. In addition to making telephone calls, mobile phones, in many instances, now allow users to browse the internet, take photos, send emails or listen to music. Similarly, the internet is another piece of modern technology that came into popular use in the early to mid-1990s and has evolved rapidly since that time. Over the last decade or more, the internet has opened viewers up to a world of entertainment such as live streamed videos, blogs, chat rooms, video file-sharing and virtual worlds, to name but a few. Such technology has delivered a great many benefits to society and to economies the world over. However, given the nature of the internet and the ability of users today to browse content on their computer or mobile phone on any conceivable subject, there is concern that some users—in particular, children—may be
exposed to inappropriate and/or harmful material in doing so.

This bill aims to protect children from exposure to inappropriate and harmful material by regulating content services delivered over the internet and by convergent devices, such as 3G mobile phones. Labor supports the intent of this bill. Children are one of society’s most important assets and deserve our protection. Under the proposed framework set out in the bill, content must not be delivered or made available to the public where it is prohibited or potentially prohibited or must not be made available without the appropriate age verification systems, where they are required. Content will be prohibited over the internet and on other convergent devices if it has been classified RC or X18+ by the Classification Board; if it has been classified R18+ and access is not subject to an age verification system; and if it has been classified MA15+, is provided by a commercial content provider—but is not a news or current affairs service—does not consist of text or still images and is not subject to an age verification system. Content will be potentially prohibited content if it has not been classified by the Classification Board. However, if it were to be classified, there is a substantial likelihood that it would be prohibited content. These prohibitions and limitations also apply to live content streamed over the internet or other convergent devices. Content provided by commercial content providers that is yet to be classified must be assessed prior to it being provided by a trained content assessor. The trained content assessor must advise whether the service might be prohibited, and the service provider must then take the appropriate action or face penalties under the bill.

The aim of the bill, then, is clearly to make sure that children and other users of the internet and convergent technologies will not be subjected to prohibited, or potentially prohibited, content. The bill also acts to greatly expand the role of ACMA. Drawing on the ‘take-down model’ set out in the Online Content Scheme, the bill provides that ACMA may issue service providers with a take-down notice where service providers are hosting prohibited content in breach of the bill. The take-down notice directs the service provider to remove the prohibited content. Where a service provider broadcasts potentially prohibited content, ACMA may issue it with an interim take-down notice. An interim take-down notice directs the service provider to remove the potentially prohibited content until the Classification Board has classified the material. If the material is subsequently classified by the Classification Board as prohibited content, ACMA may issue the service provider with a final take-down notice. ACMA may also issue a service provider that has been the subject of an interim or final take-down notice with a special take-down notice where it is concerned that the service provider is hosting, or is intending to host, content that is the same as, or similar to, the earlier prohibited content.

Further, in the case of a service provider broadcasting prohibited or potentially prohibited live content, ACMA may issue it with an interim or final service-cessation notice. In the case of a service provider with an Australian connection hosting links to prohibited sites, ACMA may issue it with an interim or final links-deletion notice. Where a service provider fails to comply with a notice issued by ACMA under the bill, it may face civil or criminal penalties.

The bill continues the co-regulatory approach adopted by the government in relation to broadcasting services. Under the bill, content providers should develop codes of practice to address the means by which they will endeavour to meet their regulatory obligations. ACMA should make reasonable efforts to ensure that the codes are registered.
ACMA may also step in where it considers industry codes are necessary to safeguard the community or deal with the conduct or performance of particular participants in the industry. Under the bill, complaints about content may be made to ACMA. ACMA will investigate any complaints made in relation to breaches of the bill as well as possible breaches of the code of practice requirements. ACMA may also launch investigations on its own initiative into issues such as access to, or provision of, certain content. Service providers may apply to the Administrative Appeals Tribunal for a review of decisions of ACMA related to take-down notices, service cessation notices, link deletion notices, the registration of industry codes and certain directions and determinations.

As I have stated, Labor supports the intent of this bill. Labor recognises that children are one of society’s most important assets. The things children see and experience today shape their future life experiences. Accordingly, Labor wishes for Australian children to have positive learning experiences so that they grow up to be confident and enriched young adults. It is for this reason that Labor is concerned that this bill, while espousing to protect children from harmful and inappropriate material, may not have its intended effect. Labor’s concern is that this bill is misleading Australian parents. The bill does prevent children from accessing prohibited or potentially prohibited content, but only when the prohibited or potentially prohibited content is hosted on an Australian site.

This bill does not protect children—or indeed anyone—from accessing harmful or inappropriate content from overseas content providers. As the internet is a global system, accessing such material, even with this bill in place, will be as simple as the touch of a few buttons. As such, this bill clearly falls short of its intended goal. The only way to truly protect children from accessing such material is by way of content filtering.

Labor has long supported ISP filtering as a means by which to protect Australian children from harmful or inappropriate content. A clean-feed filtering service to all households, schools and public libraries can filter out sites that contain harmful or inappropriate content such as pornography and violent material. As such, under a clean-feed filtering system, children will be protected from accessing inappropriate or harmful material hosted on both Australian and overseas sites.

Labor is also concerned that this bill poses an unnecessary restriction on content creators such as artists. Many artists today choose to use the internet or convergent technologies either as an artistic medium or as a means by which to disseminate their work. Many of these artists also create works that are thought provoking or even controversial and on subjects that may be considered prohibited or potentially prohibited content under this bill. Accordingly, this bill may unnecessarily censor artists using this medium. It would appear that the government did not adequately consult with content creators, such as artists, prior to the drafting of this bill. As a result, the bill may serve to disadvantage them. Australia has a thriving creative community. The potential impact of this bill upon the work of these artists and their livelihoods cannot and should not be overlooked.

It is for these reasons that Labor seeks to move a second reading amendment to this bill. Labor’s amendment intends to note the deficiencies in the bill which, while not fatal, have serious implications. Most notably, the bill will not protect children from accessing inappropriate or harmful material from sites hosted in countries other than Australia. The internet is a truly global network. Therefore, attempting, as this bill does, to regulate Aus-
Australian content will have little impact when sites from other countries remain available for users to browse.

The internet and convergent technology such as 3G mobile phones have undoubtedly changed the way in which we communicate to others and also serve to act as new forums for entertainment. In today’s society, the use of such technology is growing. Labor, therefore, considers that it is in the interests of all Australians for the government to ensure that any regulation that may interfere with this technology, or how it is used, reflects the intent of the government in whole and not in part. I move:

At the end of the motion, add “but the Senate notes that:

(a) the Government failed to adequately consult content makers prior to the drafting of the bill;
(b) the Environment, Communications, Information Technology and the Arts Committee inquiry into the bill did not allow for sufficient time to consider the bill and draft submissions to the committee;
(c) the bill will not prevent access to prohibited material from offshore service providers; and
(d) Labor believes that children should be protected from inappropriate or harmful material on the internet, however, Labor would prefer to regulate for this via ISP filtering, as set out in Labor’s ISP filtering policy”.

Senator BARTLETT (Queensland) (6.34 pm)—To be cooperative I shall endeavour to be brief. The Communications Legislation Amendment (Content Services) Bill 2007 is a complex bill, as is often the case with this sort of regulatory framework, and because of time constraints I will not go into as much detail as I normally would. Everybody knows the history of this legislation, the genesis behind it and the need to try to regulate content services delivered over convergent devices such as broadband services to mobile handsets et cetera. There are a few key questions here. The first is: do we need to have a regulatory framework over those sorts of material and these sorts of devices? Given that we already have a regulatory framework in place, it seems reasonable to seek to extend the regulatory framework to other devices that are currently exempt from it.

The second question is whether the approach that has been put forward will work. That is a much more open question. Certainly there is a lot of strong opinion, some of which was put to the Senate inquiry, that suggests that the current setup with regard to the internet does not work terribly well. There is a very valid argument that having a framework in place gives people the assumption that content can be adequately controlled and contained, whether it is pornography, violence or other sorts of inappropriate material. If we have that framework there people assume that that means there are controls in place to regulate it adequately. If those controls do not actually work terribly effectively, then that can be counterproductive. People assume there is an effective mechanism in place and do not worry about doing anything further about it. If the mechanism does not actually work adequately, then not only does it not necessarily perform the task that it is intended for but it can create a false impression of security. There is a bit of an open debate there about how adequately it works and whether its inadequacies or limitations are such as to discredit the whole system.

That same debate can be carried over to the approach and mechanism that is being put forward here in this legislation. As I have stated, there are arguments on both sides with regard to that, and the workability is an
issue as much as the principles behind it. Certainly some within the community and some who put forward submissions to the inquiry suggested that there were issues with regard to constraints on freedom of speech. That is an issue the Democrats have always taken very seriously.

We have always had a general approach that seeks to encourage minimum necessary censorship, but minimum necessary censorship does not mean no constraints or controls at all. Of course, there is the International Covenant on Civil and Political Rights, which guarantees freedom of expression. Article 19 states:

1. Everyone shall have the right to hold opinions without interference.
And:

2. Everyone shall have the right to freedom of expression;
But it should be emphasised that part of that article 19 of the convention also says that the right in paragraph 2:

... carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;
Certainly we already as a parliament and I think as a community more broadly strongly support constraints on freedom of speech in regard to certain types of advertising—for example, cigarette advertising. Indeed, the Democrats pioneered greater controls and constraints on cigarette advertising. I think we could go a little bit further, frankly, in terms of cigarette sponsorship and those sorts of things. So our own approach has shown that we also support limitations on those rights at certain times. I do think that needs to be emphasised.

A lot of the focus around this is on pornography, and that always excites people a lot and generates a lot of debate around the place. I am much more concerned about the degree of violence that is on a lot of standard forms of the media, let alone convergent media. But there certainly are issues. In the same way as most people would believe that exposure of children to excessive violence is potentially harmful, exposure of children to explicit pornography is also potentially harmful. There is a case to be made. But the big question mark is whether or not the framework that is in place here will work adequately to enable that to happen. In large part it tacks itself onto the existing framework, so whatever limitations there are or are not on the existing framework are to some extent added to by the new framework and the new components that are put in place through this legislation.

As we are dealing with convergent and developing technology, it also means that we are continually having to assess how workable it is and continuing to play catch-up. It is certainly an area that will need continual monitoring. That is something that is necessary. The other thing that needs monitoring is the issues surrounding the wisdom or otherwise of how expansive a level of access we allow to some of the material and certain types of material that this framework seeks to regulate. Where do we draw those lines? I guess that is the ongoing debate that we need to have.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (6.40 pm)—I would like to thank senators for their contribution to this debate. I would also like to record my thanks to key industry stakeholders for their valuable contributions towards the development of this important legislation.

The development of a comprehensive and practical content regulation framework is a
significant challenge, as speakers have noted, in an era of convergence and new emerging technologies and services. The introduction of new services like 3G and video services through mobile phones means that our platform-specific regulations are becoming increasingly strained as they are applied to new media forms. The Communications Legislation Amendment (Content Services) Bill 2007 will extend the current safeguards that apply to content delivered over the internet or television to content delivered over convergent devices, including live, streamed services. Content rated X18+ and content which is refused classification will be prohibited. Content classified as R18+ must be provided with appropriate access restrictions to limit the availability of this material to adults. Material made available on a commercial basis for a fee and which is classified as MA15+ must also be provided with age restrictions.

The new legislation will also regulate the online distribution of electronic editions of print publications. Material which has been classified restricted category 1 or restricted category 2 or refused classification will be prohibited—for example, adult magazines currently available in some newsagents and adult shops. Mechanisms will be established to enable the regulator to take action to direct material be taken down or access removed where it is provided in contravention of the rule. Strong sanctions will be introduced for noncompliance, including criminal and civil penalties.

Under this bill the government will also allow for industry coregulation as a means of providing for regulatory frameworks to evolve and adapt with the technologies and services which they regulate. We believe that the content services bill has struck the right balance between protecting children from harmful and inappropriate content, which of course we wholeheartedly support, whilst also allowing industry to develop new business models and utilise emerging technologies. The proposed legislation will form an important part of the government’s suite of initiatives designed to regulate online content and provide greater protection for children using new technologies.

The government opposes Labor’s second reading amendment, and it is appropriate that I place on record why. In terms of the issues raised in the amendment, first, the government has worked closely with all key stakeholders in the development of this legislation, including content developers. An exposure draft of the bill was circulated to key industry stakeholders in late November 2006 and provided a wide range of interested parties with an opportunity to comment. That has included content developers and suppliers, mobile phone companies, broadcasters and major internet portal operators and publishers. The process was subsequently extended into early ’07. Significant modifications were made to the initial draft of the bill to take account of the responses received from key industry stakeholders. A number of these issues have also been the subject of further discussions between the government and key stakeholders. The amendments to the content services bill which I will be seeking to move are designed to address technical matters that have been identified by the Senate committee in its report and to some extent by industry stakeholders.

The issue that I want to address that Senator Conroy went into some detail on was the prevention of access to prohibited material from offshore providers. The bill provides new safeguards to protect consumers from inappropriate or harmful material on convergence devices, such as 3G mobile phones, and services available via subscription internet portals. It will achieve this by extending the existing regulatory framework to regulate live, streamed content services, services
which provide links to content, and include stronger obligations where these services are provided as commercial content services.

In the case of overseas content and services, the Australian government has limited jurisdiction, but there a number of measures that can be applied in such circumstances. The Australian Communications and Media Authority, ACMA, is able to place on a blacklist the details of the locations—that is, the URLs—of prohibited content from offshore sites which it provides to the makers of certain internet content filters to block access. ACMA must also, if it considers the content is of a sufficiently serious nature, such as pornographic material involving children, refer the issue to the Australian Federal Police. ACMA and the AFP have also formally agreed that, where possible, ACMA should refer prohibited content hosted overseas to the international Association of Internet Hotline Providers, an association of 29 accredited internet hotlines from 26 countries in Europe, Asia and North America.

Further, the AFP’s Online Child Sex Exploitation Team, which was launched in March 2005, was created to provide the AFP with national assessment and coordination capability for internet and national referrals of child pornography. The clean-feed system has a number of defects, which I have gone into before. So for all of those reasons, and because of its limitations, it would not have, for instance, exposed the appalling case that came to attention yesterday, and we do not think it is appropriate to adopt it as a commercial or a government proposition. For those reasons, we will be opposing the second reading amendment.

Ordered that consideration of this bill in Committee of the Whole be made an order of the day for a later hour.

BUSINESS
Rearrangement

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (6.47 pm)—by leave—I move:

That consideration of government documents be called on at the conclusion of consideration of the Communications Legislation Amendment (Content Services) Bill 2007.

Question agreed to.

COMMUNICATIONS LEGISLATION AMENDMENT (CONTENT SERVICES) BILL 2007
In Committee

Bill—by leave—taken as a whole.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (6.48 pm)—I table a supplementary explanatory memorandum relating to the government amendments to be moved to this bill. The memorandum was circulated in the chamber on 18 June 2007.

Senator CONROY (Victoria) (6.48 pm)—I indicate on behalf of the Labor Party that we will be supporting the amendments.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (6.49 pm)—by leave—I move government amendments on sheet PZ283 together:

(1) Schedule 1, item 77, page 16 (after line 8), after the definition of adult chat service, insert:

ancillary subscription television content service has the meaning given by clause 9A.
(2) Schedule 1, item 77, page 24 (after line 19), after the definition of *special link-deletion notice*, insert:

*special service-cessation notice* means a notice under clause 59A.

(3) Schedule 1, item 77, page 25 (lines 8 to 14), omit paragraphs 3(1)(b) and (c), substitute:

(b) in the case of a live content service—the live content service is provided from Australia.

(4) Schedule 1, item 77, page 25 (after line 14), at the end of subclause 3(1), add:

Note: A link is an example of content. If a link provided by a content service is hosted in Australia, the content service will have an Australian connection (see paragraph (a)).

(5) Schedule 1, item 77, page 26 (line 8), before “For”, insert “(1)”. 

(6) Schedule 1, item 77, page 26 (after line 10), at the end of clause 5, add:

(2) For the purposes of this Schedule, a person does not provide a content service merely because the person provides a billing service, or a fee collection service, in relation to a content service.

(7) Schedule 1, item 77, page 27 (after line 12), after clause 9, insert:

9A Ancillary subscription television content service

(1) For the purposes of this Schedule, an *ancillary subscription television content service* is a service that:

(a) delivers content by way of television programs to persons having equipment appropriate for receiving that content, where:

(i) those television programs are stored on the equipment (whether temporarily or otherwise); and

(ii) the equipment is also capable of receiving one or more subscription television broadcasting services provided in accordance with a licence allocated by the ACMA under this Act; and

(iii) those television programs are delivered to a subscriber to such a subscription television broadcasting service under a contract with the relevant subscription television broadcasting licensee; and

(b) complies with such other requirements (if any) as are specified in the regulations.

(2) For the purposes of subsection (1), it is immaterial whether the equipment is capable of receiving:

(a) content by way of television programs; or

(b) subscription television broadcasting services;

when used:

(c) in isolation; or

(d) in conjunction with any other equipment.

(8) Schedule 1, item 77, page 33 (line 6), omit “otherwise); or” substitute “otherwise);”.

(9) Schedule 1, item 77, page 33 (after line 6), at the end of paragraph 20(1)(c), add:

(vi) the content service is not an ancillary subscription television content service; or

(10) Schedule 1, item 77, page 56 (line 29), omit “such steps as are necessary”; substitute “all reasonable steps”.

(11) Schedule 1, item 77, page 56 (line 36), omit “such steps as are necessary”; substitute “all reasonable steps”.

(12) Schedule 1, item 77, page 63 (after line 28), after clause 59, insert:

59A Anti-avoidance—special service-cessation notices

(1) If:

(a) an interim service-cessation notice or a final service-cessation notice relating to a particular live content
service is applicable to a particular live content service provider; and

(b) the ACMA is satisfied that the live content service provider:

(i) is providing; or

(ii) is proposing to provide;

another live content service that is substantially similar to the first-mentioned live content service; and

(c) the ACMA is satisfied that the other live content service:

(i) has provided; or

(ii) is providing; or

(iii) is likely to provide;

prohibited content or potential prohibited content;

the ACMA may:

(d) if the interim service-cessation notice or final service-cessation notice, as the case may be, was given under paragraph 56(1)(c), (2)(d) or (4)(b) of this Schedule—give the live content service provider a written notice (a special service-cessation notice) directing the provider to take all reasonable steps to ensure that a type A remedial situation exists in relation to the other live content service at any time when the interim service-cessation notice or final service-cessation notice, as the case may be, is in force; or

(e) in any other case—give the live content service provider a written notice (a special service-cessation notice) directing the provider to take all reasonable steps to ensure that a type B remedial situation exists in relation to the other live content service at any time when the interim service-cessation notice or final service-cessation notice, as the case may be, is in force.

Note 1: For type A remedial situation, see subclause (2).

Note 2: For type B remedial situation, see subclause (3).

Type A remedial situation

(2) For the purposes of the application of this clause to a live content service provider, a type A remedial situation exists in relation to a live content service if the provider does not provide the live content service.

Type B remedial situation

(3) For the purposes of the application of this clause to a live content service provider, a type B remedial situation exists in relation to a live content service if:

(a) the provider does not provide the live content service; or

(b) access to any R 18+ or MA 15+ content provided by the live content service is subject to a restricted access system.

(13) Schedule 1, item 77, page 64 (after line 5), after subclause 60(2), insert:

Special service-cessation notice

(2A) A live content service provider must comply with a special service-cessation notice that applies to the provider as soon as practicable, and in any event by 6 pm on the next business day, after the notice was given to the provider.

(14) Schedule 1, item 77, page 64 (line 10), after "(2),", insert "(2A)".

(15) Schedule 1, item 77, page 70 (line 36), omit "such steps as are necessary", substitute "all reasonable steps".

(16) Schedule 1, item 77, page 71 (line 7), omit "such steps as are necessary", substitute "all reasonable steps".

(17) Schedule 1, item 77, page 99 (after line 26), after paragraph 113(3)(b), insert:

(ba) a decision to give a live content service provider a special service-cessation notice;

(18) Schedule 1, item 77, page 103 (after line 20), after clause 117, insert:

117A Meaning of broadcasting service
Disregard the following provisions of this Schedule in determining the meaning of the expression broadcasting service:

(a) clause 9A;
(b) subparagraph 20(1)(c)(vi).

Question agreed to.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (6.50 pm)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

DOCUMENTS

The ACTING DEPUTY PRESIDENT (Senator Forshaw)—Order! It being 6.50 pm, the Senate will proceed to the consideration of government documents

Aboriginal and Torres Strait Islander Social Justice Commissioner Social Justice Report

Senator BARTLETT (Queensland) (6.51 pm)—I move:

That the Senate take note of the document.

I only have five minutes to speak and this document is about 380 pages, so obviously I will not be able to fully reflect on its detail. I will start by lamenting that it is unfortunate that we have such a comprehensive—and, might I say, very substantial and substantive—document about issues that have been, at least in part, very much in the headlines in recent times and the subject of some quite passionate and occasionally quite fiery debate in a range of areas, and yet it gets tabled, thrown to one side and we are lucky we can talk on it for five minutes on a Wednesday night. This document is from the Aboriginal and Torres Strait Islander Social Justice Commissioner, who is tasked with overseeing and considering the social justice situation in regard to Indigenous Australians and measuring it against the range of human rights benchmarks that Australia as a nation and as a government have committed ourselves to. I think this does not do justice to what are very important and significance reports and recommendations contained within them.

This report only contains nine recommendations. The key ones regard facilitating Indigenous access to government services. I think we need to continually monitor and assess how this is going. I know that one of the real frustrations amongst many Indigenous people and organisations is the fact that there is so much lecturing and public commentary from ministers, state and federal, from people in the media, and from people across the board talking about how Indigenous people have to do this, have to do that, have to take responsibility for this, have to lift their game in that, and all those sorts of things. As often as not there is a reasonable degree of truth in some of those things, but it is only one part of the story. There is another big part to this story—and there is plenty of evidence to demonstrate this; and there is a lot of it in this report—that is, whatever the failings of Indigenous organisations and Indigenous communities, there are very much comparable, if not greater, failings in the delivery of government services from the government point of view.

It is just so easy to blame Indigenous people for their own problems, and we have such a long history of this. Certainly there needs to be responsibility taken—you cannot just sit back and be a victim—but that should not be used as a way to excuse the reality that there is plenty of failure to go around on the government service delivery side of
things. That is a message to all governments, not only the federal government but also the state governments. I note that recommendation 1 here is directed not only to the federal government but also to the federal parliament. I think it is appropriate for parliament itself to consider and debate that particular recommendation further. A significant part of that is to have a federal parliamentary committee regularly examine the progress of the new arrangements in Indigenous affairs and the progress in achieving whole-of-government service delivery to Indigenous communities—looking at all the different components there and outlining some terms of reference as suggested.

I want to emphasise a couple of other key recommendations which are labelled here as ‘Addressing the fundamental flaw of the new arrangements for Indigenous affairs—the absence of principled engagement with Indigenous peoples’. This is not just a matter of a nice form of words or of being polite and saying, ‘It is a nice thing to engage with Indigenous peoples about government programs, government service delivery and government policy.’ It is a matter of making these things work. Even if you want to ignore basic rights and principles in regard to this, if you want to have government services, policies and programs that work then the chances of them working are dramatically reduced if you do not have proper engagement and meaningful, realistic, ongoing, continuous, honest and equal engagement with Indigenous peoples themselves. They are the ones on the ground. They are the ones who have to live with a lot of these issues. So many people, as we all know, are working themselves into the ground trying to fix and address issues. If they are not properly engaged with the government—which is coming in with various programs, buckets of money or different allocations and requirements—then the chances of things working are dramatically reduced. We really need to take into account this report. It disappoints me that there is not more opportunity to examine it fully through the parliamentary process. It is certainly something I will seek to do to ensure that the very rich detail in here is taken more fully into account. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Aboriginal and Torres Strait Islander Social Justice Commissioner Native Title Report

Senator BARTLETT (Queensland) (6.56 pm)—I move:

That the Senate take note of the document.

This report is also from the Aboriginal and Torres Strait Islander Social Justice Commissioner, Mr Tom Calma. It deals specifically with the area of native title. I might say that there is some positive material in here—unlike the social justice report, which I think, in a very brief summary, you would have to say is quite critical of a lot of things in regard to government. This report certainly has some criticisms in it, particularly criticisms about the ability of traditional owners and potential claimants to properly engage with the native title law and native title processes not just in terms of claims but also, perhaps more significantly, in regard to using a stake in native title to develop effective, meaningful, positive Indigenous land use agreements. The fact is that there are positive Indigenous land use agreements around the country. There are some negative ones as well. It does show that native title can deliver positive outcomes not just for Indigenous people but also for the entire community. To me, that is one of the key messages of this report. It emphasises once again that native title is not just an issue for Indigenous Australians; it is actually a pathway for a more complete and unified nation of Australia—a properly reconciled one.
I note that within the report there is the recommendation that the Australian government support a range of land leasing options on communal land, including options where leases are held by traditional owners through their elected entities for varying periods of time. Another recommendation is that the community homes program be extended to communities with alternative lease schemes. We have heard a lot of talk about leases and whether or not they can be used for private home ownership. It is interesting that the report does not dismiss some of the principles behind that. What it is critical of is the mechanism for reaching that goal that the federal government has chosen.

The report has a chapter on the Yarrabah Housing Project. Yarrabah is a community which I have visited a number of times in Far North Queensland. It is about three-quarters of an hour south of Cairns in a beautiful coastal area around the back of some mountains on the edge of the wet tropics World Heritage area. This report details the housing project that is being acted on in Yarrabah. It is actually quite positive about this housing project. Indeed, as the report says, there are some distinct parallels to the Australian government’s own initiative to individualise tenures on Indigenous communal lands and encourage home ownership.

But as the report says, while there are similarities in the intention of the government to the Yarrabah initiatives, there are marked differences in their management and governance structures. Yarrabah provides an alternative to the Australian government model, providing an example of a community wanting to locally manage the development of the township whilst stimulating local economic growth. The Yarrabah Aboriginal Shire Council is proposing to hold a 99-year headlease over the Yarrabah township in trust for the Indigenous landowners, whilst managing 99-year subleases for Yarrabah residents and businesses and also managing a housing construction project through its own construction company. This will employ, train and develop a local Indigenous workforce to build and maintain residential housing in Yarrabah.

The commissioner gives a positive outlining of this because the council is approaching the project in close collaboration with the community and, whatever else the pros and cons would say about the approach the federal government has taken with 99-year leases in the Northern Territory, close collaboration has not been part of the process—certainly not at least until quite recently, and, even then, that is arguable. It goes back to that key recommendation from the social justice report that I was talking to just before: meaningful, principled engagement with Indigenous people, enabling local traditional owners to continue control, or in regards to Yarrabah, the Aboriginal Shire Council. So it is the mechanism, it is the process, it is ensuring the engagement with people locally as much as possible, and ensuring these people maintain control and they maintain engagement. As a senator for Queensland, that is a model I will be watching closely. There is plenty more in this report that needs examination, but my time is about to expire again so I will seek leave to continue my remarks later.

Leave granted; debate adjourned.

Consideration

General business orders of the day nos 10 to 12 relating to government documents were called on but no motion was moved.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Sandy Macdonald)—Order! It being 7.02 pm, I propose the question:

That the Senate do now adjourn.
Indigenous Issues

Senator BOYCE (Queensland) (7.02 pm)—As Senator Bartlett points out: there is an extraordinary amount of rich detail in a number of reports published in the past week or so relating to Indigenous issues. I want to quickly have a look at two of these reports. The first was released by the Northern Territory government called The protection of Aboriginal children from sexual abuse, written by Rex Wild QC and Pat Anderson. The second report—which could not be more different from the first—is the Cape York Institute’s welfare reform report, From hand out to hand up, formally presented to the Minister for Families, Community Services and Indigenous Affairs, Minister Mal Brough at a press conference yesterday, by Noel Pearson from the Cape York Institute and representatives of the Aurukun, Coen, Hope Vale and Mossman Gorge communities.

For me, these two reports, their recommendations and their respective government responses are in contrast. Both reports deal with the breakdown of the basic requirements for a functional community of any kind. They talk about alcohol and substance abuse, violence against people and property, sexual and physical abuse, lack of meaningful occupation and hopelessness. The Cape York report notes that: the infant mortality rate amongst Indigenous Australians is two to three times higher than that of the broader community; the per capita alcohol consumption in the Cape York communities is four times that the national average; life expectancy for Indigenous men and women is 17 years less than that for non-Indigenous men and women; and, most ominously in terms of a potentially better future, the Indigenous children of Queensland are nearly five times more likely to be the subject of a protective order than other children.

As everyone present would know, none of this is new, unfortunately. In fact, there has been a longstanding tradition of state government reports—very good reports, such as the Boni Robertson report from Queensland in 1999 and the Sue Gordon inquiry in Western Australia in 2001-02. As governments, we talk wisely about them, and then nothing; nothing really changes. At the launch of the ‘hand up’ report yesterday, the Mayor of Hope Vale, Greg McLean, described opponents to change and reform in his community as wolli-wolli people. He told us that wolli-wolli people were people who lacked focus and they lacked enthusiasm for action. I think we can class Clare Martin and the Northern Territory government as wolli-wollis. They were reluctantly dragged into accepting that there were any problems in the government’s management of Indigenous issues in the Northern Territory and they were reluctantly embarrassed into setting up the Wild-Anderson inquiry. Now that they have had the report for almost two months, they are going to leap into action in August.

The most significant aspect of the Northern Territory abuse inquiry is that it succeeded in attracting so many witnesses and submissions. It held 226 meetings with individuals, agencies and organisations. It visited 45 communities and received 65 submissions. That, to me, was one of the most heartening aspects of the report, because in the context of abuse, dysfunction, violence and a general loss of identity it is very difficult to comprehend how hard it must have been for people to come and speak to that inquiry, to talk about the worst possible sorts of dysfunction within their own family and their own community. These were very brave people and they were very desperate for change. Doubly so, given the sort of cynicism and exhaustion with imposed solutions that some of them talked about. One man from Gunbalunya said, ‘We have a 20-year
history of six-month programs.’ An elder said, ‘We have been piloting pilots for long enough.’ For the sake of these people, this inquiry must achieve more than filling some more library shelves with worthy but neglected recommendations.

The NT Inquiry makes 97 recommendations, but the two core recommendations are on education and reduced alcohol consumption. It notes quite correctly that one of the major pluses of education is that children are safe from sexual abuse when they are at school. For me, this seems very worthy but long term and wolli-wolli. To suggest that one of the major reasons for sending children to school is that they are safe from sexual abuse is incomprehensible in the 21st century. What about the rest of the time, especially at nights, when the adult alcohol consumption spikes? What about those children who are too young for school—the three-year-olds who are mentioned in this report as victims of sexual abuse and also witnesses of abuse and violence? It is a very sad reason for advocating education, that children are safe from abuse between 8.30 am and 3.30 pm.

By contrast, the Cape York report goes straight to the nub of the problem. It says that we do not value what we do not earn. It accepts that the problems in the four communities of Hope Vale, Aurukun, Coen and Mossman Gorge stem from dispossession and racism over many years but primarily blames a deterioration of social norms. As Mr Pearson pointed out yesterday, there are many examples of countries were people live in extreme poverty and overcrowding, but cultural norms persist. In those communities it is not okay to be chronically drunk and violent, it is not okay to abuse young teenagers and children, and it is not okay to expose children to pornography and violence. The difference, according to the Cape York report, is passive welfare. It has turned cause and effect on its head. It says that dysfunction and poverty are themselves the issues to be fixed.

The report calls for radical welfare reform. It says that all welfare payments should be conditional. In other words, if you do not meet certain obligations, you do not get your welfare payment. It says that each adult who receives a welfare payment for a child should be required to ensure that the child maintains a 100 per cent school attendance record. It says that all adults must not cause or allow children to be neglected or abused. It says that all adults must not commit drug, alcohol, gambling or family violence offences. It obliges adults to abide by conditions related to their tenancy in public housing.

Just to confirm that these were not imposed conditions in any way, I will read the next paragraph of the report. It says:

These payment obligations were selected on the basis of three factors. They were consistent with the values expressed by community members. They relate to behaviour which, if allowed to continue, would have a negative impact on child wellbeing. The existing legislative and service delivery mechanisms aimed at addressing these dysfunctional behaviours in Cape York are unable to realise the desired outcome.

This report also calls for the establishment of a new statutory authority, a family responsibilities commission, to determine whether individuals have breached these obligations and to decide on an appropriate sanction if they have. The sorts of sanctions they are suggesting in this 400-page very detailed and very well set out report go from a warning through to paying the welfare payments that might have gone to that parent to another responsible adult so that the funds go to the child.

Some of the other aims in this report include addressing what is termed the ‘welfare pedestal’, whereby young school leavers can
start off on $14 an hour and find that very attractive and more rewarding than a traineeship without thinking that in five or 10 years they are going to be better off not on welfare but in a real job. One of the other aims is to support individual engagement in the economy by converting Community Development Employment Projects into real positions, asking if those are real jobs that people should be doing, making communities business friendly and moving from welfare housing to home ownership.

Like Senator Bartlett, I have just recently visited the Yarrabah community near Cairns, and I was shown around by the Mayor, Vince Mundraby, and the CEO, Leon Yeatman. Leon is probably an unusual commodity in Indigenous communities. He is a Yarrabah local. He has gone home with an MBA—

(Time expired)

Micah Challenge

Senator McEWEN (South Australia)

(7.12 pm)—This week I met with young people from Micah Challenge, a church based collective which participates in the Make Poverty History campaign. That campaign brings together a diverse range of people whose goal is to eradicate poverty and it monitors world progress in achieving the United Nation’s Millennium Development Goals. As part of their trip to parliament this week, Micah Challenge and Make Poverty History organised an art exhibition called ‘Create to Advocate’ in which artists used their considerable talents to make a statement about the eradication of poverty and had their works displayed here in Parliament House. Anyone who has seen those works could not help but be very moved by the powerful messages they conveyed.

I was very pleased to note that the first prize for the exhibition was won by a young woman from my state of South Australia, Alexis Keogh. I would like to offer her my sincere congratulations both for her artwork and for the speech that she gave on winning that prize. It is very encouraging to see young people take a public role in the fight against poverty. Sometimes in this parliament we become so embroiled in debate about relatively inconsequential internal issues that we do not pay enough attention to the fact that every day 800 million people do not have enough food to eat and 100 million children do not have any access to education.

Seven years ago, along with the other 190 member countries of the United Nations, Australia committed to meeting the Millennium Development Goals. One of these goals is to halve world poverty by 2015. We are now halfway through 2007 and, despite the efforts of some countries, we have failed to slash world poverty by even 25 per cent. Australia is one of the least generous donor countries and, according to the OECD, we are failing to catch up to the other donor countries. It is predicted that, on current performance, in 2010 Australia will be giving 0.36 per cent of its gross national income to foreign aid. This is a long way from the United Nations agreed target of 0.7 per cent and behind the average country effort of 0.46 per cent of GNI. In 2006 Australia ranked 15th out of 22 developed country donors, whereas in 1970 we were equal top in that ranking.

One of the best and most economically efficient ways for donor countries to assist developing nations reduce poverty is to provide funding for projects that address family planning and reproductive health issues. The correlation between fertility control and good maternal and infant health, and reduction in the incidence of poverty is easily demonstrable.

Recently, the Parliamentary Group on Population and Development, of which I am a member, released a report entitled Sexual
and reproductive health and the Millennium Development Goals in the Australian aid program— the way forward. The report was the culmination of two extensive roundtable discussions with various national and international experts, hosted by the PGPD and held in Canberra in August and September last year. The findings of those forums, as reported, included that provision of sexual and reproductive health services is essential in eradicating world poverty. The PGPD report found that without access to these services the MDG's in relation to poverty, universal primary education, gender equality and child mortality—as well as the other MDGs—will not be met.

The PGPD report also examined and discussed Australia's aid program and its impact on achievement of the MDGs. Our AusAID family planning guidelines do not provide for extensive education programs about sexual and reproductive health and family planning. There is no doubt that prevention of unwanted pregnancy, the prevention of sexually transmitted diseases, and programs designed to give women control over their reproductive health should be more of a focus in our AusAID budget.

According to an AusAID publication entitled Helping health systems deliver: Preventing unintended pregnancies through access to family planning would avert an estimated 20-35 per cent of all maternal deaths, saving the lives of more than 100 000 mothers each year.

While our aid program is wanting in adequate funding for sexual and reproductive health services, the situation is completely unacceptable when it comes to providing funding for abortion counselling and services. Unlike most donor countries, Australia places prescriptive restrictions on how the aid funds we donate are used. The guidelines to which I earlier referred limit contraceptive choice and prohibit AusAID funded programs and NGOs providing access to information about services for abortion, even in countries where abortion is legal and safely available.

It is extremely hypocritical for the Australian government to spend some $50 million on pregnancy counselling services in our own country but not to allow women in other countries where abortion is legal to benefit from counselling that could and should be funded by AusAID. The reason we are in this contradictory and embarrassing situation is the legacy of a deal struck between the federal government and a former senator who used his position of influence to pursue his own ideological agenda. In this case, he used his position to foist his beliefs on women in countries who desperately need our help, not our paternalistic religious zealotry.

The PGPD report that I referred to recommends that the government change the AusAID guidelines, and representations have been made to the Minister for Foreign Affairs—so far without success. No doubt the minister has been lobbied hard by people in this place who share former Senator Harradine’s views on abortion and who, therefore, are complicit in ensuring women in countries other than Australia will continue to die and suffer ill health and ongoing poverty because they do not have access to the full range of sexual and reproductive health services.

By not providing information on abortion we are not stopping abortions from happening. The reality is that unsafe abortions are a common occurrence in countries that do not provide reproductive and sexual health services, including abortion services. According to AusAID, unsafe abortions kill an estimated 68,000 women a year, and those who survive are highly likely to contract diseases such as HIV-AIDS from dirty instruments. They are also likely to sustain permanent injuries. This poor health results in unem-
ployment and underemployment for women in their most economically productive years. 

The report also stated:

Women who experience secondary infertility as a result of unsafe abortion or STIs are often divorced, leaving them more vulnerable to poverty and hunger.

It is ludicrous that Australia retains this hypocritical and damaging policy which continues to deny women in developing countries information and access to the full range of contraceptive and family planning services. We persist with a double standard that not only causes unnecessary death but also assists in the spread of debilitating diseases, including HIV-AIDS. The incidence of HIV-AIDS is increasing not only in the Asia-Pacific region but across the globe. UNAIDS and the World Health Organisation have estimated that in 2005, 40.3 million people in the world were living with HIV-AIDS. In the same year, an estimated 4.9 million people were newly infected with HIV and approximately 3.1 million people died from AIDS.

Australia’s aid program should include all measures possible to prevent the spread of AIDS, and that includes provision of information and services about safe termination of pregnancy. I note that next month, in Sydney, Australia will be hosting the fourth International AIDS Society conference. Some 6,000 delegates from countries around the world will be attending. It is a very important conference which will focus on prevention and treatment of HIV-AIDS. It is an honour for Australia to host the conference, which will be attended by eminent scientists, medical specialists and experts in this terrible disease.

It was therefore very disturbing to hear the Prime Minister, in April this year, question whether Australia should allow HIV-positive people into Australia. Such comments are disgraceful and humiliating—much like our restrictive AusAID guidelines. Instead of our nation being a leader in the provision of aid and in addressing matters of international significance such as HIV-AIDS, Australia comes across as insular and patronising. Thank goodness there are members and senators in this place—from all parties—who have a broader vision of Australia’s role in the provision of aid and assistance to developing countries.

I would also like to note that as part of the Make Poverty History campaign, in July this year the Zero Seven Road Trip will take place. Along with Australian artists, 500 young people will be jumping aboard buses all over the country to raise awareness about poverty and to work to ensure that Australia keeps to its promise of giving 0.7 per cent of its budget to foreign aid by 2015. Our young people willingly give up their time and their money to commit to the cause of eradication of poverty, and it is time for our government to follow through with its commitment to the Millennium Development Goals.

Prisons: Education

Senator BARTLETT (Queensland) (7.22 pm)—Tonight, I would like to speak about prisons, particularly the situation facing prisoners as well as education in prisons. In the last day or so, I have mentioned a few times how reports, which can be on completely different topics, often come down with findings that are not terribly different from those of reports done some time ago on a similar issue. It is worth reflecting upon one such report done by the former Senate Standing Committee on Employment, Education and Training. It was the very final inquiry produced by the Senate before the change of government back in 1996. This report, which was tabled by former Liberal New South Wales senator John Tierney, examined the issue of education and training in correctional facilities. It produced 32 recommenda-
tions that were all unanimous. In reading and examining it and the government response, I suspect that were the same inquiry done now, you would find that there had been some changes and some improvements but that the same core problems were still there. When Senator Tierney was talking to the report in 1996, he said that there had been improvements and that the situation was 'just disgraceful' whereas before it was 'just appalling'. That was the way we were measuring the improvement. Whether or not the situation now has moved beyond disgraceful is perhaps a matter of opinion, but it is far less than satisfactory—to put it politely.

It is worth noting a few statistics here. As at 30 June last year, there were 20,209 sentenced prisoners in Australian prisons, Indigenous Australians comprised 24 per cent of those prisoners and the median or midpoint age for all prisoners was 33 years. A particularly stark statistic is that 57 per cent of those prisoners in custody had served a sentence in adult prisons prior to their current episode and that 63 per cent of those prisoners were serving aggregate sentences of fewer than five years. So the majority of prisoners were repeat offenders but an even higher percentage of them were serving fewer than five years. This means that over 10,000 of those prisoners will be coming back into the community in the not-too-distant future.

It is a simple fact that it is in the community’s self-interest—let alone in the individual prisoner’s self-interest—for prisoners to have the maximum opportunity to go straight, as it were, and to get back on the rails and become productive members of the community again. It is so self-evident that it barely needs to be said that it benefits all of us. It saves us a lot of potential cost down the track if these people are assisted as much as possible to not reoffend. This does not just involve the immense cost in keeping people in prison and all of the institutional frameworks around that; it also involves all the social costs that go hand in hand with the crime that is committed.

It is appropriate to acknowledge that we should not forget about the individual rights of the prisoner. It is totally unpopular and politically incorrect to talk about the rights of prisoners and how we have an obligation to those who are incarcerated to give them the best possible chance to start a new life and to become productive members of the community. As a politician, if you want to talk about people’s rights and who we should be helping, probably one of the last groups you would be advocating for would be prisoners because there is a very low level of community sympathy and support for people who have been imprisoned for serious offences. That is completely understandable.

Coming back to our wider self-interest, we should be able to recognise that diminishing people who are in prison and dismissing them as people who have no rights or as people whom we should not have any regard for will make it much more likely that they will reoffend when they get out. As I said, the vast majority of prisoners will and should get out, no matter what crime they have committed. The majority of these crimes are not of such seriousness that the community would think that prisoners should be locked up for life. So, if they are not going to be locked up for life, they are going to be back out in the community at some stage.

It is important to, in some respects, revisit that situation that that Senate committee reported on over 11 years ago and to recognise that the performance in regard to education and training in correctional institutions is not adequate. We have a greater realisation now that too many people in our prisons have a mental illness and that prisons are being used as de facto institutions to house the mentally...
ill. By their nature, these institutions are exacerbating that mental illness in many cases. Some moves have been made to start to address that, but not enough. On top of that, I do not think anywhere near enough resources are being put into educational and training opportunities.

I am not saying that no efforts have been made. In my own state of Queensland, the annual report from the last financial year of the department of corrective services stated that it had delivered to prisoners 25,600 hours of teaching of nationally accredited vocational education and training and nearly 15,000 teaching hours of literacy and numeracy education—a total expenditure of just under $60 million on correctional intervention. As far as I can ascertain, very little funding from the federal level is being contributed in the education arena for prisoner rehabilitation and support. There are some discretionary grants for support and rehabilitation of Indigenous Australians and some individual funding for community based organisations, but it is not much and it is rather piecemeal.

We have a federal government that now wants to intervene in all sorts of areas. It is the most centralised interventionist government in Australian history by a long shot, and education is one of the many areas where the federal government is very keen to intervene and tell the states what to do. If the federal government want to intervene, add resources or demand some action, I would encourage them to look at this area, because it is an area that needs more action, resources and attention. It is a good test for the federal government because, as I said before, it is not politically popular, but it is certainly smart. It is certainly intelligent policy to invest more in this key area, because we still have those very serious recidivism statistics and that is a major cost to the community.

By putting even relatively small amounts of money into proper education and training that plug into qualifications out in the wider community, we would significantly increase the opportunities for prisoners to get on the straight and narrow once they get out. That includes of course proper assistance with health issues, whether mental health issues or dependency issues or other matters, and, indeed, literacy and numeracy training and support and skilling.

If there is ever a time when we needed to do this and when investment of resources would be likely to bear fruit it is at a time when we do have quite low unemployment, more job opportunities and skill shortages in areas of trades and training. As any of us who have met people who have got in trouble with the law, ended up in jail and then managed to get their life back on course will know, these people can be just as effective contributors to society and the economy as anybody else. In some ways, by virtue of having got through what, by any stretch of the imagination, is a pretty hard experience and got back on the straight and narrow, they can often have extra insights and can make extra contributions.

I want to urge resourcing into this area from the federal level as well as state level. I am concerned that the Beattie government in Queensland is putting enormous amounts of extra resources into building more jails and bigger jails at the moment. Inevitably, if you build more jails and bigger jails you will find ways to fill them all up. You just get a bigger prison population and more likely than not one trained in some of the ways of a life of crime, and there will be a bigger pool of recidivist ex-prisoners more likely to reoffend. If we can put more resources into the training and education and less into bigger jails, then I think our efforts would actually bear much more fruit. It might not suit the law and order shock jock approach to the law and
order debate, but I think that if you are just looking at what is best for the community across the board then that is the smart way to go. I would really urge more attention and focus on this area from the federal level as well as the state.

**Australian Political Parties for Democracy**

 Senator Faulkner (New South Wales) (7.32 pm)—Tonight I am going to provide the Senate with a further report on Labor’s Australian Political Parties for Democracy, APPD, work. The ALP is committed to using the APPD program for a range of international activities including the provision of practical training to political parties in the Asia-Pacific. Tonight I particularly want to report on our continuing efforts to build links with political parties in our region and around the world, and on our recent technical assistance programs in our neighbourhood.

An International Observers Program was developed as part of our national conference, which was held in Sydney in late April, to help us build on our relationships with countries in our region. All in all, some 70 participants took part in this program, more than double the number of international guests that had attended in previous years. This included over 30 senior representatives of Asian and Pacific political parties who travelled to Sydney to progress dialogue on the building of relationships with the Australian Labor Party. This number included senior party representatives from China, Indonesia, the Philippines, Vanuatu, PNG and New Zealand.

As part of our program, International Projects organised a number of events which brought together Labor’s key policy personnel on foreign policy and development assistance with the visiting dignitaries. These events included expert panels on empowering women in politics in Asia, foreign policy under a Labor government and its implications for Australia and the region, and an international forum on building party-to-party links. Full reports on these programs may be found on our International Projects website, which is at www.ip.alp.org.au, and in our quarterly news bulletin, both launched in preparation for the ALP National Conference. Anyone can subscribe to the quarterly bulletin by following the links on the website. These media will further promote our work in the community and the region and form part of our commitment to accountability for our APPD schemes.

As I informed the chamber in March, three countries in the region will face, or have faced, elections this year. The Philippines went to the polls on 14 May 2007. From 10-19 May 2007 Dr Lesley Clark, recently retired as the member for Barron River in Queensland, joined the International Observers Mission, the IOM, which was organised to oversee the mid-term national and local elections. Dr Clark reports that the presence of the IOM helped to deter the extremes of fraud and violence. The IOM has also made a number of recommendations to improve elections and the electoral process in the Philippines.

Elections in Papua New Guinea and Timor-Leste begin on 30 June 2007. In the lead-up to the June polls in Papua New Guinea, International Projects offered a pilot education package for political parties and candidates to remedy some of the confusion surrounding the new limited preferential voting system, especially for new candidates who may not have been exposed to information about the new system. Designed in close consultation with PNG political parties, the package allows party secretariats easy access to relevant information for new candidates. Labor will be sending a team to observe the PNG elections, and a full report of the elec-
tion observer team will be posted on our website as soon as possible.

On 26 May 2007, a senior International Projects team delivered targeted training on political campaigning strategies to representatives of Timor-Leste’s major political parties. The seminar was open to all the major parties contesting the elections. A number of non-partisan observers were also present. Led by George Thompson, a former chief of staff to Kim Beazley and to me, the team included Gavin Ryan, from the office of Senator Gavin Marshall; Neville Conway, campaign manager for Kevin Rudd’s Griffith electorate office; and Jim Chalmers, a former principal political adviser to Kim Beazley. The program focused on the democratic fundamentals and the process of the political campaign. The training featured strategies for building strong and disciplined campaign teams, organising volunteers, contrasting approaches to campaign strategy and tactics, messaging and values, as well as political communication.

On 7 June 2007, International Projects followed up on this initiative with the launch of a collaborative project with Timor-Leste’s political parties which aims to maintain a register of up-to-date information about those parties’ platforms and people. To find the online version of Political Parties and Groupings in Timor-Leste, you can follow the links from our website, www.ip.alp.org.au. I am sure it will be of interest to many. We plan to continue to update the information about political parties in Timor-Leste as it comes to hand. I look forward to reporting again to the Senate on more progress on the success of the ALP’s Australian Political Parties for Democracy schemes.

Senate adjourned at 7.40 pm

DOCUMENTS
Tabling
The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]


Civil Aviation Act—Civil Aviation Regulations—
- Civil Aviation Order 20.18 Amendment Order (No. 1) 2007 [F2007L01688]*.
- Civil Aviation Order 82.1 Amendment Order (No. 1) 2007 [F2007L01689]*.
- Civil Aviation Order 82.3 Amendment Order (No. 1) 2007 [F2007L01690]*.
- Civil Aviation Order 82.5 Amendment Order (No. 1) 2007 [F2007L01691]*.

Instruments Nos—
- CASA EX26/07—Exemption – carriage of life rafts [F2007L01764]*.
- CASA EX27/07—Exemption – carriage and use of automatic dependent surveillance – broadcast equipment [F2007L01779]*.

Corporations Act—ASIC Class Orders—
- [CO 07/409] [F2007L01758]*.
- [CO 07/447] [F2007L01789]*.

Customs Act—Tariff Concession Orders—
- 0702647 [F2007L01622]*.
- 0703306 [F2007L01623]*.
- 0703394 [F2007L01635]*.
- 0703431 [F2007L01706]*.
- 0703433 [F2007L01637]*.
- 0703436 [F2007L01626]*.
- 0703686 [F2007L01636]*.
- 0704078 [F2007L01746]*.


General business orders of the day nos 10 to 12 relating to government documents were called on but no motion was moved.

**Tabling**

The following orders of the day relating to government documents were considered:
QUESTION ON NOTICE

The following answers to questions were circulated:

In-Home Care Program
(Question No. 3087)

Senator Allison asked the Minister representing the Minister for Families, Community Services and Indigenous Affairs, upon notice, on 28 March 2007:

When will the report on the review of the In Home Care Program be published.

Senator Scullion—The Minister for Families, Community Services and Indigenous Affairs has provided the following answer to the honourable senator’s question:

The “Final Evaluation Report – In Home Care” was published in December, 2006. It is available on the website of the Department of Families, Community Services and Indigenous Affairs www.facsia.gov.au.

Council of Australian Governments’ Indigenous Trials
(Question No. 3097)

Senator Carr asked the Minister representing the Minister for Families, Community Services and Indigenous Affairs, upon notice, on 10 April 2007:

With reference to the Council of Australian Governments’ (COAG) Indigenous Trials:

(1) (a) For each of the COAG Indigenous community trials in Wadeye and in North Eastern Tasmania, what is the amount that the department has expended in support of the trials to date, disaggregated to show administered funds and departmental expenses; and (b) for the administered funds, can the figures be further disaggregated to indicate the amount expended on individual activities or programs, not including funds for programs that would have been administered irrespective of the COAG trial.

(2) Have the trials formally ended; if so, when did they end.

(3) How will the department respond to the recommendation of consultants Morgan Disney & Associates that government staff receive cross-cultural training.

(4) (a) What cross-cultural training is currently being provided to staff in Indigenous Coordination Centres (ICC) and to all staff working in Indigenous-specific divisions of the department; and (b) is an outside body contracted to deliver this training; if so, can details be provided of the: (i) name of the contractor, (ii) date and duration of the training program(s), (iii) the nature of the program(s), and (iv) how many ICC staff have taken part in each program.

Senator Scullion—The Minister for Families, Community Services and Indigenous Affairs has provided the following answer to the honourable senator’s question:

As at end of April 2007, FaCSIA had expended approximately $20.1 million and $4.4 million in administered funds in support of the COAG Trials in Wadeye and North Eastern Tasmania, respectively.

As advised in answer to Question on Notice S2243 last October, FaCSIA had expended approximately $2.2 million in departmental funds on the Wadeye COAG Trial until the end of May 2006. The department is unable to provide updated departmental expenditure beyond that without involving a significant diversion of resources which, in the circumstances, I do not consider can be justified.

Departmental expenditure in support of the COAG Trial in North Eastern Tasmania is not available as discerning these funds from those used to operate the Hobart ICC would require a significant diversion of resources that I do not consider justified.
The requested information regarding administered funds can not be disaggregated to indicate the amount expended on individual activities or programs for the North Eastern Tasmanian COAG Trial site.

Minister Brough announced on 22 February 2007 the Australian Government’s intent to normalise arrangements in COAG Trial sites by building on the trials as part of the Government’s Blueprint for Action in Indigenous Affairs. This brought the notion of “trials” formally to an end. Arrangements are in place or are being negotiated to ensure the smooth transition to normalised arrangements in the former trial sites.

The considerations from the COAG Trials are being progressively incorporated into the way the department does business in Indigenous Affairs. Cross cultural training is an ongoing requirement for departmental staff at all levels.

Cross cultural training is currently available to all ICC and FaCSIA staff via the Australian Public Service Commission’s (APSC) panel of providers. A program for Aboriginal and Torres Strait Islander Cross-Cultural Awareness Training in FaCSIA will be piloted and evaluated by Communities Group in June-July 2007.

In addition to the cross-cultural training provided by the APSC and individual departments, external organisations such as the Aboriginal Resources Development Services (ARDIS) or local community members also deliver cross-cultural training programs for FaCSIA staff.

For example, in South Hedland nine staff from the ICC attended Cultural Awareness Training courses provided by the local Wangka Maya Pilbara Language Centre on 16 March, 13 April 2006 and 21 March 2007. In Coffs Harbour local elders conducted sessions with staff from the ICC. In Darwin staff had access to a course designed for East Arnhem Land by ARDS which also runs courses in the ACT, South Australia and elsewhere. Five Darwin ICC staff also had access to a course run by the Thamarrurr Regional Council in either Darwin or at Wadeye. In Queensland 18 staff from the State office and one from an ICC attended a one day program on 13 June 2006 conducted by Imagine Consulting Group International. The Tasmanian ICC and the COAG Trial governance body has ensured that cross cultural training for all participating agencies in the COAG trial is undertaken on a regular basis.

Families, Community Services and Indigenous Affairs: Programs

(Question No. 3106)

Senator Carr asked the Minister representing the Minister for Families, Community Services and Indigenous Affairs, upon notice, on 10 April 2007:

With reference to the decision to transfer responsibility for the provision of municipal services from the Davenport Community Council to the Port Augusta City Council:

(1) Prior to the announcement, how many face to face consultations did the department have with: (a) the Davenport Community Council; and (b) the Port Augusta City Council.

(2) (a) What responsibility does the department have for ensuring that funding continues for the Wami Kata aged care facility and the Lakeview Accommodation Centre; and (b) what steps have been taken to ensure this funding continues.

(3) Has the department secured formal agreement from the Port Augusta City Council that it will become the external service provider for municipal services to the Davenport community.

(4) Is the Port Augusta City Council providing municipal services to the Davenport community; if so, what services is it currently providing.

(5) Can a list be provided of any municipal services that the Davenport Community Council provided to the Davenport community that the Port Augusta City Council is not currently providing.
(6) On what date did, or will, municipal funding for the purpose of servicing the Davenport Community: (a) cease for the Davenport Community Council; and (b) increase for the Port Augusta City Council.

Senator Scullion—The Minister for Families, Community Services and Indigenous Affairs has provided the following answer to the honourable senator’s question:

Prior to the announcement of the decision to transfer responsibility for the provision of municipal services from the Davenport Community Council to the Port Augusta City Council, departmental staff met with Davenport Community Council representatives at least seven times to discuss the direct funding process and service normalisation arrangements (ie waste management). A specific meeting to discuss the outsourcing of municipal services was held with both Davenport Community Council and City of Port Augusta representatives on 27 March 2006.

Families, Community Services and Indigenous Affairs (FaCSIA) has no responsibility for the provision of services to either the Wami Kata aged care facility or the Lakeview Accommodation Centre.

The City of Port Augusta has agreed to be contracted for rubbish collection services. Negotiations are continuing regarding other services.

The Davenport Community Council was funded for a range of other municipal services such as landscaping and road maintenance. The Davenport Community refused to allow the Port Augusta CDEP Organisation access to undertake landscaping and other services. Alternate arrangements are being made for a community landscaping/beautification project to occur, while negotiations with the City of Port Augusta are continuing over the provision of other services such as road maintenance.

Funding to the Davenport Community Council for municipal services ceased on 31 December 2006. Further transition funding for the delivery of some non-municipal services will continue until 30 June 2007. The arrangements with the City of Port Augusta for the provision of rubbish collection services commenced on 4 January 2007.

Families, Community Services and Indigenous Affairs: Programs

(Question No. 3107)

Senator Carr asked the Minister representing the Minister for Families, Community Services and Indigenous Affairs, upon notice, on 12 April 2007:

With reference to the report prepared by PricewaterhouseCoopers (PWC) on the findings of the review of the Community Housing and Infrastructure Program (CHIP), entitled Living in the sunburnt country:

(1) On what date was the first draft of the report: (a) presented to the department; and (b) seen by the Minister or the Minister’s office.

(2) Did the: (a) department; or (b) Minister, make comments or suggestions for changes to the draft for PWC to consider or incorporate into the report; if so, on what date(s) were these comments or suggestions made.

(3) (a) On what date did PWC submit a revised draft of the report; (b) was the revised draft submitted to the department, the Minister’s office or both; and (c) on receipt of the revised draft, were further comments or suggestions made by either the Minister’s office or the department.

(4) With reference to consultations with each of the Indigenous organisations listed on page 11 of the report, can specific dates be provided for each of these consultations.

(5) (a) Given that there are 616 Indigenous housing organisations across Australia, was the Minister satisfied with PWC consulting only eleven, or approximately 1.5%, of these; (b) which remote communities, and on what dates, did PWC visit as part of the consultation process.

(6) Was Mr Graeme Morris, an employee of PWC, involved in the preparation or writing of the report?
Senator Scullion—The Minister for Families, Community Services and Indigenous Affairs has provided the following answer to the honourable senator’s question:

A first draft of the report was provided by PricewaterhouseCoopers (PwC) to the Department on 31 August 2006. The Minister for Families, Community Services and Indigenous Affairs was not provided with this first draft as it was incomplete and still required further work.

PwC submitted revised drafts of the report to the Department on 28 September and 24 October 2006. The Department provided the Minister’s Office with a copy of the 24 October 2006 draft. The Department in consultation with the Minister’s Office considered the 24 October draft still required further work by PwC to meet the requirements set out in the contract between the Department and PwC.

PwC consulted with a cross-section of stakeholders between May and September 2006.

A list of the dates of consultations is attached.

Mr Graeme Morris was an employee of PwC and was involved in the preparation and writing of the report.

PwC Consultations for CHIP Review

<table>
<thead>
<tr>
<th>Date</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 May 2006</td>
<td>National Aboriginal Health Strategy (NAHS) Service providers Sydney: Parsons Brinkerhoff; Healthabitat; GHD; and Centre for Alternative Technology (CAT)</td>
</tr>
<tr>
<td>24 May 2006</td>
<td>New South Wales Department of Aboriginal Affairs, Sydney</td>
</tr>
<tr>
<td>25 May 2006</td>
<td>Victorian Department of Planning, Melbourne</td>
</tr>
<tr>
<td>26 May 2006</td>
<td>Victorian Department of Housing, Melbourne</td>
</tr>
<tr>
<td>30 May 2006</td>
<td>Aboriginal and Housing Services, Tasmanian Department of Health and Human Services, Hobart</td>
</tr>
<tr>
<td>31 May 2006</td>
<td>Aboriginal Housing and Infrastructure Unit, Western Australian Department of Housing and Works, Perth</td>
</tr>
<tr>
<td>1 June 2006</td>
<td>Aboriginal Housing Authority, Adelaide</td>
</tr>
<tr>
<td>5 June 2006</td>
<td>Northern Territory Department of Community Development, Sport and Cultural Affairs, Darwin</td>
</tr>
<tr>
<td>6 June 2006</td>
<td>Queensland Department of Housing, Brisbane</td>
</tr>
<tr>
<td>7 June 2006</td>
<td>Housing Manager, Bathurst Island</td>
</tr>
<tr>
<td>8 June 2006</td>
<td>Chair Indigenous Housing Advisory Board, Katherine</td>
</tr>
<tr>
<td>9 June 2006</td>
<td>Centre for Appropriate Technology</td>
</tr>
<tr>
<td>19 June 2006</td>
<td>Aboriginal Hostels Limited, Canberra</td>
</tr>
<tr>
<td>22 June 2006</td>
<td>Office of Indigenous Policy Coordination (OIPC), Canberra</td>
</tr>
<tr>
<td></td>
<td>Department of Employment and Workplace Relations (DEWR), Canberra</td>
</tr>
<tr>
<td></td>
<td>OIPC, Canberra</td>
</tr>
<tr>
<td>Date</td>
<td>Organisation</td>
</tr>
<tr>
<td>--------------</td>
<td>-------------------------------------------------</td>
</tr>
<tr>
<td>28 June 2006</td>
<td>Victorian Department of Human Services, Melbourne</td>
</tr>
<tr>
<td>5 July 2006</td>
<td>DEWR, Canberra</td>
</tr>
<tr>
<td>6 Jul 2006</td>
<td>Progress Report</td>
</tr>
<tr>
<td>10 July 2006</td>
<td>Secretary, Department of Prime Minister and Cabinet, Sydney</td>
</tr>
<tr>
<td>11 July 2006</td>
<td>School of Architecture, University of Sydney, Sydney</td>
</tr>
<tr>
<td></td>
<td>Australian Army, Sydney</td>
</tr>
<tr>
<td>10 July 2006</td>
<td>FaCSIA, Sydney</td>
</tr>
<tr>
<td>11 July 2006</td>
<td>Healthabitat, Sydney</td>
</tr>
<tr>
<td>12 July 2006</td>
<td>GHD, Canberra</td>
</tr>
<tr>
<td></td>
<td>Department of Defence, Canberra</td>
</tr>
<tr>
<td></td>
<td>Housing Industry Association, Canberra</td>
</tr>
<tr>
<td>17 July 2006</td>
<td>Department of Health and Ageing, Canberra</td>
</tr>
<tr>
<td>24 July 2006</td>
<td>Aboriginal Hostels Limited, Port Augusta</td>
</tr>
<tr>
<td>25 July 2006</td>
<td>Presentation Adelaide – Standing Committee for Indigenous Housing (SCIH)</td>
</tr>
<tr>
<td>26 July 2006</td>
<td>Aboriginal Hostels Limited, Adelaide</td>
</tr>
<tr>
<td>27 July 2006</td>
<td>Presentations FaCSIA Canberra</td>
</tr>
<tr>
<td>28 July 2006</td>
<td>Northern Territory Minister for Multicultural Affairs, Territory and Municipal Services, Housing, Canberra</td>
</tr>
<tr>
<td>31 July 2006</td>
<td>Queensland Department of Housing, Brisbane</td>
</tr>
<tr>
<td></td>
<td>Arup, Brisbane</td>
</tr>
<tr>
<td></td>
<td>Wynnum Aboriginal and Torres Strait Islander Corporation, Wynnum</td>
</tr>
<tr>
<td></td>
<td>Indigenous Coordination Centres (Cairns and Mt Isa), Brisbane</td>
</tr>
<tr>
<td>1 August 2006</td>
<td>New South Wales Aboriginal Housing Organisation, Sydney</td>
</tr>
<tr>
<td></td>
<td>Senior Project Officer, FaCSIA, Cairns</td>
</tr>
<tr>
<td></td>
<td>Kozen Cooperative Society Ltd, Cairns</td>
</tr>
<tr>
<td></td>
<td>Chief Executive Officer, Yarrabah Community Council, Yarrabah</td>
</tr>
<tr>
<td>2 August 2006</td>
<td>Woompera Muralug Cooperative Society, Cairns</td>
</tr>
<tr>
<td>3 August 2006</td>
<td>FaCSIA, Mt Isa</td>
</tr>
<tr>
<td>4 August 2006</td>
<td>Queensland State Housing, Mt Isa</td>
</tr>
<tr>
<td>7 August 2006</td>
<td>Centrelink, Kununurra</td>
</tr>
<tr>
<td>8 August 2006</td>
<td>Waringarri Aboriginal Corporation, Kununurra</td>
</tr>
<tr>
<td></td>
<td>Wunan Foundation, Inc, Kununurra</td>
</tr>
<tr>
<td>9 August 2006</td>
<td>FaCSIA, Kununurra</td>
</tr>
<tr>
<td>10 August 2006</td>
<td>Northern Territory Minister for Local Government, Housing and Minister assisting the Chief Minister on Indigenous Affairs</td>
</tr>
<tr>
<td></td>
<td>Northern Territory Minister for Infrastructure and Transport, Planning and Lands, Public Employment, Corporate and Information Services, and Communications, Darwin</td>
</tr>
<tr>
<td></td>
<td>Office of Indigenous Policy, Darwin</td>
</tr>
<tr>
<td></td>
<td>Ove Arup Darwin</td>
</tr>
<tr>
<td></td>
<td>NT Shelter, Darwin</td>
</tr>
<tr>
<td></td>
<td>Yilli Reung, Darwin</td>
</tr>
<tr>
<td></td>
<td>FaCSIA, Darwin</td>
</tr>
</tbody>
</table>

QUESTIONS ON NOTICE
Senator Sherry asked the Minister representing the Minister for Families, Community Services and Indigenous Affairs, upon notice, on 2 May 2007:

Can the forward estimates for each financial year up to and including 2010-11 be provided for the Prime Minister’s Community Business Partnership.

Senator Scullion—The Minister for Families, Community Services and Indigenous Affairs has provided the following answer to the honourable senator’s question:

The administered forward estimates for the Prime Minister’s Community Business Partnership up to and including 2010-11 is as follows:

<table>
<thead>
<tr>
<th></th>
<th>2006-07</th>
<th>2007-08</th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$3.207m</td>
<td>$3.160m</td>
<td>$0.502m</td>
<td>$0m</td>
<td>$0m</td>
</tr>
</tbody>
</table>

Community Business Partnership funding ceases at the end of the 2007-2008 financial year. Funding in the 2008-09 financial year is to fund Non-Profit Australia, a budget measure brought down in the 2006-07 Portfolio Budget Statement.