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SITTING DAYS—2007

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RADIO BROADCASTS

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

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FORTY-FIRST PARLIAMENT
FIRST SESSION—TENTH 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. Alan Baird Ferguson

Deputy President and Chairman of Committees—Senator John Joseph Hogg


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

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

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

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

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

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

Senate Party Leaders and Whips

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

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

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

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

Leader of the Australian Labor Party—Senator Christopher Vaughan Evans

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

Leader of the Australian Democrats—Senator Lynette Fay Allison

Leader of the Australian Greens—Senator Robert James Brown

Leader of the Family First Party—Senator Steve Fielding

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

Nationals Whip—Senator Fiona Joy Nash

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

Australian Democrats Whip—Senator Andrew John Julian Bartlett

Australian Greens Whip—Senator Rachel Siewert

Family First Party Whip—Senator Steve Fielding

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

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(1) Chosen by the Parliament of Queensland to fill a casual vacancy vice Hon. Santo Santoro, resigned.
(2) Chosen by the Parliament of Victoria to fill a casual vacancy vice Hon. Richard Kenneth Robert Alston, resigned.
(3) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.
(4) Chosen by the Parliament of Tasmania to fill a casual vacancy vice Susan Mary Mackay, resigned.
(5) Chosen by the Parliament of South Australia to fill a casual vacancy vice Hon. Robert Murray Hill, resigned.
(6) Chosen by the Parliament of South Australia to fill a casual vacancy vice Jeannie Margaret Ferris, died in office.
(7) Chosen by the Parliament of South Australia to fill a casual vacancy vice Hon. Amanda Eloise Vanstone, resigned.
(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
Minister for Transport and Regional Services and Deputy Prime Minister
Treasurer
Minister for Trade
Minister for Defence
Minister for Foreign Affairs
Minister for Health and Ageing and Leader of the House
Attorney-General
Minister for Finance and Administration, Leader of the Government in the Senate and Vice-President of the Executive Council
Minister for Agriculture, Fisheries and Forestry and Deputy Leader of the House
Minister for Immigration and Citizenship
Minister for Education, Science and Training and Minister Assisting the Prime Minister for Women’s Issues
Minister for Families, Community Services and Indigenous Affairs and Minister Assisting the Prime Minister for Indigenous Affairs
Minister for Industry, Tourism and Resources
Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service
Minister for Communications, Information Technology and the Arts and Deputy Leader of the Government in the Senate
Minister for the Environment and Water Resources
Minister for Human Services

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

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

Minister for Fisheries, Forestry and Conservation and Manager of Government Business in the Senate
Senator the Hon. Eric Abetz

Minister for Small Business and Tourism
The Hon. Frances Esther Bailey MP

Minister for Local Government, Territories and Roads
The Hon. James Eric Lloyd MP

Minister for Revenue and Assistant Treasurer
The Hon. Peter Craig Dutton MP

Minister for Workforce Participation
The Hon. Dr Sharman Nancy Stone MP

Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence
The Hon. Bruce Frederick Billson MP

Special Minister of State
The Hon. Gary Roy Nairn MP

Minister for Ageing
The Hon. Christopher Maurice Pyne MP

Minister for Vocational and Further Education
The Hon. Andrew John Robb MP

Minister for the Arts and Sport
Senator the Hon. George Henry Brandis SC

Minister for Community Services
Senator the Hon. Nigel Gregory Scullion

Minister for Justice and Customs
Senator the Hon. David Albert Lloyd Johnston

Assistant Minister for Immigration and Citizenship
The Hon. Teresa Gambaro MP

Assistant Minister for the Environment and Water Resources
The Hon. John Kenneth Cobb MP

Parliamentary Secretary to the Prime Minister
The Hon. Anthony David Hawthorn Smith MP

Parliamentary Secretary to the Minister for Transport and Regional Services
The Hon. De-Anne Margaret Kelly MP

Parliamentary Secretary to the Treasurer
The Hon. Christopher John Pearce MP

Parliamentary Secretary to the Minister for Finance and Administration
Senator the Hon. Richard Mansell Colbeck

Parliamentary Secretary to the Minister for Industry, Tourism and Resources
The Hon. Robert Charles Baldwin MP

Parliamentary Secretary to the Minister for Foreign Affairs
The Hon. Gregory Andrew Hunt MP

Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry
The Hon. Sussan Penelope Ley MP

Parliamentary Secretary to the Minister for Education, Science and Training
The Hon. Patrick Francis Farmer MP

Parliamentary Secretary to the Minister for Defence
The Hon. Peter John Lindsay MP

Parliamentary Secretary to the Minister for Health and Ageing
Senator the Hon. Brett John Mason
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<td>Julia Eileen Gillard MP</td>
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<td>and Social Inclusion</td>
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<td>Leader of the Opposition in the Senate and Shadow Minister for</td>
<td>Senator Christopher Vaughan Evans</td>
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<td>Deputy Leader of the Opposition in the Senate and Shadow Minister</td>
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<td>The Hon. Archibald Ronald Bevis MP</td>
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<td>and Customs and Shadow Minister for Territories</td>
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<td>Shadow Assistant Treasurer and Shadow Minister for Revenue and</td>
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<td>and Research</td>
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<tr>
<td>Shadow Minister for Trade and Shadow Minister for Regional Development</td>
<td>The Hon. Simon Findlay Crean MP</td>
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<td>Shadow Minister for Service Economy, Small Business and</td>
<td>Craig Anthony Emerson MP</td>
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<td>Independent Contractors</td>
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<td>Shadow Minister for Multicultural Affairs, Shadow Minister for</td>
<td>Laurence Donald Thomas Ferguson MP</td>
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<td>Urban Development and Shadow Minister for Consumer Affairs</td>
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<td>Shadow Minister for Transport, Roads and Tourism</td>
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<td>and Shadow Minister for the Arts</td>
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Robert Francis McMullan MP

Shadow Minister for Primary Industries, Fisheries and Forestry
Senator Kerry Williams Kelso O’Brien

Shadow Minister for Human Services, Shadow Minister for Housing, Shadow Minister for Youth and Shadow Minister for Women
Tanya Joan Plibersek MP

Shadow Minister for Health
Nicola Louise Roxon MP

Shadow Minister for Superannuation and Intergenerational Finance and Shadow Minister for Banking and Financial Services
Senator the Hon. Nicholas John Sherry

Shadow Minister for Education and Training
Stephen Francis Smith MP

Shadow Treasurer
Wayne Maxwell Swan MP

Shadow Minister for Finance
Lindsay James Tanner MP

Shadow Minister for Public Administration and Accountability, Shadow Minister for Corporate Governance and Responsibility and Shadow Minister for Workforce Participation
Senator Penelope Ying Yen Wong

Shadow Parliamentary Secretary for Foreign Affairs
Anthony Michael Byrne MP

Shadow Parliamentary Secretary for Defence and Veterans’ Affairs
The Hon. Graham John Edwards MP

Shadow Parliamentary Secretary for Environment and Heritage
Jennie George MP

Shadow Parliamentary Secretary for Treasury
Catherine Fiona King MP

Shadow Parliamentary Secretary for Education
Kirsten Fiona Livermore MP

Shadow Parliamentary Secretary to the Leader of the Opposition
John Paul Murphy MP

Shadow Parliamentary Secretary for Industrial Relations
Brendan Patrick John O’Connor MP

Shadow Parliamentary Secretary for Industry and Innovation
Bernard Fernando Ripoll MP

Shadow Parliamentary Secretary for Northern Australia and Indigenous Affairs
The Hon. Warren Edward Snowdon MP

Shadow Parliamentary Secretary to the Leader of the Opposition (Social and Community Affairs)
Senator Ursula Mary Stephens
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The Senate met at 12.30 pm.

**Election**

**The Clerk**—Senators, I lay on the table a letter from Senator the Hon. Paul Calvert to His Excellency the Governor-General, resigning from the office of President of the Senate. The letter was endorsed as received by His Excellency at 10.30 this morning.

**Senator MINCHIN** (South Australia—Leader of the Government in the Senate) (12.30 pm)—Mr Clerk, as it is now necessary for the Senate to choose one of its members to be President, I propose to the Senate for its President Senator Alan Ferguson. I move:

That Senator Ferguson take the chair of the Senate as President.

**The Clerk**—Are there any further nominations?

**Senator BOB BROWN** (Tasmania—Leader of the Australian Greens) (12.30 pm)—I propose to the Senate for its President Senator Nettle. I move:

That Senator Nettle take the chair of the Senate as President.

In speaking to that—

**The Clerk**—Senator, the candidates should address the Senate first.

**Senator BOB BROWN**—And I may afterwards?

**The Clerk**—Yes. There being two nominations, I invite the candidates to address the Senate.

**Senator FERGUSON** (South Australia) (12.31 pm)—I submit myself to the will of the Senate.

**Senator NETTLE** (New South Wales) (12.31 pm)—Parliaments around this country and around the world have recognised the importance, for good governance and for democracy, of having independent speakers and presidents of their parliaments. It is an important tradition that we can follow in this parliament as well. Today presents us with an opportunity to stand up for good governance and to stand up for democracy. I submit myself to the will of the Senate.

**Senator BOB BROWN** (Tasmania—Leader of the Australian Greens) (12.31 pm)—I put to the Senate that, firstly, there is a club arrangement in the Senate which means that the President automatically comes from the government and the Deputy President comes from the opposition. That is not an arrangement which the Greens support. It means, effectively, that the best person is not necessarily elected to the position. That is what we should be aspiring to, short of the ideal that Senator Nettle put forward—that there should be an independent President of the Senate and, indeed, Speaker of the House of Representatives. I ask: what is it about the four good, worthy and capable Democrat senators, those on the Green benches or Family First which should exclude them from this process?

**Senator Robert Ray**—About 30 quotas.

**Senator BOB BROWN**—Senator Ray says: ‘About 30 quotas.’ That is a club arrangement. A club arrangement between the two big parties excludes the alternative and, in this case, better candidate in Senator Nettle. Let me put this to the Senate: this year, Senator Ferguson—and I think he will make an admirable President—has made six submissions to this Senate. Senator Nettle has made 102 submissions to the Senate. So when you look at diligence, hard work and contribution, you see that Senator Nettle presents an option which ought to be favoured and is the better option. What is more, she is an intelligent, fair-minded senator who, in...
taking the chair, would give it the dignity it deserves.

Senator Lightfoot—This is appalling behaviour.

Senator BOB BROWN—I have an interjection from opposite, Clerk, which says it is appalling behaviour to be standing up in a democratic forum, taking part in a democratic debate about a democratic vote, and the government does not want it—appalling behaviour indeed! Anyway, this is a serious matter—the Greens providing democracy—because, if you have no contest, you have no democracy in this chamber, part of the fulcrum of democracy in this country. I am proud we are doing this, I am proud of Senator Nettle being presented here for this vote for the presidency, and I recommend her to thoughtful senators as the next President of the Senate.

The Clerk—There being two nominations, in accordance with the standing orders the Senate will proceed to a ballot. The bells will be rung for four minutes before the ballot.

The bells having been rung—

The Clerk—The Senate will now proceed to a ballot. Ballot papers will be distributed to honourable senators, who are requested to write upon the paper the name of the candidate for whom they wish to vote. The candidates are Senator Ferguson and Senator Nettle. I invite Senators Parry and Siewert to act as scrutineers.

A ballot having been taken—

The Clerk—The result of the ballot is: Senator Ferguson, 67 votes; and Senator Nettle, five votes. Senator Ferguson is therefore elected as President of the Senate in accordance with the standing orders.

Senator Ferguson having been conducted to the dais—

The PRESIDENT (Senator Ferguson) (12.45 pm)—I thank the Senate for the honour it has bestowed upon me. Honourable senators, thank you for the enormous honour you have done me by electing me as your President. I will endeavour to repay the trust that you have placed in me. I could not be elected to this office without the support of my party and the people of South Australia, and I express my thanks to the South Australian division of the Liberal Party for their faith in endorsing me and to the voters for electing me to this place. I also wish to thank my Liberal Party colleagues in the Senate for their unanimous support for this position.

I pay tribute to my predecessor in the chair, my close friend Senator Calvert, who has been an excellent President of the Senate for the last five years and who did much to reform the bureaucracy of the parliament. Senator Calvert has chosen his own time to retire—something not everyone in this building has the chance to do—and I know all honourable senators will wish him well for the future. It was a South Australian, Sir Richard Baker, who was the first President of the Senate at Federation; and six senators for South Australia have now occupied the President’s office—more than from any other state. We also claim Senator Margaret Reid, who spent all of her formative years in South Australia. If my memory is correct, she was the first president of the Young Liberals in South Australia. I do not know why my state has this statistic—maybe there is something in the water.

Apart from the support from my party and my colleagues, the greater personal debt of gratitude I owe is to my wife Anne and my family. They have been a continual source of support during my political career. It is a career which I know comes at a personal cost to all households that contain a politician. I cannot express my gratitude enough for that support. Together with Anne and other fami-
ily friends in the gallery, two of our three daughters are here—along with Grace Heaslip and Jim Le Messurier, two of our five grandchildren. As President, I aim to continue the unbroken tradition of my predecessors to endeavour to treat every senator equally, and I hope all honourable senators will play their part in helping in that endeavour—and those who assist the President in the chair.

Senator MINCHIN (South Australia—Leader of the Government in the Senate) (12.54 pm)—Mr President, on behalf of all government senators, I warmly congratulate you on your election as President of the Senate. We wish you every success in your new and very demanding role. We are sure that you will bring wisdom, balance and independence to your duties as President and, with 15 years of great service as a senator and as chairman of various Senate and joint parliamentary committees, you bring considerable experience to the job of President.

As you noted yourself, you have very large shoes to fill in succeeding Senator Calvert, but I am sure that all senators have confidence in your capacity to maintain the high standards set by your predecessor. On behalf of all coalition senators, I assure you of our willingness to cooperate with you to ensure the smooth and efficient operation of the Senate and to support you fully in your role. Mr President, it has been my privilege to share a house with you in Canberra for some 14 years and, while you have now achieved this new and august role, I still expect you to do your own washing-up!

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (12.55 pm)—Mr President, on behalf of the Labor opposition, I congratulate you on your election to the office of President of the Senate. I am sure you will conduct your duties with dignity, fairness and impartiality. We think that, if the President has to be a government senator, you are a good choice. I point out that Labor did not support you in the election because we are part of a club but because we hold to the principle that the President ought to be provided by the government of the day. It is a principle we hope that the coalition would support were a Labor government to be elected. We wish you well in your role. We think you will bring your sense of humour to your role in the chair, which is always an advantage. I am sure the opposition will test your patience. That is part of our function in applying pressure on the government. We wish you well in your role and look forward to your term as President.

Senator BOSWELL (Queensland—Leader of The Nationals in the Senate) (12.56 pm)—Mr President, what a great honour it is that the Senate has given you today. I know that you are very proud and I know that your wife and grandchildren and also the people who have been supporting you over many years will be so proud of you too. Fergie, you have a great reputation for fairness and honesty and for being a really decent bloke. I wish you well on behalf of my National Party colleagues. I know that you will be fair and responsible, just as your predecessor was. I offer you the congratulations of the National Party.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (12.57 pm)—Mr President, I too wish to add words of congratulations to you on winning this election. We look forward to you presiding over this chamber with fairness and integrity and know that you will do this. I also acknowledge your predecessor and indicate to Senator Calvert that we have appreciated his presidency in this place too. One final word: if you would not mind, bear in mind that there is a crossbench down the end of the
chamber and that it will occasionally need your attention. Good luck, Mr President, and we welcome you to this position.

**Senator BOB BROWN** (Tasmania—Leader of the Australian Greens) (12.57 pm)—I congratulate you, Mr President, and wish you well. I hear your commitment to treating all senators equally. The Senate knows, of course, that it is the arbiter of its destiny, not the chair, but the chair is there to make decisions and guide the good governance, fair play and goodwill in this place. I wish you well in that task and I wish Senator Calvert great bounty and wellbeing in the years ahead and thank him for his time in the chair.

**Senator FIELDING** (Victoria—Leader of the Family First Party) (12.58 pm)—Mr President, on behalf of Family First, I congratulate you on your election to President. We know that you will serve the role with fairness and without fear or favour. We will probably say more later this week about Senator Calvert. It is very sad to see him leave, but I am sure you will do a sterling job.

**Senator CALVERT** (Tasmania) (12.58 pm)—Mr President, I congratulate you on your election as the 22nd President of the Australian Senate. As a colleague and a very good friend over the last 15 years, I know that you have all the qualities that are needed to make an excellent President; particularly important are fair-mindedness and a good sense of humour. I was privileged to have the goodwill of senators in carrying out my role in the chair over the last five years and I trust that senators will extend to you the same courtesy. It will be a pleasure to sit back here and watch you in the chair at question time!

**The PRESIDENT**—Thank you, Senator Calvert.

**Senator MINCHIN** (South Australia—Leader of the Government in the Senate) (12.59 pm)—I wish to inform honourable senators that the Governor-General will be pleased to receive Mr President and such honourable senators as desire to accompany him in the Members Hall immediately.

**Sitting suspended from 1 pm to 2 pm**

**The PRESIDENT** (Senator the Hon. Alan Ferguson) took the chair at 2 pm and read prayers.

**PRESIDENT**

**Election**

**The PRESIDENT** (2.00 pm)—I have to report that, accompanied by honourable senators, today I presented myself to the Governor-General as the choice of the Senate as President. The Governor-General congratulated me upon my election and presented me with a commission to administer to senators the oath or affirmation of allegiance. I table the commission.

**QUESTIONS WITHOUT NOTICE**

**Uranium Exports**

**Senator FORSHAW** (2.01 pm)—Congratulations, Mr President, on your election to the office of President of the Senate. My question is directed to Senator Coonan, the Minister representing the Minister for Foreign Affairs. I ask: can the minister advise whether the government will continue to oppose uranium sales to countries that refuse to sign the nuclear nonproliferation treaty?

**Senator COONAN**—Mr President, may I, as the first government senator to speak during question time, also congratulate you. We are in fact, of course, very pleased to have you in the chair. Thank you to Senator Forshaw for the question, which is a very important one and relates to uranium exports. The government will consider whether to enter into negotiations with, in particular, India on a bilateral safeguards agreement.
which would enable uranium exports to India. We would only supply uranium if effective, legally binding safeguards were in place, pursuant to a safeguards agreement with the International Atomic Energy Agency and a bilateral safeguards agreement.

Australia welcomes the conclusion of the United States-India negotiations on the text of a bilateral civil nuclear agreement. That will enable India to be brought more fully into the nonproliferation mainstream through the separation of its civil and military nuclear facilities and the expanded application of the International Atomic Energy Agency safeguards. The government has a very strong record of demonstrated achievement on nuclear nonproliferation. Dr Switkowski, in his recent report, states:

Australia has the most stringent requirements for the supply of uranium ...

He also states:

An increase in the volume of Australian uranium exports would not increase the risk of proliferation of nuclear weapons.

Australia played a very prominent role in negotiating the additional protocol on strengthened IAEA safeguards, was the first country to conclude an agreement, and is working for universal application. In 2005, it was a new condition for the supply of Australian uranium to non-nuclear weapon states. Australia is committed to taking practical steps to disrupt illicit WMD related trade, as an active participant in the proliferation security initiative. Australia has worked for effective UNSC resolutions on the Iran nuclear programs, and has fully implemented resulting sanctions. From 2005 to July this year, there have been coordinated international efforts to promote entry into force of the comprehensive test ban treaty.

Australia has been at the forefront of efforts to push for negotiation of a fissile material cut-off treaty to ban production of fissile material for nuclear weapons. Australia is also working to strengthen controls on the spread of sensitive nuclear technologies, including through the active membership of the Nuclear Suppliers Group. Australia is continuing its close engagement with regional countries on nuclear and other WMD counterproliferation issues. Australia is also the founding partner of the Global Initiative to Combat Nuclear Terrorism. When you look at the efforts and the initiatives that Australia has taken, I do not think it could be sensibly said that Australia has not adopted very strong policies to halt the spread of nuclear weapons and to strengthen the nuclear nonproliferation regime.

Senator FORSHAW—Mr President, I ask a supplementary question. I note that at no stage did the minister actually address herself to the fundamental question, which was: would the government continue to oppose uranium sales? The supplementary question I have is: does the minister agree that any sale of uranium to India while it continues to refuse to sign the nonproliferation treaty will fundamentally undermine the effectiveness of the treaty?

Senator COONAN—No, I do not agree with that. As I was saying in the earlier part of my answer, in relation to potential uranium exports to India, India will be brought more fully into the nonproliferation mainstream through the separation of its civil and military nuclear facilities and the expanded application of the International Atomic Energy Agency safeguards. India will be in a greater position to increase its use of nuclear power to pursue economic development and assist in the fight against global climate change. The strengthening, as we know is the case, of the relationship between the United States in India ultimately assists us. It is likely that Australia would support a US pro-
proposal to create an exception, so I do not agree at all with the proposition.

Housing Affordability

Senator HUMPHRIES (2.07 pm)—My question is to the Minister for Finance and Administration, Senator Minchin. Is the minister aware of proposals to reduce the cost of rental accommodation? What is the government’s response to these proposals, and could the minister in particular inform the Senate whether these proposals will benefit existing renters as well as new renters?

Senator MINCHIN—Thanks, Mr President, and I thank Senator Humphries for that question. As is well known, the government has a number of initiatives which assist renters. We spend about $2 billion a year on rent assistance for individuals and a further $1 billion a year on the Commonwealth-State Housing Agreement. Of course, the tax system provides benefits to investors in housing, including the 50 per cent capital gains tax deduction and the ability to negatively gear through deductions on interest payments and capital deductions. But the most important benefit to renters comes from running a strong economy, where unemployment is at 4.3 per cent, real wages continue to rise, taxes have been cut and family payments increased.

Yesterday the opposition leader and shadow Treasurer released a new policy which they claimed would cut the costs of renting by 20 per cent. This opposition policy would provide $6,000 per annum in federal funded tax breaks and $2,000 per annum in state tax breaks to super funds and property developers if they provide new rental accommodation at a 20 per cent discount to the prevailing market rent.

This policy was said to benefit some 50,000 renters, but it was claimed to cost only $600 million over five years, or an average of $120 million a year. But simple arithmetic says that a $6,000 annual tax break for 50,000 properties is going to cost $300 million a year, or $1.5 billion over five years, not the $600 million claimed by the Labor Party. So clearly the Labor Party has been less than honest about the number of people who would benefit under its scheme.

Secondly, this scheme would only be attractive to investors to the extent that this $8,000 tax break is more than the revenue they are going to lose through the 20 per cent rental discount. In other words, by definition the scheme must involve a subsidy to developers and investors not fully passed on to renters. So, if you take a rent of $300 a week, a 20 per cent discount would amount to $60 a week, or $3,120 a year. So the federal government, funded by taxpayers, would be giving a $6,000 break to investors to get about a $3,000 rental reduction. It is an absurd idea.

Then, of course, there is the administrative complexity of quantifying this 20 per cent discount for any given rental property. You would have to keep a means test on the renters as a condition of the tax break for the investor. It is a bureaucratic nightmare. But the crowning fallacy of this policy came out yesterday, when Mr Rudd and Mr Swan visited a renter named Rosanna Harris in the suburbs of Canberra to sell this policy. Mr Rudd asked Ms Harris what she paid in rent, to which the answer was $260 a week. Mr Rudd then responded: ‘$260—so you are effectively going to get $50-plus off each week.’ That is completely incorrect, completely untrue and completely misleading. Ms Harris is already in existing rental accommodation; she could not possibly benefit from Labor’s scheme. It would only benefit a relatively small number of renters in new rental accommodation. Ms Harris would receive nothing under Mr Rudd’s scheme, and nor would anyone else who is already renting established housing. Most low-income earners do not rent brand-new houses. They rent
older accommodation and would receive nothing under Mr Rudd’s policy.

This is another gaffe by Mr Rudd. As we know, he is superficial and shallow. He knows nothing about the details of his policy. This is a completely dishonest approach by the Labor Party. They cynically overstate the benefits of what is in fact a modest and very poorly designed policy. They are out there creating the impression that every low renter will get a 20 per cent discount. Wrong, wrong, wrong. This is a shallow, deceptive and sloppy policy—another illustration of why Labor and Mr Rudd should never be allowed to run this trillion dollar economy.

Senator Chris Evans interjecting—

The PRESIDENT—Order! Senator Evans, your colleague wishes to ask a question.

Climate Change

Senator McEWEN (2.12 pm)—My question is to Senator Minchin, the Minister representing the Prime Minister. Can the minister confirm that in the three years between 2002 and 2005 the government spent a total of $311 million on climate change related programs? Is the minister aware that, of this $300 million, two-thirds, or $200 million, was spent on administration expenses, with just $100 million spent on actual climate change programs? Doesn’t this equate to just $36 million a year in funding to tackle the dangerous threat of climate change? Can the minister now explain why the government spends $2 administering every $1 it spends on climate change programs? Don’t the government’s own budget figures confirm that it is not serious about tackling climate change?

Senator MINCHIN—I am not going to take at face value that particular analysis of our spending. What I am prepared to inform the Senate about is the fact that we have already committed some $3.4 billion to initiatives that directly address climate change. Around $1 billion is to ensure that Australia does meet its Kyoto target. While we did not sign up to the failed and hopeless Kyoto target, because it does not include the world’s biggest emitters, we have a target. We have committed to meeting our target for Kyoto and we are spending $1 billion to do it.

There is another $2 billion in new funding for research and development and the demonstration of low-emission technologies. We have introduced the world’s first mandatory renewable energy target, and that is support of some $3½ billion in new investment. We have helped establish the Asia-Pacific Partnership on Clean Development and Climate. Through the Prime Minister we have, as hosts of APEC this year, flagged and set and got agreement to the APEC being focused primarily on climate change so that, through APEC, we get the world’s biggest emitters—China, the United States and others—working together to ensure there is a cooperative international response to climate change.

What the government is committed to doing, unlike the Labor Party, is to approach this in a sensible, concerned and responsible fashion—not go out chasing Green preferences by adopting, without any analysis whatsoever, a 60 per cent reduction target for greenhouse gas emissions. That will do untold damage to Australians working in manufacturing and other industries reliant on the cheap electricity which this country has always provided. That will do enormous damage to working families in this country. They have not done the economic analysis to back up their 60 per cent target. As the head of the IPCC said, they should not rush in and adopt targets without any economic analysis.

You have to do the hard work to work out how you achieve these targets without destroying your economy. That is what we are going to do. We are committed to it. We are proud of our record on climate change. Woe
betide those electing a Labor government which comes in chasing Green preferences and does untold damage to this economy through its 60 per cent reduction target.

Senator McEWEN—Mr President, I ask a supplementary question. Doesn’t the government’s failure to actually deliver the climate change programs that it says it is funding show that it is not serious about tackling climate change? Why should Australians believe that a government full of climate change sceptics, including the minister himself as chief sceptic, will ever be able to properly tackle climate change?

Senator MINCHIN—As I said yesterday, the Labor Party does not really believe in free speech. There are many eminent scientists internationally who question the extent to which anthropogenic activity is contributing to global warming—and you will not allow any of that to occur. You have people in your own ranks who doubt the extent to which anthropogenic global warming is occurring, but you will not allow them to express their views. We respect the right of the Dennis Jensens of the world to express their views. But you know, and I know, the government’s policy; and the government policy is to work internationally to achieve greenhouse gas reductions which do not destroy the Australian economy like your policies would.

Kyoto Protocol

Senator BERNARDI (2.16 pm)—Thank you, Mr President. I congratulate you on your election to the esteemed position which you now hold. In doing so, as a fellow South Australian I acknowledge that, for today at least, you have replaced the Adelaide Crows as the pride of South Australia. My question is to the Minister for Fisheries, Forestry and Conservation, Senator Eric Abetz. Is the minister aware of the recent call by the CFMEU that the Australian government ratify the flawed Kyoto protocol? What would be the consequences for Australia’s forest industry and for the environment if this action were taken?

Senator ABETZ—Thank you, Mr President. I congratulate you on your appointment as President of the Senate, and I congratulate Senator Bernardi on a very perceptive and important question.

Senator Carr interjecting—

The PRESIDENT—Order, Senator Carr.

Senator ABETZ—I am aware of the unsurprising yet counterproductive call by the CFMEU and others that we ratify the flawed Kyoto protocol. This is unsurprising because this is Peter Garrett’s Labor and the unions in lock step all the way—yet counterproductive because, as the evidence clearly shows in New Zealand, it has been the very signing of the Kyoto protocol which has caused a significant decline in the carbon positive timber industry. It may interest senators in this chamber to know that, unlike Australia but just like 30-plus countries including Denmark and Norway, New Zealand is going to miss its Kyoto targets by a substantial amount. In fact as a result of signing Kyoto the latest estimates are that New Zealand will be forced to pay a $1.7 billion Kyoto fine. That is more than just a slap on the wrist. In a very perverse environmental outcome, the New Zealand forest sector, which actually takes carbon dioxide out of the atmosphere, has been particularly hard hit. Allow me to explain.

As a result of signing the flawed Kyoto protocol, New Zealand landowners who harvest trees after 2008 and who do not replant them now face a Kyoto carbon tax of up to $13,000 per hectare. As a result, it is estimated that nearly one-third of New Zealand’s carbon-sequestering plantation forests harvested in 2006 have already been converted to other land uses such as pasture.
Additionally, it has caused a glut of timber on the market—much of it immature. It has also resulted in ridiculous instances of immature forest plantations being sprayed and killed where they stand. This is all to avoid the pending Kyoto tax. Worse still, in addition to clearing existing trees, New Zealanders have simply stopped planting new plantations. This is all because of Kyoto. No wonder Martin Ferguson is a climate change sceptic. Unlike Australia, where our forest estate is growing by about 70,000 hectares per annum, New Zealand’s plantation estate has actually fallen by 70,000 hectares per annum. As a result—and here is the real killer for the CFMEU—employment in the forest industry in New Zealand has fallen by over 20 per cent.

Yet the CFMEU and Mr Garrett say that it is in the interests of forest workers to ratify the Kyoto protocol here in Australia. The New Zealand experience clearly shows that that is not the case. I remind those opposite, and in particular the CFMEU, that, unlike what Joe McDonald might think, the ‘F’ in CFMEU actually does stand for forestry. If the CFMEU and Mr Garrett were acting in the interests of forest workers, like the Howard government is, then they would instead be advocating well thought out, practical, sensible measures to reduce Australia’s CO₂ emissions. What we have is a Labor accord with the Greens; whereas the coalition has an accord with the environment and the workers of Australia. (Time expired)

Renewable Energy

Senator MARSHALL (2.21 pm)—My question is to Senator Abetz, the Minister representing the Minister for the Environment and Water Resources. Is the minister aware that the Prime Ministerial Task Group on Emissions Trading recommends abolishing the Victorian Renewable Energy Target scheme, which is aimed at generating 10 per cent of the state’s power from renewable sources by 2016? Does the government support this recommendation? Isn’t the solar power plant proposed for Mildura—in part funded by the government—relying on the VRET to be viable? Haven’t there been 10 projects announced under the scheme already with a total capacity of over 1,000 megawatts and generating hundreds of construction and ongoing regional jobs? Wouldn’t the abolition of the VRET put a stop to all of these projects?

Senator ABETZ—The very quick answer is simply no. Of course it would not because the Australian government has been investing substantially in renewable energy technologies without requiring mandatory renewable energy targets. My fellow Tasmanians, for example, would be fully aware that the Tasmanian Labor government will be increasing energy prices by about 15 per cent. On top of that, federal Labor would increase their energy prices even further through their ill thought out policy of increasing the mandatory renewable energy targets, because mandating will require that every consumer of energy within Australia pay a higher power bill.

Labor may parade to the workers and pensioners of this country some feigned concern for their circumstances, but their Green-Labor accord type of policies will in fact have workers and pensioners out of pocket every time they pay their power bills. We as an Australian government are concerned to ensure that we get a sensible renewable energy policy right around Australia so that we do not have Victoria on eight per cent and New South Wales with another target and somebody else with another target. The Prime Minister’s task force—

Senator Chris Evans—What’s your target? You don’t have a target at all.
Senator ABETZ—I indicate to the senator that we agree with the recommendation of that task force that the renewable energy targets will increase energy prices for all Australians in a way that would help ambush the economy and also the pockets of every single Australian and, most importantly, our manufacturing sector, which Mr Rudd pretends to champion. This is a great lesson for the Australian Labor Party: you cannot just pick policies because they sound good; they actually have flow-on consequences. The Labor policy on renewable energy targets would be very damaging to the manufacturing sector and to every single energy consumer within this country.

We have said consistently that we will take a good, sensible approach to these matters, as witnessed by the fact that we established the Australian Greenhouse Office some 10 years ago. We are continuing with good, sound investment in the renewable energy sector, such as the solar city policy and the rebate and assistance for homeowners that even the hapless Mr Garrett did not quite understand when he sought to ask my colleague Mr Turnbull a question in the parliament a couple of weeks ago. We have a comprehensive policy that is based on rigour and robustness and not cheap slogans that are an attempt to get Australian Greens preferences.

Senator MARSHALL—Mr President, I ask a supplementary question. I ask the minister to also confirm that, in the absence of the VRET and the New South Wales based renewable energy scheme, Australia will go backwards in terms of the proportion of energy coming from renewable sources in the period to 2020. When so many other countries are committing to higher renewable energy targets, why has the Howard government refused to lift its two per cent MRET?

Senator ABETZ—In fact, I do know, Senator Brown. The simple fact is that we as a government have invested heavily in renewable energy. That means that we will not be going backwards. We have, for example, put $50 million into International Power for its ‘Hazelwood 2030 A Clean Coal Future’ project and up to $75 million into Solar Systems Australia for its ‘Large Scale Solar Concentrator’ project. We have had a whole host of other investments as well, multimillions of dollars worth—in fact, if I recall correctly, something like $960 million worth of investment. That is the sort of thing that we need, not mandating, which will force increased power charges on every single Australian and on the manufacturing sector. We need the investment so that the renewable energy sector can compete in the market. (Time expired)

Child Protection

Senator PAYNE (2.27 pm)—My question is to the Minister for Justice and Customs, Senator Johnston. Can the minister advise the Senate what new initiatives have been developed by the government to protect Australian families from online dangers in the very complex internet environment? Can the minister advise how the government is supporting our law enforcement agencies to combat online sexual predators?

Senator JOHNSTON—Mr President, may I pause to congratulate you on your elevation to President of the Senate. I thank the senator for her question and congratulate her on her recent preselection in New South Wales. I can say with great confidence that the Howard government has shown during its time in office a total commitment to eradicating the abhorrent practices associated with sexual exploi-
tation of children, particularly on the internet.

As I said last month in this chamber, as part of this unequivocal commitment, the Australian Federal Police have been a very active partner in the Virtual Global Taskforce, an alliance between local and international law enforcement agencies which aims to make the internet a safer place for children. 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. The Australian Federal Police have been an active partner in Operation Lobate since early December 2006. As senators are aware, this has been a very successful operation in Australia with the execution of five search warrants, the arrest of four people, one conviction and a further two people currently before the courts. Worldwide there have been 63 arrests across 35 countries, resulting in the rescue of 22 child victims of abuse—a very real priority for all parties working on this very difficult and often traumatic area of law enforcement.

Children should always be able to use the internet safely without the fear of being approached or groomed by a sexual predator. This is the responsibility of the whole community—not just parents but also law enforcement agencies, industry, schools and children themselves. As part of this commitment, the Commonwealth has already enacted legislation relating to child pornography and child abuse, which came into effect on 1 March 2005. To support the implementation of this vital legislation in the fight against online predators, the Australian Federal Police established the Online Child Sex Exploitation Team. This team currently has 35 specialist staff dedicated to the evaluation and investigation of online sex exploitation matters.

A further 100 Australian Federal Police investigators throughout Australia have also been trained to increase the capacity of the Australian Federal Police to fight this crime. Since its inception in 2005, the Online Child Sex Exploitation Team has been responsible for laying charges against 55 people for a total of 160 offences.

To further support the work of the Online Child Sex Exploitation Team, the government only last week announced a NetAlert Protecting Australian Families Online initiative of $189 million which will be provided to the Australian Federal Police for OCSET to continue detecting, investigating and charging online child sex predators. The provision of $43.5 million over four years will further assist OCSET and related high-tech crime units in the detection and investigation of online child sex exploitation, including grooming of children by online sex predators. The additional funding will effectively double the size of OCSET with an additional 36 new staff in 2007-08 rising to 90 by 2009-10.

The internet provides a wonderful window to learning particularly for children. The government acknowledge that this is a vital tool to enhance our childrens’ learning but it is also a target for wicked child sex predators. I say to the Senate that this government are determined to stand between predators and children. We are utterly committed to protecting children online and will do whatever it takes to see them securely enjoying the benefits of this wonderful medium.

Tasmanian Pulp Mill

Senator BOB BROWN (2.31 pm)—I ask the Minister for Fisheries, Forestry and Conservation, who in his last answer called for practical, well thought out solutions to reduce carbon dioxide emissions, how on earth this government could be contemplating one of the most greenhouse dirty projects this
century in Australia or elsewhere—that is, Gunns’ polluting pulp mill. Is it true that this pulp mill will consume some 200,000 hectares of Tasmanian native forests and belch out 110 million tonnes of greenhouse gases in its 25-year lifetime? Does the minister believe in the principle of ‘polluter pays’ or will this be free pollution of the nation’s atmosphere by Gunns?

Senator ABETZ—If you want to eat meat, you have to accept that there are going to be abattoirs. If you want to use paper for your mammoth number of press releases, you have to accept that there will be paper machines and pulp factories around the world to create that paper for you. So it is singularly disingenuous of the honourable senator to suggest that somehow this would be a dirty, polluting, nasty pulp mill. If we do not build this pulp mill but the insatiable desire of the Australian Greens for their press releases continues, where will they get the paper from? They will get the paper from dirtier mills in Japan. Yet their slogan is: ‘think globally, act locally’. No, they are saying. ‘Think locally and put all the pollution and other things somewhere else in somebody else’s backyard.’ They think that is somehow meeting their responsibility to the world environment. That is fraudulent; it is disingenuous to suggest to the Australian people that a cleaner pulp mill in Australia would not be better for the world environment than the dirtier mills everywhere else in the world.

Senator Bob Brown—Mr President, I rise on a point of order. The question was not about the minister’s press release output; it was about whether Gunns’ polluting pulp mill will put 100—

The PRESIDENT—What is your point of order, Senator Brown.

Senator Bob Brown—The point of order is that the question is: will the pulp mill put 110 million tonnes of greenhouse gases into the atmosphere? Could the minister answer the question?

The PRESIDENT—There is no point of order.

Senator ABETZ—Also for the benefit of the honourable gentleman, he will know that the power source for this proposed pulp mill will be renewable because, when you burn wood, you can grow a tree in its place. That is why most sensible commentators fully and utterly accept that wood is a renewable resource. Indeed, that is why countries such as France are now encouraging homeowners to switch to wood-fire power and heat generation in their own homes—because they acknowledge and accept that it is better for the environment.

I also understand from a good friend and colleague of mine that the Australian Greens Senate candidate has recently accepted a donation from the CFMEU, which is all very interesting in this context. If the actual concern is the power source, could I ask the honourable senator: what is the power source for all the other pulp manufacturers in Japan? It is coal, it is nuclear—energy sources that you oppose—but you still want to use paper. So the very simple question for the Australian Greens to answer is: if you want paper, how are you going to manufacture it? You want paper without trees.

Senator Bob Brown—The question was whether this pulp mill—

The PRESIDENT—Senator Brown, is this a supplementary question or a point of order?

Senator Bob Brown—No, it is a point of order. I draw your attention to the question about 110 million tonnes of greenhouse gases being emitted from the pulp mill over 25 years. Will the minister be directed to answer that question?
The PRESIDENT—Senator Brown, I will not direct the minister how to answer the question.

Senator ABETZ—The Australian Greenhouse Office itself—

Senator Bob Brown interjecting—

Senator ABETZ—Make my day, Senator Brown, and ask me a supplementary as well. The Australian Greenhouse Office itself has told the Australian people that the forestry sector in this country is the only greenhouse-positive sector of our economy. And yet that is the sector of our economy that the Australian Greens, in their manic opposition to anything to do with forestry, oppose. It is disingenuous, and, what is more, their policies actually harm the environment, which they profess to champion.

Senator BOB BROWN—Mr President, I ask a supplementary question. After the minister agreeing with my figure by default, my question is this: is the Gunns' polluting pulp mill going to be fired by a wood furnace burning 500,000 tonnes of native wood resource each year, polluting the atmosphere with greenhouse gases from an irreplaceable and unsustainable resource, and will that be sold under this government’s greenwash to the Melbourne market as green power through Basslink? If so, does the minister not agree that that is an absolute sham and con on consumers wanting this government to do better on the environment than polluting the atmosphere with greenhouse gases?

Senator ABETZ—What a ramble of a supplementary question, but the answers would be, in order: no, no, false, even more false and wrong. What I say to the honourable senator is simply this: you know that the throughput of the pulp mill is not the only material being burnt. It will be the waste material not used in making the paper that you use each and every day. It is a waste product that will help fire and make renewable energy. That is the great thing about this—subject to other environmental factors, this pulp mill has every possibility of being a win-win for the economy, for jobs in Tasmania and, most importantly, for the environment and renewable energy. It is about time Senator Brown got his thinking into the 21st century. (Time expired)

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the chamber of a parliamentary delegation from the United Kingdom, led by the Rt Hon. Kevin Barron MP. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Broadband

Senator McGAURAN (2.40 pm)—Mr President, I congratulate you and welcome you to your position as President. My question is to the Minister for Communications, Information Technology and the Arts, Senator Coonan. Will the minister outline the government’s action to protect the future of telecommunications services in rural and regional Australia? Will the minister also outline any potential threats to the future of these important services?

Senator COONAN—Thank you to Senator McGauran for his question and his long-standing interest in telecommunications issues in regional and rural Australia. The Howard government is committed to delivering regional and rural Australians with world-class telecommunications services. We understand that delivering essential services to regional and rural Australia requires more than just paying a PR consultant, getting a focus group in and issuing a press release.

Yesterday, together with the Deputy Prime Minister, I announced the members of the
first Regional Telecommunications Independent Review Committee. This independent group, to be chaired by Dr Bill Glasson, will review the progress of the Howard government’s transformation of telecommunications services in rural Australia. Most importantly, its recommendations will determine how the interest earned from the $2 billion Communications Fund—that is, around $400 million—will be spent next year.

Labor’s neglect of regional and rural Australians has been highlighted in no clearer fashion than in their plan to drain the Communications Fund. Labor’s plan would further disadvantage regional and rural Australians who would already be suffering after missing out on Labor’s undeliverable broadband plan. That is why we have introduced legislation that will protect the Communications Fund and the guaranteed $400 million income stream every three years. This income stream will be used to expand infrastructure and services for regional communities, such as additional mobile phone towers, broadband provision and even backhaul fibre capabilities.

A key part of the Howard government’s transformation is the Australia Connected package, which will roll out a new high-speed broadband network, using a mix of technologies, to 99 per cent of all Australians at affordable prices. Labor does not have the strength or the experience to stand up to dominant market players and to do what is required to protect regional and rural Australians. Just one example is the CDMA licence condition. The government, of course, has listened to rural and regional Australians, and has heard that there are grave concerns about the performance of the Next G network.

While Labor was completely silent, we got on with the job of protecting Australians by issuing Telstra with a draft licence condition to ensure that the CDMA network cannot be turned off until the Next G network is up to scratch. That is a very important step to protect regional and rural consumers, and Labor has not even been able to muster an echo on this one. It is clear that Labor does not have any concrete or credible plan about how to deliver services to rural and regional Australians, either now or into the future. Only this government understands that continual improvement in telco services is not an optional extra for people living in rural and regional Australia—these are essential services. And those people can be assured that this government has stepped up to the plate to ensure that they are protected from Labor’s neglect, both now and into the future.

Sports Facility Funding

Senator LUNDY (2.44 pm)—My question is to Senator Brandis, the Minister for the Arts and Sport. Can the minister indicate when his department first became aware of the government’s commitment to fund both a new sports centre in Lithgow and floodlights at the Bathurst Rugby Union Club? Can the minister confirm that these requests went through a proper assessment process? If so, which department made that assessment, and against what guidelines were those assessments carried out? Given that the Audit Office recently found that the government had breached the Financial Management and Accountability Act in failing to properly approve the funding for grants made during the 2004 election, can the minister guarantee that these grants had been properly approved under that act? Can the minister also nominate the specific grants program under which the funding has been provided?

Senator BRANDIS—Mr President, may I add my congratulations to you. This is an auspicious day for you and it is also an auspicious day for me because, at long last, I get a question from the opposition about my portfolio. There have only been 29 question
times since I have been in the portfolio. I have only been in the portfolio since the beginning of the year, yet today is the first occasion on which the opposition has shown enough interest in the arts and sport portfolio even to ask a question. But I am not alone, because I checked the record, and it is nearly a year since my predecessor, Senator Kemp—

Senator Chris Evans—Mr President, I rise on a point of order. It goes to relevance. The minister has had a year to actually learn the brief and, while he does a good line in pomposity, I ask you to bring him to the question, which is a serious question about accountability in government.

The President—Order! The minister still has over three minutes to develop his answer, and I invite him to.

Senator BRANDIS—Thank you, Mr President. I thought I should draw to the attention of the Senate the fact that, when it comes to interest in either the arts or the sport portfolio, the opposition has been asleep for a year. One of the things a government can do when it does not have to pay $8 billion a year of interest on a $96 billion public debt is spend money on community infrastructure. That is something that the Howard government has done.

Senator Carr interjecting—

The President—Order! Senator Carr, you are being disorderly.

Senator BRANDIS—Mr President, can I inform Senator Lundy that in the last budget the Australian government announced a series of one-off grants totalling $905,000 to improve three community sporting facilities in central western New South Wales. The Lithgow City Council received $700,000 to construct an integrated sports and aquatic centre, the Bathurst Regional Council received $200,000 to install lighting on two rugby fields and the Springwood District Athletics Club received a small grant to redevelop the Tom Hunter Park at Faulconbridge.

Senator Abetz interjecting—

Senator BRANDIS—As my distinguished colleague Senator Abetz pointed out, all of them were decisions supported by the Australian Labor Party when they voted for the budget. An integrated sports and aquatic centre in Lithgow will provide year-round sporting and aquatic facilities as well as social, health and sporting benefits for the entire community. The construction of the lighting towers will allow the Bathurst Rugby Union Club to host night games and will further Bathurst’s development as a sporting hub in the central west. It is important that on occasions, on a case-by-case basis, the Australian government makes contributions to the development of major sporting infrastructure. We have done so in capital cities with funding for facilities such as the Sydney Cricket Ground, the Adelaide Oval and, as the Prime Minister announced recently, a new Australian National Rugby Academy for Ballymore Park in Brisbane. It is the view of the government that, just as people who live in capital cities are entitled to investment in sporting infrastructure from the Australian government—

Senator Chris Evans—I rise on a point of order, Mr President, which goes to relevance. The senator asked a very specific question about whether proper process had been followed, whether applications had been made and whether any assessment had been made against applications in accordance with the Audit Act. The minister has made no attempt to answer the question and I ask you to bring him to order and for him to have a crack at the question.

The President—I cannot instruct the minister on how he should answer a question. He is in order.
Senator BRANDIS—Thank you, Mr President. As I was saying at the time Senator Evans took his point of order, it is the view of the Australian government that people in regional Australia, just as people in capital city Australia, are entitled to be supported on a case-by-case basis by the Australian government in funding sporting and other community infrastructure. That is what we have done in relation to the Lithgow City Council’s request and the Bathurst Regional Council’s request, as we have done in capital cities as well. The honourable senator asked about process. The process through which the funding was provided was in the 2007-08 budget. (Time expired)

Senator LUNDY—Mr President, I ask a supplementary question. I reiterate my original question: were applications received for these grants and did they comply with the Audit Office and the appropriate FMA Act? Didn’t the Audit Office recently highlight that the government had rorted the Volunteer Small Equipment Grants program by redirecting grants to National Party seats in the lead-up to the previous election and isn’t the government up to its old tricks? Can you advise other sporting clubs how to apply for grants under this government measure?

Senator BRANDIS—I do not have time in one minute to answer all four of those questions, so let me just address myself in the first instance to the third question, ‘Didn’t the Audit Office find that the government had been roting the Volunteer Small Equipment Grants scheme?’ The answer to that question is no. If I may direct you, Senator Lundy, to the Audit Office report Distribution of funding for community grant programmes—and I am indebted to Senator Scullion for drawing this to my attention—in paragraph 51, on page 28, the report concludes that one of the reasons that there were more applications for Volunteer Small Equipment Grants received from government electorates was that government members were more active than opposition members in encouraging organisations to apply for the grants.

Queensland Wet Tropics World Heritage Area

Senator BARTLETT (2.52 pm)—My question is to the Minister representing the Minister for the Environment and Water Resources. I remind the minister that in 2005 a regional agreement was adopted in Far North Queensland between the Wet Tropics Management Authority, the rainforest Aboriginal people from the region and the federal Department of Environment and Water Resources along with various Queensland government agencies. The agreement included a commitment by the government to investigate the case for renomination of the Wet Tropics area onto the World Heritage List for its Aboriginal cultural values. Can the minister outline what progress the federal government has made in meeting this commitment? Will the federal government move to renominate the Wet Tropics area to the World Heritage List in recognition of its highly significant Indigenous cultural values?

Senator ABETZ—I thank Senator Bartlett for his question. Under the Wet Tropics of Queensland World Heritage Area Regional Agreement, all parties agreed that before considering any renomination of the Wet Tropics to the World Heritage List for its Aboriginal values the Wet Tropics would be nominated to the National Heritage List for its natural and cultural values. This step is necessary because in April 2004 the Commonwealth, states and territories agreed that the Australian government will only draw future nominations and renominations for World Heritage listing from places already on the National Heritage List.

The Wet Tropics was nominated to the National Heritage List for its Indigenous
heritage values in 2007, and this nomination is being considered by the Australian Heritage Council. At its meeting in June 2007, the Environment Protection and Heritage Council agreed to pursue a World Heritage tentative list to identify Australian places to be considered for nomination to the World Heritage Committee over the next 10 years. State and territory governments will submit places for the World Heritage tentative list to the Australian government by June 2008.

Senator BARTLETT—Mr President, I ask a supplementary question. I thank the minister for the answer. Given that the federal government recognises the highly significant Aboriginal cultural values in the Wet Tropics World Heritage area, as evidenced by the minister’s answer, does the federal government recognise that it has a role in providing resources for the Aboriginal traditional owners of the region to enable them to properly protect and maintain the cultural and environmental values of this incredibly important area? What assistance does the federal government provide to the Indigenous peoples of the area—those who signed up to the regional agreement that he referred to—and is the federal government satisfied with the level of support that the Indigenous people have been given in order to properly manage and assist with the maintenance and protection of those important cultural and environmental values that he has indicated a recognition of?

Senator ABETZ—In the one minute I have I will give my best shot to answer all the matters raised by the honourable senator. The Commonwealth has provided $300,000 over two years as seed funding to help the Aboriginal Rainforest Council establish itself. It has also provided $1,034,610 to support Aboriginal traditional owners map their cultural values in the Wet Tropics World Heritage area.

Senator COONAN—Thank you, Senator Polley, for the question, which is based on some entirely unfounded assumptions. Let me inform the Senate about the government’s broadband plan, which thoroughly refutes Senator Polley’s contentions. Senator Polley should not look at articles in the Courier Mail or anywhere else without checking
the factual basis for the allegations. The government appreciates that if there are a number of black spots right across Australia, and some of them are around metropolitan Australia, in outer metropolitan rings of metropolitan Australia, in rural and regional Australia and more remote Australia, it is quite obvious that you need a comprehensive plan to mop up all those black spots and to actually understand how you are going to obtain coverage of at least 99 per cent of the population with a fast service at an affordable price. The government conducted a competitive bids process with, I think, 28 bidders who all came up with some creative solutions as to how to do this. And the winner of that bids process, OPEL—a consortium of Elders, the well-known Australian brand and Optus—now has a plan to roll out broadband using a mix of technologies—fibre, backhaul, enabling ADSL2+ exchanges and state-of-the-art WiMAX technology—to ensure that people who do not live near built infrastructure, people who live on farms, people who do not live near an exchange or people who live near an exchange but have not been able to get a broadband service for some considerable time and are very frustrated by this, will get a broadband service that will be 20 to 40 times faster than is currently available. And this service will be available right across Australia.

That is not to say that the one per cent who may not get this service will not have a service, because they will under the Australian Broadband Guarantee. Unlike the Labor Party, who have a one-size-fits-all approach that will not reach the difficult areas in rural and regional Australia—and in fact will mean that something like 7,000 households and premises will miss out—we appreciate that competition actually delivers choice and better prices for Australians. So we welcome small providers who under the Australian Broadband Guarantee will continue to be able to provide a service and who have under earlier stages of the government’s broadband program been rolling out services to ensure that Australians get a broadband service regardless of where they live.

Senator Polley really needs to go back to the drawing board on this one. She needs to understand that WiMAX technology is state-of-the-art technology that is quite capable of delivering the service that we are contending. It will all be independently tested and it will mean that all Australians regardless of where they live will be able to get a fast broadband service.

Senator POLLEY—Mr President, I ask a supplementary question. Does the minister stand by her statement that the actual coverage of the second-class fixed wireless broadband solution the government is imposing on millions of Australians will not be known until after the network is built? Doesn’t this confirm statements published in the international journal WiMAX Day that the government’s second-class network is ‘suitable only for distracting kangaroos and dingoes as they scamper across the wild Australian outback’?

Senator COONAN—This provides fast broadband to 99 per cent of Australians at a metro-comparable price. Consumers are indeed lucky that they are not relying on the Labor Party to deliver a service that will not provide any kind of coverage for people who do not live near built infrastructure. I think that this service is going to be better than the nonexistent service that would be available under Labor’s one-size-fits-all complete and utter fraudband.

Senator Minchin—Mr President, I commend you on your chairmanship of your first question time and ask that further questions be placed on the Notice Paper.
QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS

Answers to Questions

Senator WONG (South Australia) (3.02 pm)—I move:

That the Senate take note of answers given by ministers to questions without notice asked by Opposition senators today.

Again today we saw the Howard government’s scepticism when it comes to climate change. There is a reason that this Howard government has never been able to fully tackle the issue of climate change and why this government has been asleep for the last 11 years when it comes to climate change: from top to bottom it is peppered with climate change sceptics. Exhibit A when it comes to scepticism on climate change is the Leader of the Government in the Senate, Senator Minchin. Senator Minchin is amongst those on the other side who simply do not accept that human activity has contributed to global warming. We know that this view is endemic on the Howard government’s side of parliament. We know that this is a view that many government members hold. In the papers today, and tabled in parliament yesterday, we saw an extraordinary report issued by four Howard government members of parliament in the other place: Dr Jensen, Miss Jackie Kelly, Mrs Vale and Mr Tollner who believe that humans have not contributed to climate change. In fact they describe those who believe in what is known as anthropogenic climate change or global warming as ‘fanatics’. What is interesting about the use of that term is that that is one of the ways in which Senator Minchin attempts to deflect criticism from his position by accusing those who accept the weight of scientific evidence that human activity has contributed to global warming. He tries to dismiss us as people who are simply being fanatical or fundamentalist about our approach to these things.

It is not surprising when you look at the Howard government’s expenditure when it comes to dealing with climate change over the last few years to see how pathetically this government has responded to this challenge. If there is one thing we have learned over the 11 long years of the Howard government, it is this: do not listen to what they say; look at what they do. We know that this is a government that loves a good headline. This is a government that is very good at getting the good headline and very poor at delivering the policy on the ground to back it up. We have seen billions of dollars announced in relation to environmental programs. How much has actually been spent and, more importantly, what outcomes are actually being delivered?

My colleague Senator McEwen asked Senator Minchin a question about the fact that between 2002 and 2005 the government spent some $300 million dollars on climate change related programs of which $200 million—that is, two-thirds—was spent on administration expenses rather than on program funding. That is the government’s response to this national challenge of climate change: two-thirds of the expenditure in the period 2002 to 2005 was spent on administration rather than on program funding.

But we already know this about the Howard government. They are very good at announcements and trying to get the headlines—and very poor on actually delivering outcomes. For example, we have seen the Prime Minister’s water announcement. Goodness me—$10 billion announced with a fanfare in January this year. And what do we have? We find out in Senate estimates that $10 billion of taxpayers’ money was committed on one page of costings that Senator Minchin’s department was asked to lightly cast their eyes over. That is the way this gov-
ernment approaches serious issues such as climate change and the water crisis. It is very good in terms of getting the headlines, and very poor in policy outcomes.

The reality is: this is a government full of climate change sceptics. Senator Minchin is clearly on the record saying he questions whether human activity has contributed to global warming. We have seen members in the other place coming out and saying that they think people who think this—that is, that humans are contributing to climate change—are fanatics. We have heard Senator Bernardi in this place on the public record expressing the same doubts. They are entitled to their opinion, but the problem is it is infecting this government’s response to what is a national challenge. The problem is this: when you have people in your own government who do not believe it is a crisis, you do not respond properly. That is one of the reasons that this government has been asleep for 11 years when it comes to climate change, and the only reason it is now high on their political agenda is that their pollsters are telling them to make it so. That is the only reason you are responding on the issue of climate change. *(Time expired)*

**Senator EGGLESTON** (Western Australia) *(3.07 pm)*—Over the years I have noticed that the ALP likes to criticise the government for its failure to respond to environmental issues such as greenhouse gases and climate change. Yet the cold, hard fact is that one of the very first actions of the Howard government was to set up the world’s first greenhouse office way back in 1996. So you cannot say this government has not been concerned about climate change over the years; in fact, way ahead of any other government in the world this government was aware of greenhouse issues and concerned about climate change.

The Australian government’s climate change policy framework has embraced four key elements. The first of these is reducing domestic emissions at least economic cost. For the record, the government has committed to the introduction of a domestic emissions trading scheme, with the goal of commencing in 2011, and work on the scheme has already begun. So this government, far from not being concerned about domestic emissions, is right at the present time planning for a domestic emissions trading scheme.

We have developed key low-emissions technologies which are designed to improve energy efficiency and support households and communities in reducing emissions. It was recently announced that new complementary measures targeting schools, households and the nuclear industry would bring the government’s total investment in addressing climate change to no less than $3.4 billion since 1996—a very substantial amount of money and a very significant proportion of the budget of Australia. Again, the ALP simply cannot with any validity claim that this government has not addressed climate change issues in a very serious, significant and committed way.

We have also supported world-class climate change science and sought to develop techniques in science to adapt to the impacts of unavoidable climate change. To this end, the government has established the Australian Centre for Climate Change Adaptation with funding of $126 million—again, a significant amount of money. There is no doubt that climate change is occurring in the southwest of Western Australia, where I come from. There is no doubt that the rainfall in the south-west has dropped by something like 30 per cent over the last 25 years—that is real and significant evidence of climate change. We hear that the polar icecaps are melting and that there was less snow in the
Alps in Germany and Switzerland last winter. There is evidence of climate change constantly to be seen around the world.

Climate change is without doubt a reality. There is still some doubt or argument about the causes. The ALP would have us believe that it is all due to human action and greenhouse gases. Other people who look into the records find that the world has gone through cyclical periods of climate change over a very long time and that issues like sunspots and variations in the orbit of the earth have to be considered. But, nevertheless, climate change whatever its cause is a reality, and the Howard government has been concerned about it right from the time it first came to office.

Far from being vulnerable to criticism by the ALP and mindless, endless criticism by the Greens on the issue of climate change, one of the strongest platforms in the record of the Howard government has been our record on the environment and in addressing environmental issues, not just in terms of concern about climate change as such but also in developing policies for renewable energy with our MRETs program and other programs, such as solar programs, to ensure that we use renewable energy sources to the maximum. This is one of the great achievements of the Howard government. (Time expired)

Senator MARSHALL (Victoria) (3.12 pm)—For a moment I thought we were finally going to get one admission from a government senator that climate change is real, that it is a real and present threat to our ongoing viability as a community, as a planet. Senator Eggleston started to say that he accepts there is real evidence of climate change, that there is constant evidence around the world of climate change, but, of course, the sceptic, like the rest of the government members, started to come out. He said, even though the evidence is real, present, constant and world wide, there is doubt about the causes. There is doubt whether human activity is having an impact on climate change—it could be just cyclical change; it could be the orbit of the earth.

For Senator Eggleston and the rest of the government members, this debate has been had. It is done and dusted. The scientific community has been arguing about this for the last 20 years and it has clearly resolved that human activity is affecting the climate on this planet and, unless we intervene in the way we do business, in the way we conduct our affairs, climate change is going to get worse, to the extent where it will finally be irreversible. But no-one suggests it is not irreversible now, and we have an obligation as a society to start taking the action that is necessary to address it. But we will never take the action that is necessary when over there the people with the purse strings, the people on the government side, are sceptical about the impact of human activity on climate change.

Crosby Textor, the pollsters of the Liberal Party, must be turning over and agonising about this, because they must be providing evidence to the government that even the public of Australia are light-years ahead of where this government wants to be. You really need to start taking it seriously. We hear mealy-mouthed promises about what you are going to do and that the government are taking these things seriously—but of course they are not. We have only to look at some of the quotes from some senior ministers in this government and some back-benchers. Let me start with Senator Abetz. He wants to write off climate change by saying:

There is no doubt that weeds pose ... a challenge much clearer, more present and possibly more serious than the unclear challenge which climate
change may or may not pose to our biodiversity in 100 years time.

He said that in a media release on 25 December 2006. Weeds are an issue. It is something we ought to be addressing as a community. But to suggest that they present more of a threat than the unclear and challengeable impact of climate change is really just a joke. Again, it is the image the government want to present to the Australian public—that they are really trying to do something and that they believe that there has to be some intervention in climate change. Let us look at what Senator Cory Bernardi from South Australia said this year:

I have come to believe that we are seeing a distortion of the whole area of science that is being manipulated to present a certain point of view to the global public. That is, the actions of man are the cause of climate change. I have examined both sides of this debate and when the alarmist statements are discounted the scientific evidence that remains does not support the scenario that is being presented to us. The facts do not fit the theory.

All I can say to poor old Senator Bernardi is that the results are in for climate change. That debate has been had, so move on and accept the overwhelming body of evidence that suggests absolutely that human intervention is a cause of climate change. This bury-your-head-in-the-sand attitude will get us nowhere. It will lead to what this government suggests tackling climate change will lead to—that is, a lack of jobs. If we do not act, if we do not engage in the technologies, if we do not engage in rebuilding our industries and doing what is necessary to tackle climate change, it will become a self-fulfilling prophesy and we will lose jobs. But by tackling these issues now—and we have the technology if only we had the will—we can grow these industries, we can grow them sustainably and we can grow them with jobs. The Prime Minister acknowledges that as well. (Time expired)
initiatives, and you have to try to get the big emitters of the world to do something about their emissions as well. I would again point out that Australia is very concerned about this and has been for 10 years. But Australia exudes less than 1½ per cent of the world’s greenhouse gas emissions. So even if we were to turn off every electric light and shut down every factory and power station in Australia tomorrow it would not make one iota of difference to greenhouse gas emissions in the world. That is why it is so essential that we do as the Howard government has been doing; that is, to try to get the big emitters—China, India and the United States—to the table to get a worldwide, global, approach to greenhouse gas emissions that will really make a difference.

Whilst the Labor Party keep talking about the Kyoto protocol, which was signed by, I think, 150-odd countries, only a little over 30 of those countries have ever actually done anything about greenhouse gas emissions and very few of them have reached their targets. Senator Abetz today, in what I must say was one of the best answers at question time I have heard for a very long time, pointed out that places like New Zealand are not meeting their targets whereas Australia is. There are many reasons for that, but certainly the answer that Senator Abetz gave on forestry was one which has highlighted a very real benefit that forests have on Australia’s greenhouse gas emissions and therefore the world.

It always amazes me that the Greens, who continue to rail about government action in the forests, are supporting forest industries in Indonesia, the Solomons and other places around the world which are nowhere near as sustainable as Australia’s very finely managed, very productive but very environmentally friendly forests. The government has looked seriously at greenhouse and climate change issues, as can be seen with its Low Emissions Technology Demonstration Fund of over $100 million, its Renewable Energy Development Initiative and its Solar Cities initiative of $75 million. All these are Australian government—Howard government—initiatives that the Labor Party has never thought of. (Time expired)

Senator WEBBER (Western Australia) (3.23 pm)—Isn’t it interesting that, whenever we have a debate about measures to address the real challenge of climate change in this place, those opposite choose to trumpet as one of their very few initiatives the establishment of the Australian Greenhouse Office. What they neglect to say each and every time they raise this is that the Greenhouse Office no longer exists as an independent entity. It must have been another Crosby Textor poll-driven initiative. They must have been told way back then that they had to do something to address this issue. With great fanfare, Senator Minchin’s predecessor as leader of the government in this place announced the establishment of the Greenhouse Office, but very quietly, very trickily and very sneakily later on decided just to shut it down and subsume it back into the department. Where is any one of those opposite actually in here, being honest and accountable? The announcement of that office was a political stunt. If it was your strategy, if it was doing real work, why doesn’t it still exist?

It is a bit like all the other initiatives that you have announced—and Senator McEwen went right to the heart of that. In this place there is much fanfare by those opposite about the amounts of money that are put into this and that program in trying to address the political problem that the government has, which is that the community wants something done to address this very real challenge—this challenge that the voting public accepts but that those opposite do not. So what does the government do? It announces, with much fanfare, different funding pro-
grams. What the government does not do is then be honest and accountable and admit to us how much of that money is being spent on administration.

We learned from Senator McEwen today in question time that, for every dollar this government claims to spend on politically expedient policies in attempting to address some of the challenges of climate change, it spends $2 in administration. That is not a serious effort at addressing one of the most significant challenges that this planet faces—a challenge that most members of the community have accepted for a long time and who, in fact, are trying to do their bit in their homes and their workplaces and through their community organisations to address because the government will not. Two dollars spent on administration for every one dollar spent out in the community is an absolute disgrace.

I am glad Senator Macdonald mentioned the Solar Cities program, because that is a real demonstration of this government's lack of commitment. In my home town of Perth, the City of Belmont—not renowned for being an ultra-trendy left-wing inner city council but renowned for being a responsible metropolitan suburban council—has applied time and time again to this government for funding under that program and time and time again it has been rejected by this government. In fact, these days the only federal government member from Western Australia we can find who wants to talk at all about alternative energy sources is the member for Tangney. He does not believe that there is any such thing as human induced or human caused climate change, but he does believe in nuclear power. He sees that as the main plank of policy to address our future energy needs. According to him, when he is forced to discuss climate change, it can be addressed very well by nuclear power and by littering this country with nuclear power stations. He does not come out and support good, accountable local government organisations, like the City of Belmont, when they apply for funding to try to diversify our energy sources and address this challenge at a very local grassroots level. He does not actually support them at all, nor does this government, by giving them the funding they are seeking. Instead, Dr Jensen and others say that we should have nuclear power plants throughout the state—something that the people of Western Australia refuse to believe in.

Senator Abetz in question time today claimed that this government is addressing these issues with rigour and robustness. It would seem that the only rigour and robustness that the government is exercising, as I say, is to spend two dollars for every one dollar—two dollars in administration. (Time expired)

Senator BARTLETT (Queensland) (3.28 pm)—A lot of our discussion this afternoon has reflected questions about climate change which were asked during question time today—and that is appropriate. It is the most pressing, overarching environmental and, indeed, economic and social issue that the country and the planet faces. However, it is important also that, alongside or as part of having that debate about the appropriateness, adequacy and nature of our overall response to climate change, we look at concrete examples and specific ways of addressing the issue of climate change to mitigate and avoid it and look at issues that can demonstrate the linkage of climate change to other environmental and social issues.

The question that I asked today of Senator Abetz, in his capacity representing the Minister for the Environment and Water Resources, pointed to one example—the Wet Tropics World Heritage Area in the far north of Queensland, my home state. The Wet
Tropics World Heritage Area is relatively well known, particularly for the Daintree rainforest. It is known for its magnificent natural beauty and it has the appropriate slogan ‘Where the rainforest meets the reef’, because it adjoins the equally beautiful and equally environmentally significant Great Barrier Reef Marine Park.

Aspects of quite wide environmental significance are not often properly recognised and understood. The Wet Tropics World Heritage Area—and it is not just the Daintree, I might emphasise; it goes further to the north of the Daintree up close to Cooktown and right down south past Cairns, almost to Townsville—is incredibly diverse and incredibly important in an ecological sense, particularly because of its immense biodiversity.

For all the focus we have in this chamber and elsewhere on some other areas and some other environmental issues that involve landscapes that are visually appealing, the simple fact is that in terms of biodiversity the wet tropics region in Far North Queensland—like other, larger, parts of Far North Queensland such as the Cape—has an incredible concentration of biodiversity and is recognised globally as a biodiversity hot spot.

This is important not just because of the significance for the future maintenance of ecological diversity but also as a buffer against the impacts of climate change. This is a relatively small area, which is significantly threatened because of human activity, particularly residential and commercial development, agricultural activities and tourism pressures. Small areas with immense biodiversity that also have climate change coming over the top are under significant threat. They need proper support for management.

The federal government do not provide significant amounts of money for the Wet Tropics World Heritage Area. I believe that they need to give extra resources to it, because, from an ecological point of view, we have an indescribably significant World Heritage area. The question I raised today goes not just to the pure biodiversity issue of the wet tropics area but also to the even less well-recognised cultural diversity of the area.

I am pleased that the federal government is finally moving towards giving consideration to renominating the wet tropics area for its Aboriginal cultural values, but that process really needs to be undertaken as quickly as possible. And, whilst Senator Abetz did outline some resourcing the federal government is providing to the Aboriginal traditional owners of that area, it is not sufficient. We often do not comprehend the integral link between the biodiversity, the ecological diversity, of a region like the wet tropics and its cultural diversity. They are intertwined, because it was the cultural and management practices of Aboriginal traditional owners going back millennia that actually maintained, protected and preserved that biodiversity that we now recognise as so significant.

If we do not provide assistance to the traditional owners with their traditional management knowledge for this region then we are putting at risk not just the cultural values that are finally slowly being recognised as of World Heritage significance but also the ecological values, the biodiversity values, that they are part and parcel with. That is not only a tragedy in terms of loss of knowledge and loss of ecological values with the Indigenous peoples; it is also reducing and putting at risk a major buffer against the serious threat that climate change presents.

Question agreed to.
PETITIONS

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

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

WHEREAS the 1998 Synod of the Anglican Diocese of Melbourne carried without dissent the following motion:

“That this Synod regrets the Government’s adoption of procedures for certain people seeking political asylum in Australia which exclude them from all public income support while withholding permission to work, thereby creating a group of beggars dependent on the Churches and charities for food and the necessities of life;

and calls upon the Federal government to review such procedures immediately and remove all practices which are manifestly inhumane and in some cases in contravention of our national obligations as a signatory of the UN Covenant on Civil and Political Rights.”

We, therefore, the individual, undersigned attendees at______, petition the Senate in support of the above mentioned motion.

AND we, as in duty bound will ever pray.

by Senator Marshall (from 47 citizens)
Petition received.

NOTICES

Withdrawal

Senator PARRY (Tasmania) (3.34 pm)—Pursuant to notice given on the last day of sitting, I now withdraw business of the Senate notice of motion No. 1, standing in the name of Senator Watson, for three sitting days after today.

Presentation

Senator Marshall to move on the next day of sitting:

That the time for the presentation of the report of the Employment, Workplace Relations and Education Committee on the current level of academic standards of school education be extended to 13 September 2007.

Senator Abetz to move on the next day of sitting:

That, immediately after Senator Cormann’s first speech on Wednesday, 15 August 2007, valedictory statements may be made relating to Senator Calvert.

Senator Hutchins to move on the next day of sitting:

That the Senate notes that:

(a) the St Vincent de Paul Society’s annual Winter Appeal ends on 31 August 2007;
(b) more than half of the people assisted by the St Vincent de Paul Society in New South Wales and the Australian Capital Territory are families;
(c) in New South Wales and the Australian Capital Territory in 2006:
(i) more than 750 000 people were assisted by the St Vincent de Paul Society,
(ii) St Vincent de Paul Society volunteers visited more than 500 000 people in their homes to deliver food parcels, household supplies or vouchers for bills, and
(iii) Vinnies Centres distributed more than $3 million worth of clothing, bedding, furniture and other donated items to more than 75 000 people;
(d) there is a growing gap between rich and poor in Australia, evidenced by data from the Australian Bureau of Statistics showing that:
(i) the wealthiest 20 per cent of households in 2005-06 accounted for 61 per cent of total household net worth, with average net worth of $1.7 million per household, and
(ii) the poorest 20 per cent of households accounted for 1 per cent of total household net worth and had an average net worth of $27 000 per household; and
(e) the Prime Minister (Mr Howard) still claims that ‘families have never been better off’ under the Coalition Government.
Senator Mason to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to amend the National Health Act 1953 in relation to the Pharmaceutical Benefits Scheme, and for other purposes. National Health Amendment (Pharmaceutical Benefits) Bill 2007.

Senator Minchin to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to amend the Offshore Petroleum Act 2006, and for other purposes. Offshore Petroleum Amendment (Miscellaneous Measures) Bill 2007.

Senator Milne to move on the next day of sitting:

That the Senate—

(a) notes on 6 December 2006 in the General Assembly of the United Nations 125 countries voted for the commencement of multilateral negotiations leading to an early conclusion of a nuclear weapons convention and that Australia was one of 29 abstentions; and

(b) calls on the Government to work for the immediate commencement of negotiations towards a nuclear weapons convention to ban the development, production, use and threat of use of nuclear weapons.

Senator Milne to move on the next day of sitting:

That the Senate—

(a) notes that:

(i) India is not a signatory to the Nuclear Non-Proliferation Treaty (NPT),

(ii) the United States of America (US) and India have agreed to the terms of a deal to exempt India from US laws and international rules that seek to prevent states that are not parties to the NPT from using commercial imports of nuclear technology and fuel to aid their nuclear weapons ambitions,

(iii) under the India-US nuclear deal two reactors dedicated to making plutonium for nuclear weapons and nine power reactors, including a plutonium breeder reactor that is under construction, will be outside international safeguards,

(iv) India needs to import uranium to relieve an acute fuel shortage for its existing nuclear reactors and that importing uranium will free up more of India’s domestic uranium for its military program,

(v) Pakistan has expressed its fears about the India-US nuclear deal, and

(vi) any sale of Australian uranium to India would contravene the NPT; and

(b) calls on the Government to reject any sale of Australian uranium to non-NPT states, including India.

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

That the Senate calls on the Minister for the Environment and Water Resources (Mr Turnbull) and the Minister for Fisheries, Forestry and Conservation (Senator Abetz) to protect Australia’s remaining forests of high conservation value, including those which are the habitat of rare, vulnerable or endangered species.

Senator Stott Despoja to move on 16 August 2007:

That the following bill be introduced: A Bill for an Act to amend the Privacy Act 1988 to require organisations and agencies to notify affected individuals of a breach of data security where their personal information is accessed by, or disclosed to, an unauthorised person, and for related purposes. Privacy (Data Security Breach Notification) Amendment Bill 2007.

Senator Siewert to move on the next day of sitting:

That the Senate notes that:

(a) a new scientific study, The Nature of Northern Australia, has found that northern Australia has the largest and least damaged tropical savannah in the world;
(b) northern Australia is emerging as one of the last great natural areas on earth and that its ecosystems are globally significant;

c) good land management practices will be critical to the long-term survival of northern Australia’s pristine environments;

d) elsewhere in the tropics, and in the rest of Australia, the health and functioning of lands and waters have been impaired and that inappropriate development is a major threat to the northern Australian savannah; and

e) a new approach to development and conservation is needed to ensure that northern Australia remains one of the world’s great natural places.

Senator Nettle to move on the next day of sitting:

That the Senate—

(a) notes the final report of Australian University Student Finances 2006, released on 8 August 2007, highlights the urgent need to improve financial support for students; and

(b) calls on the Government to introduce concrete measures to increase direct financial support to students including, but not limited to:

(i) lowering the age of independence to 18, and

(ii) providing a level of financial support that ensures all full-time students can financially support themselves during teaching periods without the need to seek further employment.

LEAVE OF ABSENCE

Senator PARRY (Tasmania) (3.35 pm)—by leave—I move:

That leave of absence be granted to the following senators for personal reasons: Senator Ronaldson for the period 13 August to 17 August and Senator Troeth for the period 14 August to 17 August.

Question agreed to.

NOTICES

Postponement

The following items of business were postponed:

Business of the Senate notice of motion no. 1 standing in the name of Senator Faulkner for today, proposing the reference of a matter to the Foreign Affairs, Defence and Trade Committee, postponed till 15 August 2007.

General business notice of motion no. 835 standing in the name of the Leader of the Australian Democrats (Senator Allison) for today, relating to the sexualisation of children in the media, postponed till 15 August 2007.

General business notice of motion no. 860 standing in the name of Senator Kirk for today, proposing the introduction of the Parliamentary (Judicial Misbehaviour or Incapacity) Commission Bill 2007, postponed till 11 September 2007.

NATIONAL MARKET DRIVEN ENERGY EFFICIENCY TARGET BILL 2007

First Reading

Senator ALLISON (Victoria—Leader of the Australian Democrats) (3.37 pm)—I move:

That the following bill be introduced: A Bill for an Act to create incentives and a market for energy savings, which are additional to energy efficiency activities set by minimum energy performance regulation, through energy efficiency certificate trading, and for related purposes.

Question agreed to.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (3.37 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 ALLISON (Victoria—Leader of the Australian Democrats) (3.38 pm)—I table the explanatory memorandum and move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

Introduction

The purpose of the National Market Driven Energy Efficiency Target Bill 2007 is to amend the Renewable Energy (Electricity) Act 2000 to introduce an efficiency trading scheme.

A carbon emissions trading scheme will result in new power stations switching to more efficient or lower emission generation technology such as going from coal to gas but not drive investment in end use energy efficiency. Indeed energy efficiency is specifically excluded from an ETS as an offset for double counting reasons.

What the Bill does

This bill develops a framework for a separate market for energy efficiency and sets out reliable and credible monitoring and verification methodologies to guard against double counting and to meet ‘additionality’ criteria.

The Bill applies the principles of the Mandatory Renewable Energy Target to energy efficiency, referred to in Europe as white certificate trading. Tradeable certificates are issued for verifiable energy efficiency savings from activities which are above and additional to those activities currently required through legal or regulatory arrangements such as Minimum Energy Performance Standards. For example, a manufacturer who makes 7 star appliances where only 3.5 stars is the minimum would be awarded certificates equal to the energy saved over a given period.

A demand for these certificates is created by requiring electricity retailers (liable entities) to purchase and surrender certificates for the equivalent of 2% of their total sales.

The elegance of a the National Market Driven Energy Efficiency Target scheme is that not only will householders, business and industry retain an ongoing benefit of lower energy costs but there is significant public benefit in improved productivity in avoiding the need for $6 billion per annum in infrastructure augmentation.

These Energy Efficiency Certificates are supplied and traded in the market.

It is a particularly useful way to attract investment in hard to reach sectors such as rental buildings, weatherisation in low-income communities and measures with long paybacks. It is also a means that the building occupant or the appliance owner benefits from the ongoing lower energy costs.

It is estimated by the European Commission that the technical potential for savings in total final energy consumption in the EU (15 countries) is about 40% and that the economic potential (cost-effective savings potential) is about 20%. For industry, this potential is estimated to be approximately 17% of current final consumption, 22% for the domestic and tertiary sector and 14% for transport.

This Bill proposes an annual target of only 1 percent in the first year followed by 2% per annum thereafter. This results in an accumulative but conservative target of 20% by 2020. This is in line with the European Commission energy efficiency target of 20% by 2020, understanding that EU is already more energy efficient so the opportunity for energy efficiency is greater and cheaper in Australia.

Why the bill is needed

The Bill addresses the failure of the energy market to deliver cost effective energy efficiency and would realise low cost greenhouse abatement, productivity benefits to the economy and improved consumer welfare. This Bill achieves this by creating a market and therefore incentives for energy savings and energy efficiency for buildings, appliances equipment and industrial processes which are additional to current energy efficiency practice required through regulation such as Minimum Energy Performance Standards.

The government has not satisfactorily prioritised energy efficiency as an important component of Australia’s energy policy. Indeed the commitment of the government to develop a strategy for nuclear power industry but not for energy effi-
ciency leaves the government open to criticism on the grounds of energy security, economic and environmental management.

The Australian Greenhouse Office Report “Tracking the Kyoto Target” released in December 2006 confirms that Australian government’s current and committed policies are inadequate to meet Australia’s Kyoto Target. Even more concerning the AGO report indicates greenhouse emissions are due to continue to increase strongly and by 2020 will be 127% higher than 1990 levels.

Energy efficiency is essential to stopping high levels of energy waste and slowing the growth in energy demand. Energy efficiency can delay the requirement for investment in additional generation infrastructure, allowing time for emerging clean energy technologies to commercialise. Energy efficiency can make deep and cost effective cuts in fossil fuel use and our greenhouse gas emissions. If energy demand continues to grow unchecked and at current high levels then renewable energy and clean energy development chase a receding target.

It is essential that the potential of energy efficiency is realised as both a frontline climate change action but also to improved productivity benefits to the economy. It is for these reasons the Australian Democrats are taking this initiative bill and showing leadership in this complex policy area. “Negawatts” (or avoided energy consumption through energy efficiency) has become the single most important energy resource and is more secure than clean coal technologies and nuclear power.

**Australian energy efficiency policy**

Australia’s energy demand is growing at almost 2.5 per cent per year and Australia is one of the most energy wasting countries in the world. Our wasteful energy practices are costing Australians over $6 billion dollars per annum in infrastructure investment—money could be better spent in other areas.

The fact is that energy efficiency is not currently a priority. Less than a $3 million dollars was budgeted in 2006 /07 for energy efficiency, the Energy Efficiency Best Practice Program was defunded and the Energy Efficiency Opportunity Act only requires voluntary action.

Furthermore, the National Framework on Energy Efficiency has stalled and both stage one and two were inadequately resource—in both human and funding terms, leaving the State governments to deliver.

The Prime Minister’s Solar Cities project trials demand side management, energy efficiency and distributed generation actions but this will not necessarily mean broader implementation and will doubtless further delay these technologies. The technical issues and regulatory barriers are already known and need to be addressed through energy market reform.

Even the long term recommendations of the Parer Review in 2002 to prioritise energy efficiency and demand side management have been ignored.

The Government’s 2012 ban on incandescent light bulbs in favour of compact fluorescent lights is a step in the right direction but will address less than 0.5% of energy use.

The National Building code has only now implemented a minimum requirement of 3.5 stars for housing, when Victoria has demanded 5 stars since 2004.

**Why Energy Efficiency is an essential energy policy component**

It is essential that the potential of energy efficiency is realised at least cost and improves productivity.

However energy efficiency is conceptually challenging and difficult policy to communicate to the public. Energy efficiency is not about sitting in the dark or doing without. Energy efficiency is about creating an investment environment for reducing energy waste and the development of energy efficient technologies and innovation.

Cost effective energy efficiency activities are those that pay for themselves within 4 years. That is, a 25% return on investment. However, the majority of energy efficiency activities will pay for themselves within 2.5 years and 60% of energy efficiency activities can be implemented at no cost or at low cost delivering a 50% return on investment. This compares with the current bond rate of 6.25%.
The barriers to energy efficiency are complex but have been documented as part of the National Framework on Energy Efficiency. Lack of information, high transaction costs, access to finance, lower order management priorities and split incentives are some. Relevant information is not always available at the right time to the right people to enable informed energy efficiency choices to be made. The policies and programs that only provide information do not address or overcome behavioural barriers and inertia.

As energy is a small proportion of total expenditure for most consumers, the potential savings aren’t perceived as justifying the necessary investment in time and effort to consider and implement energy efficiency improvements. Many organisations do not have easy internal or external access to the necessary expertise or tools to identify or take advantage of the available energy efficiency opportunities.

There are limits and priorities on the capital available to any organisation—and energy efficiency has to compete for this capital with other potential investments. Organisations also appear to use a higher hurdle rate for energy efficiency investments than for other investments.

In some situations the financial incentives are split—the person or organisation that would need to invest in the energy efficiency improvement is separate from those that will gain the benefits.

There is uncertainty regarding the consistency and adequacy of resources, and continuity of government measures over the long-term.

Energy efficiency is not broadly integrated into the current curricula of TAFEs and universities, or the professional development programs of both professional and trade organisations.

There is a lack of evidence of achievements from energy efficient applications and government measures as a result of a lack of consistent measuring and reporting of energy use and efficiency.

The proposed National Market Driven Energy Efficiency Target Bill 2007 is a way of addressing the current barriers to energy efficiency and creating solutions for the other 99.5% in energy use and energy waste.

Potential for Energy Efficiency

A big impact on greenhouse abatement and improved productivity is possible through improved energy efficiency using existing technologies. According to the International Energy Agency, energy efficiency could contribute to 80% of avoided greenhouse gases while substantially increasing security of supply.

On 4 May 2007 the final report of Working Group of the International Panel on Climate Change said energy efficiency is one of the key mitigation technologies to achieve required greenhouse reductions.

Typical of the energy efficiency opportunities in Australia currently is the 10% of household energy that is used for standby power when there is no technical reason this can’t be reduced to almost nothing.

Economic modelling by “The Allen Consulting Group” and McLennan Magasanik Associates in 2003, showed that achieving a mere one percent national energy efficiency target using only cost effective energy efficiency activities of less than four year payback would result in substantial net economic and environmental benefits in the tenth year.

That includes real investment increases of $586m and real GDP increases of $1,582m.

Maximum peak demand would be reduced by 8,322 MW—a reduction in the order of 25% of the National Electricity Market. It would make possible the retirement of older power stations and a deferment of capital investment required for new generation.

Average wholesale market electricity prices would, by 2014, be reduced by 19%. Net present value of national savings in electricity and gas would be $7,769m.

Greenhouse gas emissions would be reduced by 28 MtCO₂-e. That is a 10% reduction of emissions from the stationary energy sector and a 5% cut in Australia’s total greenhouse emissions. Only an additional 6 million tonnes of abatement is required by 2010 to meet our target.

Implementing just those energy efficiency activities with less than a three year payback would forgo the need for 25 nuclear power stations.
What complementary policy is required?
This proposed bill is only one component required in realising the full economic potential of energy efficiency. Complementary policies and actions around minimum energy performance standards (for appliances, equipment and housing) is required as is the need for up to date, credible and reliable data on how we use energy. Quality analysis and data are essential to inform energy infrastructure investment programs and policies. Currently policy makers are using out of date and conservative estimates of the energy efficiency potential resulting in underestimation of the true potential for energy efficiency improvement.

What they say about energy efficiency
The G8 Summit declaration of June 2007 said that improving energy efficiency worldwide is the fastest, the most sustainable and the cheapest way to reduce greenhouse gas emissions and enhance energy security.

The International Energy Agency says energy efficiency is one of the major tools for strengthening security of energy supply. But not only does it save energy, it reduces costs and lowers CO2 emissions. Existing efficiency technologies can sharply reduce energy consumption per unit of GDP, at relatively low or sometimes even negative costs and with a similar or even improved service. Energy prices are an important signal. In focusing market interest on energy efficiency opportunities, but governments too, must play an important role.

The IEA estimates that 10% of world energy demand could be saved by 2030 simply by seizing available energy efficiency opportunities and applying policies and measures currently under consideration. This outcome would benefit security of supply, economic growth and environmental protection as non-consumed energy, obviously, is the most secure and does not pollute.

The US National Action Plan for Energy Efficiency presents policy recommendations for creating a sustainable, aggressive national commitment to energy efficiency through gas and electric utilities, utility regulators, and partner organizations. The recommendations, if fully implemented, could save Americans billions of dollars in energy bills over the next decade, contribute to enhanced energy security, and improve the environment. Leading organizations across the country are taking specific actions to make the Action Plan a reality.

*Newsweek*, 10 Jan 2007 reported that efficiency is also a great way to lower carbon emissions and help slow global warming. But the best argument for efficiency is its cost—or, more precisely, its profitability. That’s because burgeoning energy demand requires immense investment in new supply, not to mention the drain of rising energy prices. In the International Energy Agency (IEA) emissions-cutting strategy, consumers and industry would have to invest $2.4 trillion over the next two and a half decades in more-efficient equipment, improved buildings and better-mileage cars. But those investments would slash fuel and electricity bills by an estimated $8.1 trillion and avoid another $3 trillion of investment in oil wells, pipelines and power plants. Each dollar invested in efficiency generates more than $4 in savings, while the “payback period” is usually no more than four years.

On Jan. 10 2007, the European Union unveiled a plan to cut energy use across the continent by 20 percent by 2020. Last March, China mandated a 20 percent increase in energy efficiency by 2020.

A report by the American Council for an Energy-Efficient Economy was released in June 2007, *Potential for Energy Efficiency and Renewable Energy to Meet Florida’s Growing Energy Demands* and identified that Florida could save $28 billion by using energy efficiency strategies that are available now. Using energy efficiency policies alone (such as efficient windows, compact fluorescent light bulbs, and ENERGY STAR appliances) can nearly offset the state’s entire future growth in electric demand by the year 2023. Florida would also create more than 14,000 jobs in 2023. The direct and indirect jobs created would be equivalent to nearly 100 new manufacturing plants relocating to Florida, but without the demand for infrastructure and other energy needs. Specifically, the study found that energy efficiency measures could cut demand by 19.9 percent and at a cost of 3.5 cents per kilowatt-hour, only about half of what new power plants would cost.
Energy efficiency is a factor of economic development. Experience has shown that, in many circumstances, it is cheaper to save a given quantity of energy—or to avoid using it—than it is to produce it. This means that huge financial resources can be transferred from energy supply development to more valuable activities which better fulfill the needs of population (health, education, etc.). Beyond this global effect, the direct effects of energy efficiency on productive activity are significant: improvement in industrial productivity, development of new activities and creation of jobs in all economic sectors and all geographical areas.

The environmental benefits are even clearer: the energy which creates the least pollution is that which is neither used nor produced. Each time the energy consumption for a given need is reduced, the emission of pollutants is also, automatically and proportionally, reduced.

I commend the bill to the Senate.

**Second Reading**

**Senator ALLISON** (Victoria—Leader of the Australian Democrats) (3.39 pm)—I table the explanatory memorandum and move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

The Same-Sex: Same Entitlements Bill 2007, co-sponsored with my colleagues Senators Bartlett, Murray and Stott Despoja, responds to the Human Rights and Equal Opportunity Commission (HREOC) report which revealed that, in Australia, 20,000 same-sex couples and their children experience systematic discrimination on a daily basis and recommended an end to this discrimination through simple changes to 58 existing laws. This bill, if enacted, would bring about those changes.

The discrimination identified by HREOC in its report *Same-Sex: Same Entitlements* has no place in a modern, tolerant nation. Further, the discrimination is inconsistent with Australia’s obligations under various international treaties, most notably the *International Covenant on Civil and Political Rights* and the *Convention on the Rights of the Child*. The United Nations Human Rights Committee has criticised Australia for this.

The bill would remove from Australian laws statutory provisions which encourage or allow discrimination against same-sex couples in areas including taxation, superannuation, employment and family law. These changes are long overdue and indeed many have been previously moved by the Democrats. The bill would establish a definition of “de facto relationship” that would include two people of the same sex living together as a couple on a genuine domestic basis, and it would insert this definition into various acts and regulations.

The bill would also change several laws to recognise the relationship between a child and both parents in a same-sex relationship for the purpose of protecting the best interests of the child and complying with Australia’s obligations under the *Convention on the Rights of the Child*. The defi-
ciencies of our laws in this regard, and their effect on Australian families, have been well documented by HREOC.

Same-sex couples and their families are denied basic financial and work-related entitlements available to opposite-sex couples and their families. The purpose of this bill is not to bestow upon same-sex couples special privileges; the purpose is to achieve equality. There is no reason why this discrimination should continue.

The discrimination, under existing laws, arises in many circumstances. For example, same-sex couples are not guaranteed the right to take carer’s leave to look after a sick partner. They have to spend more money on medical expenses than opposite-sex couples to enjoy the Medicare and Pharmaceutical Benefit Scheme safety nets. And they are denied a wide range of tax concessions available to opposite-sex couples.

Under existing law, the same-sex partner of a federal government employee is denied access to certain superannuation and workers’ compensation death benefits available to an opposite-sex partner, and the same-sex partner of a defence force veteran is denied a range of pensions and concessions available to an opposite-sex partner. Older same-sex couples will generally pay more than opposite-sex couples when entering aged care facilities.

The discrimination affects not only the members of same-sex couples themselves but also their children. According to HREOC, approximately 20 per cent of lesbian couples and 5 per cent of gay couples in Australia are raising children. The financial disadvantages imposed on same-sex parents will inevitably have an impact on their children.

Some of the changes to social security laws will benefit same-sex couples and their children by making them eligible to receive payments they had previously been denied. Other changes, however, will disadvantage same-sex couples by denying them benefits they currently receive. This bill would change the laws so that they apply equally to same-sex couples as to opposite-sex couples.

The bill does not establish a phase-in period for the denial of benefits to people in same-sex relationships who are currently receiving them. However, a phase-in period is something this parliament might wish to debate as a possible addition to the bill. The rationale is that it would allow time for other benefits to kick in—for example, taxation benefits or other welfare entitlements—before a member of a same-sex couple is denied the entitlements he or she might currently receive.

The AIDS Council of New South Wales has said this would mitigate the negative impact on those affected:

Given that changes to social security would bring significant obligations as well as rights to people in same-sex relationships, reform in this area should not take place before rights are given in legislative areas. Further a ‘phase in’ period should take place to allow for people who will be negatively impacted to adjust their financial situation.

If this bill were enacted, it would be important for the Government to audit the policy and regulation instructions affected by the changes that the Act would bring about. Further, government departments and other bodies affected by the changes should be properly educated of the effect of the changes, and the Government should run a campaign to inform same-sex couples of the changes to the law and their implications.

It will also be important to establish a complaints-based mechanism for people who are denied benefits despite changes to the law. This should be achieved through a separate Act.

The Australian Democrats believe it is beyond time that we put an end to this discrimination. Our consciences should demand that we do so—and, according to a recent Galaxy poll, more than 70 per cent of Australians would like to see the HREOC recommendations implemented.

Why, in this age, does the fight for equality remain so far from won? Legislators in other countries have woken up to the inhumanity of maintaining laws that malign their gay and lesbian constituents. But here, in this respect, we are shamefully behind the times.

Let’s move out of this moral shadow-land.

I commend the bill to the Senate.

Senator ALLISON—I seek leave to continue my remarks later.
Leave granted; debate adjourned.

PETITIONS

Same-Sex Couples

Senator ALLISON (Victoria—Leader of the Australian Democrats) (3.39 pm)—by leave—I table a petition from 25,928 citizens calling for the same legal rights for same-sex couples as for de facto couples. This petition is not in conformity with the standing orders.

“Same sex couples should have the same legal rights as de facto heterosexual couples.

I call upon you to make this first step towards equality by immediately legislating to end discrimination against same sex couples.”

COMMITTEES

Rural and Regional Affairs and Transport Committee

Meeting

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

That the Rural and Regional Affairs and Transport Committee be authorised to meet during the sitting of the Senate on Wednesday, 15 August 2007, from 3.30 pm, to allow officers of the Department of Agriculture, Fisheries and Forestry, Biosecurity Australia and the Australian Quarantine and Inspection Service, to provide a briefing to the committee.

Question agreed to.

DEMONCRATIC REPUBLIC OF THE CONGO

Senator MILNE (Tasmania) (3.40 pm)—I move:

That the Senate:

(a) notes with grave concern:

(i) the deteriorating state of conservation in the five World Heritage sites in the Democratic Republic of the Congo (DRC), including the Virunga National Park, home to more than half of the 700 mountain gorillas remaining on the planet,

(ii) the occupation of the Virunga National Park by militia, resulting in the slaughter of large numbers of wild animals for bushmeat,

(iii) the recent execution-style killing of four mountain gorillas, shot in the head and the hand, in Virunga National Park as payback for the crackdown on the militia occupying the park, and

(iv) the decision of the World Heritage Committee of the United Nations Educational, Scientific and Cultural Organization (UNESCO), meeting in Christchurch, New Zealand in July 2007, to request the Director-General of UNESCO and the Director of the World Heritage Centre to convene a meeting with the President of the World Conservation Union and representatives of the African Union to address the rapidly deteriorating state of conservation of the World Heritage sites in the DRC; and

(b) calls on the Government:

(i) to convey to the DRC Government, Australia’s concern at the destruction of wildlife, and in particular the mountain gorillas, in the World Heritage sites and Australia’s willingness to assist in bringing about a solution, and

(ii) as a state party to the World Heritage Convention, to do all it can to support international efforts within the convention to urgently address the issue, and to use its good offices to urge the Director-General of UNESCO to step up efforts to bring all parties together in order to secure the World Heritage sites and their wildlife.

Question agreed to.

ALCOHOL ABUSE

Senator MURRAY (Western Australia) (3.41 pm)—I move:

(1) That the Senate, noting concern in the community at the abuse of alcohol, asks that the Government refer the following matter to an appropriate body or a spe-
cially-established task force for inquiry and report:

The need to significantly reduce alcohol abuse in Australia, especially in geographic or demographic hot spots, and what the Commonwealth, states and territories should separately and jointly do with respect to:

(a) the pricing of alcohol, including taxation;
(b) the marketing of alcohol; and
(c) regulating the distribution, availability and consumption of alcohol.

(2) In undertaking the inquiry regard is to be had to:

(a) economic as well as social issues;
(b) alcohol rehabilitation and education;
(c) the need for a flexible responsive and adaptable regulatory regime; and
(d) the need for a consistent harmonised Australian approach.

Question put.

The Senate divided. [3.45 pm]

(The President—Senator the Hon. Alan Ferguson)

Ayes............  9
Noes............. 43
Majority........ 34

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

NOES
Abetz, E. Adams, J.
Barnett, G. Bernardi, C.
Birmingham, S. Bishop, T.M.
Boswell, R.L.D. Boyce, S.
Brown, C.L. Campbell, G.
Chapman, H.G.P. Colbeck, R.
Cormann, M.H.P. Crossin, P.M.
Eggleston, A. Ferguson, A.B.
Fifield, M.P. Fisher, M.J.

Hogg, J.J. Humphries, G.
Hurley, A. Hutchins, S.P.
Kemp, C.R. Kirk, L.
Lundy, K.A. McEwen, A.
McGauran, J.J.J. Moore, C.
Nash, F. O’Brien, K.W.K.
Parry, S. * Patterson, K.C.
Payne, M.A. Polley, H.
Ray, R.F. Sherry, N.J.
Stephens, U. Sterle, G.
Troad, R.B. Watson, J.O.W.
Webber, R. Wong, P.
Wortley, D.
* denotes teller

Question negatived.

NOTICES

Withdrawal

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.48 pm)—I have been informed that the Minister for the Environment and Water Resources has taken notice of the Dr Stuart Godfrey report. I therefore withdraw general business notice of motion No. 862.

RUSSIA

Senator MILNE (Tasmania) (3.48 pm)—I move:

That the Senate—

(a) notes:

(i) growing concern about the deteriorating state of human rights, democracy, freedom of expression and the rights of civil society in the Russian Federation (Russia), particularly the use of force against peaceful demonstrators, the suppression of the democracy movement and the increasingly unfair Duma elections, as well as reports of the use of torture in prisons,

(ii) the bashing and murder of sleeping activists protesting against the planned construction of an international uranium enrichment centre at the Angarsk uranium enrichment plant in Siberia,

(iii) the 2005 Russian deal to sell uranium to Iran to fuel the Russian-built...
Bushehr nuclear plant, in spite of widespread fears about Iran’s suspected nuclear weapons program, and

(iv) the Government’s negotiation of a proposed agreement to sell uranium to Russia, in spite of its close nuclear relationship with Iran; and

(b) calls on the Government not to negotiate any agreement on the supply of uranium to Russia.

Question put.

The Senate divided. [3.50 pm]

(The President—Senator the Hon. Alan Ferguson)

Ayes………… 8
Noes………… 44
Majority…… 36

AYES
Allison, L.F.
Brown, B.J.
Murray, A.J.M.
Siewert, R. *

NOES
Abetz, E.
Adams, J.
Barnett, G.
Birmingham, S.
Boswell, R.L.D.
Brown, C.L.
Chapman, H.G.P.
Cormann, M.H.P.
Crosin, P.M.

Question negatived.

BUSINESS

Consideration of Legislation

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (3.52 pm)—I move:

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

Water Bill 2007
Water (Consequential Amendments) Bill 2007.

Question agreed to.

Senator Bob Brown—Mr President, could you record the Greens opposition to that motion.

DOCUMENTS

Responses to Senate Resolutions

The DEPUTY PRESIDENT—I present a response from the Minister for Immigration and Citizenship (Mr Andrews) to a resolution of the Senate of 19 June 2007 concerning the human rights of children.

Department of the Senate: Travel

The DEPUTY PRESIDENT—I table documents providing details of travelling allowance payments made by the Department of the Senate to senators and members during the period 1 July 2006 to 30 June 2007, and travel expenditure for the Department of the Senate during the same period.

SOCIAL SECURITY AND OTHER LEGISLATION AMENDMENT (WELFARE PAYMENT REFORM) BILL 2007

NORTHERN TERRITORY NATIONAL EMERGENCY RESPONSE BILL 2007
On behalf of the chair of the Legal and Constitutional Affairs Committee, Senator Barnett, I present a corrigendum to the report of the committee on its inquiry into the Northern Territory National Emergency Response bills.

Ordered that the document be printed.

TAX LAWS AMENDMENT (2007 MEASURES No. 4) BILL 2007

This Bill makes numerous improvements to Australia’s tax laws. Schedule 1 gives effect to the Government’s announcement in the 2005-06 Budget that it will abolish foreign loss and foreign tax credit quarantining and streamline the remaining foreign tax credit rules. This is achieved by repealing the existing arrangements and replacing them with new simplified foreign income tax offset rules. These rules allow taxpayers to claim relief for foreign income taxes paid on an amount included in their assessable income. These amendments also include transitional rules for the treatment of existing foreign losses and credits. These amendments also provide a mechanism to allow the Commissioner of Taxation to give effect to Australia’s tax treaty obligations to provide relief from economic double taxation arising from transfer pricing adjustments.

By reducing tax complexity and compliance costs, these changes will assist businesses of all sizes operating, or seeking to grow, internationally. They build on the previous reforms undertaken by the Review of International Taxation
Arrangements to ensure Australia has a competitive international tax system.

Schedule 2 amends the income tax laws to provide a capital gains tax roll-over, similar to the scrip for scrip roll-over, for membership interests in companies limited by guarantee that are also medical defence organisations. This roll-over will ensure that capital gains tax need not be an impediment to mergers or takeovers of medical defence organisations.

Schedule 3 to this Bill allows investment by superannuation funds in instalment warrants that are of a limited recourse nature.

In recent years, many superannuation funds, particularly self-managed superannuation funds, have invested in instalment warrants. These changes will allow superannuation funds to continue to invest in limited recourse instalment warrants with certainty.

Schedule 4 amends the ultimate beneficiary reporting rules in the Income Tax Assessment Act 1936. These rules target arrangements where taxpayers use complex chains of trusts to effectively obscure the ultimate beneficiary of the assessable trust income.

Under the new rules, trustees of closely held trusts will no longer be required to trace income through interposed trusts to the ultimate beneficiary and report those details to the Commissioner of Taxation. Instead, trustees of closely held trusts will be required to report only the details of trustee beneficiaries that are presently entitled to income of the trust and tax-preferred amounts.

Family trusts (and their related trusts) will be excluded from the new reporting requirements, on the basis that under the family trust election rules any distributions outside the family group are already subject to a penalty rate of tax. In addition, the Commissioner will be given a determination making power not to require annual reporting for some trusts where he considers it unnecessary.

These amendments ensure that where a tax file number is provided by the Commissioner, the tax file number is taken to have been quoted by the member, and the provider can use the tax file number.

These amendments also address strategies which seek to circumvent the minimum drawdown requirements for superannuation income streams. Concessional tax treatment will only apply to those assets included in the income stream account balance.

These amendments also further improve the readability of superannuation and taxation provisions rewritten as part of the reforms.

Schedule 6 amends the list of deductible gift recipients in the Income Tax Assessment Act 1997. Deductible gift recipient status will assist the listed organisations to attract public support for their activities.

Schedule 7 implements various technical corrections and amendments and also some general improvements to the law of a minor nature. These amendments are an important part of the Government’s commitment to improving the quality of the taxation laws and reducing their complexity.

Schedule 8 to this Bill amends the trust loss regime to provide more flexibility for family trusts. The amendments allow family trust elections to be varied or revoked in a broader range of circumstances than is currently the case. The amendments also expand the definition of family to include lineal descendants and distributions to former spouses, widows/widowers and former step-children will be exempt from family trust distribution tax.

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

TAXATION (TRUSTEE BENEFICIARY NON-DISCLOSURE TAX) BILL (No. 1) 2007

This Bill is a companion Bill to Tax Laws Amendment (2007 Measures No. 4) Bill 2007. The purpose of the Bill is to impose trustee beneficiary non-disclosure tax at the rate of 46.5 per cent on certain income.
This is consistent with the existing ultimate beneficiary rules, which impose a non-disclosure tax where the trustee of a closely held trust fails to disclose certain details about the ultimate beneficiaries.

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

TAXATION (TRUSTEE BENEFICIARY NON-DISCLOSURE TAX) BILL (No. 2) 2007
This Bill is a companion Bill to the Tax Laws Amendment (2007 Measures No. 4) Bill 2007.
The purpose of the Bill is to impose trustee beneficiary non-disclosure tax at the rate of 46.5 per cent on the untaxed part of a share of net income where a liability to tax arises.

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

JUDGES’ PENSIONS AMENDMENT BILL 2007
This Bill would amend the Judges’ Pensions Act 1968 so that, where a federal judge is subject to the superannuation surcharge, reduced rates of surcharge which applied in 2003-04 and 2004-05 apply to the pension entitlements of the judge and the judge has the option of commuting a proportion of the pension to discharge a surcharge debt.

The surcharge is currently applicable in relation to the pension entitlements of judges who were appointed between 7 December 1997 and 30 June 2005 under a formula in the Judges’ Pensions Act. The surcharge has been abolished and does not apply to pension entitlements accrued from 1 July 2005.

The formula reduces a judge’s pension by averaging the rates of surcharge that applied to the judge in each full financial year of his or her service. There are, however, two technical deficiencies with the formula which need to be overcome.

The first deficiency with the formula is that it was drafted in such a way that it reduces a judge’s pension in respect of 2003-04 and 2004-05 by 15%, notwithstanding that the maximum surcharge rates were reduced for those years to 14.5% and 12.5%, respectively. The Bill would amend the formula to reflect the lower maximum rates in those years. To ensure equity for any pensioner who had retired after the first of those reductions was made, this amendment would apply whether or not an affected judge retired before the amendment commenced operation.

Secondly, the formula does not recognise payments to reduce a judge’s surcharge debt made by the judge to the trustee of the Judges’ Pension Scheme, unless the debt is paid in full. The Bill would provide an option for judges to have their pensions commuted to discharge their surcharge debts, rather than have the formula apply. Commutation would operate on the basis of actuarially-determined age-based factors and would recognise the actual amount of a judge’s surcharge debt. Commutation would therefore automatically recognise payments which had been made to reduce the amount of the debt. Commutation would be available to any judge who retires on or after 1 July 2007.

The Bill would also allow the trustee of the Judges’ Pension Scheme to draw on an existing special appropriation to pay judges’ surcharge debts to the Australian Taxation Office as they retire. Once a debt had been paid, it would be recovered from the former judge concerned under the formula or through commutation.

Finally, the Bill would define salary for pension purposes. This would ensure increased flexibility for the Remuneration Tribunal in setting serving judges’ entitlements without the Tribunal needing to take into account inadvertent effects that this could have on the pension entitlements of retired judges or their dependants. This arises because pension entitlements are set as a proportion of the salary of a serving judge. For example, it would mean that the Tribunal could determine a cash allowance in lieu of other vehicle entitlements for serving judges, without the allowance needing to be taken into account in calculating the pension entitlements of either serving judges who retire or retired judges or dependants.

I commend this Bill.

Debate (on motion by Senator Abetz) adjourned.

Ordered that the Judges’ Pensions Amendment Bill 2007 be listed on the Notice Paper as a separate order of the day.
On behalf of the chair of the Environment, Communications, Information Technology and the Arts Committee, Senator Eggleston, I present the report of the committee on the provisions of the Water Bill 2007 and related bill, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

SOCIAL SECURITY AND OTHER LEGISLATION AMENDMENT (WELFARE PAYMENT REFORM) BILL 2007

NORTHERN TERRITORY NATIONAL EMERGENCY RESPONSE BILL 2007

FAMILIES, COMMUNITY SERVICES AND INDIGENOUS AFFAIRS AND OTHER LEGISLATION AMENDMENT (NORTHERN TERRITORY NATIONAL EMERGENCY RESPONSE AND OTHER MEASURES) BILL 2007

APPROPRIATION (NORTHERN TERRITORY NATIONAL EMERGENCY RESPONSE) BILL (No. 1) 2007-2008

APPROPRIATION (NORTHERN TERRITORY NATIONAL EMERGENCY RESPONSE) BILL (No. 2) 2007-2008

Second Reading

Debate resumed from 13 August, on motion by Senator Scullion:

That these bills be now read a second time,

upon which Senator Chris Evans moved in respect of the Social Security and Other Legislation Amendment (Welfare Payment Reform) Bill 2007, the Northern Territory National Emergency Response Bill 2007 and the Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Bill 2007 by way of amendment:

At the end of the motion, add:

“but the Senate notes that:

(a) the protection of children from harm and abuse is of paramount concern to all Australians;

(b) the documented instances of child abuse within Indigenous communities in the Northern Territory are of such gravity as to require an urgent and comprehensive response to make children and the communities they live in, safe;

(c) these legislative measures taken together represent a major challenge for Territorians and a change to current arrangements;

(d) we will not succeed in our goal of protecting children without the support and leadership of Aboriginal people of the Northern Territory; the Commonwealth must gain their trust, engage them and respect them throughout this emergency and beyond;

(e) the work of strong and effective Indigenous community members and organisations must continue to be supported during this emergency;

(f) it is important that temporary measures are replaced in time with permanent reforms that have the confidence and support of Territorians, and short term measures aimed at ensuring the safety of children grow into long term responses that create stronger communities that are free of violence and abuse;

(g) In the case of town camps effective partnerships with lessors and nego-
tiated outcomes should obviate the need for compulsory acquisition;

(h) this includes stimulating economic development and more private sector partnerships to secure greater self-reliance;

(i) both levels of Government must work in partnership; there must be political accountability at the highest level – with the Prime Minister and Federal Minister for Indigenous Affairs;

(j) program funding must hit the ground through evidence-based delivery; there must be relentless focus on best-practice and rigorous evaluation by all parties set within specific timeframes;

(k) practical measures must include;

(i) police to keep every community in the Territory safe, particularly children, women and elders;

(ii) safe houses that provide a safe place for women and children escaping family violence or abuse built using the direction and leadership of local Indigenous women;

(iii) night patrols that provide important protection;

(iv) community law and justice groups that play an important role in the effective administration of justice;

(v) appropriate background checks for all people providing services in communities who work in proximity to children;

(vi) comprehensive coverage of child and maternal health services are essential to give children the best start comprehensive coverage of parenting and early development services for Indigenous parents and their babies;

(vii) an effective child protection system in the Northern Territory;

(viii) all children enrolled and attending school and Governments to deliver teachers, classrooms, teacher housing and support services (eg Indigenous teacher assistants);

(ix) investment in housing construction and maintenance to reduce the shortfall in Indigenous homes and infrastructure; and

(x) reform of the Community Development and Employment Program, including transitioning participants who are employed in public sector work into proper public sector jobs and ensuring participants are not left without sufficient income or participation opportunities”.

Senator KIRK (South Australia) (3.58 pm)—In my speech on the Northern Territory National Emergency Response Bill 2007 and related bills last night, I was talking about the assurance that the government has given to Labor and to the Senate that these measures that are being introduced amount to special measures and therefore are consistent with the requirements of the Racial Discrimination Act. I said last night that the absence of consultation with Indigenous communities by the government certainly casts some doubt on whether these measures would be regarded as special measures pursuant to the Racial Discrimination Act. In the time that I have remaining today, I want to make mention of the fact that it is also of concern that the legislation does not require decision makers to exercise their discretion consistently with the purported beneficial purpose. This is another thing which indicates that these matters may not in fact be special measures.

In view of these concerns, it is essential that there now be extensive consultation with Indigenous communities. Even at this late stage, it is essential that the government ex-
plains these measures and the object of the legislation. As the President of HREOC, Mr John von Doussa, said in his evidence to the Senate hearing on Friday, it is not too late to consult with Indigenous communities in order to ensure that the administration of the legislation is designed and implemented in a way that advances the aims of the legislation and meets the aspirations of Indigenous communities. In this context, consultation is better late than never. Finally, it is essential that there be effective monitoring and review of the implementation of these measures. Labor supports the two recommendations made by the Senate inquiry, recommendations No. 1 and No. 3, that ensure that there will be review. *(Time expired)*

**Senator MURRAY** (Western Australia) *(4.00 pm)*—The Northern Territory National Emergency Response Bill 2007 and the four associated bills are lengthy, radical, complex and far reaching. Contrary to the hype, there is no urgency for three of the five bills. The administrators, Army, police, health and other officials have moved in or are on their way. The much-needed emergency intervention is already happening. The only urgent need is for money to pay for it all. The two appropriation bills need to be passed at once. For the other three bills covering policy matters there is no reason whatsoever that a proper Senate inquiry and some decent consultation could not have occurred to report by the next sitting on 11 September, when the bills could pass. Instead, we have this manufactured urgency and have had the disgraceful sham of a one-day inquiry to examine five bills and 500 pages—yet another gross abuse of the coalition’s Senate control. We all know that rushed legislation produces mistakes. It is not as if there is any danger of the three policy bills not passing. The Liberal legislative lemmings will see to that.

In my own mind, I have separated the ambit of the bills into four broad areas: those measures that seek to significantly reduce the crimes of sexual assault of children and domestic violence; those measures that seek to improve social conduct and compliance affecting parenting, alcohol consumption, the regulation of pornography and school attendance; those measures addressing welfare, service delivery and welfare to work; and, lastly, those measures addressing land use.

This entire new policy edifice is built on a powerful emotional reaction to widespread child abuse and child sexual assault in Indigenous communities—finally, after reports stretching over not just decades but generations. Child abuse is the hook on which all this other policy hangs. I have my own prejudices here. I loathe those who abuse and assault children, and I have had much to say on that subject for my entire time in the Senate. So I am keen to see policies that end it. However, I struggle to see how changing land use leases and the permit system have anything remotely to contribute to ending the sexual assault of children. I have my prejudices on land issues too. Based on my knowledge of Soviet and colonial African practices, I have an instinctive reaction against the apartheid language of homelands and separate development, against permits and passes, and against systems which prevent freehold private land ownership—particularly in settled areas.

If you want to know whether the coalition or any government has my full support for ending the abuse and physical and sexual assault of children, for ending domestic violence, regulating pornography, regulating drinking and policing socially disruptive behaviour anywhere in Australia, yes, they do. These are not just Northern Territory issues. While the coalition is right to act in the Northern Territory, much more has to be done by them in every other state and territory. In many respects the coalition are acting and leading years too late.
Much has been said about the motives of this coalition government. When I watch and listen to Mal Brough, I see genuine belief and commitment. I see a man whose beliefs, determination and self-certainty may lead him into mistakes, perhaps grievous ones, but they will be mistakes borne of a genuine desire to make Indigenous communities better. When I listen to and look at the Prime Minister and many of his party, I am not as sure of their motives. There are people in the Liberal Party who are and have been active in trying to do something about Indigenous and non-Indigenous child abuse, child sexual assault and living conditions. However, in some—not all—of the Liberal leadership group’s reaction I suspect the influence of the coming election at work, with them trying to wedge Kevin Rudd and Labor and trying to get voter kudos, plus using this opportunity to bring on difficult policy agendas.

People question Liberal motives because it is an election year and because of the coalition’s long record of doing little to address this issue of the sexual assault of children past and present, of strenuously resisting having a royal commission into such matters and of refusing to introduce compensation, reparations or remedial measures to those harmed as children. It is easy to do a Hansard search to see if this is all sudden and new. Just check if those now engaged on this Northern Territory issue have ever before spoken about paedophilia, child abuse or child sexual assault, especially when those matters concerned ‘us whites’ not ‘them blacks’ or when the deviant practices of some churches or charities were exposed by the Senate inquiries into institutional care.

In speaking to these bills, I cannot cover all their content. I will leave that to our portfolio holder, Senator Bartlett. I will focus on the intervention intends to achieve, that being the admirable task of protecting Aboriginal children in the Territory from sexual assault, abuse and neglect. Understand this: if there is no follow-up for the longer term, if local communities are not brought onside and if there is no sustained commitment, then these initiatives are doomed to failure.

Pleased as I was to hear the Prime Minister’s welcome announcement that the federal government would make a well-resourced emergency response to the circumstances described in the Little children are sacred report, I had mixed feelings. I was thrilled that finally national leadership in child protection was on the agenda. However, I was concerned that it was largely geographically and demographically quarantined. I was concerned that there was still no Commonwealth leadership on child sexual assault and abuse across the whole of Australia. This is urgently needed because the crimes of domestic violence, child sexual assault and other forms of child abuse are also happening—and have happened in the past—in cities, towns, villages and suburbs throughout Australia. Numerous media, government and other reports exist that attest to this, both in a contemporary and historical context.

For years, I have urged the federal government to show leadership. It has been a frustrating experience. Although we do have politicians who loudly proclaim their concern for families and children, when it comes to the dark and depressing issue of child sexual assault, too many remained silent. I have given numerous speeches and have circulated papers, with little result either politically or in the media. My campaign has largely been given form by the two Senate community affairs inquiries I initiated and was a member of—the child migrant inquiry and the children in institutional care inquiry. These inquiries generated the 2001 Lost innocents: righting the record report, the 2004 Forgotten Australians report and the 2005

The most overwhelming and tragic finding of these reports is this: if you harm a child, you will, more likely than not, get a harmed adult and the consequences can run for decades and are often generational. Very few actually understand this. Most still think that the sexual and physical assault of a child is a crime, when it is a sentence. When hundreds of thousands of children are harmed, the long-term individual, intergenerational social and economic costs are massive. There is no sign that the government, as a whole, understands this. In the Northern Territory, all the young people and adults already harmed will need decades of remedial action, therapy, health care and support, not necessarily constantly but certainly whenever the demons rise up. What happened to the half million in care is directly relevant to this Northern Territory problem. Many children raised in care, then and now, suffered tragic childhoods, were born into families where poverty and welfare dependency was common, where alcohol-fuelled domestic violence and drug abuse were daily occurrences, where physical and sexual assault could be experienced and where abuse and neglect were common. Taken into care by the authorities, children suffer attachment disorders through the loss of the love and nurturing essential to their development. They suffer numerous placements, loss of identity, loss of self-esteem and confidence, and perform poorly at school. Some become the unfortunate victims of continuing assaults.

The evidence received by the Senate inquiries about the assaults suffered while in care was most disturbing. Here are a few quotes:

During my time at this home my sister and myself experienced directly and also witnessed many acts of cruelty, deprivation, sexual abuse, premeditated physical and emotional torture.

Another stated:
I have been flogged. I have scars all over my body inflicted on me by those bastards.

And another stated:
My brothers were sentenced to the care of monsters. They witnessed and endured terrible unspeakable brutality.

The Forgotten Australians report, at page 141, best sums up the cruelty inflicted on children in care by their carers, the religious sisters, the brothers, the priests and lay workers. I quote:
When do the oft-documented beltings and floggings become criminal assault? When did the ‘standards of the time’ change that condoned the perpetration of neglect, cruelty, psychological abuse, sadism, rape and sodomy?

Needless to say, when these kids left care their futures were often bleak. One wrote:
When I entered the boys’ home, the child that I was ceased to exist. When I left ... the man I had a right to become, would never eventuate.

And:
What was to follow was a life of violent youth drinking and drugging which landed both my brother and myself into the lockup.

And another quote:
No person can come out of these experiences unscathed and many of the girls from the home have had horrible lives. I saw more than one as street walkers and was told about attempts at suicide and destructive relationships. Others have learned to rely on alcohol and other drugs. None have realised their potential both emotionally and intellectually.

The litany of abuse and neglect suffered by these survivors has endured well into their adult years. Just like war veterans, they suffer post-traumatic stress disorder, depression and other general health problems. Here are some more quotes:

My mum spent years in psychiatric institutions due to the atrocious abuse that herself and her sister endured for many years at the cruel hands of the so-called carers.
And:
I can’t get some of the terrible things he did to me out of my head, they loom in the shadows of my life and haunt me. This carer took my virginity, my innocence, my development, my potential.

Another wrote:
I’m spending the second half of my life sorting out the first half. The cumulative effect is so pervasive that today I’m 52 years old and still a state ward.

And finally, one 70-year-old woman wrote of the lasting effects in the following way:
Every now and then a door opens in the memory bank and the ghosts escape to make us lonely children again.

The point of quoting these excerpts from the ‘stolen generation’ and the Children in institutional care reports is to illustrate that if you harm a child you get a harmed adult. That has a direct relationship to the children that have been harmed in the Northern Territory. These quotes illustrate a huge societal problem. Together with the ‘stolen generation’ inquiry, the trilogy of Senate inquiries conservatively revealed that more than 500,000 children were removed from their families and placed in out-of-home care last century in Australia. A minimum of 20,000 of these were Aboriginal children—possibly even double that figure; the records are very poor. The rest of the 500,000 were child migrants and non-Indigenous, non-child migrant Australian children. Anyone who fails to understand that taking those Indigenous children from their mothers contributed to the present evils just does not get it.

The enduring legacy of child sexual and physical assault—indeed, the current and ongoing crisis of child abuse in Aboriginal communities—is directly linked to the effects of the ‘stolen generation’. The inter-generational effects of the trauma from the forced removal of children and of degraded family life are now being played out in Indigenous communities: substance abuse, welfare dependency, mental and other health problems, suicides, poor parenting skills, child abuse and neglect, social disruption and, sadly, the sexual assault of vulnerable kids. It is important to realise that the trilogy of Senate inquiries I have referred to are only a portion of a myriad of other inquiries dating back decades. And they continue to this day. One current inquiry nearing completion in South Australia has revealed extraordinary levels of sexual assault amongst the state ward population there. Since November 2004, Commissioner Mullighan, who is heading the SA Children in State Care inquiry, has interviewed over 2,000 people and unearthed hundreds of appalling examples of sexual, physical and emotional abuse of children in state care. Bearing in mind that the vast majority of adults sexually assaulted as children will never come forward, the possible numbers are frightening. And one problem of sexual assault of children is that, in a minority, it leads to them, in turn, becoming assailters as adults.

I gave an adjournment speech on this phenomenon in 2002, and those of you who are interested can look it up. Briefly, here is how numbers can multiply. In the United States, Richard Sipe, an impressively qualified former monk, revealed in his Sipe report that five to seven per cent of US Catholic priests have molested children. If six per cent of 50,000 Catholic priests in the United States sexually assaulted an average of 100 children over a 50-year life span, you would be talking about 300,000 victims.

There is no research to tell us what the Australian percentage might be of abusers and how many victims that would translate to, whether the abusers are Indigenous or not. This is why the Democrats and many others from many parties have called for a royal commission to assess the scale and effects of sexual assault against children in
Australia. All the evidence points to the fact that the long-term consequences of sexually assaulted children do not just impact on the individual; they also impact on their families, often for generations, and on society at large. Our prisons are full of those abused and assaulted as children. Our homeless population has a high percentage of former state wards or kids fleeing from abusive families. Psychiatrists and psychologists attest to the high incidence of mental health problems emanating from abusive childhoods.

All of this comes at an enormous drain on budgetary expenditures estimated to be costing taxpayers $5 billion annually. This was calculated in a historic national report on the cost of child abuse and neglect by the Kids First Foundation back in 2003. Has there been any serious political understanding and acknowledgement that a lifetime of pain and alienation comes from being abused as a child, that a huge aggregated social and economic cost results? Not really. Has there been any political will to seriously address this by the Commonwealth? Territory intervention aside, no. Has the Commonwealth agreed to the longstanding call for a royal commission into child sexual assault and abuse? No. Did the Commonwealth agree to the establishment of a national commissioner for children and young people, as recommended by the Protecting vulnerable children Senate report? No. Did the Commonwealth agree to the recommendation of the Forgotten Australians report to establish and manage a national reparations fund for the survivors of institutional abuse and other care settings? No.

Time and again in its response to the unanimous recommendations of the Senate inquiry reports—note I said ‘unanimous’; all parties—the Commonwealth deferred to the states on constitutional grounds. There was no national leadership taken whatsoever. Not only were these reports about delivering some sense of justice and a fair go for the hundreds of thousands directly affected last century; they were also about the legions of children in need of child protection in the future. Now we finally do have the Commonwealth showing some leadership. I welcome it, but it is needed more than in the Northern Territory, and it is needed more than in Indigenous communities in the other states and territories. It is also needed in the non-Indigenous community.

The situation is not new. Many reports previous to the Little children are sacred report have made similar and shocking findings that are also about non-Aboriginal people and children. In his address to the Sydney Institute on 25 June, the Prime Minister stated in relation to the Northern Territory emergency response:

... the full power and resources of the Commonwealth will be directed to making lasting change, where we can, in the daily lives and future prospects of the most vulnerable fellow citizens in our nation.

That is a very admirable statement. But he does not mean that meaningful action will follow for all children of every colour at risk across Australia, because if he did mean that he would be doing something to show that he means that.

The Prime Minister is now on the record as stating that where there is an obvious gap in the delivery of services the Commonwealth should assume an ‘overwatch’ role and that, where the Commonwealth can make a difference, arguably it should. If the eyes are going to be picked out of federal-state relations then the weeping eye of child protection must be targeted by the Commonwealth.

The principles and strategies for effective action are known and the evidence for what will work is available. It is the absence of responsibility, of political will, of resources
and of the commitment to long-term policies and budgets that impedes addressing child sexual assault and abuse effectively across all the states and territories of our nation. The grave issue of child sexual assault in all of Australia and its long-term consequences is a matter of national concern and deserves national leadership. The abused children who become adults who were abused need specific attention. Those who have been abused in the past need as much attention from this government as those it is trying to save from being abused in the future.

Lastly, I want to talk about alcohol. Here is another area where Commonwealth leadership is weak. Australians are alarmed at youth binge drinking, nightclub assaults, the fact they cannot walk the streets safely, domestic violence and mayhem on the roads. I know there is the National Alcohol Strategy, but it is weak. What is needed is to inquire, with particular regard to significantly reducing alcohol abuse in Australia, especially in geographic or demographic ‘hot spots’, into what the Commonwealth, states and territories should separately and jointly do with respect to the pricing of alcohol, including taxation; the marketing of alcohol; and regulating the distribution, availability and consumption of alcohol. The inquiry must take into account economic as well as social issues; alcohol rehabilitation and education; the need for a flexible, adaptable regulatory regime; and the need for a consistent, harmonised approach.

The coalition will not do it. Just today they voted against doing it. They think it is easier just to concentrate on the Northern Territory. That is not enough. I say to the coalition: it is to your shame that you will not do something positive about these matters.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Senator Murray, do you wish to seek leave to incorporate a speech by Senator Stott Despoja?

Senator MURRAY—I am glad you were concentrating, Mr Acting Deputy President. I had forgotten.

The ACTING DEPUTY PRESIDENT—I always concentrate when you are speaking, Senator Murray.

Senator MURRAY—I appreciate that, Mr Acting Deputy President. I will remark to those listening: Senator Lightfoot is one of my colleagues from Western Australia and, I might say, a very good colleague. Having flattered you accordingly, Mr Acting Deputy President, I seek leave to incorporate Senator Stott Despoja’s speech.

Leave granted.

Senator STOTT DESPOJA (South Australia) (4.21 pm)—The incorporated speech read as follows—

This is defining legislation. It is defining because it has the potential to be the impetus in addressing an issue in our nation’s history that has been neglected and unresolved for decades. It also has the potential to do irreparable damage and cause a setback for hard fought rights achieved over those decades for Indigenous Australians. It could draw together non-partisan and cooperative community support in giving critical attention and resources to resolve the detrimental imbalance of life experienced by thousands of Indigenous Australians. It also has the disturbing potential to polarise our society and perpetuate discrimination and ignorance.

We all hope that we can progress the search for solutions to the problems facing our Indigenous communities, despite the fact that we are today to debate such momentous legislation with so little opportunity to scrutinise the Government’s proposals and to meaningfully contribute to measures and outcomes that all Australians can support.

In 1967, 91% of Australians voted ‘Yes’ to the fundamental value of equality for all Australians. That we are having this debate now, some 40 years on, demonstrates forcefully that the potential of the 1967 Referendum has not been realised
and highlights the failure of successive Governments to address fundamental issues of inequality for Indigenous communities.

The abuse of children in any society is intolerable. Their protection is a priority, particularly where children live in communities lacking basic health, education and support services. Immediate attention is needed to address issues of abuse committed against women and children in Indigenous communities. The urgency and the priority of this matter cannot be overstated and is acknowledged by all Australians.

On 21 June, the Prime Minister publicly reacted to the ‘Little children are sacred’ report and labelled the situation a National Emergency. It is worth reflecting that the sickening and horrifying abuse to which the Prime Minister referred in his announcement has been present and prevalent throughout his entire term as Prime Minister. It is a prolonged and complex problem that has been largely ignored by this Government, despite the consistent pleas of the Democrats for the Government to make a responsible and appropriate response to domestic violence and child sexual abuse, not only in the Northern Territory, but Australia wide.

According to Professor Peter Botsman’s ‘Putting Indigenous Child Abuse in Perspective’, there is clear evidence that Indigenous child abuse is occurring at significant levels in other states. Indeed, the NT has the second lowest instance of child abuse substantiations on a per capita basis. Clearly, this is a national problem and requires a responsible federal response; not the Government flexing its constitutional muscle to give the appearance of addressing a problem it has in fact neglected. The answer is not in branding a few perpetrators as political trophies and declaring the job is done.

Many are also questioning the Government’s credibility and qualifications to take the actions they have instigated and are now following up with this legislation. It is once again acting in a non-consultative, ignorant and simplistic fashion—an ‘all guns blazing’ approach that this Government has adopted on so many issues in the past. There are ramifications for privacy, self-determination, civil rights and culture. It would seem this Government is comfortable with the concept of ‘collateral damage’.

In the appallingly brief time available to scrutinise this raft of legislation, the Australian Democrats have been able to identify a number of specific concerns:

- the powers conferred on police in respect of alcohol restrictions are extraordinary. An officer is entitled to enter into private property—as if it were a public space—and take a person into custody if the officer believes that the person is intoxicated;
- the requirements in respect of public computers mean that a failure to develop a computer policy is a criminal offence, and privacy rights will almost certainly be infringed;
- the creation of compulsory leases will suppress Native Title rights, almost certainly contrary to s.10 of the Racial Discrimination Act 1975;
- the conferral of exclusive possession and quiet enjoyment rights onto the Commonwealth means that many indigenous people with an existing interest in the land may be left without enforceable rights to remain, and may be excluded at the whim of the Commonwealth;
- while the Commonwealth will enjoy exclusive possession, and can displace an Indigenous owner of the land, the Commonwealth will not be liable for any damage to persons or property ‘as a result of the condition... of buildings or infrastructure on the land’;
- the ability of the Indigenous owner of the land to terminate the lease is removed, regardless of whether the Commonwealth discharges its obligations as a tenant;
- In relation to the compulsory acquisition provisions dealing with town camp areas, the Minister is conferred with a remarkable general power to specify that an existing Commonwealth law has no effect if it would regulate or hinder the doing of an act in relation to the land that is compulsorily acquired. This power could be used to exclude, for example, the provisions of the Environment...
Protection and Biodiversity Conservation Act 1999;

• Compensation for compulsory acquisition is not guaranteed unconditionally. The compensation provisions have been carefully worded in a clear reflection of availability of compensation in the Territories in light of the decision in the Kakadu case (Newcrest Mining (WA) Ltd v Commonwealth (1997) 190 CLR 513). It may foreshadow that the Commonwealth may force compensation claimants to the High Court in an effort to re-litigate that case.

Now, some of these concerns may be capable of resolution—but clearly not if the parliament is not allowed a reasonable opportunity to scrutinise and amend the legislation. Regardless how well intended the legislation may be, the process is paramount. But enough has already been said about that by my Senate colleagues.

Turning back to the intent of the legislation, I thoroughly commend the medical staff and community workers who are giving their time and expertise. However, I would emphasise that a short-term tour of duty cannot alleviate the entrenched deficiencies in the provision of health services in these communities and the disparity in sustainable health services between remote and urban Australia.

The UN recently provided a telling statistic that Australians are among the longest living people in the world. Australian women, in particular, are ranked third and have a life expectancy of 84 years. Yet ABS information as at 2001 indicates that the average life expectancy of an Indigenous Australian female was estimated to be 17 years behind the Australian average, and on a par with countries that have been deprived of basic public services through fragile governments, struggling economies and civil conflict.

In 2001-02, expenditure per Indigenous person on primary health care, including that paid through the Medicare Benefits Scheme, was less than half the expenditure per non-Indigenous person. In 2004-2005, the hospitalisation rate for Indigenous people with potentially preventable chronic condition was 8.2 times the rate for non-Indigenous people. For Type 2 diabetes, the Indigenous hospitalisation rate was 6.5 times the rate for non-Indigenous people.

This is a tragic and embarrassing reflection on a Government that takes credit for our recent national economic prosperity, yet may not be so quick to face up to its failure to include remote communities in this prosperity and to provide basic services, infrastructure and resources to Indigenous communities.

I am glad that the Minister for Health and Ageing has toned down the intrusive and compulsory nature of the medical examinations that were planned for children in the Northern Territory, and is now offering immunisations, family medical history checks, and routine developmental checks. But after all, is what the Minister is now proposing not precisely what should have been available as a matter of course in any developed country?

The relationship between doctor and patient is personal and delicate at the best of times. The relationship between a child and doctor requires added tact and insight. This is even more vital for health professionals entering Indigenous communities who have additional hurdles of culture, isolation and language to overcome. Any proposal to intervene in Indigenous communities will need to ensure that women and children are not further traumatised.

And, what about ongoing care and support? What guarantees do we have that the required resourcing to promote social, emotional and spiritual healing on both individual and community levels will be forthcoming? The Government has so far articulated only a very narrow response to a complex range of interrelated social issues. We struggle to address the social dysfunction, child abuse and break down in family relations in a culture we know. How prepared is the government to pursue the complex socio-emotional issues of shame, violation, abuse and community dysfunction in Indigenous communities across Australia?

This intervention may, however, provide us with an opportunity to assess educational opportunities and outcomes for Indigenous Australians—not only to remote Indigenous communities, but to urban non-Indigenous Australian as well. As in the area of Health, there will be no quick-fixes
but rather an obvious need to build long-term capacity and accessibility.

- In 2006, 21 percent of 15 year old Indigenous people were not participating in school education. Only 5 percent of non-Indigenous 15 year olds were not participating in school education.

- In 2006 Indigenous students were half as likely as non-Indigenous students to continue to year 12, and it was a similar picture for post-secondary qualification completions.

Participation rates at all educational levels for Indigenous students must be addressed with strategies that will overcome geographical, economic, cultural and linguistic barriers, and promote full participation in education and training. Maybe bridging the gap between Indigenous and non-Indigenous Australia is even more about education for non-Indigenous Australians. There is an obvious need for schools in both the public and private sectors to offer Australian Indigenous language and cultural studies, and while this kind of proposal may superficially seem idealistic and expensive, such measures and initiatives are necessary to break down the narrow community perceptions that underpin the Government’s actions.

I would also question the Government’s approach to maximising participation in education for Indigenous children—clearly this must be built on strong community support and cooperation. But the penalties for non-attendance at school are a little scary. Effectively, the legislation links family assistance payments to school attendance for all people living on Aboriginal land. This raises a number of further questions:

Will the new universal obligations tying social security benefits to school attendance be enforced differentially? Will remote communities come under especial scrutiny as opposed to the larger urban centres? Do these measures breach the Racial Discrimination Act?

And just suppose all children were to show up for school, meeting their obligatory welfare requirements, would we have the classrooms and teaching staff required to meet this need?

This enforcement proposal may be consistent with this government’s approach on most issues, but it will not address complexity of service delivery to Indigenous communities.

Clearly, some core issues have been neglected in this legislation and some key voices are not being heard. The Combined Aboriginal Organisation (CAO), representing over 40 community and Indigenous organisations in the Territory, has asserted that on the face of details explained so far, the emergency measures lack insight into effective child protection interventions needed to address the crisis. Olga Havnen expressed that the main concern with the current approach by the Government has been a failure to understand that there are some really deep-seated, underlying structural issues that need to be addressed. She said that principal amongst those will absolutely be the need for adequate housing. She goes on to say while an increased police presence and health checks are welcomed by the CAO, in the longer term it’s actually about having better access to a whole range of services which are currently not there.

The reality is there is a critical lack of resources in education and primary health care. There is a distinct lack of training and personnel in the provision of these services to Indigenous communities. We need long-term commitment to perpetuate training opportunities among both Indigenous and non-Indigenous Australians. It must be funded, it must be staffed and it must provide the necessary infrastructure.

Further, as legislators, we hold that those who violate the rule of law are subject to the consequences of breaking the law. There is no room for perpetrators of these hideous offences to think their crime is acceptable. But policing is as much about building trust and cooperation in the local community as it is about force and coercion. Women and children in these communities must be able to feel safe and empowered to report offences where they occur. Recent arrests and prosecutions in SA and WA reflect the effective place of community liaison and education.

We must now, more than ever, highlight the work of many service providers in remote areas and the contribution of Indigenous communities and individuals, such as the Apunipima Cape York Health Council’s (ACYHC) Family Well Being program: this is a prime example of Indigenous communi-
ties working effectively to make a positive contribution to the lives of Aboriginal and Torres Strait Islander people.

Let’s imagine for a moment that the Government has the best of motives and intentions in resuming control of NT land and abolishing the permit system. Many Indigenous people perceive this as a threat to hard fought land rights and as a backward step for traditional custodianship of the land. This Government has been spectacularly lacking in legitimate steps toward Reconciliation, and this move will do little to bridge the gap that currently exists between remote Indigenous and urban communities.

Ten years on from the Bringing Them Home report and still with no formal apology on behalf of the Australian Government for the Stolen Generation, any suggestion of protective removal of children from families and or communities will be greeted with suspicion and inevitably rekindle community memory of disempowerment, dislocation and trauma.

Indeed, the recent ruling in SA awarding $525,000 to Bruce Trevorrow highlights that it is now well overdue to adopt a national comprehensive compensation package for victims of the Stolen Generation and for us to finally say sorry and address the trauma caused by the removal of many thousands of indigenous people from their families as children.

I commenced my remarks by noting the significance of this legislation in Australia’s history. I do so because it takes us to the core of Reconciliation, and what it means for Indigenous people to have a sense of equality, self-determination and empowerment as Australians. Now is the time to listen, not to lecture, and to promote Indigenous voices—in all levels of Government. I particularly look forward to the first Indigenous female Member of Federal Parliament. These are voices that need to be heard.

Senator ADAMS (Western Australia) (4.21 pm)—I would like to add my support for the government’s intervention in this very serious matter. As a number of my colleagues have spoken about the five bills comprising the legislative package for the Australian government’s response to the national emergency relating to the welfare of Indigenous children in the Northern Territory—the Northern Territory National Emergency Response Bill 2007 and related bills—I intend to speak about the progress being made in addressing these issues. The package of legislative changes and policies that we are debating today are the most important Indigenous affairs initiatives seen in decades. The government has acted quickly to protect children and stabilise communities and, in the longer term, will support them to a position where they can become functional and provide employment opportunities for their residents.

The Little children are sacred report highlighted horrific abuse of children in remote communities and it is a tragedy that the Northern Territory government did not take action earlier to try and rectify this situation. The Australian government’s actions are not a response to this report; rather, the government is acting in response to the significant reports of abuse and potential neglect of children.

I think it is hard for most people in Australia who are enjoying benefits of an economically prosperous nation to understand the appalling conditions that communities in the Northern Territory and the Kimberley area of my state of Western Australia are experiencing, and the feeling of despair amongst the people. The coordinator of the Kimberley Aboriginal Law and Culture Centre, Mr Wes Morris said:

There’s absolute despair in the community. There’s so many families within the community who have been affected in such a deep and personal way.

Even more incidents of abuse have been revealed since the emergency response began, including 138 recent charges for child sex offences in the Kimberley. The financial commitment in excess of $580 million made
by the government in 2007-08 is an indication of how seriously it views the situation in the Northern Territory. However, the commitment does not end in financial terms. The government has appointed a task force and a task force operational group to advise and coordinate the on-ground effort to address this emergency. The operational group reports to the task force and provides day-to-day professional administrative and coordinating support.

Magistrate Dr Sue Gordon is the chairperson of the Northern Territory Emergency Response Taskforce and Major General David Chalmers is the operational commander. Both task force members were witnesses at the Senate Legal and Constitutional Committee inquiry into the Northern Territory national emergency response legislation held here last Friday. Major General Chalmers informed the Senate committee of progress to date and the way in which the emergency response aims to protect children and to stabilise communities in the crisis area.

A three-phase operation is being undertaken, with the first phase being called stabilisation. This will last for approximately one year and will involve increased policing, gathering information via survey teams and child health check activities, and establishing government business managers in most communities to oversee and improve the delivery of government services. The second phase, the normalisation phase, will involve longer-term measures which will improve health standards, education outcomes, and employment and welfare management. This phase will last for two to five years. The exit phase will involve handing over responsibility for ongoing coordination and management to the relevant Commonwealth and territory government agencies.

Now we ask: what has happened so far? The task force operational group, led by Major General Chalmers, is based in Alice Springs and in seven weeks has achieved an enormous result. By week 6, all 73 identified communities had been visited by either an advanced communication team or a survey team. Eighteen additional police have been placed in seven communities and another 11 communities have been identified as policing priorities. The Northern Territory Emergency Response Taskforce is working closely with the Northern Territory Police to have an additional police presence in place in these communities by mid-September. This represents a 100 per cent increase in the policing of remote communities achieved in less than three months.

Four government business managers are in place and have begun to manage the delivery of government services in nine communities. Another two managers are undertaking induction training. Further government business managers are being selected from a remarkable response of 272 applications received from public servants. Health assessment teams have been deployed to a total of 17 communities so far, and over 705 child health checks had been performed up to 9 August. An estimated 17,000 children under the age of 16 in the Northern Territory will receive a child health check. These are to be completed by 30 June 2008. Amoonguna, Mutitjulu, and Titjikala, with the support of community brokers in each community, are undertaking Work for the Dole activities, and this is starting to work very well. So far there are six community brokers in place, supporting 10 communities.

Over the next few months the task force will continue the expansion of the police presence, finish the surveys and child health checks, and roll out the teams assisting communities with changes to welfare provision and employment opportunities. It is very
encouraging to see the response by professional volunteers and public servants who have offered their services and gotten involved in this program, as well as the 520 health professionals, teachers, community and social workers who have also registered their interest.

The task force headed up by Dr Sue Gordon has met with the broader community—and mainly women, in particular—reassuring them and informing them of what the government is achieving in its further aims and objectives. I read in the *West Australian* today that women elders in Fitzroy Crossing are now calling for a 12-month ban on takeaway alcohol as they feel this is one of their biggest problems. As a member of the Senate Community Affairs Committee inquiry into petrol sniffing in remote Aboriginal communities, and the Senate Standing Committee on Environment, Communications, Information Technology and the Arts national parks and marine parks inquiry, I travelled extensively through the Northern Territory and the northern parts of Western Australia and had opportunities to speak with a number of the women elders in these communities. Even though that was last year, they really were happy to have someone to talk to about all the problems that have evolved in the communities as well as the petrol sniffing.

Having worked as a nurse in the northern part of Western Australia and having had the opportunity recently to visit all of these communities, I feel that I have a really good understanding of what is going on. I say to Dr Sue Gordon that she is certainly working on the right people, because I believe that women will lead the communities out of the problems that they have, so long as they have support to do that.

Once again, it was evident, with some of the initiatives, that the younger girls, some of them only 15 years old with small babies, were being given help to raise their children, to learn to cook, and to do all of the home services that perhaps they did not learn because their mothers were not present. I think that the women have really got it together and I support them in every endeavour to get programs up that they will be able to continue with to be able to help in this issue.

At the inquiry on Friday, the government was criticised quite strongly for trying to push this legislation through. During the committee hearing into this package of legislation, I asked Dr Gordon how delaying the introduction of the proposed measures would reduce the incidence of violence and abuse. She answered:

Every day there is a delay means there is another child at risk one way or another. That could be health-wise or it could be abuse or something like that. I do not know why we need to delay any further. I have pointed out to you to the best of my ability and under the premise that I work, which is in the protection of children—Dr Gordon is a very distinguished woman who has worked as a magistrate in the Western Australian children’s court for 18 years, so she certainly is a very worthy chairperson of the task force. And she went on to say:

We are signatories to the United Nations Convention on the Rights of the Child, and we really have to start putting them first.

So I congratulate her and her task force on the way they have started and I hope they will be able to continue and truly make a difference.

The permit system was something that was raised by many of our witnesses on Friday. I would like to spend some time discussing how changes to the permit system are linked to child sexual abuse, as there has been a lot of misinformation about what the government is doing. In her opening address to the Senate Legal and Constitutional Committee inquiry into the Northern Terri-
tory national emergency response legislation, the task force chairperson, Dr Sue Gordon, quoted from the United Nations Convention on the Rights of the Child, article 19.1, which states:

State Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

Dr Gordon went on to say:

The permit system as it stands has not had this effect. Most abusers are known to the victim. The permit system as it stands has protected the offenders. The legislation before the parliament addresses this.

During the recent review, the government consulted widely, listening to concerns, and decided to modify the permit system, not to abolish it. It is important to note that 99.8 per cent of Aboriginal land will not be affected.

There are three very important things about the changes. Firstly, the changes do not apply to sacred sites, private land or to the vast majority of Aboriginal land. Permits will not be required to access common areas, townships, road corridors, barge landings or airstrips on Aboriginal land, which is the Northern Territory act land. The current system has not stopped crime, child abuse, drug running or violence. Only the restoration of law and order will enable these communities to stabilise to a secure environment. The current system sets these communities up as somehow different. It encourages the people who live in these communities to have different expectations and aspirations, to think that they are different, and to think that they do not need to worry about having a job or about sending their children to school.

Secondly, the government recognises that there may be situations where flexibility is needed. The changes provide that, even in these towns, permits can still be granted to restrict access to the town if there are special occasions or ceremonies.

Thirdly, a piece of paper that determines who can come into a community cannot replace an adequate police presence. The removal of the permit system in communities will be backed by a strong police presence to prevent inflows of undesirable people, and the police will certainly know who these people are. A proper police presence will also let people report abuse, without fearing retribution. Removal of the permit system will promote strong, safe communities, because people throughout Australia should have access to the same opportunities and experiences.

A strong argument would be required to shut particular people off from the rest of the community—that has not been made here. Having closed communities can allow bullies to dominate and stand over people. For example, closed communities have limited services and economic opportunities. Those who control these resources can use access to them to bully others. And we know that, in some cases, this has meant that some people have been bullied and abused, and others have been intimidated into not reporting abuse.

Closed communities have also meant less public scrutiny. Normally, where situations as grave and terrible as those in the Northern Territory come to light, solutions are pursued relentlessly by the media, which often leads to investigations and legal and policy changes. While journalists do not directly instigate prosecutions, they can help to create a groundswell so the community can say, ‘No more’. Closed communities make it easier for abuse to stay hidden. And closed communities also prevent the free flow of visitors and tourists that can help to stimulate
economic opportunity and job creation. The Northern Territory report tells us that some girls have seen their only life option as becoming someone’s wife. Job and economic opportunities allow people to imagine a life of economic independence, and to see meaning and education.

The question is often asked: why are we removing the permit systems in these towns? But a more pertinent question is: why would you have such a system in the first place? Why set up Indigenous people living in towns as different and prevent them from having access to normal experiences that see most Australian communities prosper and thrive? It would be easier to understand why some people argue so strongly for the permit system if these towns were well-functioning havens, but the Little children are sacred report clearly tells that this is not the case. The permit system has been one of the culprits in hiding an ever-worsening situation of child abuse from the public gaze.

I will quickly speak about a visit to Balgo, where I was able to go down to the senior women’s law and cultural centre and spend several hours with them talking about a program that they were funded for. It is called Kapululangu and it is a ‘circles of cultural learning’ project. It was established by the Wirrimanu senior law women in 1999, but the history dates back to 1983. It is about trying to ensure that the younger people in the community are able to learn about their culture through cultural camps, workshops for young women and children, hunting trips, ceremonies, cultural support for men and boys and cultural exchange with other Indigenous people. The Kapululangu women elders believe that the law and culture must be vital elements of any strategy for the youth in their community. Half the population is under 25 years of age. They have many challenges facing them, and now these challenges need to be met. Dr Zohl de Ishtar, who was a coordinator of the Kapululangu, said:

We are not pretending that Kapululangu is the only answer to the problems facing Wirrimanu’s residents. These problems are multidimensional and have many causes and thus need to be tackled on all fronts at the same time by all of Wirrimanu’s agencies working in unison ... The elders are not calling for a nostalgic return to the past ... They are keenly interested in the future of the people. They know that unless the foundation of law and culture is strong all the bricks of education, health, employment and housing will continue to fall down.

We are not rushing this legislation through. I think it is very important that it backs up the work that is being done and will continue to be done. I commend the government on what it is doing and will do everything I can, and I know that there is a very strong will in the community, to support this action and to protect children, which is what this legislation is all about.

Senator WEBBER (Western Australia) (4.39 pm)—Here we are debating the Northern Territory National Emergency Response Bill 2007 and related legislation, which was announced not long before we rose for the winter recess with much fanfare by the Prime Minister and the Minister for Families, Community Services and Indigenous Affairs. Indeed, they almost declared a state of emergency and hinted that parliament would be recalled to consider the legislative reform, as they saw it, as quickly as possible. I can only presume, by the fact that we are considering it now and were not recalled, that it was in the drafting of this legislation that the government perhaps came to realise how complex and how difficult some of these matters are to deal with. These issues are much more difficult to deal with than putting out the press releases declaring them to be an emergency.
It was heartening to discover that the Prime Minister of 11 years had realised that there are children in danger who desperately require our assistance and our intervention in remote and regional communities. Let us not forget that Mr Howard has been the Prime Minister of this nation since 1996, but it has taken until 2007 for him to put this issue on the table and to try to come up with his own framework and his supposed remedy.

In 2002 the then Premier of Western Australia, Geoff Gallop, and Magistrate Sue Gordon attempted to draw the Prime Minister’s attention to this issue. The issue was raised not long after Dr Gallop formed government in Western Australia, when there were concerns about some of the communities in my home state. In order to assess the full range of the issues that needed to be addressed and to consult about the strategies that governments could use to address those issues, the Gallop Labor government established the Gordon inquiry—so these issues are not new to Magistrate Gordon either. They established the Gordon inquiry into domestic violence and child abuse in Aboriginal communities in January of that year. When that inquiry reported in 2002, the then Premier sent a copy of the Gordon report to Mr Howard. The then Premier not only wrote and sent that report to Mr Howard but also told state parliament that the human tragedy that the report revealed demanded a national response as well. For five years we got nothing. For five years Mr Howard could not even give the Western Australian government the courtesy of a response or a discussion on the issue, and all of a sudden he has declared a national emergency. He then wonders why some people are a little cynical about his approach to these issues.

Six years ago a former member of this chamber and the other place, Fred Chaney, raised these issues in his work with the Native Title Tribunal and with Reconciliation Australia. Six years ago he put on the national agenda the need to urgently intervene and address the issues of child abuse. That was six years ago. Geoff Gallop put these issues on the agenda five years ago, and now, suddenly, the Prime Minister has discovered the need to take action—and what action it is. In justifying that action some opposite talk about the issues of crime, drug abuse and violence in Indigenous communities and about how the current system is not working. Indeed there are significant issues of crime, drug abuse and violence, but you will find them in any part of our community. Many other parts of the Australian community have significant issues to do with crime, drug abuse and violence. Perhaps we should declare a non-racial national emergency in addressing those issues. That is not sufficient justification.

I have lived in many parts of Australia, but the two parts that have particularly coloured my experience when dealing with issues concerning Indigenous communities is Darwin, which is where I spent my early childhood, and Western Australia, which is where I have lived for many years. Perhaps unlike those who are based in Victoria or New South Wales, I understand some of the issues connected with the remoteness, the isolation and the vulnerability of a lot of the communities that we are discussing. I would hazard a guess that, unlike the Prime Minister, I have actually visited quite a few of those communities and physically know where they are—as I am sure you do too, Mr Acting Deputy President Lightfoot.

If we are to be serious in addressing what is a human tragedy—because the sexual abuse of any child is a human tragedy—we need a commitment to long-term policy and resource changes, not just to change that is based around a personality. We need to ensure that there is a long-term commitment to the recognition, reconciliation and viability
of our Indigenous communities, no matter which side of this chamber we happen to sit on. We need a commitment to policies and resourcing that ensures the hard questions, not just the politically expedient ones, are addressed. We need to look at, learn from and listen to all of those communities, not just the most forceful personalities who come up with solutions based around their own particular issues.

Anyone who knows me might be quite surprised to hear that I want to place on the record my concern about the use of the military. This is not because I have any doubt about its commitment. I absolutely respect and value the contribution that it makes, not just its defence role in securing our nation but also its role in dealing with natural disasters. But what I have real concerns about is that it is becoming the approach of this government, or more particularly of this Prime Minister, to send in the Army every time there is a challenge that requires people. This is his solution. The Army has to be one of our most precious resources. It should not be extended above and beyond its capacity to deliver or above and beyond its capacity to look after the safety of its personnel. It is not like a magic pudding. You cannot keep pulling people and resources out of it and hope to have a sustainable military force. We need to make a long-term commitment to sensibly address the issues concerning Aboriginal communities—which the government has finally put on the table and claims that it is concerned about.

Last week, while I was watching a current affairs program on television, I saw Minister Brough proclaiming that the government’s intervention in the Northern Territory had been a great success because some of the perpetrators of crimes of sexual abuse in Aboriginal communities had been arrested. He wanted to assure us that more arrests were to come. I am sure that there are more to come, but what I will not countenance is any attempt by Minister Brough or anyone else to claim credit for arrests or prosecutions of people who have perpetrated similar crimes in my home state. Where was this government when the Gallop and then the Carpenter governments intervened in Kalumburu, in Halls Creek and even in the Swan Valley camp? Nowhere to be found. The most significant interventions have been made in those communities. Those interventions, which have been long lasting and will continue to be so, have not received one scrap of support from anyone opposite. So I will not in any way cop Mr Brough, in this place or on television, trying to imply that his efforts have anything to do with every success everywhere.

When I have spoken about these issues with the Western Australian Police Union and Western Australia Police, they have conceded that it has taken them a long time to get it right. What you need to have to address these issues in communities, particularly in Aboriginal communities, is trust, the right personalities and a long-term commitment—all of which are sadly lacking in those opposite.

To do something more pleasurable than listening to what can be a very distressing and emotional debate on these issues, last week I attended a photo exhibition—the Close the Gap campaign—that Oxfam has been running to help provide solutions to the Indigenous health crisis facing Australia. It was very nice to see some of the lovely pictures of the health services in Port Hedland and even those offered in East Perth. It was nice to see that there are some good, positive things happening. You could be forgiven for thinking, particularly after a state of emergency has been declared, that nothing is happening out there, that no good is coming of anything. But people are out there working hard. We are making progress. We need to
value those people and not just wash over them in our rush to be seen to be doing something.

The crisis in Indigenous communities is a very difficult issue for many of us to deal with. I am sure that all of us have been inundated—as I have—with responses from the community, particularly by way of email, letting us know in no uncertain terms what they think of the legislation that parliament is currently dealing with. I have received far too many emails to be able to respond to all of them, so I want to place on the record now that I appreciate the endeavours that people have taken to contact me on this issue.

Although this legislation is controversial and difficult, to my mind it has actually been quite heartening to know that there are that many people in the wider Australian community who care enough to have a view about this debate—because, in some parts, particularly in my home state, there are not enough people who care, frankly. So that has been particularly heartening.

I particularly want to place on the record my thanks to Bob Howard from Albany, who went to the trouble of ringing my office to let me know of his views and his distress at this package of legislation. I want to let him know that I have heard loud and clear what he has had to say. I also appreciated a letter that I received from Fred Chaney. It was actually in response to something that happened earlier this year, but he was writing to me at the time that the government introduced its 500 pages of legislation. So his comments were particularly thoughtful, about the difficulties that we all face in dealing with very complex and emotional issues like this in an election year.

If we are to address this issue it needs to be a long-term commitment, a non-partisan or bipartisan commitment. And to my mind it needs to take its leadership from the women of those communities that we are talking about, because, as we find with almost everything in our lives, when there is something difficult and long-term to be done, it is the women who tend to find the way through and the solution. So I think we need to look to the women in those communities. They will point the way in the long term.

I find this legislation difficult, but I will not allow my personal difficulties to stand in the way of making children safe. Therefore, I am compelled to support it. However, as I said, I do find it difficult. With that, I seek leave, with Senator Nash’s agreement, to incorporate the remarks of Senator Ludwig in this debate.

Leave granted.

Senator LUDWIG (Queensland) (4.54 pm)—The incorporated speech read as follows—

I wish to make some comments on the Northern Territory National Emergency Response Bills that have now been before the Senate Committee. I just wish to say a few words on a few issues which surround this Bill, and bring the attention of the Senate to some aspects of these Bills which possibly require further and closer attention—in particular, the aspects regarding the Racial Discrimination Act and the acquisition of property on ‘just terms’.

The Bills themselves were referred for a one day Inquiry. Notwithstanding the shortness of the inquiry, the committee received a range of submissions to assist it in its deliberations.

The Bills flowed from an announcement by the Howard Government said to be a response to the Report of the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse, 2007—the Anderson/Wilde Report.

It is difficult to reconcile the 97 recommendations made in that report with these Bills.

Having said that, there are two considerations that have been argued strongly from my perspective. Firstly, that consultation is of critically importance in designing initiatives for aboriginal com-
munities, whether these are in remote, regional or urban settings.

The second is the federal government’s desire to take a quick proactive step to address the instances of child abuse in indigenous communities. Indeed, I would like to note at this point some of the views expressed by the Senate Committee looking into this Bill:

The committee welcomes the policy changes contained in this suite of bills as a genuine and enduring commitment from the Australian Government to tackle critical issues in Indigenous communities in the Northern Territory. These issues include high unemployment, alcohol and drug dependency, poor health and education outcomes, inadequate housing and child abuse. In saying this, the committee acknowledges that many of the issues that the bills seek to address are complex and entrenched; however, this is no excuse for failure or neglect.

I would also note that the submission of the Human Rights and Equal Opportunity (HREOC) welcomed the recognition by the government of the “serious, broad ranging social and economic disadvantage in many indigenous communities”.

HREOC went on to stress that the Bills must seek to achieve their goals consistently with the fundamental right to racial equality. However, there is another area of HREOC’s submission—and it is a concern generally—which I want to touch on. That is that HREOC does not support the Northern Territory Emergency Response measure being exempt from the Racial Discrimination Act (RDA), as contained in the proposed s132 of the Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Bill 2007. In short, HREOC submitted that the measures contained within the bill must be justifiable as a “special measure” taken for the advancement of indigenous peoples.

The concern expressed by HREOC is that the measures potentially have significant negative impacts. Much will turn on the language of the Bill but it will also turn on how the government has undertaken consultation with the relevant communities, what consultation it has in place now with the relevant communities and how it implements the measures in the bill and legislative instruments under it.

The starting point is of course whether the legislative package is a “special measure” for the purposes of the RDA. Article 1 (4) of the International Convention on the Elimination of Racial Discrimination provide for what a special measure is. They are generally regarded as measures which can be categorised as positive discrimination.

HREOC raised a wide range of issues, not all of which I will canvas here. But I think an important one it raised which I agree with is the need for the legislation to be reviewed after 12 months of implementation.

“Given the complexity and breadth of the many novel measures proposed by the legislative framework, as the NTNER measures are implemented it is likely that unforeseen issues will arise.”

HREOC went on to say it is critical to the long term success of the measures that inter alia a public review be undertaken. I would just like to bring this to the attention of the Senate.

As I said at the start, in the time available, I wanted to touch on only a few short points regarding the package of bills, so I will not dwell on this one. These have been singled out not because of their greater importance but because they represent areas where challenges might arise to the legislation which I have a special interest in.

One such area I have already touched upon is to the extent that the legislation is consistent with the RDA and our international obligations under the RDA. Section 132 of the National Emergency Response Bill provides

“132 Racial Discrimination Act

(1) The provisions of this Act, and any acts done under or for the purposes of those provisions, are, for the purposes of the Racial Discrimination Act 1975, special measures.

(2) The provisions of this Act, and any acts done under or for the purposes of those provisions, are excluded from the operation of Part II of the Racial Discrimination Act 1975.”
In this section, a reference to any acts done includes a reference to any failure to do an act.”

The Family and Community Services and Indigenous Affairs and Welfare Reform Bills contain similar provisions. The effect is to firstly say that the provisions of the Bill are—for the purposes of the RDA—special measures. However, the clause then goes on to say that any acts done under or for the purposes of those provisions are, for the purposes of those provisions, excluded from the operation of Part II of the RDA.

Labor believes that this approach is fraught with danger. It is a step too far to remove the effect of Part II of the RDA. The package can survive if the government’s first position is right. That is, that these are “special measures”. Australian courts—for instance, in the 1985 case of Gerhardy v Brown—have determined that Article 1(4) of the International Convention I mentioned earlier contains four elements—

• A special measure must confer a benefit on some or all members of a class
• The membership of the class must be based on race, colour, descent, or national or ethnic origin
• A special measure must be for the sole purpose of the beneficiaries in order that they may enjoy and exercise equally with others human rights and freedoms
• Must provide protection and must not be continued with after the objectives have been met.

So, if the position of the government is correct, it would appear that the package can survive if they are ‘special measures’, and not simply on the back of the exclusion of the RDA. However, Labor’s amendments make sure of this without invalidating Part II of the Act holus-bolus, thus elegantly achieving with precision what the Government proposes by blind blunt force.

The next important issue relates to the issue which is generally referred to as ‘just terms’. Broadly the issue here is whether or not the government is obliged to offer just terms in support of its acquisition of property under the legislation.

The 1946 case of Grace Bros v the Commonwealth provides some insight on what can be defined as just terms:

“The Inquiry must rather be whether the law amounts to a true attempt to provide fair and just standards of compensating or rehabilitating the individual considered as an owner of property”.

It can contain adequate procedures for determining it; see the Tasmanian Dam Case which did not. We need to now turn to the section 51(3xxxi) of the Constitution, which gives the Commonwealth the power to make laws regarding the acquisition of property on ‘just terms’, known colloquially as the ‘just terms’ section of the Constitution.

Now, the application of that section would seem to be simple enough, but it is complicated somewhat by the fact that another section of the Constitution—122—also provides that the Commonwealth may make laws for Australian territories—the ‘Territories power’.

There is some authority which looks at which of these sections prevail in a case where the Commonwealth is making a law which rests ostensibly on both sections.

The case of Teori Tau was authority that s51(xxxi) of the Constitution (acquisition of property on ‘just terms’) has no application to acquisitions of property in the Northern Territory. Instead, the federal government is able to rely on its Territories power.

In submissions to the Inquiry, the Law Council indicated that it appears as though the government may be relying on that authority. However, I would also note that a subsequent case, Newcrest Mining (WA) Ltd v The Commonwealth, substantially limited the scope of that case and found that ‘just terms’ could apply in the Northern Territory in certain cases.

So it appears to me the law is at least unsettled and arguable that s51 (3xxxi) could apply to this legislation.

This means, if the acquisition is otherwise than on just terms, the Commonwealth may be liable to pay a ‘reasonable amount’ of compensation.

However, I would also note s60 of the Northern Territory National Emergency Response Bill pro-
vides for adequate compensation for acquisitions between the person affected and the Commonwealth, and s60(3) provides that, if an agreement cannot be reached, the person may institute proceedings in a court of competent jurisdiction.

The Commonwealth has provided its view on these matters. However, if it is incorrect or others take a different view, it is likely to mean that litigation might occur over the issue of compensation.

This provision is also further confused by s61 which suggests that the Court is to take into account like improvements to the land funded by the Commonwealth, when determining what is ‘reasonable compensation’ but does not avoid the phrase ‘just terms’.

This problem may be avoided by leaving s50(2) of the Self Government Act alone.

In light of the above analysis, s134 would appear to suggest that it is the intention of the Commonwealth for ‘reasonable’ compensation to be paid—as distinct from ‘just terms’. The precise difference between the two is likely to be the subject of litigation, legal and academic debate, but suffice to say, in our view it is incumbent upon the Government to provide compensation on just terms—as a matter of ethics and morality.

Mr President, I am conscious of the time constraints in debating this Bill, and I do not wish to take up any more of the Senate’s time. I trust that this contribution has assisted in the debate, in raising and hopefully clarifying some legal issues which exist with the Bill.

Before I finish, I would like to quickly reiterate some of the points made in the additional comments to the report by the Labor Senators.

• Firstly, that we welcome the increased expenditure by the government on services, infrastructure and economic development in remote Indigenous communities;

• Secondly, we note that any longer term plan to improve conditions in these communities must be within the framework of a partnership between the Commonwealth government, the Northern Territory government and the Indigenous communities themselves, to achieve the recommendations of the Little children are sacred report;

• Thirdly, it is fundamental to the acquisition of any property by the Commonwealth government that just terms’ compensation be paid to those affected, and noted that the majority report called on the government to clarify the position in the proposed legislation;

• Fourthly, the integrity of the Racial Discrimination Act must be maintained.

There were a range of other matters addressed in Labor’s additional comments, which I will leave it for my fellow Labor Senators to comment on.

Finally, I would to take the opportunity to thank the Committee Secretariat for producing the high quality report on the range of Bills, under such a short time constraint from the government. I commend them on their excellent efforts.

Senator HEFFERNAN (New South Wales) (4.54 pm)—It takes a lot to get me up in this place, but I could speak for a couple of days on this issue. I am offended to think that anyone would suggest that anyone on this side of the chamber does not care. Anyhow, I will get on with it. Just to get my credentials right, the first time I stood up in parliament for my maiden speech—or first speech, or whatever they call it these days—in the first words I uttered in parliament I said:

Equal is the challenge in our towns and cities, where much of suburbia is filled with a generation of unemployed parents and children, isolated by poverty, with low self-esteem and a lifestyle where drugs and suicide are an everyday expectation and work is a faded Bob Hawke promise. These people need real jobs, not retraining for non-existent jobs.

I then said:

No less is the challenge imposed on this generation of Australians by the centuries of misunderstanding and neglect of our indigenous people. We must provide for the return to our indigenous people of their self-esteem: built up over thousands of years by their majestic mastery of traditional living, land custodial skills and timeless culture; broken down in 200 years by the inevitable exploratory nature of man, the intrusiveness
of his machines, the enticement of his money and the destructive onslaught of his social habits.

A paradigm shift is required and will only occur when provision is made for our indigenous people to progress, even in remote areas, from communal benefit to individual benefit—
Noel Pearson agrees with me on that—
when access for all Australians to health, education and employment is not distorted by location or station in life; and when, regardless of race, creed and colour, we purge those leaders who believe all should be equal except the equalisers and who see the often generous funds of government as the opportunity for a feast on which to fatten their personal circumstances while neglecting the famine. Unfortunately, when these predators of the public purse turn on, Australians who would normally be concerned and supportive turn off.

Thank God Australians have turned on again.

In the Australian on Saturday Noel Pearson wrote:

In the 1960s, the 13 clan groups represented by the then Yirrkala Aboriginal council made application for a general purpose lease to the Commonwealth of Australia for an area of 2500 square miles ... on the Gove Peninsula—
which they could make use of. To cut a long story short, no lease was ever issued to them.

In the early 1970s the Yolngu leader at Yirrkala worked to try and stop the establishment of the Walkabout Hotel in the bauxite mining town of Nhulunbuy. And they failed. So in 200 years we have completely failed.

In the last 30 years we have compounded and accelerated that failure. The grog problems of the Yolngu people started to grow, to the point that Woolworths, which was established in this mining town, decided they would get into the business of takeaway grog because there was a quid in it. Now, in a town like that, the Indigenous people do not like to go to Woolworths, because there is too much commotion from the grog sales from the takeaway. They go to the IGA. A lot of the stuff at the IGA costs double the money, but they go there because they cannot put up with the takeaway.

Self-determination, for a lot of people, has turned to self-destruction. And we should not be blaming somebody on the other side of the chamber, in the gallery or down the street. Every Australian should hang their head in shame: we are all to blame. After I made that maiden speech in 1996 I commissioned some work by Lyla Coorey, who won the university medal at the University of Sydney for her master’s on domestic violence. She did a study, which I wrote the foreword to, called Child sexual abuse in rural and remote Australian indigenous communities.

With great difficulty, during the ATSIC inquiry I tried to table that study and I recall who the people were—I will not name them because we are all to blame—that did not want it tabled because they said it would distract and disturb people and lose the focus from the ATSIC shutdown inquiry. In that inquiry, I came across a 22-month-old girl who was vaginally and anally pack raped and who had to be surgically repaired. I rang her grandmother last week—

"Do you think we’re doing the wrong thing here?" She said: ‘No, Senator. You are doing the right thing, because we are frightened of our men.’ So do not give me this garbage that someone else is to blame.

Unlike a lot of people in this place, I have spent more of my time in the bush than in town. I know what it is like to put in a firebreak to stop a fire, because I have done it. It takes a lot of courage because, if the firebreak gets away from you, you are the biggest mug in the world. And, if you stop the fire, you are a hero. Sometimes in putting in a firebreak, you have to burn someone out, and I have done that. What is happening here, what Mal Brough is doing and what a
lot of good sensible Australians are concerned about, is ending this destruction and, hopefully, we will all be heroes if it works. And we will all be the greatest mugs if it fails. Every human endeavour has some human failure and I am happy that there is going to be a recommendation for a two-year review. We need to talk to the landowners. These people need schools, they need to be job ready and they need economic benefit. For years and years we have been driven by process. There have been some tiny outcomes but, generally, there have been no bloody outcomes.

I will take the Senate on my journeys over the last year or two around the bush. In Alice Springs, a relative of mine drives a bus—she just got that job. She takes an Aboriginal woman with her in this bus for the OLHS school in Alice Springs. They drive around and pick up the little kids that they are trying to get to school. The Indigenous woman’s job is to go into the houses and find these kids, who are often under the bed or asleep in a corner. They pick up the little kids from these so-called ‘camps’, and in some of these camps the landowners are up in arms at the prospect of losing their property. They pick the kids up and take them into the preschool, give them a shower, put the school uniform on them and then they give them a meal. They give them another meal at lunchtime and, when school is ended, they take them out of the school uniform, hang that up in the school and then put them in their other clothes and take them home. Is that any way to run a community?

Last September, I went to Wadeye and I could not believe it. I met some OLHS nuns there that were from my era. The nuns were 93 and 87 years old. They knew me from when I was in what I used to think was a dreadful place: boarding school. On that day, last September, for the first time ever at the primary school where 300 kids attend out of 700 that should be at school, they had awards for achievement. Previously, they only had awards for attendance. At that stage there were 300-odd kids in Wadeye who were among the 4,000 to 7,000 kids in the Northern Territory who have no access to bloody high schools. I do not want to blame anyone, because we are all to blame, but some of it has something to do with the responsibilities of the states and the Territory. These kids were determined and pleased that they were being recognised for achievement, rather than for just turning up.

I went to Yuendumu and discovered within 20 minutes of being there who was running the drugs at the school. I went to Mount Theo, which is the removal camp for the petrol sniffers and, within an hour, I discovered that one of the key managers there was having sex with all the kids. When I came back to Canberra, I rang the policeman at Yuendumu and said that I had been there for a day, told him what was going on in the town, and described all of these dreadful bloody things that were going on there. I said, ‘What are you going to do about it?’ He said, ‘I just want to get out of here, Senator.’ He was not interested.

At Wadeye, the police and teachers are in razor wire compounds. One of the good things that happened when I went there was that a policeman, with his family, was backing his ute out of the razor wire compound and I said to him, ‘What did you say to your wife when you told her that you had been posted to Wadeye?’ His answer was the best thing I heard all the time I was there—he said, ‘Senator, I wanted to come here.’ While I was there, I discovered that the Centrelink office is just a hole in the wall, like one of those camera holes. There was a line-up of women, like you would see at the football at half-time, trying to get on the bloody phone to Darwin. It was one of the push-button phones that drive you mad. I am pleased to
say that, after a lot of effort, there is now a person on the ground there.

I think that the government is to be applauded for what we are on about here today. I do not want to know that anyone is going to be a political winner—I could not give two hoots. This is the same as putting in a firebreak—you do it because you have to. I do not want to know why we did not do it five years ago and I do not want to know why no one took any notice of the inquiry that I did. I took Melva Kennedy, Pam Greer and some other people in Sydney who helped me with the inquiry to the Olympic box for the day, to see the Olympics, to thank them for the work that they did.

Over an 18-month period a person helped with the review. They interviewed every new prisoner in Long Bay prison, in Sydney, and found that 65 per cent of them were abused kids. So, yes, abuse does occur in all communities, but we are wasting our time unless, as Noel Pearson said, we give up the idea that everything has to be ‘sit-down’ country and ‘sit-down’ money. As Galarrwuy Yunupingu said, a lot of Indigenous people do not want to be free riders. If you do not know what ‘free riders’ are, I will tell you: free riders are people in these communities who do nothing but who get as much benefit as the people who do the work. There are a lot of things wrong, and there is a lot of human failure, but there can be no more gross an example of human failure than the half a million dollars that was sent out to Wadeye last year. They spent it on things such as four-wheel drives and booking themselves into the casino in Darwin. These people need better management. I am privileged to be the Chairman of the Northern Australia Land and Water Taskforce. I think the task force’s work fits in perfectly with this legislation. The Indigenous people of the Northern Territory own 50 per cent of the Northern Territory, and I am determined that they will get the benefit.

Let me give a quick snapshot of someone owning 50 per cent of the land but having nothing to show for it. I was out at a place recently—and I had better not say when, or I might give it away—and I came across a whitefella who had 17,000 cattle on Indigenous country. I asked what the Indigenous people got out of it and, among other things, he said, ‘Maybe once or twice a year we give them $10,000 to get on the grog.’ The task force met a young family at Mataranka a few weeks ago—Kane and Marie Younghusband. They are white people. Kane came from Gilgandra, in New South Wales, and he met his wife in Kununurra. They were courageous enough to go 450 kilometres down the road from Alice Springs and buy 2,000 acres in amongst the scrub. It had the right soil type and the right water under it. In the first year, they pulled a caravan into the corner of the paddock—way out in the middle of nowhere—and cleared 100 acres. Now 1,600 acres has been cleared and they plant a new crop of watermelons every seven days. Last year they cleared $1 million, and I think the land cost them $10 an acre.

The task force went to Elsie Station, from We of the Never-Never fame, and I asked the people there what would happen if a young blackfella wanted to do what Mr Younghusband had done next door. I wanted to know how a young blackfella would go about pegging out a bit of country for himself and making a quid for himself. They said, ‘We might give him a lease.’ I asked what would happen if he were killed by a tractor and his wife wanted to go back to Darwin, Alice Springs or somewhere. They said they would take the lease back. I asked whether they would let him sell the lease. They said, ‘No, we would take it back,’ to which I responded that no bank would ever bank the deal. You have to get to the stage where you have a
tradeable lease. I said to John Daly, from the Northern Land Council—who I am privileged to have on my task force, along with Joey Ross and Noel Pearson—that he had to get back to the Northern Land Council and meet with the lawyers to talk about leasing country and trading it, and they have done so. That is what needs to happen.

There is a lot of goodwill out there, and there is some success. Mistake Creek Station, in the Northern Territory, is a wonderful success. The Larrakia Development Corporation, which has traded native title for development in Palmerston, in Darwin, is a success. You can make it work. We should not go around blaming everyone. People want to improve their lot for the next generation. They want to improve their lot for their children. They want to leave something in their will for the next generation. I think everyone wants to do that, and these people are no different. For years and years we have been flying in and saying, ‘Isn’t it terrible?’ We come back here with a lot of process and debate, but we do nothing. Everyone is to blame. The time for talking is over. These people want to make a go of it, and I am determined that they will. I am disgusted that anyone would say that we do not care and that somehow it is a political game. For God’s sake; it is disgusting!

What hope do you have if you are one of the thousands of kids in the Northern Territory who do not have a high school? I do not want to know the bloody reason, but what chance do they have? These kids need to get out of bed—like at that Alice Springs operation—and be fed. People need to understand that why you go to bed at night—preferably tired—and why you get up in the morning is what life is all about. The difficulty in a place like Yuendumu—when we were there a few years ago—was that half the adult population slept all day and drank all night. And they wonder why the kids were sniffing petrol. It is time we all pulled together. It is time we pulled our heads in, because we are all to blame. It does not matter how flash the language; for 200 or so years we have failed these people. Fifty years ago a lot of these people were better off than they are now. The generation of 30 or 40 years ago is better educated than the people there today. I do not know what that says about modern society, but I do know it is time we forgot about the politics in all of this. I am going up to have a yarn with Galarrwuy shortly. You hear all these stories. There is a lot of goodwill there and we have to tap into it and stop trying to get a political point or two out. I do not care about the political persuasions of the Western Australian and Northern Territory governments; let us just get on with it! I am about to run out of time, although I would dearly love to have an extension. Nevertheless, I applaud the government for its courage in doing something about the problem and I deplore its being made political. (Time expired)

Senator POLLEY (Tasmania) (5.14 pm)—I too rise to speak today on the Northern Territory National Emergency Response Bill 2007 and the associated legislation. This issue has sparked quite a bit of interest—and, yes, we have been flooded with emails—but, unfortunately, I do not think we have had enough interest in this issue for a very long time. It is a very emotional issue. There are many aspects of these bills that I have concerns about, but I would like to speak about some of the things that Labor would like to do and will be doing and some of the benefits of this legislation.

Labor believes that the safety of children is paramount and has given in-principle, bipartisan support to this initiative. Throughout the last six or so weeks Labor has used a simple test when assessing the government’s proposal: will it improve the safety and security of our children in a practical way? We have applied that test and, on balance, Labor
will support these bills. I believe that addressing child abuse and neglect in the Aboriginal community is rightly designated as an issue of urgent national significance. I believe that federal, state and territory governments have obligations to take both immediate and sustained action to improve the lives of all children, especially those in Aboriginal communities.

In essence, the protection of children must be paramount when their vulnerability has been laid bare. The Anderson-Wild inquiry stated that ‘sexual abuse of Aboriginal children is common, widespread and grossly underreported’. We have heard countless reports that our Indigenous communities are fraught with problems—alcoholism, petrol sniffing, child abuse—and I agree with the previous speaker, Senator Heffernan, that we, the community, are all to blame for the lack of action on these issues. However, the reality is that the Howard government have shown no leadership on these issues for the 11½ long years that they have been in government. They have now chosen to act because we are on the eve of an election.

I am pleased that additional funding will be allocated to boost the number of child protection workers, which will increase their capacity to enforce legislation and to protect children. However, I must say that giving parliamentarians just a few days to examine some 500 pages of complex legislation is very poor form indeed—and something that, since I have been in this chamber, for the last two years, I have come to expect from this out-of-touch and arrogant government. Federal Labor believes that we need both an urgent and long-term approach to secure the safety and wellbeing of children at risk. We have to back positive community leadership and put in place the building blocks for a more sustainable future in remote areas.

Labor supports the provision of additional police officers in the Northern Territory intervention and thanks the states that have seconded officers. It must be stressed, however, that we need a long-term strategy to train more police officers and to put them in place in these communities permanently. On the very few visits to the outback that I have made and in the hearings that I have participated in I have noted that one of the concerns of these communities is that many of the doctors and the police are only in the community for a short period of time and, with that turnover, there is a loss of the connection, the understanding of what is happening and the trust that they build up with these people. That is why Labor has committed to recruiting an extra 500 Australian Federal Police officers. I also support the measures designed to clean up publicly funded computers, to get rid of internet pornography and to use filters to keep it out. In addition, I support the new controls on supply and possession of pornographic material in prescribed areas.

Federal Labor has already made a number of commitments to long-term initiatives to improve the lives of our Indigenous Australians: to close the Indigenous life expectancy gap in a generation and halve the Indigenous child mortality gap in 10 years; $261 million for comprehensive coverage of Indigenous child and maternal health, parenting support, early learning and intensive support for literacy and numeracy; $30 million to provide an extra 200 teachers for the at least 2,000 Aboriginal children who are not enrolled in school—at all—in remote Indigenous communities in the Northern Territory; to rapidly recruit more Indigenous officers in the Australian Federal Police under a $200 million Australian federal policing plan; and $15.7 million towards social and emotional wellbeing through more Bringing Them Home counsellors and Link-Up services, particu-
larly in remote areas. I believe these positive, long-term measures are good, solid foundations for protecting the interests of the Indigenous community.

Labor believes early childhood intervention is one of the best means of providing a pathway out of disadvantage for many Indigenous children. In cooperation with the states and territories, and in consultation with Indigenous communities, a Labor government will implement a comprehensive early childhood strategy for Indigenous children, including initiatives that start well before preschool. Indigenous communities—urban, regional and remote—will be priority areas for the expansion of early childhood services, particularly with respect to Labor’s commitment to universal access for four-year-olds to early learning programs. Labor acknowledges the overrepresentation of Indigenous children in the child protection system. Preventative and proactive measures focused on early childhood development and family strengthening are most effective in reducing this overrepresentation.

Labor strongly supports the principle that, where a child has to be removed, every effort is made to place that child with relatives, kin or another Indigenous family. After all, the paramount priority in a child’s placement is the safety and wellbeing of the child. Labor recognises the gravity and extent of substance and alcohol abuse, family violence, child abuse, and sexual assault in some Indigenous communities. Labor believes that these issues should be seen as health issues as well as law and order issues. Labor will provide ongoing support to community initiatives to ensure strong interventions are put in place that break the cycles of abuse, rehabilitate individuals and families and strengthen social norms.

Protecting children requires all of us to take responsibility, to act. Responsibility has to be taken by individuals to take positive action for themselves, for their communities and especially for their children. Responsibility also lies with governments to provide community safety, health services, education and, most importantly, employment and economic development. All of these things are necessary to enable Indigenous children to grow up healthy and happy. Governments require a long-term vision for the protection of children and a plan which therefore has some basis of long-term success. Therefore, once we have dealt with the immediate task of protecting children, we must turn our minds to the reforms and investments required to provide long-term hope for these children and the wider Indigenous community. We need hope and they need hope. We need leadership and we need the Australian community to look at this issue with their hearts and with the capacity to put the economic resources that are needed into these communities.

Senator BOYCE (Queensland) (5.23 pm)—I do not have the depth or breadth of experience of Indigenous issues that some of our speakers this afternoon have, but I do have a lot of experience with vulnerable people and with doing my best to help protect them. It is on that basis that I rise to support the Northern Territory National Emergency Response Bill 2007 and related legislation this afternoon. Firstly, I would like to acknowledge the bravery and patience of the 65 submitters and the more than 200 people who attended meetings to give evidence for the Anderson-Wild report. Some of the comments made during those hearings included a man from Gunbalanya who said, ‘We have a 20-year history of six-month programs.’ An elder said, ‘We have been piloting pilots for long enough.’ It is not just the bravery and the patience of the people who contributed to the Anderson-Wild report that we should acknowledge, but we should
also acknowledge those who have contributed in the past to the reports done by Bonnie Robertson and others. We have had dozens and dozens of reports. We have had dozens and dozens of pilots, and yet the issues have got worse rather than better.

When I first looked at the Anderson-Wild report I treated it with some hope and enthusiasm that it was going to be the report that changed things, despite the fact that its release by the Northern Territory government was rather late. One of its key recommendations was that education is one of the solutions to the problems—the endemic child abuse, the endemic violence, the endemic hopelessness. There is no way you could disagree with the idea that education is a key to answering these problems. But one of the key reasons it gave for education being a big positive was that children could not be sexually abused while they were at school. My blood ran cold at the idea that this is a reason for education. What on earth has happened to the social norms in a community where one of the big reasons for going to school is that you are safe from sexual abuse whilst you are there? This is not a situation that can be fixed in any normal way or with any normal measures. I believe, in keeping with Noel Pearson and the comments made earlier by Senator Heffernan, that we have to take some extraordinary measures to try and reinstate social norms in some of those areas, and I would like to acknowledge the initiatives of my Queensland colleague Minister Brough in getting this program up and happening.

I would also like to talk briefly about some of the comments that have been made around suggested changes to the permit system. People have suggested that this is the wrong way to go. I have spoken in other contexts about special places where we put special people—institutions, in fact. Any time that you have closed doors, a permit system or closed communities you encourage and you allow vulnerable people to continue to be exploited and abused. The history of reports into institutions very much reflects the sorts of reports that we are getting and that we have seen one after another into the problems in Indigenous communities. It was only when we bit the bullet and said that there is no way that any institution can be a good institution and that the only way anyone can be safe is to open up what happens to them to scrutiny and accountability that the lives of people who had previously been abused, exploited, terrified and treated as less than human in institutions began to improve. I applaud the idea of changing the permit system to at least allow open access to common areas because this is one of the few ways that we can see some sustainability in reducing abuse and violence and getting some long-term benefit.

Senator WORTLEY (South Australia) (5.28 pm)—I rise to participate in the debate on the package of bills that relate to the Northern Territory National Emergency Response Bill 2007. The welfare of all children, whether Indigenous or non-Indigenous, is indeed sacred. The innocence of childhood should be an unquestioned right that is defended vigorously and rigorously by any civilised, humane society. Children are vulnerable, they are precious, they are the future and they deserve to have a childhood where they are nurtured and where their trust in adults and the adult world provides a sound basis for them to grow into adulthood. In all communities, not only Indigenous communities, this should be the way it is, but sadly this is not the case. It is not the reality.

Serious child abuse is limited neither to Aboriginal rural communities nor to Aboriginal people but is present within the Australian community as a whole, and it is an issue that must be addressed. For too long it has not received the attention required to address the problem and its consequences.
Neglect in Aboriginal communities is rightly designated as an issue of urgent national significance. The situation in the Northern Territory is urgent and the goal of safer communities for Indigenous children paramount. But this has not just become apparent. The Anderson-Wild report *Little children are sacred* follows numerous reports which have looked at issues facing Australia’s Indigenous people. Some of these have dealt with the issue of child abuse, but to date not a lot has been done.

We have had only the three main bills—bills that comprise 480 pages—since Monday of last week and the appropriation bills since Tuesday. The *Northern Territory National Emergency Response Bill 2007* includes issues to do with township and town camp leases, government purchased computers, pornography management, alcohol, business managers, licensing for community stores, customary laws and exclusion of the Racial Discrimination Act. The *Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Bill 2007* deals with permits, pornography, infrastructure management and Australian Crime Commission powers. The *Social Security and Other Legislation Amendment (Welfare Payment Reform) Bill 2007* contains changes to the national welfare payment, quarantining measures for parents, the Northern Territory welfare payment, quarantining measures for all income support recipients, the welfare payment quarantining measures for parents in Cape York and the CDEP changes.

While it is far from ideal to have such little time to consider such complex legislation, we acknowledge that with the passing of time young lives are being devastated. We owe these children a better future. It should not just be a quick fix, timetabled late in an election cycle. Solutions must be lasting. They must be altruistic, not conceived to soothe the chafed consciences of their architects. This is simply too important. We must ensure the measures undertaken are not racist, patronising or paternalistic. Our aim should be to achieve a brighter tomorrow both for and with Australia’s Indigenous people. We also must do our best to make sure any action taken does not heighten the apprehension and suspicion already rife in Indigenous communities regarding the government’s proposals, methods and motives.

The government’s emergency plan does not detail long-term strategies required to lift Indigenous communities out of their current situation. Authors of the report *Little children are sacred*, Pat Anderson and Rex Wild, put forward 97 recommendations and have placed the protection of children at the centre of government responsibilities. But many of their recommendations go unacknowledged. In their report, their first recommendation states:

... we have specifically referred to the critical importance of governments committing genuine consultation with Aboriginal communities whether these be in remote, regional or urban settings. We have been conscious throughout our enquiries of the need for that consultation and for Aboriginal people to be involved.

It is clear that the long-term strategies needed must be born out of consultation and cooperation with the leaders of the Aboriginal communities they will affect. The strong attachment Indigenous Australians hold with their land must be genuinely considered. And the integrity of the Racial Discrimination Act must be upheld. To be effective and beneficial, long-term strategies must be forged out of a climate of trust and mutual respect, not one of fear and mistrust.

There is ample room for improvement in these bills and there are elements of the bills before us that we do not fully agree with. The acceptance by the government of the
second reading amendment moved by the Leader of the Australian Labor Party in the Senate, Senator Evans, would go some way towards this, as would the adoption of the recommendations detailed in the report of the one-day Senate Standing Committee on Legal and Constitutional Affairs inquiry into the legislation, including: that the operation of the measures implemented by the bills be continuously monitored and publicly reported on annually through the overcoming Indigenous disadvantage reporting framework; that the operation of the measures implemented by the bills be the subject of a review two years after their commencement, particularly to ascertain the impact of the measures on the welfare of Indigenous children in the Northern Territory and that a report on this review be tabled in the parliament; and that the Australian government examine the need for additional drug and alcohol rehabilitation services in the Northern Territory, and provide, if necessary, additional funding.

Also worthy of a hearing are the additional comments to the report by Labor senators, which include the following:

These aims cannot be achieved unless the Commonwealth, after dialogue and genuine consultation with affected Aboriginal communities, sets out a comprehensive long term plan.

Any longer term plan should establish a framework for the achievement, in partnership with the Northern Territory Government and Indigenous communities, of the recommendations set out in the Little Children are Sacred report.

Adopting additional recommendations from Labor senators would also be an improvement to the legislation. These recommendations included: opposing the blanket removal of the permit system on roads, community common areas and other places as specified in schedule 4 of the Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Bill 2007; supporting access without a permit for agents of the Commonwealth or Northern Territory government, such as doctors and other health workers, to facilitate service delivery; facilitating greater public scrutiny of Aboriginal communities in the Northern Territory by allowing access to roads and common town areas, without a permit, by journalists acting in their professional capacity, subject to the restrictions relating to the protection of the privacy of cultural events—such as sorry business—as proposed in schedule 4 of the Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Bill 2007; conducting an independent review of the effectiveness of the measures taken under part 4 of the Northern Territory National Emergency Response Bill 2007 after 12 months; conducting a review after 12 months of the operation of the welfare reform and income management system specific to the Northern Territory; opposing the provisions in the bills suspending the operation of the Racial Discrimination Act; and making two additional amendments, one to ensure that just terms compensation is paid in instances of land acquisition and one to enable access for traditional purposes to land acquired through the five-year township leasing plans.

There are obligations on government—federal, state and territory—to act on the findings of the report generated by this inquiry and on the Little children are sacred report and to take action, both immediate and sustained, to help improve the lives of children in these Indigenous communities.

A short-term reactive response to a particular crisis is not a substitute for long-term policies aimed at resolving the underlying cause of the crisis. The measures taken to
secure the long-term safety and wellbeing of the children who have been abused and those at risk, from childhood through to adulthood, needs to be immediate. But it must not end there. We also need long-term, ongoing measures—measures that include real consultation with community leaders; measures to address health issues, alcohol and drug abuse; measures that address the life expectancy and infant mortality rates of the Indigenous population; measures to address education and access to education; and measures to address housing and infrastructure. And the list goes on.

Labor’s future-minded initiatives will address many and varied issues, including: the life expectancy and infant mortality rate gaps between Indigenous and non-Indigenous Australians; the 17-year difference between the life expectancy of Indigenous and non-Indigenous Australians; and the fact that, in their first year, Indigenous babies are more than three times more likely to die than non-Indigenous infants. These figures are simply unacceptable. Labor recognises the relationship in Aboriginal communities between education, health, employment, economic development, policing and housing and such problems as violence and alcohol and substance abuse. These areas are significant and require our attention.

We must not just pass legislation, implement it and then wipe our hands of the matter. Open dialogue with Indigenous community leaders and the Northern Territory government is crucial, and stringent reviews of the reforms are essential to ensure that they are achieving their aims. The work of strong and effective Indigenous community members and organisations must be encouraged and supported. Government must deliver teachers, classrooms, teacher housing and support services, including Indigenous teacher assistants. Every effort must be made to ensure schools are accessible to children in all communities. Temporary measures must be reviewed and, where they are not delivering the desired outcome, be replaced with reforms which have the confidence and support of those on whom they impact. Short-term measures aimed at ensuring the safety of children must grow into long-term responses which create stronger communities that are free of violence and abuse. Labor will work with states, territories and Indigenous Australia towards achieving a better, safer and healthier future for our nation’s children. That is sacrosanct to us.

Senator SCULLION (Northern Territory—Minister for Community Services)
(5.40 pm)—The Northern Territory National Emergency Response Bill 2007 and four associated bills underpin the Australian government’s program of further reform of the Australian welfare system, as well as the national emergency response aimed at improving the safety and wellbeing of Aboriginal children in the Northern Territory. The income support system in Australia provides the community with a strong and much valued safety net. Whilst the majority of welfare recipients spend their payments responsibly to support themselves and their families, some people have a pattern of inappropriate expenditure, such as substance abuse and gambling. It is particularly alarming that this behaviour, which is unacceptable to the community at large, ends up depriving children of the care, education and development which they are entitled to.

The welfare payment reform measures in one of the bills in this package are designed to reinforce responsible behaviour with regard to spending welfare payments. The measures are a further development of the mutual obligation and re-engagement framework already in place through programs such as Work for the Dole for longer term welfare recipients. Most notably, these welfare payment reform measures introduce
new arrangements, which will apply nationwide, to link the receipt of income support to the prevention of child abuse, neglect and the encouragement of proper attendance at school. State and territory child welfare authorities will be able to tap into the new arrangements to help identify, report and tackle problem cases.

The measures essentially establish an income management framework for families not currently doing the right thing in spending their welfare payments on appropriate things or those not ensuring that their children get proper schooling. This means that certain portions of the income support and related payments to those families will be directed towards priority needs, such as food, clothing, housing, health, child care and development, education and training, and employment and transport. The Australian government is committed to meeting the expectations of the broader community that taxpayer funded welfare payments be spent on things they are intended for. The welfare payment reform measures in this package are in line with that commitment.

The new principal legislation is given particular application in relation to new income management mechanisms established for some remote Indigenous communities in the Northern Territory. This element is part of the government’s emergency response to be dealt with: the crisis confronting the safety and wellbeing of children in those communities. The emergency response in the Northern Territory includes changes, as announced, to the Community Development Employment Projects—that is, the CDEP program—as part of trying to put the troubled communities back together. Through this package, the Cape York welfare reform trial, announced recently, will be able to proceed in line with the comprehensive plan, as developed in partnership with Mr Noel Pearson’s Cape York Institute.

Two other substantive bills in the package provide new principal legislation and amending legislation to secure the government’s national emergency response in the Northern Territory. The Little children are sacred report, commissioned by the Northern Territory government, was a sobering and abundantly clear statement of the serious, widespread and often unreported incidence of sexual abuse amongst Aboriginal children in the Northern Territory and, notably, the fact that the undisputed association between alcohol abuse and sexual abuse of children has to be tackled.

The new legislative measures in the emergency response will help us to achieve comprehensive and meaningful change in this area of national concern. Under this legislation package, the flow of alcohol will be stemmed, as will the prevalence of damaging pornography, including pornography currently accessed through publicly funded computers. The extra police presence that will help stabilise the affected communities and restore law and order will be supported by appropriate amendments to the relevant law enforcement legislation.

There will be provision for the immediate and later acquisition of five-year leases over certain Aboriginal townships in the Northern Territory for the purposes of the emergency response. These leases will enable the Australian government to make the changes urgently needed to improve the living conditions in the communities. The leases will give the government unconditional access to the land so that the buildings and infrastructure can be constructed and repaired as efficiently as possible. Many of the communities are in a poor state. Intervention by government is essential to bring them up to a basic, acceptable standard. There is no land grab. The leases are strictly time limited and cover a tiny proportion of the Aboriginal land estate in the Northern Territory, and control of
the land will be returned to the traditional owners at the end of the lease.

Under further measures in the package, powers will be established to assist government to allocate resources flexibly, including government funds and the assets used to provide services, and to deal with bodies required to deliver those services. Customary law or cultural practice will no longer be permitted to lessen or to aggravate the seriousness of criminal behaviour of offenders and alleged offenders. There will be a new licensing regime applied to people who operate community stores in Indigenous communities. Provision will be made for governments to retain an interest in buildings and infrastructure constructed or upgraded on Aboriginal land in the future where they fund the construction or the major upgrade.

There will be changes to the provisions governing access to Aboriginal land to increase interaction with the wider community and to promote economic activity. The current access provisions have not prevented child abuse, violence and alcohol running. They have created closed communities which hide problems from public scrutiny. We do not want women and children to be scared to report violence and abuse. More open communities and a proper police presence will give people the confidence to report inappropriate behaviour. We also want to open up these communities to normal interaction with other Australians. This will promote tourism and economic growth and give people confidence to deal with the outside world. There has been a review of the permit system, and the government has listened to the views expressed. The permit system opens up townships but will continue to apply to the vast bulk of Aboriginal land.

The package also includes two supplementary estimates bills which ensure that the Commonwealth agencies can support the government’s national emergency response to protect Aboriginal children in the Northern Territory. The measures in the emergency response aim to protect and stabilise communities in the crisis areas and are the first stage in a longer term approach to improve the welfare of Aboriginal children and their families in the Northern Territory prescribed communities. The appropriation bills are required to ensure timely implementation of the emergency response initiatives in 2007-08. The total appropriation being sought through the appropriation bills is around $587 million, with around $501.99 million being sought in bill No. 1 and $85.3 million in bill No. 2. Funding is being provided to a number of agencies, including the Department of Families, Community Services and Indigenous Affairs, the Department of Employment and Workplace Relations, the Department of Defence, the Department of Education, Science and Training, the Australian Federal Police, the Australian Crime Commission and Indigenous Business Australia.

Key initiatives covered by the appropriation bills include: providing additional police to provide safer communities for Indigenous children and their families; health checks for all Aboriginal children and the establishment of teams of drug and alcohol workers to provide outreach support to families and communities affected by the withdrawal of alcohol; expediting the removal of all remote area exemptions across the Northern Territory by 31 December 2007, providing unemployed people in the Northern Territory with greater capacity to participate in the workforce; progressively replacing the CDEP program with jobs, training and mainstream employment services across the Northern Territory; welfare payments reform to ensure income is spent on key family needs, and an expanded network of outback stores as well as support for existing community stores in
conjunction with welfare payments reform; additional services for families and children, including additional child protection workers and funding for safe places for families escaping violence; land surveying and upgrades to essential utilities services; the provision of legal services and night patrols; and a breakfast and lunch program for school-age children. I commend the legislation to the Senate.

Question put:
That the amendment (Senator Chris Evans's) be agreed to.

The Senate divided. [5.53 pm]

(The Acting Deputy President—Senator GM Marshall)

Ayes…………… 32
Noes…………… 33
Majority……… 1

AYES
Allison, L.F. Bartlett, A.J.J. Heffernan, W.
Bishop, T.M. Brown, B.J. Johnston, D.
Brown, C.L. Campbell, G. Joyce, B.
Carr, K.J. Conroy, S.M. Macdonald, I.
Crossin, P.M. Evans, C.V. Mason, B.J.
Faulkner, J.P. Fielding, S. Nash, F.
Patterson, K.C. Payne, M.A. Patterson, K.C.
Sculion, N.G. Trood, R.B. Sculion, N.G.
Watson, J.O.W.

NOES
Abetz, E. Adams, J. Hutchins, S.P.
Barnett, G. Bernardi, C. Ferguson, A.B.
Birmingham, S. Boswell, R.L.D. Ludwig, J.W.
Brandis, G.H. Bunya, S. Moore, C.
Colbeck, R. Coonan, H.L. Oliphant, R.
Cormann, M.H.P. Eggleston, A. Oliver, J.
Ellison, C.M. Ferrar, C. O'Neill, P.
Fifield, M.P. Fisher, M.J. Parry, G.
Heffernan, W. Johnston, D.
Joyce, B. Kemp, C.R. Macdonald, J.A.L.
Macdonald, C. Macdonald, J.A.L.
Mason, B.J. McGauran, J.J.J. *
Nash, F. Parry, S. Patterson, K.C.
Patterson, K.C. Payne, M.A. Sculion, N.G.
Sculion, N.G. Trood, R.B. Watson, J.O.W.

PAIRS
Hutchins, S.P. Ferguson, A.B.
Ludwig, J.W. Ronaldson, M.
Moore, C. Humphries, G.
Polley, H. Troeth, J.M.

* denotes teller

Question negatived.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (5.56 pm)—I move my second reading amendment in respect of the Social Security and Other Legislation Amendment (Welfare Payment Reform) Bill 2007, the Northern Territory National Emergency Response Bill 2007 and the Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Bill 2007:

Omit all words after “That”, substitute:
(a) For the reasons set out in paragraph (c), further consideration of the bills be postponed and be made an order of the day for the first day of sitting in October 2007;
(b) Senators who have spoken to the motion “that this bill be now read a second time” may speak again to that motion for up to 20 minutes each when the bill is again called on;
(c) The reasons referred to in paragraph (a) are as follows:
(i) the Northern Territory Government is reviewing the impact of the bills and will provide its legislative response;
(ii) the need to delay further consideration of the bills pending a fuller understanding of their operation and effect is in accordance with the wishes of the Combined Aboriginal Or-
ganisations of the Northern Territory and the New South Wales Aboriginal Council”.

Senator BARTLETT (Queensland) (5.58 pm)—I move the following amendment to Senator Brown’s proposed amendment:

Paragraph (a), Omit “October”, substituting “September”.

Omit Paragraph (b).

Subparagraph (c)(ii), omit:

“is in accordance with the wishes of the Combined Aboriginal Organisations of the Northern Territory and the New South Wales Aboriginal Council”.

I do not want to hold up the chamber but I think I need to put on record the reasons. The amendment moved by Senator Brown would defer the bill to the first day of sitting in October. I do not believe, and the Democrats do not believe, that that is desirable. The advertisement in the newspaper today, promoting views of Aboriginal organisations, called for the legislation to be deferred until September. There is quite a possibility that we will not be sitting in October because of an election but there is no reason why we should not be sitting in September to consider it. The Democrats do not believe that we need to allow a redoing of the entire second reading debate, valuable though it was. We also believe that a further amendment singling out any individual organisations is not desirable. The advertisement in the newspaper today, promoting views of Aboriginal organisations, called for the legislation to be deferred until September. There is quite a possibility that we will not be sitting in October because of an election but there is no reason why we should not be sitting in September to consider it. The Democrats do not believe that we need to allow a redoing of the entire second reading debate, valuable though it was. We also believe that a further amendment singling out any individual organisations is not necessary. We want to consider the views of everybody, not just particular groups. The Democrats have made it clear throughout this debate that we are trying to engage constructively with the legislation. We have significant problems with the content of the legislation. We will vote for the second reading stage because we support the stated intent and we are doing everything possible to constructively engage with the process.

As many people across the spectrum have said, there needs to be more listening and more improvement of this legislation, and that is what the committee stage is for. The Democrats amendment would enable us to do that consideration adequately by reconsidering the legislation on the first sitting day in September. That would still ensure that it was passed at that time, ideally in an amended form, but it would not run the risk of it not being passed at all because an election was called before the first sitting day in October. Frankly, I think that if we had the second reading debate all over again we would be at risk of being accused of deliberately holding it up. That attack from some people, saying that any attempt to properly consider this legislation and consider amendments is just deliberately trying to stop it, is false, certainly with regard to the Democrats’ approach. We are trying to engage constructively with it, but if we put it off until October and have the second reading debate all over again it would give some validity to the criticism that it is a delaying tactic.

I do not want to delay action. I just want to make sure that that action is effective. Rushing through without properly scrutinising the legislation, without properly understanding what we are doing and without listening to the people who have the expertise and will be directly affected makes it much more likely that the action will not be effective. So we do not want to rush into this without having a full understanding of the issue and without properly consulting and hearing from the expertise that we have not had the opportunity to hear to date. But we also do not want to defer it for a prolonged period of time. We would like to engage with it in an informed way and proceed with it as soon as possible.

I think that the Democrats amendment that I have moved does that in a more balanced way than Senator Brown’s amendment, with respect, and I take this opportunity to indicate the reasons why the Democrats will vote
in support of the second reading. We believe that it is worth making every attempt to engage constructively with the stated intent of properly assisting Aboriginal people in the Territory with regard to family violence and child protection. But clearly we would be doing so in the hope that there would be significant amendments made in the committee stage. That will be a big test of whether the government is prepared to listen to some of the suggestions that are put forward and, indeed, some of the comments that have been made by many in the wider community, including Indigenous leaders across the spectrum, who have called on the government to not show the intransigence towards improvements that they have accused others of showing by raising concerns.

Senator HUMPHRIES (Australian Capital Territory) (6.02 pm)—I seek leave to incorporate a speech in the second reading stage of this debate.

Leave granted.

The speech read as follows—

NT EMERGENCY RESPONSE LEGISLATION SPEECH

I want to contribute to this debate as chair of the Senate’s standing committee with responsibility for indigenous affairs. Although the Community Affairs Committee did not conduct the inquiry held into this package of bills it did manage to travel to the NT during July—as part of another inquiry—to make contact briefly with some of the people involved with and affected by these momentous changes.

As such I wish to indicate my support for this landmark legislation, though in doing so I acknowledge that no-one involved in this issue would pretend that these bills embody the complete or final answer to the endemic and tragic problems facing vulnerable communities in the NT. Rather, it is fair to see the legislation as a beachhead in a new and better-resourced attack on the appalling conditions facing many Indigenous Australians. In particular it seeks to place a cordon of protection around a class of indigenous children who have hitherto been essentially without protection against the most horrific forms of physical, social and sexual abuse.

That is the context in which the legislation, and the truncated process in the Legal and Constitutional Affairs Committee used to examine it, should be considered. That process has not been as comprehensive and thorough as the Senate would view as customary; but the extent of the emergency this legislation responds to does not permit any more comprehensive or thorough approach.

The Convention on the Rights of the Child contains, in my view, a number of obligations which it is the Australian community’s duty to uphold. That convention imposes the obligation to protect children against abuse and exploitation and to ensure their survival and security. In many ways—generally more by omission than by commission—we Australians have failed to honour that obligation in the case of Indigenous communities in remote parts of this nation. This package is an attempt to reverse that failing, however imperfect or incomplete that attempt may at this time be.

The package pushes aside or suspends some conventions with respect to the conduct of Indigenous policy in this country. I regret that, but I do not apologise for it. It is a necessary and measured response to a real emergency.

I note the recommendations the Legal and Constitutional Affairs Committee makes in respect of this package. I regard these recommendations as sensible and supportable, and they go some way to ensuring that the detailed consideration of the long term impacts of these changes which some in this debate have called for actually occurs. What is clear to me, however, is that this consideration should not be a pretext for delayed action on these issues. Such delay, when so much compelling evidence of a failure of policy has been presented, would be a breach of our duty to a group of extremely vulnerable Australians.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (6.02 pm)—We do not accept the Democrats minor amendment to this very important amendment to the second reading. We believe that a
six-week delay in this legislation is absolutely what the nation wants, in particular the First Australians. The amendment is to allow that delay so that we can look at the Northern Territory’s legislated response and at the enormous faults, some of them constitutional, some of them infringements of international—

Honourable senators interjecting—

The ACTING DEPUTY PRESIDENT (Senator Marshall)—Order! There is too much noise in the chamber!

Senator BOB BROWN—If Senator Abetz is prepared to support this legislation, he is prepared to flout the rules of debate in this chamber. The point to be made here is that the Greens do not support this legislation—

Honourable senators interjecting—

The ACTING DEPUTY PRESIDENT—Order! Those senators that are interjecting ought not do so from the positions they are sitting in at present—even though interjections are disorderly in any event. I would ask the chamber to remain silent while Senator Brown finishes his contribution to this question.

Senator BOB BROWN—It is an important opportunity to give the nation the scrutiny of this legislation, which has been denied by the government and the opposition to this date. It sounds like the Democrats may be joining that, but the Greens will not. We believe that it should be seen after the response from the Northern Territory and after there has been due consultation and feedback from the Aboriginal communities of the Northern Territory and Indigenous people right across this country, all of whom are impacted upon, as against the white community, by this legislation.

We are totally in support of measures to protect children. As we know, the federal government has taken extraordinary measures without this legislation and will continue to do so. This legislation is not required for that purpose but we believe that it is such monumentally bad legislation, legislation infringing the rights of Australians, in particular First Australians, that it should be reconsidered in the way that this amendment outlines. Therefore we do not accept the amendment to the amendment.

The ACTING DEPUTY PRESIDENT—The question is that Senator Bartlett’s amendments to Senator Brown’s proposed amendment be agreed to.

Question negatived.

Question put:

That the amendment (Senator Bob Brown’s) be agreed to.

The Senate divided. [6.10 pm]

(The Acting Deputy President—Senator PR Lightfoot)

Ayes………… 4
Noes………… 54
Majority……… 50

AYES

Brown, B.J. Mihne, C.
Nettle, K. Siewert, R. *

NOES

Abetz, E. Adams, J.
Allison, L.F. Barnett, G.
Bernardi, C. Birmingham, S.
Bishop, T.M. Boyce, S.
Brandis, G.H. Brown, C.L.
Calvert, P.H. Carr, K.J.
Chapman, H.G.P. Colbeck, R.
Coonan, H.L. Cormann, M.H.P.
Crossin, P.M. Eggleston, A.
Evans, C.V. Fielding, S.
Fierravanti-Wells, C. Fifield, M.P.
Fisher, M.J. Forshaw, M.G.
Hogg, J.J. Hurley, A.
Johnston, D. Kemp, C.R.
Kirk, L. Lightfoot, P.R.
Lundy, K.A. Macdonald, I.
The CHAIRMAN—I understand that a running sheet has been circulated for the Social Security and Other Legislation Amendment (Welfare Payment Reform) Bill 2007. We will deal with that bill first.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (6.21 pm)—On behalf of the opposition, I am a bit surprised that we are going to deal with that bill first. I understand that there was a procedural reason for dealing with that bill first; however, it made sense to me to deal with the major bill first, which is the Northern Territory National Emergency Response Bill 2007. I spoke to the minister about this during the recent division, and I do not think he has any in-principle opposition to dealing with the bills in that order.

The CHAIRMAN—the opposition amendments to that bill are the difficulty and why it was put to me that that bill should be dealt with first.

Senator CHRIS EVANS—I understand that. But it will be close to 6.30 pm, which is when we suspend for dinner, and we will not have got to the first amendment. I am seeking some indication from other parties on this. If the minister is happy with this proposal, as he indicated to me earlier, we will suggest that we adjourn a couple of minutes early and come back after the dinner break to deal with the major bill.

The CHAIRMAN—So you are advocating that we deal with the Families, Community Services and Indigenous Affairs and
Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Bill 2007 first.

Senator CHRIS EVANS—Yes, I am suggesting that.

The CHAIRMAN—That is fine.

Senator CHRIS EVANS—I would be interested in the views of the other senators. I have tried to consult. The other point I would make is that—

Senator Crossin—Why wouldn’t we deal with the NT bill first?

Senator CHRIS EVANS—That is what I was suggesting.

The CHAIRMAN—You are dealing with the Northern Territory National Emergency Response Bill 2007 first?

Senator CHRIS EVANS—Yes, that was my suggestion.

The CHAIRMAN—All right. We have a number of bills before us.

Senator CHRIS EVANS—That is why it would make some sense to do that. I understand there are some problems about running sheets and a couple of late amendments, including one of ours, and I apologise for that. But if we do it that way—and I thought the minister might indicate how he wanted to go in terms of the following bills—by the time we suspend for dinner at 6.30 we would all know what the rules of the game were, where we are going to start and the order. Then we would all come back less confused than perhaps I was a few minutes ago. I am suggesting we do it in that order, but I am open to views from other senators.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (6.23 pm)—Yes, we should do it in that order. We are very well aware, by the way, that the guillotine will be used on this legislation within the next 24 hours or so and that the proper debate of this monumental legislation and its impact on this nation will be cut short by the government using its numbers to gag the Senate from such a debate. Let us not beat around the bush here. The measures that would protect children, including the movement of police into the communities, that the government set underway some weeks ago can and will continue.

This legislation we are dealing with now, and which it is proposed by the opposition should come on first, which we agree with, brings up a raft of very contentious matters, including the takeover of Indigenous communities without their consent and the end of the ability of Indigenous communities to regulate access to those communities. We saw just yesterday the police saying that that is a bad thing and that it is not going to give them the control with communities that they have had in the past to safeguard those communities. The legislation includes the taking away of just compensation when communities are taken over under this legislation. This is in breach of the Constitution, and people will have to go to the High Court, because there will be no appeal to this parliament.

This legislation will have been guillotined through here in the rush to the election, for the electoral purposes of the Howard government, supported by the Rudd opposition. It includes giving the coercive powers of the Australian Crime Commission over to be used against black Australians but not white Australians. These powers, which were there to help safeguard this country from international drug smugglers, triads and international criminal outfits, are now being used against individual Indigenous people, households and communities—provided they are Indigenous. You cannot do it if they are non-Indigenous, if it is the rest of Australians. This racist legislation, which, the indication is, the Labor Party is going to support—can you believe it?—will be guillotined some-
where in the next 24 hours. I would not be surprised if that is with the support of the Labor Party either, because, as Mr Rudd said in Tasmania on another matter—the support for the pulp mill and the burning of forests in Tasmania—‘I am behind Prime Minister Howard 100 per cent of the way.’ Ditto this legislation.

What a failure of the democratic system. Where are the opposition when this nation needs them? Where is opposition leader Rudd when a stand should be taken for decency in the application of the law, in the parliamentary process and in the democratic relationship between the parliament and the people? All of that is out the window. The best the Leader of the Opposition can do is say ‘me too’ to Prime Minister Howard, this Prime Minister who marked his first month in office by cutting $400 million from what was required in Indigenous spending back in August 1996. And the Prime Minister this year defunded Aboriginal language where-withal in this country.

This legislation is the death of culture. We know it and you know it. It has not even been debated in this place, and it will not be debated in this place because the guillotine is coming. Is that going to be regretted down the line? Let nobody in this chamber say they did not know—because they do. Everybody knows. Hands up anybody in this chamber who has read the 600 pages in this legislation. Let us see. Not one. Nor has the Prime Minister. Nor has the cabinet. Senator Lightfoot interjecting—

Senator BOB BROWN—The member opposite from the government side interjects, ‘There’s only about four members in this chamber.’ Actually, there are three government members. That is how much they care about Aboriginal Australians and their rights as equal citizens in this country. Rights are being ripped away from them by this government legislation, supported by the Rudd opposition—can you believe that in 2007? There is no choice with the Labor opposition, because there is no backbone there when it comes to difficult decisions like standing for the rights of First Australians and making sure that they do get the health, the education, the job opportunities and the security that they have been denied under Labor and Liberal governments and that would safeguard their communities but also honour their culture. There is none of that from Labor here tonight. This is a Howard Labor opposition. One of the worst, if not the worst, pieces of legislation brought before this parliament is being endorsed by the Rudd Labor opposition here tonight. They say, ‘12 months down the line, we’ll have a look at it.’ We will see about that. The Greens say no to this legislation. We will fight this while ever there is an hour left of debate in this chamber.

The CHAIRMAN—Order! It being after 6.30 I will procedurally make things correct. Before the committee at this stage for consideration is the Northern Territory National Emergency Response Bill 2007. There will be a running sheet provided when proceedings recommence at 7.30 pm for senators to refer to, to take them through this bill.

Sitting suspended from 6.30 pm to 7.30 pm

In Committee

NORTHERN TERRITORY NATIONAL EMERGENCY RESPONSE BILL 2007

Bill—by leave—taken as a whole.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (7.30 pm)—Minister, is it true that the application of provisions in this legislation to track and gain information using the coercive powers of the Australian Crime Commission apply to Indigenous people but not to other Australians?
Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (7.31 pm)—Before we proceed with some of the amendments, I am keen to ask the minister to respond to the Scrutiny of Bills Committee report on these bills and to some of the concerns raised by the committee in that report, which was tabled yesterday. I wonder whether the minister wanted to make a general response to it, or I could take him through some of the concerns raised. One of them relates to alcohol and the concern of the committee that the legislation might trespass unduly on personal rights and liberties in relation to the references in clause 12(6) and clause 20 to the volume of ethyl alcohol in liquor. I would be interested in the minister’s response to those concerns raised by the Scrutiny of Bills Committee.

Senator SCULLION (Northern Territory—Minister for Community Services) (7.32 pm)—In response to the Leader of the Opposition in the Senate, it might be useful to give a suite of responses, generally, to the report and then he can come back and provide me with some questions on the gaps. The Australian government will be supporting, either in full or in part, the majority of the recommendations put forward by the Senate Standing Committee on Legal and Constitutional Affairs in relation to these bills.

We agree that the bills will be continuously monitored and to report to the public annually on the process. We reserve our position on whether the overcoming Indigenous disadvantage reporting framework is the best for this work and we will consider that matter further and report back to the committee as soon as possible. We also agree that the Northern Territory Emergency Response Taskforce will make strategic and operational plans public within six months and long-term plans within 12 months. Significant revisions to these plans will be reported publicly. We agree to the committee’s recommendation that the operation of the measures implemented by the bills will be subject to a review after two years and that a report will be tabled in the parliament.

The committee recommends that a public information campaign be implemented as soon as possible. This is already underway. Advance communication teams have visited all prescribed townships and most have been visited by departmental survey teams. Government business managers are starting to be deployed and will provide pertinent Australian government presence in the townships. Other communication measures are being rolled out, including written publication and electronic media. I was pleased that Senator Crossin complimented magistrate Dr Sue Gordon on radio advertisements that she participated in. The task force and the government will be working to build on these communication efforts in the coming months.

The committee recommends that explanatory material be developed to help people understand the phrases ‘a quantity of alcohol greater than 1350 millilitres’ and ‘unsatisfactory school attendance’. The Australian government accepts this recommendation and the department is meeting with representatives of the liquor industry tomorrow to begin to develop comprehensive information strategies and other tools in relation to the provision of takeaway alcohol. Steps will be taken to ensure that students, children, and parents and teachers understand exactly what is meant by ‘unsatisfactory school attendance’.

In respect of the committee’s recommendation on drug and alcohol rehabilitation services, the Northern Territory has already been provided with $15.9 million to support rehabilitation services flowing from the $130 million funding package following the 2006
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Summit on Violence and Child Abuse in Indigenous Communities. The Australian Labor Party provided additional comments in the committee’s report. The $587 million funding package for the first year demonstrates the magnitude of the problem we are facing. The government will be considering at the earliest opportunity the level of funding required for future budget years. I should point out that funding for remote Indigenous housing was substantially increased in this year’s budget—$1.6 billion over four years will be provided for Indigenous housing and infrastructure in remote areas and much of this will go to the Northern Territory.

I assure the Australian Labor Party that the intervention will be part of a long-term strategy. The Labor Party provided additional comment to the committee that the intervention is silent on many recommendations set out in the Little children are sacred report. I point out to senators that this report was to the Northern Territory government and not the Australian government, and that the Northern Territory government had been sitting on that report for around three months. The Australian government intervention in the Northern Territory responds to the first recommendation of that report, that Aboriginal child sexual abuse in the Northern Territory be designated as an issue of urgent national significance. I say, though, that, whilst the findings of the report were very distressing and compelling, the recommendations contained in that report were just proposing more of the same. They did not even recommend additional sworn-in police officers, which is a fundamental ingredient in our intervention.

I have already outlined that the government is leaving the permit system in place for some 99.8 per cent of Aboriginal land in the Northern Territory. As well, I have outlined the reasons for lifting the requirement for permits in the townships and the roads that give access to the townships. The government therefore rejects the Australian Labor Party’s recommendation in respect of the permit system. I am pleased that Labor senators will not oppose the compulsory acquisition of five-year leases for prescribed townships; however, the government stands by its position that the recommendation for a 12-month review would not be appropriate. The recommendation of a 12-month review of welfare reform and income management systems specific to the Northern Territory would not take into account the fact that the measures would be applied progressively over a 12-month period, and the government would therefore not support that recommendation.

The government will not accept Labor’s recommendation in respect of the Racial Discrimination Act. We believe our obligations, including through international treaty, to protect the children are the priority. The Australian government are pleased that the Labor opposition has joined coalition senators in recommending that the Senate pass these bills; however, the government do not propose to go through the Australian Democrats and Australian Greens legislation, which is intended to delay and undermine the fundamentals of this legislation. The government will not accept their recommendations that would allow these children to remain at risk.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (7.38 pm)—I asked the minister a moment ago about the coercive powers of the Australian Crime Commission. I asked him whether it is true that the powers used there—which are normally kept for surveillance and information gathering on international criminals and were specifically forbidden to be used against Australian citizens because they set aside all sorts of important provisions of the law—will now be used against people in the Indigenous community. The Australian
Crime Commission has a range of special coercive powers similar to a royal commission—for example, the capacity to compel attendance at examinations, the production of documents and the answering of questions. It also has an intelligence-gathering capacity and a range of investigative powers common to law enforcement agencies, such as the power to tap phones, to use surveillance devices and to participate in controlled operations and, moreover, is able to coerce people to answer questions and to produce information and property in a way which is outside the usual law of this country. What I want to find out from the minister is whether or not it is true that these Star Chamber powers of the Australian Crime Commission may now be used against individual Indigenous Australians and communities but not against individual non-Indigenous Australians and communities.

**Senator SCULLION (Northern Territory—Minister for Community Services)**

(7.40 pm)—I am advised that these powers will be used to protect Indigenous children and I am not suggesting that anything else in your submission would occur. As I understand it, the powers provided to the Crime Commission would be for the purpose of looking at perpetrators. I am advised that the perpetrators are not divided into any block of ethnicity by intent. The powers that the commission have been provided with under this legislation would provide them with the power to investigate perpetrators, whether the perpetrators were white or otherwise.

**Senator BOB BROWN (Tasmania—Leader of the Australian Greens)**

(7.41 pm)—The matter is that an Indigenous person is involved, either as a victim or a perpetrator, but this cannot apply to a situation where a white person is the victim or the perpetrator. I ask the minister whether it is true that, in the last year of statistics in this country, there were some 34,000 cases of assault against children that were documented and that 6,000 of these involved Indigenous children; therefore, more than 80 per cent did not involve Indigenous children. I ask whether it is true that these coercive Star Chamber powers can be used on a minority—in a minority of cases in Australia—on the basis that black people, not white people, are involved.

**Senator SCULLION (Northern Territory—Minister for Community Services)**

(7.42 pm)—I would refer the senator to the title of the bill: the Northern Territory National Emergency Response Bill 2007. The purpose of this bill is to provide further protection for the children—principally Indigenous children—and it is in response to the Little children are sacred report. While I accept the veracity of your statements, the intention of this legislation is to provide for those individuals in those prescribed communities. Whilst I accept that child abuse, wherever we find it in Australia, is something to be decried, this specific provision is in response to specific series of further protections so that we may further protect children in Indigenous communities. I again refer to the Little children are sacred report, which did not indicate that we were dealing with large numbers of child abuse victims outside of Indigenous children in those communities. Whilst I accept your comment, this legislation is clearly targeted at providing for further protection of children in prescribed communities in response to a report that indicated that there was widespread, unreported and, in effect, serial abuse of Indigenous children in those communities. This legislation is specifically in response to that report.

**Senator BOB BROWN (Tasmania—Leader of the Australian Greens)**

(7.44 pm)—No, it is not so. Minister, you know—and I would ask you to tell me if I am wrong about this—that these coercive powers of the
Australian Crime Commission apply to Indigenous people anywhere in this country, whether they are in Launceston, Palm Island, Brisbane, Perth, Echuca, Woomera or wherever. If people are black, the coercive Crime Commission powers, which usurp the rule of law in this country, can be applied. But if they are white—and, notwithstanding what you have had to say, the majority of children in this country who need protection are white—those same coercive, intrusive, Star Chamber powers, which are outside the ordinary rule of law in this country, cannot be used. That is the case.

This is not confined to the Northern Territory. This report may have been, but these powers in this legislation—and this minister knows it—apply to black people in this country, wherever they might be. If they are in Redfern, they have no escape from those powers, unless they are white. That is the racist nature of this legislation. And it is not any accident; it is laid out in the explanatory memorandum that these coercive Star Chamber powers can be used against black perpetrators involved in child sex offences anywhere in the country. I ask this: if you are going to justify intervening to protect children—and we all want to protect children—using these Star Chamber powers, why not children in the white community? What is it in the white community that makes a crime against a child matter less than a crime against a child in a black community?

This is racist legislation, more appropriate in an apartheid South Africa than in this wonderful country of ours. I am not inventing this; this is the government’s own explanation in its own memorandum of explanation. No, it is not confined to the Northern Territory; it applies to black people across this country—Indigenous people. It does not apply to any other community. I ask why that is the case. What is it about crime perpetrated on Indigenous children that should invoke these laws when they are not invoked in the white community? Is it that the government thinks that sexual offences against children in the white community are of a lesser nature or do not matter as much as sexual offences against children in the black community? Frankly, Mr Temporary Chairman, you and I and the minister know that that is not the case.

What we have before us is pure, unmitigated, inexcusable racist legislation. If this coercive law is required for the Indigenous community and not for the more than 80 per cent of the rest of the community where this crime occurs, it is outrageous racism against Indigenous Australia—or, if you use another argument, it is a failure to use the law to protect non-Indigenous Australian children, and it would apparently follow that the government does not care about non-Indigenous Australian children as much. I do not believe that. This is racist legislation. It has no place in this Senate. It should not be supported by the opposition, the Democrats or anybody else. The government should be ashamed of it.

We will talk about the things that we will agree with. Senator Siewert will be talking about that later. We are concerned about children, communities, drug abuse, alcohol abuse, the breakdown of communities and the failure to act on this for so long. We want action, but we do not want racist legislation like this. It is beyond the pale. This is not the Botha government; this is the Howard government, and we should not have this legislation before this Senate. It should never have been conceived this way. That is why we say that we should take time over this and let the community look at it. It is a downright shameful piece of legislation, in just the dimension I have put—but there will be more.

Senator SCULLION (Northern Territory—Minister for Community Services)
(7.49 pm)—We, unashamedly, have directed this legislation to protect Indigenous children. We are very proud of that. We have crafted the legislation in that very way. As you have said, Senator Brown, you do not believe that the government are actually ignoring the other 80 per cent of the community—and we are not. This legislation is specifically targeting action in the Northern Territory in prescribed communities. In your own terms, Senator Brown, you said that 80 per cent of child abuse happens in white Australia. That means that 20 per cent of child abuse happens to Indigenous Australians—with only two per cent of the population. And as this report, the Little children are sacred report, and every other report has said, it is underreported. So any notion that it happens a lot more in white Australia is nonsense. We are talking about 20 per cent of child abuse happening to Indigenous Australians, when they represent only two per cent of our population. That is the reason underpinning why this legislation specifically targets protecting those Indigenous children and that demographic that are being so cruelly treated.

We are not ashamed of that at all. You can call it racist. That is a very harsh term. I will not take offence at that, because I think your intent is that we have discriminated specifically to provide an outcome for the young of our First Australians living in these communities—and that is exactly what we have intended. To glibly say that this is about 20 per cent and 80 per cent really flies in the face of the fact that only two per cent of our population is Indigenous yet 20 per cent of the cases of child abuse happen in that tiny demographic. And, of course, there is all of the underreporting; so the figure could be a lot higher. We are responding specifically to this particular disaster. We could be responding to a disaster in another context and you could criticise: ‘What about the other side of the world?’ This is very targeted legislation in which our clear intent is to provide further and appropriate protection for the children of our First Australians.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (7.51 pm)—I am not going to continue this fruitless discussion except to ask the minister to say that he is wrong in his assertion to the Senate—and he must not mislead the Senate—that the application of the ACC powers stops at the Northern Territory borders, because it does not. It extends to Indigenous Australians wherever they might be. The figures I used were less than 20 per cent and more than 80 per cent. I put it to the minister that underreporting of child sexual abuse is not confined to Indigenous communities; it is right across the community. The rapid increase in the number of reports of child sexual abuse in recent years attests to that. This is a racist application of laws which allow surveillance cameras and recording devices to be secretly put into people’s houses and which strip away people’s legal protections so that even if they are not suspected or charged with a crime they face interrogation. If they do not accede to that, they will go to jail. The minister knows that. If their property is requisitioned they must give it over or go to jail. This is legislation meant for international criminals, not for households in Australia. But it does apply now to households in Australia provided they are black. You cannot do it if they are white. There are no territorial borders in this. It does not matter whether they are in New South Wales, Western Australia or Victoria; this law applies if an Indigenous person is involved or suspected. That is what is wrong with it. There is no point in me debating this further into the night. Those are the facts. The minister can correct any of them but he has not so far. I am going straight from the provision of information from the government itself, and
it is appalling. It is disgusting. It should never be and we should not be supporting it in this place.

Senator SCULLION (Northern Territory—Minister for Community Services) (7.54 pm)—There was no intention to mislead. My intent was to show that it was the intent and focus of this legislation to deal with the further protection of Indigenous children. Yes, it goes right around Australia and those powers of protection and further protection for Indigenous Australians apply around Australia. They do not only apply to black perpetrators. The perpetrators who can go to jail are white or black.

Senator Bob Brown—Only if an Indigenous person is involved.

Senator SCULLION—You said they will go to jail. I have been advised—and that is as good as it gets—that jail will be for blacks or whites. There is no particular provision in the explanatory memorandum or anywhere else in the legislation for that. The principle is that this is a demographic that is hugely overrepresented, no matter how you spin it, and it is on the discovery of the huge over-representation of child abuse in Indigenous children that these provisions have been provided—to give them further protection around Australia. The notion that the only criminal proceedings taken as a consequence of those investigations will end up with Aboriginal people being locked up is a complete nonsense and it is not a part of this legislation.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (7.56 pm)—That is not so. If you look at figures for the reporting of child abuse, in Tasmania they are lower in the Indigenous community than in the non-Indigenous community but these coercive Star Chamber powers stripping away citizens’ rights do not apply in the non-Indigenous community. They only apply where an Indigenous person is involved or suspected and is under investigation.

Senator BARTLETT (Queensland) (7.56 pm)—It would be interesting to return to the original question that was asked by Senator Evans, which Senator Scullion, the minister, did not answer. He may have misheard and gave the government’s response to the Senate Standing Committee on Legal and Constitutional Affairs, whereas Senator Evans was actually asking for the government’s response to the Alert Digest, which is put out by the Scrutiny of Bills Committee. Nonetheless, the minister’s response was informative and a trifle perplexing. I might have misheard something so I ask him to clarify that as well.

I would like to outline the approach the Democrats are taking here. As I indicated at the end of the second reading debate, we believe that this is an issue of great importance. A window of opportunity has been opened here, for whatever reasons, by the federal government to get a lot of public focus, public debate and commitment made about genuine, ongoing, long-term and effective action to address a wide range of areas of disadvantage faced by Indigenous Australians. But the key problem here, and the reason why there is such anguish around this legislation and such torn views by many Indigenous peoples themselves, is that there is almost a ‘Sophie’s choice’ being put to them—a cleft stick. The people who have been calling for so long for concerted action are now apprehensive about the nature of the action being put forward. I find it astonishing when this is an issue where you have such common ground across the community and the political spectrum about the need to take concerted, comprehensive and long-term action with dramatic increases in resources and support to address significant areas of disadvantage for Indigenous Australians. There would be few
issues where you could get more widespread support, particularly when you are talking about wanting to assist children. Yet somehow, on an issue where we have a massive area of common ground, the approach the government has taken to date has had the quite extraordinary and terrible effect of putting bazookas into every part of that common ground that they could find. They are forcing people to either side of the chasm and would have us throwing rocks at each other again. On an issue of this importance, where there is so much common ground, to end up in a situation where we are forced on one side of a great divide is a terrible outcome, and it is a particularly terrible outcome for Indigenous Australians.

In the face of that, the approach and efforts of the Democrats in this debate are focused on continuing to point to that common ground and to maintaining some common ground so that when we get to the end of this process there is still an opportunity to move forward collaboratively and cooperatively as much as possible. That is the reason we are seeking information and clarification from the minister and seeking a response from the minister on issues such as the many points raised in the Scrutiny of Bills Committee report. That is the reason we are putting forward amendments. There are two things that I need to say. It is really important that the government show good faith in this process for the longer term. This is not just about what piece of legislation we end up with; it is about the views that people—not only senators but people in the wider community—will take away from this debate about whether there is genuine intent here to listen and to walk forward together in what needs to be a long-term commitment down what will be an arduous path.

I heard in amongst some of the various speeches that were given in the second reading stage of this debate—particularly in those from coalition senators—regular quoting of Noel Pearson as a person putting forward justification for what the government is doing. I will draw attention to his comments as well, and specifically his comments from last weekend saying that this legislation ‘needs to be decisively improved in some crucial respects’. I will also raise his final comment, which was:

It will be a grave mistake for the federal Government to be as intransigent to amendments to its bill as those who have opposed the intervention entirely.

Unfortunately, as I said before, that is the divide that we have: total opposition to any form of intervention is the position some wish to take, while others are giving no consideration at all to any amendments, any change, any comments or any concerns. To have that sort of polarised outcome on an issue where there is such widespread agreement is a terrible result.

As I said, the viewpoint of Noel Pearson, which I share at least on this issue—I know that Noel Pearson does not share the views of many Indigenous Australians who I have spoken to, but they would all agree with this one—is that there is a real risk here of a grave mistake being made if the government takes that attitude, and it could be the difference between disaster and success. There is the potential for improvements through intervention, through a genuine long-term increase in resources and through a genuine willingness to work together, but there is also a potential for disaster, and let us not kid ourselves about that.

Having said all that, I know in my head and in my heart—or what passes for it—that the amendments that the Democrats and others put forward will almost certainly be rejected with total intransigence by the government. That will be a tragedy. But it is important to make the effort and at least
provide the opportunity. It is also important to emphasise that, whatever happens in this chamber, the debate will continue and needs to continue. We need to continue to provide support to Indigenous Australians, who want to have effective solutions to the enormous disadvantage and hurdles put in their way.

Before specifically turning to the Alert Digest, I want to ask a question. From the comments that the minister made before, my understanding is that the government needed to act because the Northern Territory government had the Little children are sacred report and had not responded to it after eight weeks or so. This was rightfully a matter of concern and, because of the matters raised in the Little children are sacred report, the federal government felt the need to intervene. I was therefore perplexed to hear the minister then say that the government rejects the report because the report recommends more of the same. That is what I thought I heard him say; I hope he did not say that; I hope I heard wrong. But I do not see how you can justify all of this intervention on the basis that the Northern Territory government did not respond and then reject the recommendations by saying, ‘It’s just a report to the Northern Territory government; it wasn’t a report to the federal government.’ Then it says that it is justifying itself by relying on the first recommendation, which specifically requests action from the Australian government. We at least need some consistency.

The government continually says that it is responding to the first recommendation, when it is in fact responding to the first sentence of the first recommendation and not responding to the second sentence, which says that it is critical—and I emphasise that word—that both governments commit to genuine consultation with Aboriginal people in designing initiatives for Aboriginal communities. Is genuine consultation just more of the same? Is that part of the recommendation being rejected as well? If not, when is this genuine consultation in designing these initiatives going to start? It certainly has not happened to date. I repeat that, if this intervention is to have any hope of succeeding, there is an absolute need for there not to be an intransigent attitude and there is an absolute need to work with the leadership in the Northern Territory. They are Noel Pearson’s words, not mine.

The Alert Digest of the Scrutiny of Bills Committee—I would emphasise for those who are not aware that it is a non-partisan committee—is a unanimous report. The concerns raised by the committee were raised unanimously, including by government members. Let me emphasise that these are not policy criticisms; they concern the fundamental legislative approach of the government on core principles that should be applied across any type of legislation, whatever the policy intent. Those concerns go to issues like insufficiently subjecting the exercise of legislative power to parliamentary scrutiny. We all know that this bill and the
accompanying bills provide enormous power. Minister Brough has said himself that he has more power than anyone has had in history. I am not sure he is quite accurate there, but that is basically what he said. He has enormous power. I do not know whether it is more than ever before, but it is certainly a hell of a lot. It is more than anyone has had for a long time, certainly in this area. Concerns were raised about excluding merits review, where major decisions by bureaucrats can be made affecting people’s lives with no merits review of those decisions. Concerns were raised about inappropriate delegation of power and about what are known as Henry VIII clauses, where you pass the law and then the minister has the power of deciding when to switch the law on and off in different circumstances, without coming back to parliament. Concerns were raised about whether the phrase ‘reasonable amount of compensation’ is actually consistent with the Constitution, and so were concerns about unacceptably trespassing on personal rights and liberties, particularly in relation to the Racial Discrimination Act.

Those categories I have just outlined are part of the Scrutiny of Bills Committee’s terms of reference, which they assess every single piece of legislation against. They are not going to the policy intent or otherwise of this legislation. The government simply say, ‘It is an emergency, so we need to be able to do whatever we want.’ How long will that excuse last? Five years? Does that justify doing whatever you want without reference to these basic fundamental core principles, albeit, ‘It is for the protection of children; therefore, we need to be able to do whatever we want.’ I would like to think all legislation we pass in this place is done with the aim of not harming children. I do not see any reason why most of these principles cannot still be applied, regardless of an emergency. In fact, sometimes they need to be applied specifically in an emergency because it is precisely in those sorts of circumstances where, if you give people an enormous amount of power, you have the extra risk they will misuse it.

If the government are to show any sign of being genuine here or any indication they will not just take an intransigent approach to every amendment then they should respond to reports such as this, with its concerns. My understanding is this is about a record number of concerns. Senator Ray, the Chair of the Scrutiny of Bills Committee, said that. He has been around this place for a long time, so he would know whether or not a record number of concerns were raised about a package of legislation by this particular committee. It is a non-partisan committee. You cannot just slap it down and say, ‘They do not care about the kids,’ or, ‘They’re trying to hold it up,’ or all of the excuses that have been thrown at any of us who raise any concerns. It is incumbent on the government to respond to these concerns in a comprehensive way on the basis of the concerns themselves and for the broader purpose of demonstrating some semblance of good faith, some semblance that they will take an attitude that is less than totally intransigent and some recognition that they will work cooperatively with people across the board in recognition that the stated goal of all of this is better protection of children. It is something that is held by virtually everybody as a desirable goal. But you need to do more than agree to the goal; you have to work together cooperatively if you are to have any chance of achieving it.

Senator SCULLION (Northern Territory—Minister for Community Services) (8.11 pm)—Senator Bartlett has spoken about a suite of issues with regard to these bills. But the notion that the government have created such anguish, the notion that we have created an extra burden upon these communities is a false one, because the fact
is that, two or three days after the intervention occurred in the communities, the communities themselves were very happy with that. They were very calm. The notion that people would be fleeing into the sand dunes was as a result of some very mischievous misinformation. It was a tragedy that people brought that into the communities. Tragically, the principal resisters in the communities have been some of the white advisers. They are the sort of people who do not want change, for whatever reason.

Communities such as Elliott have rung up and said: ‘We’re excluded from this process and we want to be involved. Please let us also be involved. It is so important that we do not want to be seen to be left out of this opportunity.’ The notion that we have created anguish does not seem to me to reflect what is happening in the community. We have heard a number of Indigenous people, not just Noel Pearson but people like Warren Mundine, who have spoken very strongly about this legislation and have focused on the positive aspects of it and what we intend to achieve.

We have spoken of the recommendations in the Little children are sacred report, and I hope I will not be regarded as being flippant in making the throwaway line that these recommendations were not important. The substance of the report was that there was serial child abuse, if you like, which was happening throughout these communities and it was largely underreported. I do not think anybody is questioning that part of the report. They acknowledged that something has to be done. You talk about the second recommendation, Senator, where it says that we have to go out and consult. I can recall travelling with the minister for more than 14 months. There were six visits to Wadeye and four to Galiwinku—and the list goes on. We were not just having tea at all those places; we were talking to the community at all levels to find out how we could make the lives of those Indigenous people, particularly living in those communities, better across a whole suite of issues.

I find it very difficult to say what sort of questions we should have been asking. Perhaps we should have consulted and said, ‘There is child abuse happening in the communities,’ and I am sure they would have said, ‘Yes, we want that to stop.’ Would we have said, ‘Do you want alcohol to keep coming into the communities?’ Depending on who you asked, they possibly would have said, ‘We’d still like to have our alcohol.’ We could have said: ‘What about the provision of the infrastructure? We’re unable to do it.’ In Wadeye we did 14 months of discussion simply to provide infrastructure so that, when somebody pushed the button on top of the porcelain, that particular day’s breakfast went away. Everybody takes it for granted: push the button, it goes away; it is not part of your family forever, it is not part of the household. Of course, we should not be taking that for granted because when infrastructure is ageing and has not been maintained then you need to fix it, but after 14 months of negotiating and consultation we cannot get to a basic agreement to be able to repair this infrastructure.

In terms of this emergency, we know it is absolutely essential that we ensure there is a clear path so that we can do it swiftly. In fact, we are saying that we think we will be able to repair the infrastructure in the community in five years, and then this will just lapse automatically—it has a sunset clause. There is no mischief in that. It is simply the practical application of something we found out throughout our consultation process and through trying it the other way, the way of, ‘We’ll keep spending; we’ll keep talking,’ when we could not even put in basic infrastructure that way. Part of the challenge has been putting in the governance arrangements.
and the time that that takes. If we are fair dinkum about an emergency response we need to ensure that we have the capacity to make a difference now, not to simply be saying, ‘Well, what we’re going to do is try to achieve just the basic levels of amenity that we all take for granted.’ We have said that we will achieve this. While it is important that we listen and consult widely, we have already done that. In terms of the report, if you look at this whole suite of recommendations I think you will see that they are behind us.

The Northern Territory government is to be commended and we are working very closely with them in this. Yes, we have had our differences about things and about the speed at which things are going, but fundamentally we are working with the Northern Territory government. I have to say that the senator has made some good points. It is extremely complex legislation and in many ways it is unique. It is very rare that we would have legislation that says: we will apply this legislation, but if the Northern Territory applies legislation then ours will lapse. It is very complicated, and it is not the normal way we would provide legislation. We would prefer most of the legislation with regard to the alcohol, for example, to be a provision of the Northern Territory legislation. That would make sense, and that is the way that would be. But in the interim, to show that this is something that needs to be done, we have rolled it out in this fashion. We have worked very closely with the Northern Territory government so that if they are prepared—and we believe they are in most of the fundamentals—they will be putting in legislation that reflects these things and then our legislation will lapse.

For all those reasons, yes, the legislation is complex, but this is necessary. Senator, the way you have to see this is that we need to get something done in our own lunchtime. For years and years, part of our failure has been that we have said: ‘We’ll think about it. We’ll take time.’ Clearly, that is not working. It has not worked. I am delighted to say that, in the communities where the intervention has moved in, people are in there helping other people in a practical way. That is all we are doing. I have heard the notion repeated in this place and in the media about the involvement of the Defence Force bringing guns and people in uniform. The only reason the Defence Force are in there is that they know the country—it is NORFORCE—and we needed some people who had licences to drive buses and trucks and the infrastructure to make it easier for people to get around. That was what that was about. Senator, you are quite right when you say people do get a bit anguished, but they will not be anguished when they actually understand what we are doing.

I have mentioned in my response to the Legal and Constitutional Affairs Committee report that principally we accept the recommendations in the report and we will be putting in a communications strategy. It is important that people understand exactly what our terminologies are and exactly what we as an Australian community are intending by these things. That is why we will be continuing to invest in those things. There will be a more comprehensive response to the report. In the first line of my response I said we will be supporting either in full or in part all of the recommendations in the report. The vast majority of the recommendations in the report are, I think, of most significance. But we will be properly responding to this report, and the minister is considering that response at the moment. But, again, with regard to the anguish on the ground, when people have learned the details they have welcomed it.

Senator SIEWERT (Western Australia) (8.19 pm)—I want to return to the issue of the Crime Commission, because there was an
important point that I perhaps misinterpreted from the minister’s answer. I understood from the minister’s answer that, while the provisions that are being put into the act in relation to the Crime Commission were to do with Indigenous violence and child abuse, it would be aimed at both non-Indigenous and Indigenous perpetrators. I have read the bill, and this is where I may be misinterpreting either what the minister just said or the bill. The bill identifies Indigenous violence or child abuse as serious violence or child abuse committed ‘by or against or involving’ an Indigenous person. My interpretation of that is that that means ‘by an Indigenous person’, not ‘by a non-Indigenous person’. Can the government please clarify what it means? Does this actually relate specifically to Indigenous people? The Little children are sacred report said Indigenous child abuse occurs by non-Indigenous perpetrators, yet if I am interpreting the legislation correctly it says it is just ‘by Indigenous’ persons.

The TEMPORARY CHAIRMAN (Senator Sandy Macdonald)—Senator Siewert, if I can interrupt, I think aspects concerning the National Crime Commission refer in fact to the families, community services and Indigenous affairs bill, which is the next bill we are going to deal with. I just make that point.

Senator SIEWERT (Western Australia) (8.21 pm)—I understand that at the moment we are in general discussion. I understand we are asking general questions at the moment, as we were doing earlier.

The TEMPORARY CHAIRMAN—Point taken, Senator Siewert. I was just pointing that out to you.

Senator SCULLION (Northern Territory—Minister for Community Services) (8.21 pm)—Senator Siewert, as you read the explanatory memorandum, I hope you noted that it was ‘by or involving’. We are absolutely clear: the intent of the legislation is to protect Indigenous children. The perpetrators can be anyone, as long as the victim is an Indigenous person. If the victim is an Indigenous person, this is the trigger. It does not matter what the ethnicity of the perpetrator is. If the perpetrator is a white person then under this legislation the powers of the Crime Commission will equally apply.

Senator BARTLETT (Queensland) (8.22 pm)—The minister still has not answered the question about the Scrutiny of Bills Committee report. He once again referred to the Legal and Constitutional Affairs Committee report. Maybe we have a new task for our new President; he can abolish the Scrutiny of Bills Committees because they are seen by the government as completely irrelevant. The committee tables this thing called an Alert Digest. That means be alert, look at it, read it. The committee report was unanimous across the parties with a record number of concerns touching on its terms of reference. They are not policy based but are based on fundamental principles that should be applied to every piece of legislation that is considered and passed by this chamber. Is there any recognition from the government that this even exists? We are talking about fundamental breaches of civil rights and freedoms. You can put forward a rationale and justifications for it, but do not just ignore the whole thing as if it did not exist, and do not just give us a bunch of assertions and a few travel stories.

Is there any intent or desire to engage genuinely on this issue or are we just going to get dismissal after dismissal? It is incomprehensible that there is no recognition of the role of this committee, which has been in existence for decades, and the importance of the issues that it looks at day after day. You are a minister now, Senator Scullion; you are supposed to look at this stuff. I know you are not the primary minister, but you should
know that that is what it is there for. I am sure you have not been a minister long enough to forget what it is like not to be a minister and to forget about the role that committees play. These are fundamental, non-partisan, basic issues before we get into some of the policy detail. Is there going to be any response to that? Can the Senate expect that response whilst we are still considering the legislation or will we get some perfunctory piece of rubbish some time down the track when you can be bothered?

I am still very perplexed about the status of the Little children are sacred report. Even in some of the previous responses to the issues raised by others—and certainly in responses to the very short Senate committee process that we had—the government kept going back and saying, ‘Well, the Little children are sacred report raised this,’ or ‘as the Little children are sacred report said’, but now we are told it is all behind us. The Northern Territory government got slagged from one end of the country to the other—probably quite justifiably—for not responding to it quickly enough, and the next thing we knew, it was behind us.

Senator Crossin—And they didn’t want the authors to be at the Senate committee inquiry.

Senator BARTLETT—That is certainly correct, Senator Crossin. What is the status of that report? Can we just throw this out now? It has informed the government and now we can just forget about it! The recommendations are now gone and irrelevant! The Northern Territory government is actually about to respond to it, as I understand it; are you going to say: ‘Actually, don’t bother now; it’s past us. We’re on to some new world’? Is that the status of the Little children are sacred report? I think it is useful, because a lot of work went into this. There was a lot of trust-building with Indigenous communities. I would remind the minister that it was not the second recommendation but the second part of the first recommendation which said that it is critical that both governments—not just the Territory government—commit to genuine consultation in designing initiatives for Aboriginal communities.

If Senator Scullion thinks that he is the first person on the planet who can design an initiative to assist any community in a colonised society, let alone an Indigenous community, without consulting the community and that it will work, then he really has a messiah complex. That is not even basic public policy 101; it is whatever comes before that—it is high school stuff.

There is a notion that consultation means delay. I guess for a government that are not used to consulting it is understandable that they do not comprehend that it is possible to consult as you are doing things—working with people continually and moving forward. We had some indication in the Senate committee process that there was some intent to do that, and I know that there has been some consultation happening here and there. Consultation does not equal delay; consultation means making sure your implementation is more likely to work, because you are working with the people that you are implementing for.

The key question is: what is going on with the Scrutiny of Bills Committee report and the issues that were raised? Are they just some bit of arcane parliamentary trivia that we in the Senate—or certainly you in the government—do not need to concern ourselves with? What is the status of the Little children are sacred report? Many of the people in the Territory who put a lot of trust in the people putting this report together and who opened up on very difficult issues and provided the data that has been used to high-
light the concerns and the need for action are still working off this as something of a guide for the way forward—obviously in conjunction with what the federal government is now doing and in conjunction with what the Territory government is now doing. Is that now all behind us? Has that now been superseded? Is that the understanding that people out in the wider community should have?

I think it is important to be here for the long haul, which we all say we are here for—I certainly commit to that on behalf of the Democrats and me. There is no point in one group of people being here for the long haul and working with this thing, and another group of people working for the long haul and saying that this is all passe. We have to try and get some common ground here. I am sure we will not get common ground on the legislation but we have to have some common ground about where we are going forward from. We need some clarification about what the government’s relationship, understanding and attitude is towards the Little children are sacred report. That is an important issue that we need answers to.

Senator SCULLION (Northern Territory—Minister for Community Services) (8.29 pm)—We have been basically referring to two reports. Just for the record to make it absolutely clear, the Senate Standing Committee for the Scrutiny of Bills Alert Digest report says that the minister will consider carefully, as he always does, and he will make his report to the chairman, as he has always done. That is the convention. The minister will also consider the recommendations of the Legal and Constitutional Affairs Committee. I have already outlined the principles of our acceptance of the recommendations of the report—not all of them, but there is broad acceptance—and I support the majority of the recommendations put forward.

There was a comment that it was not the second recommendation but part 2 of the first recommendation. I was simply responding to your assertion that it was the second recommendation and I apologise if there was any error in my understanding of that.

In terms of the recommendations of the Little children are sacred report, frankly, I think that most people who have had much to do with this debate and those who have considered both the shocking content of the report and the recommendations could not help but be underwhelmed, Senator. I do not think that you should be anything but disappointed. As for it being very bureaucratic and having more consultation, you say that consultation does not mean delay. We have been consulting. If you look back over time, in July 2006 we had a summit that everybody contributed to about child abuse and violence. There was a series of reports, and Senator Heffernan made an excellent contribution earlier in which he referred to another report, and we are now saying: ‘We won’t really delay, but let’s go and talk about these things again. Let’s go and have another round of consultation about something we already know about.’ If we read the report, we are all, as Australians, absolutely horrified and shocked by it—and so we should be. Whilst the report talks about advisory bodies and frameworks and reviewers and coordinators, one of the things that it seems to lack, fundamentally, is action. Perhaps that is the difference between how this government views it and how others view it. We have spent years on consultation and there has been no action at all. I am very cautious and respectful, but, if you consulted with the kids or women who are being abused or the families of those people, they would say: ‘Act now. Act yesterday.’

Senator Bartlett—What do you think they have been doing for the last few year in putting the report together?
Senator SCULLION—I could not quite catch the interjection. As a response to the report, we are talking about consultation. We have had, as the Senate indicates, widespread consultation not only through the Little children are sacred report but through a series of reports. To damn this government for not consulting in this particular area is inappropriate. We have consulted to death and this government proudly stands by the fact that this situation deserves action, and that is exactly what has happened.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (8.33 pm)—I do not want to delay the committee in terms of this debate but I do want to make a couple of observations. The key point that Senator Bartlett is making is not whether you have consulted but whether you actually listen to anybody or whether you press on in this determination that you know best and that no-one else’s opinion is of any value. Your having just trashed the Little children are sacred report again raises the question of whether you listen to anybody.

There has been a lot of concern in the community about failure to listen to Indigenous voices. It seems you have now dismissed the Little children are sacred report, and I know from the treatment of parliamentarians in the opposition what has happened. The opposition offered bipartisan support for the emergency response yet they saw the bills when the parliament resumed. Who did you talk to in between times? Who was consulted as you drafted the legislation? As I understand, it was all driven inside FaCSIA. The question is not whether you have consulted or have been engaged, but what happens next.

I think the minister has engaged with Indigenous issues in a way previous ministers have not, and I give him credit for that. He has actually taken a keen interest, while I think that some of the others prior to him did not do that. So I am the first to give him credit for that. But what worries me is his absolute conviction that, having come to Indigenous affairs in the last 18 months with no knowledge or interest before that, somehow he has got a magic solution to every problem and he knows best. I find that frightening. The one thing that I understand about Indigenous affairs is that the solutions are complex, difficult and hard to achieve. If there were a simple solution to all the issues in Indigenous affairs, someone would have come across it before Minister Brough. Certainly when I was shadow spokesman it struck me how enormous the task was and how complex the challenges were. I reject and cannot accept that somehow there is some simplistic solution, particularly when it means the minister taking over complete control.

I think that what Senator Bartlett is focusing on is that we have just had the Little children are sacred report trashed. We have had no response to the serious concerns raised in the Senate Standing Committee for the Scrutiny of Bills Alert Digest, which expresses and raises serious concerns about the transfer of power from the parliament to the minister. It gives the minister some of the widest powers in any legislation to override the act, to take powers unto himself that have traditionally not been powers that this parliament has granted. So it is a very serious question, but we get no answer. We do not get a sense that anyone is listening.

The government have said that they will pass the bill and look at that later. But people say: ‘Are you listening? Do you understand and are you responding? Or are you so convinced that you know everything that no-one else has anything to contribute to the debate?’ I would like the minister to indicate, for instance, whether the government are
going to accept or support any of the amendments moved. I notice that for the first time in living memory, I think, on a large set of bills there are no government amendments. I cannot recall the last time on a set of large bills drawn up so quickly that we did not have any government amendments. Usually the government—even this government, unrestricted in the Senate, having the numbers to do what they want—move large numbers of amendments as they realise the faults in the legislation, as they listen to responses and as they listen to what people say to them. Therefore I would like to ask the question: will the government support any amendment moved by the opposition, the Democrats or the Greens and will the government respond in any way in terms of the legislation to the legal and constitutional committee report? They say they accept many of its recommendations, but there are no government amendments reflecting that—nothing reflects that report.

I do not want to know whether you are consulting, Minister. I want to know whether you are listening, whether you think anybody else has a view of any value in this debate, whether or not the Senate is going to play any useful role today or whether, as seems apparent, no amendments will be entertained. I know the minister was forced into having the Senate inquiry by other ministers concerned about another example of the government’s abuse of Senate power, so we had the farce of a one-day committee. It has been the minister’s practice in bringing legislation before this place that everything has to be passed within a week. Labor accepts this as urgent. We have given you the cut-off; we have brought it on and we have indicated that we are going to deal with this urgently. I think there is not enough focus from some of my colleagues in the Senate on the enormity of the threat to children and the need for an urgent response. Labor absolutely accepts that.

I am not going to bore people by going through all the reports similar to this that there has been no urgent response to. I am not going to score cheap political points about all the times the government has not responded in any way, let alone urgently or adequately, but I think it is important that we understand whether or not the government is at all interested in listening to anyone—be they senators, be they Indigenous people or be they anyone who has taken an interest in the matter.

I could not help myself, Mr Temporary Chairman: the references to consulting at Wadeye et cetera got my goat up because I understand the minister went out there and lectured people. I met with the local people not long after his first visit, and they were certainly very offended by the manner in which he treated them—I think he got some national TV coverage. I remind the minister that the last revolution in Indigenous affairs that this government championed was the quiet revolution. This was the last one before this one, not the one before that or the one before that in the 11 years of the Howard government, which has found the solution to Indigenous affairs. The last one before this one was what was termed the ‘quiet revolution’. Dr Shergold indicated it was a bold experiment in implementing a whole-of-government approach to policy development and delivery.

FaCSIA, which is driving these changes, was charged with the responsibility of transforming Wadeye and for providing answers to their housing, employment, youth, violence and other issues, and on the report that the department and the minister commissioned FaCSIA absolutely failed to meet its obligations to those people. The trial was a complete failure, as were the other seven,
and the bureaucracy and government failed to deliver on its promises to those people. If you are going to talk to me about Wadeye, Minister, talk to the chamber: let us have the whole story. Let us have the story about this government’s failures in Wadeye as well and about its failures to deliver on the promises made by previous ministers and by the government.

I do not take any pleasure in this because I am the first to admit that previous Labor governments have failed in their experiments as well. I did not make myself too popular with a few of my colleagues by saying so a while back, but you have got to admit the reality. I do not want to be lectured about FaCSIA’s engagement with Wadeye, given their failure and the government’s failures there. We have got to admit that government has been part of the problem and has failed these people in the past. Having got that off my chest, the key question—

Senator Crossin—I think they spend 10 times more now in administration money.

Senator CHRIS EVANS—Yes. I will not go through it all. I refer you to a very good speech I gave on the matter, Senator Crossin.

The TEMPORARY CHAIRMAN (Senator Murray)—Order! Please direct your remarks to the chair.

Senator CHRIS EVANS—I apologise, Mr Temporary Chairman. The reason I rose is to say: do not tell the Senate that the government have consulted. The question is: are they listening? I suppose the best way of bringing that question to a head is by asking: will the government move any amendments following the Senate legal and constitutional report on the bill and will the government accept or support any of the amendments to this legislation proposed by anyone other than the government and their own department?

Senator SCULLION (Northern Territory—Minister for Community Services) (8.42 pm)—The Leader of the Opposition in the Senate accuses us of perhaps not listening, even if we have consulted, and reflects upon me not lecturing people, particularly about the circumstances of Wadeye. Senator Evans, it is tremendous to see that someone like you has gone out on the ground and has met people. I acknowledge the work that you have done in that area and I think it is important, but I cannot let some of those comments pass when you talk about FaCSIA going into these communities. I know that the minister has been in Wadeye five or six times, and I have been with him on a number of occasions and I was there on the first occasion that you reflect on.

The minister visited Wadeye in very troubled times—I think that has been well enough reported—but on a number of other occasions I know that he has gone out of his way to sit down for long periods of time, not in the council surroundings but under a tree with the women and the children. When you go to Wadeye now with Minister Brough, he is nothing less than loved because of the effort that he has put into sitting down and listening to the people on the ground—not necessarily the leaders, but at every level including the women and the children. He has spent a great deal of time there.

I am not being glib, Senator Evans, when I say that the minister has consulted and he has listened, and I think he has a very clear idea of the needs of the communities. That is why it is not an unsophisticated intervention that just deals with issue of child abuse. Those opposite, including Senator Crossin, remind us often that you cannot just deal with one part of this. This is a suite of challenges: infrastructure, education, having enough food on the plate and having a community store where you can buy food are all fundamental elements of this. That is why
the intervention has dealt with this solution over such complex areas with a sophisticated and complex response.

I acknowledge the comment about the COAG trials: they were not the most successful. One of the elements of the COAG trials was the partnership approach, which ensured that the Commonwealth worked with the Northern Territory Labor government and the local councils. It was the intention on all sides not to duplicate. Perhaps we had the critical mass. I agree: the trials can reasonably be described as a monumental failure—and I was on that program. So we cannot keep doing the same sort of stuff. The circumstances in Wadeye often reflect those in many of the other areas around the Northern Territory. We have been listening not only to the senators opposite but to the many commentators in the media and, for a very long time, to the people on the ground. Senator, we have been listening. That is why, when we acted, we did things that we thought would make a great deal of difference on the ground.

You have made some remarks about the dismissal of the report. I certainly was not dismissive of the report. It was a fantastic report. I dismissed out of hand the recommendations of the report, and I stand by that. The report was not a report on us. The report, which was a series of recommendations, was given to the Northern Territory government. As I said, I am delighted to see that the Northern Territory government will be responding to those recommendations in a few days. What we have done is respond to the fundamental elements of the report. We knew that we needed to again provide the rule of law. We knew that we had to stop the amount of alcohol going into the communities and the degree to which that alcohol was impacting on the interaction within families. We also needed to deal with the issue of infrastructure, as well as the long-term issue of education: ‘You cannot have a passport to the front gate unless you have an education.’ There are a whole suite of issues that we have dealt with comprehensively.

I can understand your perspective on this. You would not have the intimate knowledge that I have of the minister’s capacity to listen and to interact with the community. He did that so many times, not just in one community but right across the Northern Territory. He has taken a personal role in this, as you acknowledge, which is rare. It has been a real privilege to be with him. He is very much a listener. Much of the response is a result of what he heard. It is an emergency response. The fundamentals for changing the nature of those communities are contained within that response. I acknowledge the fact that, principally, Labor are not debating those issues and that you support us on those fundamentals. I particularly acknowledge that you recognise this as a matter of urgency and that we have to get in there and move things. All I can recommended, shadow minister, is that you speak again with those communities. I am sure you will, because you have contacts in the Indigenous community. Certainly Senator Crossin has contacts in those communities.

All the feedback from the communities—which is unfiltered feedback—is that the intervention has been delightfully received. It was reported in the newspaper that a 10-year-old in Maningrida had been raped. This occurred some two weeks into the so-called ‘break’, but maybe it was about 10 days after the announcement. The article in the paper reported that the entire community surrounded the house where the incident occurred and had to be dissuaded from taking things into their own hands. I am not sure whether that would have happened before the intervention. I feel a sense that these communities are becoming empowered, particularly the women. This will ensure that the
circumstances that we read about in the report will be a thing of the past. Senator, while I accept that those on the other side are allowed some cynicism and some leeway, I would assure you that the intervention is in the best interests of our most vulnerable First Australians.

Senator CROSSIN (Northern Territory) (8.48 pm)—I do not want to waste the Senate’s time this evening by going over a series of platitudes, because it is clear that this government does not listen and certainly does not want to work cooperatively with Indigenous people. I would like to spend some time drilling down into the detail of the legislation. I would like clarification on a number of questions. Could you clearly explain to me what the role of the business managers will be in the communities and how they will intercept, work with or replace the CEOs of community councils?

Senator SCULLION (Northern Territory—Minister for Community Services) (8.49 pm)—The title of ‘manager of government business’ is in some way a recognition of the learnings we gained from the outcomes of the failed COAG trials, which were referred to a little earlier. We know that people in Wadeye and in other places need help—they need assistance—with their governance arrangements. It is not interdicting; it is not saying, ‘We’re going to usurp you and you are going to be moved aside.’ The manager of government business in the community will add another layer of assistance to ensure that communities have the administrative capacity. It will ensure that they can get assistance with any of the management arrangements. So it is not about usurping any of the original arrangements; it is about working alongside people and assisting and supporting them with those governance and administrative arrangements.

Senator CROSSIN (Northern Territory) (8.49 pm)—I want some specific answers here. I would like to know exactly what those people will be expected to do on a day-to-day basis and whether or not it is your intention that they will replace community councils, they will have the power to replace community councils, they will replace the CEOs of community councils or they will work closely with the CEOs of community councils.

The TEMPORARY CHAIRMAN (Senator Murray)—Senator Crossin, just for propriety, could you address your questions through the chair?

Senator CROSSIN—Yes.

Senator SCULLION (Northern Territory—Minister for Community Services) (8.50 pm)—The notion that the government business managers will be working alongside people will vary from community to community. We accept that one of the most important parts of the intervention is to recognise the diversity of the communities and where they are up to. Many are wonderful, strong, vibrant, operational communities and, at the other end of the scale, there are dysfunctional communities, with very few governance arrangements that one could put any trust in. So, when the government business managers move in to improve the delivery of the services in the prescribed communities in the Northern Territory, they will do it in a way that reflects on the particular circumstances of a community.

Four FaCSIA staff have been deployed to cover Kintore, Imanpa, Titjikala, Santa Theresa, Finke, Mutitjulu and Yuendumu in the southern part of the Northern Territory. You may not be aware of this, but we would anticipate another 25 to 30 applicants who will be offered the government business management position. We have not determined the destinations, the designations and
the deployment dates as yet. They will be affected by release dates from the current agencies. You can imagine the challenges with housing in some of these areas. There is no set time for these to be rolled out. The principle is that there are different circumstances in each community, and those circumstances will be taken into consideration in terms of the role of the government business manager.

Senator CROSSIN (Northern Territory) (8.52 pm)—I understand there currently is a representative of FaCSIA at Wadeye. Could you tell me whether that person will become the government business manager? Are there any protocols for these government business managers? As I understand it, that person at Wadeye fails to communicate quite regularly with the CEO and the councils. Are you telling me that that will now drastically change?

Senator SCULLION (Northern Territory—Minister for Community Services) (8.52 pm)—The FaCSIA member, as is well known to the senator, has been in the community for some time and is not necessarily part of the deployment. The individual is an asset of FaCSIA. The capacity for that particular individual to be able to interact as successfully as he has in that community will continue. I have no information about his actual delegation, whether he has been blessed as a government business manager or not, but I know he remains in the community and he continues to assist us. But I am not able to provide you with information about his exact status. He has been in the community for a long time. We expect a valuable asset like this particular individual to remain in the community for some time to generally assist with governance arrangements, as he has, and no doubt in the future it will be in the context of the intervention.

Senator CROSSIN (Northern Territory) (8.53 pm)—Can you take that question on notice and at some stage provide me with a response?

Senator SCULLION (Northern Territory—Minister for Community Services) (8.53 pm)—Frankly, I would prefer not to. It is a lot of work to take something on notice. As I said, it is unclear in each community whether or not a particular delegation of one individual in one community is made. Frankly, I do not know how helpful it is in terms of the consideration of the legislation. As I said, at this stage my answer is that I am unaware of that. If you insist I take it on notice, I will. I just am not really sure of the context of the question in relation to the legislation.

Senator CROSSIN (Northern Territory) (8.54 pm)—That is extraordinary. We have a situation where we have been given legislation less than 10 days ago and we have a very rare opportunity to drill down into how this legislation is going to work on the ground. I am asking for a specific response to how this will work on the ground at Wadeye, seeing that you already have a FaCSIA member there. My question is: will this person become the government business manager? I do not think it is unreasonable to take that question on notice and give us a response to that.

Senator SCULLION (Northern Territory—Minister for Community Services) (8.54 pm)—I will take that on notice. But, as I said, the delegation has not been made yet. If we make a decision to give him a particular job I am not sure at that time that I should inform the Senate. But between now and then I am unable to provide any more information because the delegation has not yet been made. I am not being difficult. I will give you as much information as the department can provide on that matter.

Senator CROSSIN (Northern Territory) (8.55 pm)—I did also ask whether there were
any protocols being developed that government business managers would need to follow as guidelines in dealing with community councils and the CEOs of those councils.

Senator SCULLION (Northern Territory—Minister for Community Services) (8.55 pm)—Perhaps this is not in relation to that particular individual, because he is a very experienced individual, but the remainder will have to have predeployment orientation training. That has already commenced. That is going to include cross-cultural training, particular occupational health issues that one would meet in a community that one may not have experienced in other parts of their lives, four-wheel drive defensive driving—whilst one may raise their eyebrows about that, it is very important for those people who have not driven a four-wheel drive; it is a very different experience, particularly on some of the roads in those areas—and financial management. Some of the experienced applicants, as I said, will simply require a top-up in a whole range of those skills. But the orientation is to prepare individuals so that they can provide the very best level of amenity that they would normally provide outside the community. They will be able to provide that as best they can in a community context.

Senator CROSSIN (Northern Territory) (8.56 pm)—Perhaps I am not making myself clear enough, but I did not actually ask about induction or preparation for placement in these communities. I asked whether there in fact were protocols in place which were a clear line of principles or understanding between the government business managers and their interaction with community councils and CEOs.

Senator SCULLION (Northern Territory—Minister for Community Services) (8.56 pm)—There will be, particularly in the area of trying to pick up some of the cultural sensitivities. Those protocols will be articulated. If you are asking whether I have some now: no, they are not available to me. I will pre-empt your next question: ‘When they are available, will you provide them?’ The answer is yes.

Senator CROSSIN (Northern Territory) (8.57 pm)—Can I now ask why Elliott Community Council has not been considered as one of the 70 communities, given that, as I understand it, the criteria were those communities of 100 or more residents? Elliott has 650 residents. It is deemed, as I understand it, to be a town camp. If that is the case, could the minister please explain a ‘town camp’? To which town is it associated, seeing that it is 700 kilometres south of Darwin and 780 kilometres north of Alice Springs?

Senator SCULLION (Northern Territory—Minister for Community Services) (8.57 pm)—As the senator should know, the circumstances of Elliott are quite different. It is clearly not on Aboriginal land, which makes it quite different from a number of the other communities. But, as I said in an earlier submission, the community of Elliott have contacted us and said, ‘We would like to be added to the list.’ We are considering that, and we will be working very closely with the community. We will be listening to and consulting with the community and we will be ensuring that we make a decision on that. We have only just had the submission from them to join the communities. But the principal answer to your question on the difference between Elliott and other communities is that it is in fact not on scheduled Indigenous land as the remainder of the other communities that were prescribed would have been.

Senator CROSSIN (Northern Territory) (8.58 pm)—Even though other communities may be on scheduled community land but are
under different kinds of schedules of community land. Can you clarify for me, then, why they may well have been assessed as a town camp?

Senator SCULLION (Northern Territory—Minister for Community Services) (8.58 pm)—I am sorry, Senator, could you repeat the question.

Senator CROSSIN (Northern Territory) (8.59 pm)—The community at Elliott have been advised that they are not part of the 70 because they were assessed as being a town camp and were, therefore, not consulted during the initial stage of the meetings.

Senator SCULLION (Northern Territory—Minister for Community Services) (8.59 pm)—I am sorry I am not able to provide the committee with a reason for that, but I am advised that we are considering the inclusion of the township of Elliott in the list. I am unaware of any conversation that provided information that they were, in fact, a town camp. As I said, the most important point with regard to Elliott is that they have contacted us and we are in active consideration of ensuring that they have the same level of amenity provided to them as to others on the list.

Senator CROSSIN (Northern Territory) (8.59 pm)—I do not know if the minister has seen the letter to Minister Brough from Elliott Community Council dated 19 July. Maybe he will get further or better information about that as the night proceeds. If nothing else is forthcoming, I will pass that on to Elliott council.

Senator SCULLION (Northern Territory—Minister for Community Services) (8.59 pm)—I have further information that four major towns have been excluded. As you have indicated, they are not covered under the Aboriginal land rights act, which is a significant difference between Elliott and other communities. Elliott is not on a Northern Territory community living area, which was the other determination, I suppose, to encompass the demographic. That is the reason it was left off. I am unaware of a letter. If you would like to pass it to me, I would be better apprised of it and I would be more than happy to take a further question later on the matter.

The TEMPORARY CHAIRMAN (Senator Murray)—Senator Crossin, do you wish to table that letter?

Senator CROSSIN (Northern Territory) (9.00 pm)—I am happy to table it, but it is actually a letter that was sent to Minister Brough, so I am sure it is somewhere in the bowels of the government. I am happy to table a copy of it; I am sure they would not mind. Minister Scullion, what you say reaffirms to me that these communities have been chosen for anything other than their level of child abuse. I do not know the answer to this, but I understand that, in Elliott, 12 children were identified as being alleged victims of child sexual abuse. It begs the question as to whether this government really has the objective of tackling child sex abuse when Elliott is known to have had 12 cases and yet is excluded from the mix. I seek leave to table the letter.

Leave granted.

Senator SCULLION (Northern Territory—Minister for Community Services) (9.01 pm)—I should clarify a couple of points in relation to the last submission from Senator Crossin. The government decision was not to exclude Elliott but, in the nature of a decision, sometimes things are excluded. In the description we said that there would be four major towns that have a strong association with camps. There was no intent at any stage to exclude towns or any Indigenous community that might be affected by these reforms. We are being extremely flexible. As you indicated, we have also received
submissions from Elliott which indicate that they would like to be a part of it and, as I have said, the issues you spoke about are to be reflected and they are currently being considered by government.

**Senator CROSSIN (Northern Territory)**

(9.02 pm)—I want to move on to some other areas of the legislation. On page 19, clause 22 allows the Commonwealth minister to repeal part of the bill. That is not subject to any parliamentary approval or disapproval. The clause says that the Commonwealth minister may declare that this division, or specified divisions of this division, cease to have effect. Could you give me an indication of under what circumstances this unprecedented action may occur from the minister?

**Senator SCULLION (Northern Territory—Minister for Community Services)**

(9.03 pm)—Clearly, the intent of this particular aspect was a declaration by the Commonwealth minister in regard to alcohol. We understand that the Northern Territory government is preparing legislation over the next few months that will ensure that these provisions are covered by their legislation. That being the case, this legislation would then lapse.

**Senator CROSSIN (Northern Territory)**

(9.04 pm)—I am trying to get some clarification here in some of the sections. On page 22, clause 26 talks about filters on computers. Again, the minister will determine what kind of filter is to be installed on computers and it is an offence not to have a filter. Why would this determination be authorised in the minister rather than delegated powers? My second question is: I have a computer issued to me through the federal Public Service, so when can I expect someone to come and install that filter on my computer before I go out bush again?

**Senator SCULLION (Northern Territory—Minister for Community Services)**

(9.05 pm)—The reason the power is vested in the minister is that it is simply a mechanism by which we can ensure that we apply the same standard. As you would be aware, there are a number of different filters. I am the standard Luddite but I am told that there are a whole range of different filters and the minimum level of filter that is required was to be determined by the minister and was not to be a choice, as I understand. Should you be travelling into the community, Senator, I would recommend that you get in touch with my office. I am more than happy to ensure that FaCSIA are directed to your particular equipment and they will make some sort of an assessment of it. I am quite sure that other individuals travelling through the community would have access to the same level of amenity. I am unable to provide any further information on the particular aspects of your computer or how we can provide you with a filter.

**Senator CROSSIN (Northern Territory)**

(9.06 pm)—What will the mechanism be for members of parliament and their staff to ensure that we comply with this legislation?

**Senator SCULLION (Northern Territory—Minister for Community Services)**

(9.06 pm)—Probably the best way, since you are keen to travel to these communities, is that you should install a filter yourself. I am not sure of the particular technical level, but I will take that on notice and will advise the senator of the exact level of standards as they come to hand.

**Senator CROSSIN (Northern Territory)**

(9.06 pm)—Thank you. We will be travelling to a community on Saturday, so I hope I am not in breach of this legislation if I happen to take my computer with me. We would like to comply as soon as possible if that is the case. On page 45, clause 53 exempts the Public Works Committee from examining any work
under this legislation for five years. Why is that the case?

Senator SCULLION (Northern Territory—Minister for Community Services) (9.07 pm)—Again, it does go to the nature of the intervention. This is an emergency. While the intent of the Public Works Act is, in normal circumstances, to provide a series of standards and processes under which you may need to move to dig a ditch or to plan something, we think in the nature of the emergency we need to ensure that we can do this in a timely fashion. As with the other governance arrangements that I touched on in a previous submission, it is clear that we do need to move swiftly. We want to ensure that standards will be maintained, but we also need to ensure that we do not have to refer to some other piece of legislation that may not assist us in that matter. With regard to your previous question, I understand that we will not be enacting this legislation for some 28 days. So one would hope, as we will be sitting again before that time, that I can provide information to you. You will not be unlawful travelling to the community on Saturday, and it gives us some time to provide you with this highly technical piece of information.

Senator CROSSIN (Northern Territory) (9.08 pm)—What a relief! Minister, could you give me an indication of what works you might anticipate will be built on communities that would need to be exempt from the Public Works Committee?

Senator SCULLION (Northern Territory—Minister for Community Services) (9.08 pm)—That is a technical question. I could probably say pretty much anything that you would build on a community is within the scope of public works. The general infrastructure that we are dealing with is housing and associated infrastructure. So the infrastructure that we would put in is the houses and the supporting infrastructure. It is the intention that that would be the basic and principal activity that we would wish to be exempted from the public works process.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (9.09 pm)—Did the minister just say that the act will not be implemented for another 28 days? I am not sure that I was aware of that. I understood that we had to deal with the bill this fortnight because of the urgency, and Labor supported the urgency of these measures. In fact, we were going to have the parliament recalled. Am I now to understand that it will not be enacted for 28 days?

Senator SCULLION (Northern Territory—Minister for Community Services) (9.09 pm)—I did not intend to mislead you, Senator Evans. It is only criminal offences that flow from the legislation that will not be enacted until 28 days after assent. I understand that is the usual process.

Senator Chris Evans—The rest goes on assent?

Senator SCULLION—Indeed.

Senator CROSSIN (Northern Territory) (9.10 pm)—I would like to get some further clarification about the Public Works Committee. I am not on the Public Works Committee, but I understand they only kick in and look at work to be built by the Commonwealth if it is above a certain threshold. I am not entirely sure what that threshold is, but I am pretty sure it would be many more hundreds of thousands of dollars beyond that. Minister, I still ask what it is you might envisage you would build on a community that would exceed that large amount of money and that this would prohibit the Public Works Committee from looking at.

Senator SCULLION (Northern Territory—Minister for Community Services)
It is not the matter of a single house or infrastructure. As you would know, a large amount of infrastructure is required on these communities, and it may well be a large number of houses and associated infrastructure. Like you, I have no knowledge of the threshold required by the Public Works Committee, but I would imagine that the nature and the size of the infrastructure required in this particular challenge would be something that might well fall within their purview.

Senator CROSSIN (Northern Territory) (9.11 pm)—Minister, can I take you to page 51 of the bill and ask you to explain clause 63(2), where it talks about appropriation. It says: Amounts referred to in subsection (1) are payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

Are we talking about funds that will be appropriated, with the passage of these bills, to the amount of $587 million, or are we talking about funds in addition to that?

Senator SCULLION (Northern Territory—Minister for Community Services) (9.11 pm)—There are a lot of blank faces here, Senator Crossin. Perhaps I can take that on notice. I intended to discuss the appropriation bills at the time they were discussed. I recognise that this is in general discussion but, if you can give me leeway of a few minutes, I will do my best to find out exactly what that particular part of the clause refers to and perhaps give you some more information with regard to the consolidated revenue fund.

Senator CROSSIN (Northern Territory) (9.12 pm)—I am not clear, but I think it perhaps refers to funds that are needed for just terms compensation, which we might get to debate. This is under division 4: ‘Compensation for acquisition of property’. Are we talking about funds that will be appropriated accordingly under this section and which will be released with the passage of these bills, or are we talking about funds that are yet unknown which will need to be released over the course of the next five years because the appropriation bills before us are only for 12 months?

Senator SCULLION (Northern Territory—Minister for Community Services) (9.13 pm)—The application of my reading glasses has revealed that you are in fact correct—that this does apply to that. I would make an assumption that it would follow that, as those circumstances have not yet been scrutinised, a particular sum has not been established. However, I think it would be more useful if I provided on notice the answer to your question.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.13 pm)—I had hoped that the minister would do just that while the committee is deliberating, because the clause is a continuing appropriation of an amount unknown to the Senate or to the parliament. We do not know what the parliament is committing the taxpayer to, and we should know. Before moving on from the appropriation clause, the committee needs to know the limit of the appropriation that the government can assure the parliament of. If the government cannot make that assurance by giving us the sum, what will the mechanism be for coming back to the parliament to properly account for the appropriation that would then be made by the government? Or is it that the government is planning to simply appropriate money without reference to the parliament by dint of this clause, which is open-ended and has no limit to it?

Senator SCULLION (Northern Territory—Minister for Community Services) (9.15 pm)—As the senator would be aware, since the time of the announcement of the intervention, we have said that a compulsory
acquisition would be compensated on just terms. We have said that will be the case. But we do not have a capacity at this stage, as you have indicated, to come up with a dollar figure for that amount. In terms of a further appreciation of what that sum may be, we will not be able to know that until such time as the negotiations are entered into or there is some sort of settlement. I understand that in the explanatory memorandum we look to the Valuer-General in the Northern Territory for an appreciation of what that may be. They are difficult issues. I will have to take the question on notice in terms of exactly how you will be able to scrutinise any further appreciation of funds at that time. I hope to get that information to you very shortly.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.16 pm)—That is an important matter for the parliament to be considering—because, otherwise, we hand across to the government unlimited access to consolidated revenue to fund legislation without there being parliamentary scrutiny or an ability to review the situation. The minister just said that compensation for properties taken off Indigenous people will be on just terms. He would be aware that section 51(xxxi) of the Constitution says:

51. The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to:

(xxxi) the acquisition of property on just terms from any State or person for any purpose in respect of which the Parliament has power to make laws.

The question then arises as to why ‘just terms’ is not used in the legislation. Division 4, clause 60, ‘Compensation for acquisition of property’, says:

However, if the operation of this Part, or an act referred to in paragraph (1)(b) or (c), would result in an acquisition of property to which paragraph 51(xxxi) of the Constitution applies from a person otherwise than on just terms, the Commonwealth is liable to pay a reasonable amount of compensation to the person.

So, immediately, this legislation goes outside the Constitution and contemplates the acquisition of property other than on just terms. The Constitution says that it must be on just terms, but the government’s legislation says ‘otherwise than on just terms’ and, where that occurs, the legislation says there will be a ‘reasonable amount of compensation to the person.’ What is reasonable here?

What we have in this situation is the Commonwealth taking the property of Indigenous communities against their wish and their will. I think there is little doubt that the Commonwealth has the power to do that under the Constitution—but, when it does that, it must come to a just terms arrangement. And the basis of a just terms arrangement, as the minister will know, is an agreement coming out of a mutual discussion and understanding between the parties. But there has been none here. The government are simply saying: ‘We’re coming to take your land; end of discussion. What’s more, instead of discussing what would be just terms, we are going to go outside just terms—we’ve got that in our legislation—and we’ll pay a reasonable amount.’ This is unconstitutional behaviour, drawn up by unreasonable people, saying, ‘We will resort to our reason, not the other party’s rights under the Constitution to be involved in the just determination of compensation.’

The minister just mentioned that the Northern Territory Valuer-General would work out what the property is worth. Is the minister not aware that property is not just land value according to the big end of town; that, for Indigenous people, property, amongst other things, has an inheritance. For Indigenous people, there is a deep bond with the land which cannot be duplicated some-
where else. It has an extremely valuable non-
tangible component for the people who are
being dispossessed here. You cannot simply
go to the Valuer-General as if that bond
means nothing and simply say, ‘Give us a
value of this land,’ as if some itinerant real
estate agent wanted to sell it to somebody.
That is not how it works. The minister may
not understand it and Prime Minister Howard
may have no idea of the relationship that
there is between Indigenous Australians and
their ancestral lands. It goes beyond owning
it; it is a relationship which is being part of
that land. I ask the minister how he is going
to assess the value to Indigenous Australians
of that relationship, that spiritual connection,
that ancient connection.

Where is even the beginning of a talk to
make an assessment of this dispossession of
Indigenous people’s land at a calculated
value according to a Valuer-General using
simple real estate values? It is a terrible
prospect and I think it is illegal. The opinion
of Mr Brian Walters SC ought to be noted
here because it is important that the govern-
ment understands that there are broad legal
opinions which find that the government is
acting outside the just terms required by the
Constitution. In fact, the committee was fur-
ished with Mr Walters’ opinion. The end of
that opinion states:
In my opinion the legislation purports to author-
ze the acquisition of property on terms other than
the “constitutional guarantee” of just terms.
In those circumstances, the courts would not have
a role of correcting the legislation by inserting
just terms. Rather, the legislation purporting to
authorize the acquisition of the property would be
struck down as void.
In my opinion all of the provisions in the legisla-
tion providing for acquisition of property other
than on “just terms” would be struck down as
void ab initio if they were enacted into law in
their present form.

This is a breach of the Constitution being
tried on in the Senate. This is the conserva-
tives breaking the highest law of this land,
which is the Constitution. This is a conserva-
tive government—and isn’t it so often the
case?—saying, ‘We are above the Constitu-
tion.’ The Prime Minister stands in front of
the flag and uses all the symbols of this na-
tion, but when it comes to Indigenous people
he wants to override the Constitution through
this legislation. Chair, you will understand,
even if the minister and the Prime Minister
do not, that you cannot do that.

This legislation challenges Indigenous
Australia. It says: ‘If you want to get your
constitutional rights you’re going to have to
go to court. The parliament is not going to
fix it up.’ Why isn’t the parliament going to
fix it up? Because the government has the
numbers and the parliament is being used as
a rubber stamp by the executive office of
Prime Minister Howard. They are saying:
‘We’ll fit out the Constitution. We’ll put it on
the shelf because we have a political aim
here.’ Not to put too fine a point on it, that
aim is to defraud the Aboriginal people of
their land using a valuation system which
ignores their relationship with their own
land. It ignores their rights and it ignores
60,000 years of cultural heritage and puts it
in the hands not of the Constitution, justice
or fair-mindedness but of the Valuer-General
of the Northern Territory, whoever that might
be. It is left to Indigenous Australians to try
to get their justice not in this parliament, be-
cause this government is turning this parlia-
ment into a hall of injustice here tonight, but
through the court in order to undo legislation
which should never be in here in this form.

Senator SCULLION (Northern Terri-
tory—Minister for Community Services)
(9.26 pm)—I was just musing on a contribu-
tion from Senator Bartlett when he said that
it is very sad on this occasion that we seem
so split on this. I agreed that it was very con-
cerning, but it is because of the sorts of sub-missions that we are getting from Senator Bob Brown. We come up here to look at something and he has to throw in ‘dispossession’, ‘unconstitutional’ and ‘the hall of injustice’. Maybe Senator Brown will get a moment on television and no doubt that is what he is here for. But, in terms of clarity, he could not have misled the Senate more on any of those issues. But he did ask two questions which I think are important. He asked how you reflect on ‘just terms’ and ‘reasonable compensation’ and those issues. Whilst I am not a lawyer, the government would not bring legislation into this place that is unconstitutional. We know that it would not get the support of our own members.

Perhaps I should go to the particular question of reasonable compensation and just terms. I am advised that that these terms are interchangeable for legislative drafting. When I made the inquiry I was told that the requirement is an objective one enforceable in the courts and is not left to the discretion of an official. By ‘an official’ I mean any legal authority. This formulation has been accepted by the courts and in particular was approved by the full bench of the Federal Court in the Minister for Primary Industry and Energy v Davey, which held that reasonable compensation fulfilled the requirement to pay just terms. While I am sure that you have had some legal advice that this is unconstitutional and this is a ‘hall of injustice’, Senator Brown, the facts of the matter are that we have checked this and ensured that this is not unconstitutional.

With regard to a couple of Senator Brown’s other throwaway comments, because we like to ensure that those who are listening remain outraged by your opposition to the fact that we are trying to help, remember that the background to this—and I know that Senator Brown perhaps failed to pass the background on—is that this is not compensation on just terms where we would own or take the land. This is a very unique circumstance. We will not own the land. We are not taking the land away. We are simply ensuring the governance arrangements for the swift provision of housing and infrastructure. We have specifically said that after five years, which is the general intent, we will have completed the job and the land will be automatically returned. It would need no act of parliament as it is simply a sunset clause and the land would be returned. They are very different circumstances.

The reason that I said that I was heartened by the fact that the Northern Territory Valuer-General was involved is that he is not any ordinary valuer-general. In fact, the Valuer-General is not some assistant to some grubby real estate agent, as perhaps Senator Brown would have us think. His organisation is internationally acclaimed as an organisation that takes into consideration cultural issues. His organisation is on the cutting edge. It takes into consideration spiritual issues, cultural issues and sacred sites. Even between Indigenous cultures there has to be recognition of compensation for those things. The Northern Territory Valuer-General has vast experience in that—and probably unique experience, even internationally. I have a great deal of faith that the Valuer-General of the Northern Territory is probably the only place that you would have the sorts of issues that Senator Brown brought up taken into consideration.

This legislation has been carefully thought out. Senator Brown has the notion that this is something that is unconstitutional or somehow dispossessing people. He well knows that they still own the land. Let us take away for a moment the cloak of mischief that you place on the legislation currently before the Senate. We are not there to create mischief; we are there to help provide the rule of law and order. We will help to provide the ordi-
nary amenities, services and houses that the rest of Australia takes for granted. I know that you wish to paint me and the government as usurpers or as being in there to dispossess land or to somehow do mischief to Indigenous Australians. But all Australians know—and they have carefully watched the interdiction process and are widely supportive of it—that there is no mischief intended by this; none whatsoever. I hope that that provides some clarity and specifically answers your question.

**Senator BOB BROWN** (Tasmania—Leader of the Australian Greens) (9.31 pm)—In referring to the process that is being undertaken here, the senator introduced the word ‘mischief’ from deep in his own mind. Specifically in response to that effort to answer my questions—which ducked the central point of those questions—could he turn to clause 60(1), which says:

(b) any act done in relation to the following land:

(ii) land that has been resumed, or land in respect of which a lease has been forfeited, by the Commonwealth under the Special Purposes Leases Act or the Crown Lands Act …

The minister indicated that they were not going to do that; they are simply taking it over and are going to give it back. Why is there this clause, then, talking about land that has been resumed or in respect of which a lease has been forfeited? Clause 60(2) reads:

However, if the operation of this Part, or an act referred to in paragraph (1)(b) or (c), would result in an acquisition of property to which paragraph 51(xxxi) of the Constitution applies from a person otherwise than on just terms? What on earth is that clause doing in there if it is not meant as it is written? Can the minister answer that?

**Senator SCULLION** (Northern Territory—Minister for Community Services) (9.33 pm)—I have been informed that it means exactly what it says. As I said earlier, that is what it means: just terms or reasonable compensation.

**Senator BOB BROWN** (Tasmania—Leader of the Australian Greens) (9.34 pm)—The minister is totally caught out by this legislation and cannot give an answer. But I will tell you what the legislation says: it says that there are going to be acquisitions of land on unjust terms. Where that happens, what is now called a ‘reasonable amount of compensation’ will be afforded to the person. You cannot read it any other way. The minister is unable to answer. I am sorry for him; he has been put in this position by the people who wrote this legislation. But it means what it says. I have here the opinion of Mr Brian Walters, senior counsel, which I read from earlier. I seek leave for this opinion to be incorporated into the *Hansard*.

Leave granted.

The document read as follows—

Legislation concerning the “National Emergency Response” in the Northern Territory

I have been asked to consider the legislation introduced into the Commonwealth Parliament in relation to the so-called “national emergency response” in the Northern Territory. Due to the very substantial size of the legislation, which comprises several Bills, and the complexity and novelty of its provisions, and the short notice available for its consideration, only a brief and provisional advice is currently possible.

I focus for the purpose of this advice on one aspect of the legislation: the compulsory acquisition of property.

Several provisions of the Bills (I will not list them all) provide for the acquisition by the Common-
wealth of property. I do not propose to set out in this advice the extended meaning that concept has in the Australian Constitution. However, there are constitutional limits to the power of the Commonwealth to acquire property.

It seems to me, without going into the detail, which is voluminous, that several of the rights in question are properly to be characterised as property rights, and that the legislation purports to authorize the acquisition by the Commonwealth of those rights.

Section 122 of the Constitution provides:
The Parliament may make laws for the government of any territory surrendered by any State to and accepted by the Commonwealth, or of any territory placed by the Queen under the authority of and accepted by the Commonwealth, or otherwise acquired by the Commonwealth, and may allow the representation of such territory in either House of the Parliament to the extent and on the terms which it thinks fit.

Section 51 (xxxi) of the Constitution provides:
The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to:

(1) The acquisition of property on just terms from any State or person for any purpose in respect of which the Parliament has power to make laws:

In 1969 the High Court, in Teori Tau v Commonwealth, unanimously held that section 51(xxxi) did not fetter the plenary terms of section 122, and that no limitation applied to the Commonwealth’s power to acquire property in the Territories.

Almost 30 years later, in Newcrest Mining v Commonwealth the majority held that s 51(xxxi) provided a “constitutional guarantee” in relation to the acquisition of property, and that this applied in Territories as well as in the States.

After a detailed analysis, Gummow J held:

Neither the identification of s 122 as conferring “plenary power” nor the absence from the section of a phrase such as “subject to this Constitution” supplies the necessary contrary intention to displace what otherwise, upon a textual analysis of the Constitution as a whole, is the operation of the constitutional guarantee upon laws made for the government of the Northern Territory.

His Honour went on to consider the decision of the High Court in Teori Tau v Commonwealth.

Following a detailed critique of that decision, his Honour held:

Leave to reopen Teori Tau is sought by the appellants who are supported in this by the Northern Territory. Leave should be given. Teori Tau did not rest upon any principle carefully worked out in a succession of cases. Rather, it is contrary, at least as regards this tenor, to the reasoning which underlay Lamshed v Lake and Spratt v Hermes. Where the question at issue relates to an important provision of the Constitution which deals with individual rights, such as s 51(xxxi) or s 117, the “Court has a responsibility to set the matter right”. Ultimately, it is the Constitution itself which must provide the answer.

Reference has been made to Teori Tau in discussion in subsequent decisions of this Court of the scope of s 51(xxxi), but in contexts where neither its correctness nor its direct application was in issue. As I have indicated, Teori Tau does not appear to have been significantly acted upon by the Parliament or territorial legislatures. It did not represent a fully considered decision which was reached after full argument by both sides. It has been overtaken by subsequent developments.

Once leave be given, it follows that Teori Tau should no longer be treated as authority denying the operation of the constitutional guarantee in par (xxxi) in respect of laws passed in reliance upon the power conferred by s 122.

Gaudron and Kirby JJ agreed, and added their own reasons.

Toohey J did not see it necessary to overrule the decision in Teori Tau v Commonwealth (1969) but made clear that the Commonwealth did not have unfettered power to acquire property in the Territories:

Indeed, it seems almost inevitable that any acquisition of property by the Commonwealth will now attract the operation of s 51(xxxi) because it will be in pursuit of a purpose in respect of which the Parliament has power to make laws, even that acquisition takes place within a Territory. It will
only be if a law can be truly characterised as a law for the government of a Territory, not in any way answering the description in par (xxxi), that Teori Tau will constitute such an obstacle. And that is an unlikely situation on the view I take of the operation of the paragraph. If that be right, any implications overruling Teori Tau would have would likely be for the past rather than the future.

More recently, in a judgment of the Full High Court in Bennett v Commonwealth (a case concerning the franchise in Norfolk Island) Kirby J made reference to these cases. His Honour held:
The grant in s 122 is not expressed as a “power” to make laws “with respect to” particular and specified subject matters. Instead, the subject of permissible law-making is nothing less than “laws for the government of any territory”. Because of its language and purpose, the width of that power has been repeatedly described as very broad. Thus in Teori Tau v The Commonwealth, which survived a challenge to its authority in Newcrest Mining (WA) Ltd v The Commonwealth, the whole Court said:
“Section 122 of the Constitution of the Commonwealth of Australia is the source of power to make laws for the government of the territories of the Commonwealth. In terms, it is general and unqualified ... The grant of legislative power by s 122 is plenary in quality and unlimited and unqualified in point of subject matter.”
These words have been repeated many times.

In Bennett Callinan J also referred to these cases, but did not express a view on them. No other judge found it necessary to refer to Teori Tau or Newcrest.

It is true that Teori Tau was not expressly overruled by Newcrest, but nevertheless the majority clearly upheld the principle that s 122 was subject to the provisions of s 51(xxxi). Nothing that either Kirby J or Callinan J said in Bennett is to the contrary effect.

No subsequent decision of the High Court has doubted or overruled Newcrest.

Accordingly, as the law currently stands, acquisition of property by the Commonwealth in the Northern Territory must be on “just terms”.

Although some provisions in the legislation do require acquisition of property on “just terms”, several provisions in the legislation refer to the acquisition of property but subject to the payment of “a reasonable amount of compensation”, as distinct from “just terms”.

For example, proposed subsection 60(2) of the Emergency Response Bill, dealing with the acquisition of leases, states:

However, the operation of this Part, or an act referred to in paragraph (1)(b) or (c), would result in an acquisition of property to which paragraph 51(xxxi) of the Constitution applies from a person otherwise than on just terms, the Commonwealth is liable to pay a reasonable amount of compensation to the person.

No substantial guidance is contained in the legislation in respect of what is “reasonable” compensation.

In some cases there is limited guidance, but this is quite confused. For example, clause 61 of the Bill requires the court to take into account certain things in determining a reasonable amount of compensation payable in relation to land - including rent paid by the Commonwealth, amounts of compensation paid under the Special Purposes Leases Act or the Crown Lands Act and any improvements to the land funded by the Commonwealth. However, when the Valuer-General is to determine what is a reasonable amount of rent to be paid by the Commonwealth the Valuer-General must not take into account the value of any improvements in the land (clause 62(4)).

In public statements, the Minister has referred to “in kind” compensation, including by way of education grants, and renovation to buildings. This novel concept is quite distinct from what has normally been regarded as “just terms”, but whether or not it would be considered “just terms” must depend on the content, which at present is not clearly set out in the legislation.

A litigant challenging the compensation in the courts would be confronted with the legislative term “a reasonable amount of compensation” but would not be able to call in aid “just terms”. In some cases, “a reasonable amount of compensation” probably would, in terms of content, amount
to “just terms”, but much will depend on factual detail. For example, the provision of educational services—which normally are available to all Australians of learning age—is unlikely to be seen as something which satisfies the requirement of “just terms”. Native title rights are of particularly profound significance to the holders, and the acquisition of those rights—often over land of little commercial value—is unlikely to be on just terms if the compensation offered is the mere payment of the monetary value of the real estate, in circumstances where there is no viable real estate market for the land in question in any event.

Dixon J held in Grace Bros v Commonwealth that the inquiry as to whether “just terms” have been afforded should not be directed just to the question of whether the individual owner is placed in a situation in which in all respects he will be as well off as if the acquisition had not taken place. The inquiry must rather be whether the law amounts to a true attempt to provide fair and just standards of compensating or rehabilitating the individual considered as an owner of property, fair and just as between him and the government of the country. I say “the individual” because what is just as between the Commonwealth and a State, two Governments, may depend on special considerations not applicable to an individual.

In Georgiadis Brennan J held:

In determining the issue of just terms, the court does not attempt a balancing of interests of the dispossessed owner against the interests of the community at large. The purpose of the guarantee of just terms is to ensure that the owners of property compulsorily acquired by government presumably in the interests of the community at large are not required to sacrifice their property for less than its worth. Unless it is shown that what is gained is full compensation for what is lost, the terms cannot be found to be just.

The present legislation in some places uses the expression “just terms”, but in other places, in contradistinction to that expression, deliberately chooses to use the term “a reasonable amount of compensation” rather than “just terms”. This evinces a drafting intention to provide protection other than the constitutional guarantee of “just terms”.

In my opinion the legislation purports to authorize the acquisition of property on terms other than the “constitutional guarantee” of just terms.

In those circumstances, the courts would not have a role of correcting the legislation by inserting just terms. Rather, the legislation purporting to authorise the acquisition of the property would be struck down as void.

In my opinion all of the provisions in the legislation providing for acquisition of property other than on “just terms” would be struck down as void ab initio if they were enacted into law in their present form.

**Senator BOB BROWN**—I thank the Senate. That will save me from going further into the matter. But let me say that the intention of this clause is to take land under unjust circumstances. The minister says—quite rightly—that down at the bottom of the clause it says:

If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in a court of competent jurisdiction for the recovery from the Commonwealth—

not of just terms compensation but—

of such reasonable amount of compensation as the court determines.

What you have here is an admission that it is going to end up in the courts. But what it says is that all the power and the might of the Commonwealth will take away the constitutional right of Indigenous people by appropriating property in unjust terms and that the Indigenous people will have to take court action to restore their rights and to have their constitutional guarantee of compensation in just terms put in place. What a deplorable process that is.

Parliaments are required, obliged and—you will know this, Mr Temporary Chairman—honour bound, to write legislation which is in accordance with the Constitution and which does not try to get around it, change it, defraud it or degrade it. But that is
what is happening here. Of course, there will be long, expensive, heart-rending efforts by people to get just terms, as under the Constitution. Ultimately, one would hope that the court would understand the complexities of appropriating land owned in communal bond by Indigenous communities in the Territory. What a terrible thing that this legislation says to them: ‘We’re coming to take your land. We’ll give you what we think is reasonable recompense and then you have to fight to get your constitutional rights.’ Can the minister cite any piece of legislation which does that to non-Indigenous Australians?

Senator SCULLION (Northern Territory—Minister for Community Services) (9.37 pm)—There are a couple of issues, again. I now completely understand the question, and the answer goes to the answer that I have already provided. Partly in answer to your last question: with the process that is laid down here for finding an alternative to ‘just terms’, there has to be a trigger. If you cannot come to an agreement on ‘just terms’, what do you do? You then go to the independent judicial system that we have and go down that path. It is consistent with, for example, the Customs Act; the same words are used. This is just a red herring.

You are trying to assert that ‘reasonable compensation’ suddenly means something different from ‘just terms’. I refer you to my earlier submission on that: in terms of drafting, they are interchangeable. I have cited a specific case of precedent under which this was ascertained. There has to be a process. Can you imagine circumstances where we would say: ‘We’re going to acquire this on just terms and we will not have a trigger system. We will not have a fallback position, so, if a negotiated circumstance is not able to be arrived at, we will have no circumstances under which people will be able to exercise their rights’? Of course we have to, which is why we have relied on the judicial system. I suppose we can continue to fool around with words but, at the end of the day, if it is an acquisition under our Constitution it will be paid on just terms.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (9.39 pm)—The minister’s explanation just begs the question: why not just make it ‘just terms’ and satisfy us? Why do you not just say: ‘We’ve heard your legal opinion, we’ve heard the concern of Indigenous people, we’ve heard the concern of senators and we think the terms are interchangeable. Why don’t we just interchange them?’ Labor has an amendment which seeks to interchange them, so there is no problem. I expect you to vote for it. Given there is serious concern in the Indigenous community that somehow their compensation will be undermined or the capacity to gain compensation will be undermined by this particular phrase in the bill, why do you not just listen to those concerns and provide the reassurance by using the term which you say is interchangeable? If your answer is correct and that is the extent of it, then you should have no problem. You would be happy to say: ‘Senator Brown, Senator Evans, we are happy to help. We will make you feel more at ease. We will make all those Indigenous people who worry about this more at ease and we’ll interchange it. There is no problem because it does not make any difference.’

But if that is not the case, you have not told us why it is different and what the impact will be on people who have a property right, acquired by you the government, and why you choose to use this term. I, like the bloke in The Castle, do not have a great legal understanding of what ‘just terms compensation’ means, but I know that you are taking away Indigenous people’s ownership or enjoyment of that property right for a period. They are entitled, under the Constitution, to just terms compensation, putting aside the
arcane legal argument about whether it applies in the Northern Territory—and I do not want to go there; I am way out of my depth on that constitutional argument. But if you are so convinced and are able to so reassure us that there is no difference and that the terms are interchangeable, then why do we not go with a term that everyone else has understood and which has been in other legislation for years? That would provide the level of reassurance to the chamber that you say we ought to have anyway.

**Senator SCULLION** *(Northern Territory—Minister for Community Services)* *(9.42 pm)*—As I have already stated, whilst I, like the Leader of the Opposition in the Senate, am not a lawyer, from time to time we have to rely on legislative draftspeople. This particular aspect of those two words has been strongly considered over some time. The Commonwealth believes that this is the way that the drafting process should work—and there is extensive precedent, particularly in the OIPC legislation—and that this is the standard way that this type of legislation is drafted. I have been advised that you can also find these words in other legislation. The reason that they use these words is that they are well understood by the courts, and this has become the pro forma for how we do this. It has been tested and it is the best way to reflect exactly what we wish. It is not just a matter of turning something around. The advice was that that was part of the discussion process to arrive at this circumstance. Certainly, they have said, ‘Not only do they enjoy a similar role, when we stuck to the legislation in another matter, precedent decided that we were in fact correct.’ I am simply taking the advice of the legislative draftspeople: this is the standard procedure and this is the wording that should be used, simply because the courts understand it, and if the trigger is that it goes to the courts then they will be able to deal with that. That is the advice I have. We take advice from the legislative drafting people, as you well know. They give very good advice, they are very experienced in these matters and the advice I have is that the courts understand this matter very well and this is in fact the standard drafting process of this sort of legislation.

**Senator BOB BROWN** *(Tasmania—Leader of the Australian Greens)* *(9.43 pm)*—I understand, perhaps better than the minister, because I am more experienced than the minister in this, that the drafting people try their best to produce legislation according to the instructions of the government of the day. It is not something that just comes out of drafting people in some back room. They get instructions from the government of the day as to the outcome that is required, and that is the problem here.

The indecent thing behind all this is that Indigenous people are having their land taken off them in a way which requires compensation, and that is what this section of the legislation is about. If the government were in a mood to be just about that and felt that the need to do that was compelling—and we have heard no argument here at all as to why taking land off Indigenous people is going to protect the children in the way that Mr Brough or the Prime Minister, Mr Howard, would have it—then why isn’t there a description of the values that ought to be taken into account in the just terms arrangements, including the Indigenous values that we are honour bound to respect in this situation? They are swept aside as if they do not exist—well, they do not exist in this legislation. The minister says there is a provision in the Customs Act that is similar to this. Nobody’s land is being taken away in the Customs Act, I can assure you—certainly no land with which people have had a relationship for thousands of years, which is their spiritual heartspring, their ancestral land. There has never before been anything in legislation that
is like this. Land has been taken in Australia from Indigenous people. That is part of their history that has led to the horrendous circumstances we know about that are part of the reason we are dealing with this legislation here tonight. But this legislation is compounding that.

Senator Evans is quite right, and Senator Siewert has made the same point, that you do not need to use terms other than ‘just terms’ in here—but you have, quite clearly, because this phrase is in the legislation:

... an acquisition of property to which ... the Constitution applies from a person otherwise than on just terms ...

So it is contemplated that it is not going to be just terms. It says so in the government’s legislation, for goodness sake. There is not going to be an answer out of this. Do you know why? Because the government and the Prime Minister, in their arrogance and disdain, and in the racism that is written right through this legislation, say: ‘Oh, they can go to court. We’ll use the might and power of this government to take from them, and they can go to court and see what they can get back on that.’ We know the trauma that that will cause. We move the balance here off their land—Indigenous people’s land—and put it into our courts. What a dreadful thing to be writing into legislation and asking this Senate to pass. It just needs to be said again that the outcome the government wishes, to protect the children, could be done without all this. But, no, there are other agendas at play here. This is unjust. It is unconstitutional. I would have thought we would never see a piece of legislation like this in the 21st century in the Australian parliament, but here it is. We will live to regret it. The government will live to regret it.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (9.48 pm)—I am still at a loss to understand why the government refuses to accept the ‘just terms compensation’ phrasing which it accepts in a whole range of other legislation. The Minister for Community Services says to me, ‘Oh, well, the phrase we are now using—reasonable compensation—has been the subject of legal decision making.’ I can counter by saying the ‘just terms compensation’ phrase has been subject to High Court decisions for years, so there is no suggestion that that phrase is somehow not well-established or has not been refined by the High Court. As the minister knows, there is a great deal of cynicism among many in the community about the government’s motives for including these land acquisition proposals in what is supposed to be a child protection measure. Labor accepted on face value the bona fides of the government in saying that we need these acquisitions to make the adjustments to housing and infrastructure that will allow us to address the underlying issues, which are effectively of poverty, that beset those communities. But, if these terms are interchangeable, why can’t you provide the reassurance of using the term that, from the evidence I have seen, is much more broadly understood in the community and among the legal community—that of ‘just terms compensation’?

There is cynicism about your motives. There is concern that proper compensation will not necessarily be paid. If the terms are interchangeable there should be no problem with the government accepting the well-established legal term ‘just terms compensation’. You defend your position, Minister, on the basis that ‘this is what the draftsman likes’. Well, bully for the draftsman! This is
about what the parliament likes. This is about whether the parliament is reassured. The draftsman, as Senator Brown indicated, receives instructions from the government, and the government tick-tacks with them about how the legislation is drafted. If you want to table the advice from your draftsman that says there is a problem with ‘just terms compensation’ I would be happy to see it. But this parliament and senators in this parliament are very concerned that you do not seem to have any particular legal argument that says ‘just terms compensation’ has to be replaced by the term that, I concede, is in the Customs Act.

Again, I do not particularly care whether it is in the Customs Act. I do not particularly care what the draftsman does or does not like. What I know is that the legal advice Senator Brown has received and the submission from the Law Council raise concerns about the approach you are adopting. We are concerned that the terms are not interchangeable. The Law Council expressed the view in their submission that the drafting of the bill may shield the Commonwealth from a requirement to pay compensation. Their submission said:

The Law Council notes that the legislation appears to shield the Commonwealth from its obligation to compensate the relevant Land Trust or pay rent, in circumstances where a lease is issued under section 31.

So if the Law Council and Senator Brown’s legal opinion from Mr Walters both raise concerns, it seems to me that it is not unreasonable for the Senate to share those concerns. If you are really interested in building support more broadly for these propositions and if you are really interested in reassuring people about your motives it seems to me that you could support the amendment that replaces the term ‘reasonable compensation’ with the more broadly understood ‘just terms compensation’. While you refuse to do so people will be confirmed in their doubts and concerns. If, as you said to this place, those terms are interchangeable and there is no difference, why not provide the reassurance that changing the term to ‘just terms compensation’ would provide for the Senate, the Law Council of Australia and a lot of Indigenous people who made submissions on the bills? If not for me or the Indigenous people, do it for the Law Council of Australia. Provide some reassurance that somehow the provision that you are proposing does not shield the Commonwealth from meeting its obligations for just terms compensation.

Senator SCULLION (Northern Territory—Minister for Community Services) (9.54 pm)—All I can provide for you, Senator, is that when we asked for the outcome you indicated, we said, ‘We’d like to provide compensation on just terms.’ These are not just a bunch of dodgy drafting people. I have been informed that the modern use—probably over the last nine years—in all of the applications is the term that is referred to in front of you. I do not need to table advice. The advice is the exact words that are used in the legislation.

Senator Chris Evans interjecting—

Senator SCULLION—We have taken on the comments by the Law Council, and the advice that we have received is that that is not correct. The reason that the precedent I quoted exists is to put clarity behind that. This is the modern way of everybody who writes the legislation for this place. We may not have time to go through different pieces of legislation but I am assured that the reason for that is that it is the way the legislation is currently crafted in any of these matters—and has been for a number of years.

In relation to the terms used beforehand, I am not sure of the history of the change. When I first made a speech in here and reflected on what we were doing I used the
words, ‘We will compensate on just terms.’ We have provided a precedent of a case— ‘What would happen if you put this word in here?’—and the court, which will be making any judgement on this matter, found that ‘reasonable compensation’ means that. I am sorry that I cannot go into the history of that but it is not just that in this case somebody said, ‘I know; we’ll use this term and not this one.’ This is the normal term which has been used for some time in drafting of this type.

The government have accepted the advice from the drafting people on this matter. This discussion has been had. It is not something that applies just to this; it has been used in all legislation for probably nine or 10 years. For those reasons the government accepted the advice of our legal section in this regard.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (9.56 pm)—I would like to raise an issue that I do not think has been canvassed so far tonight, and that is the Prime Minister’s announcement about schools delivering meals and the provision of boarding schools. What happened to that announcement by the Prime Minister? Is it part of this bill and, if not, why not?

Senator SCULLION (Northern Territory—Minister for Community Services) (9.56 pm)—I can provide an answer to the first part of the question; I am just seeking advice on the question about breakfasts and lunches at schools. The boarding schools were provided for in the most recent budget; that is not part of an appropriation for this legislation. If you just give me two seconds I will find out the answer to the other aspect of the question. Perhaps I could take the second part of your question on notice, Senator Allison.

Senator SCULLION (Northern Territory—Minister for Community Services) (9.58 pm)—That will obviously depend very much on the catchment. The Tiwi Islands is pretty much a known population. I do not have, off the top of my head, the exact numbers that will be catered for, even for the boarding school that is well into development. I can take that on notice but I say again that there is no particular or prescriptive number of people that we are catering for. Clearly, different catchments will have different demographics. There will be larger or smaller amounts according to the forward estimates of the numbers of people who will
be requiring those facilities. So I do not think we will be able to place some sort of particular prescription and say that each boarding school will have so many people. The boarding schools would be required to be flexible enough to reflect the existing facilities and boarding facilities in the region, and also the projected use of the boarding school. I am sure that will differ from area to area.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (9.59 pm)—I would like to come back to the question of meals in schools. Why is it necessary for this to be a question taken on notice?

Senator SCULLION (Northern Territory—Minister for Community Services) (9.59 pm)—I did not know the answer when you asked the question but I do have the answer now, and it is a part of the appropriations. I can provide a little bit more information. I understand that early interest has come from Borroloola, from Weipa and, as I said, from north-east Arnhem Land, in the Nhulunbuy area, and discussions will soon commence in the Kununurra region.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (10.00 pm)—Are there details of how the school food programs will work? How much is going to be made available to each school? How is that to be organised? Will schools be obliged to serve meals whether they have the capability to do that or not? What will the funding cover? Will you be putting kitchens in schools? What are the arrangements?

Senator SCULLION (Northern Territory—Minister for Community Services) (10.00 pm)—As I understand it, these are specifically for the schools in the prescribed communities. There are a number of very successful models in the Northern Territory. The primary school in Tennant Creek—and I know Senator Crossin would be across that one—has a particular model. Each model varies according to its resources, particularly the human resources that are available. They provide what I think is an excellent model for a breakfast and a lunch program. Will kitchens be built? It will all be about an assessment of the availability and capacity in each community. There will obviously need to be some level of amenity, and you will assess whether that amenity is there. If it is not, it will be provided. If it is, it will have to come up to a particular standard. It may well have to be adjusted for the number of children who are going to school, which we hope very much, as part of the interdiction, will increase. So we will need to ensure that the capacity is there for all those people who, we believe, should be going to the school.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (10.01 pm)—It does not seem like much of a plan. Is it just a sum of money and you have yet to figure out how you are going to distribute it, or is there something more by way of detail on how this works? Like you, Minister, I have been into many schools and I know that there are lots of models for providing schools. What is being proposed in this case? How soon will it be rolled out? How is the available funding going to be distributed? Will all schools be entitled to it or expected to do it? What exactly is the plan?

Senator SCULLION (Northern Territory—Minister for Community Services) (10.02 pm)—We will be spending about $6.4 million. Parents will be expected to pay for the food itself, as in those other models. The salaries for the preparation of the food—and that will also be a function of how many meals are being prepared and how many peoples salaries are required—will be paid for by the Commonwealth. The equipment used to prepare the meals will also be paid for by the Commonwealth. The amounts will differ as a function of the number of people we will be catering for.
The TEMPORARY CHAIRMAN (Senator Watson)—Just one matter, Senator Allison—while it is part of the package, the bill that you are actually referring to at the moment is the Appropriation (Northern Territory National Emergency Response) Bill, whereas the Senate is really debating the Northern Territory National Emergency Response Bill.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (10.03 pm)—I understand that, Chair. We were, as I understood it, asking general questions about what was in or out of the bill and this has developed into a more detailed discussion. I accept that.

The TEMPORARY CHAIRMAN (Senator Watson)—Do you wish to pursue that or take it up later on when we discuss the detail of the bill?

Senator ALLISON (Victoria—Leader of the Australian Democrats) (10.03 pm)—I just have one further question about how this program is going to be rolled out. Will the schools be making applications for the money? Will the Commonwealth determine how it is going to be spent? What is the next step in order to deliver on this program?

Senator SCULLION (Northern Territory—Minister for Community Services) (10.04 pm)—I understand that there is obviously some urgency in this. I will offer a more comprehensive briefing than I am able to give you here. In terms of the timing, there is a sense of immediacy. As part of the intervention we are ensuring that we will go and assess the schools. Some schools have quite a level of amenity; some have none. So we will make an assessment of the level of amenity. We will assess what level of amenity is needed and we will make up the difference. We will provide the salaries required against the assessment and the amount of equipment that is required to provide those meals to a standard. It is probably best for me to provide a more comprehensive briefing on exactly where we are up to in what communities, and we are more than happy to provide that.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (10.04 pm)—It is as good a time as there will be for me to ask about Indigenous culture and languages. What is the government’s plan to vouchsafe Indigenous culture and languages? These are important. Our own culture and language is part of who we are and part of the essence of our pride in ourselves and the wherewithal to be fulfilled in life. There is very great concern about this move by the government, integrating Indigenous people into non-Indigenous culture in a way that sheds their Indigenous culture out behind them. That would be an absolute and cruel tragedy. The whole world is full of experiences where you do not do that, including in this country. We know that the government has defunded programs for Indigenous languages in the last year or two. What is the funding base and the plan in this comprehensive and quite historic move to skill Indigenous people to be able to have a more rewarding role in the Australia of the 21st century to ensure that the price isn’t the further loss of Aboriginal culture and languages?

Senator SCULLION (Northern Territory—Minister for Community Services) (10.06 pm)—This process is about strengthening communities, strengthening families and strengthening culture. No part of this legislation says that we are going to take away culture or that we are going to take language away. I have not read any part of this legislation where I have seen that, nor has there been any indication that that would be the case. This is about providing safety and a better level of amenity for communities and families.
Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (10.07 pm)—Exactly. I did not ask about where it says it is taking away culture—that is inherent. I am asking: where is it safeguarding culture and language in this legislation and in this program? We are talking about boarding schools. To come to boarding schools people move away from home, in most cases. Will there be facilities for the Indigenous language to thrive as well as English in those circumstances and, if so, how is that going to be provided? The same goes for the culture. I am not asking where this legislation says it is going to damage culture or language. I am saying that this enormous move is, by dint of the announcements made by the Prime Minister and the minister, one of reacculturation to have Indigenous people become integrated more into the prevailing and dominating Australian culture and to be schooled to take part in it. Where are the guarantees that that will not be at the cost of Indigenous language and culture, and where are the provisions for promoting language and culture in this legislation?

Senator SCULLION (Northern Territory—Minister for Community Services) (10.08 pm)—As I have indicated already, this is something that was discussed in the budget, but I will answer the question. Perhaps you will have a word to Senator Crossin. There are a number of boarding schools that already do this. One of the fundamental tenets of being at the boarding schools is ‘both ways and cultures’. These boarding schools have been funded by the Commonwealth—almost every level of government has something to do with them—and they are not characterised by people losing their culture or losing their language. In fact, it is quite the opposite. One would assume that the very good model for boarding schools in the Northern Territory would be continued with the provision for boarding schools that was in the budget and not a part of the discussions on this legislation.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (10.09 pm)—In summary, we have very definitive legislation here for the taking of land, removal of permit systems and a whole range of other things, but when it comes to culture and language we can assume that there is nothing in here at all.

Senator CROSSIN (Northern Territory) (10.10 pm)—I want to change tack a little bit and go back to a question I asked earlier about the continuing appropriation of indefinite amounts in clause 63, on page 51. I have had a chance to look at the Scrutiny of Bills Alert Digest in the time since I first asked the question. I understand that the Scrutiny of Bills Committee normally table their reports on Wednesdays, but, in fact, they tabled this report yesterday specifically on these bills and it was sent under a covering letter to the minister in time for his consideration and response prior to debating this legislation today. My first question is: why is there not a response from the minister in relation to this Alert Digest? When I chaired that committee, and when the committee went out of its way to meet specifically and specially on certain legislation that was deemed to be highly important and to unprecedentedly table a report earlier than it normally does in a sitting week, it was customary, if not courteous, for the minister to at least respond prior to the second reading stage of the bill.

Senator SCULLION (Northern Territory—Minister for Community Services) (10.11 pm)—I am informed, Senator Crossin, that the minister received yesterday afternoon an embargoed copy of the report. I have been informed that he is examining closely those processes and, as is the convention, that he will respond to the chairman of the committee.
Senator CROSSIN (Northern Territory) (10.12 pm)—I want to clarify this. I think there is misunderstanding, perhaps, about what the Scrutiny of Bills Committee does. It highlights problems or deficiencies in legislation and usually alerts the minister in time for the minister to respond to or amend legislation accordingly. My experience, having chaired that committee, is that ministers usually take advice from the Scrutiny of Bills Committee very seriously, and it is not a matter of responding to that committee report like normal Senate committees. The response is usually by way of amending legislation or otherwise.

Senator SCULLION (Northern Territory—Minister for Community Services) (10.13 pm)—I understand the minister has scrutinised the report and will be responding, as I said, formally. He will be explaining why the government do not believe that any particular amendments to this legislation are required. The details of the reasoning behind that, I understand, will flow to the chairman of the committee in the usual way.

Senator CROSSIN (Northern Territory) (10.13 pm)—I seek some clarification on the comments in the Alert Digest that go to clause 63, the special standing appropriation. That clause makes a special appropriation out of consolidated revenue. The committee seeks the minister’s advice regarding why this special appropriation is considered necessary. I ask you now why you believe that this appropriation is considered necessary, whether any limit has been forecast as to the total amount of such an appropriation and why an explanation could not have been included in the explanatory memorandum on this provision.

Senator SCULLION (Northern Territory—Minister for Community Services) (10.14 pm)—Senator, I have already explained that this is paragraph 63—appropriation. We have already had a discussion about the fact that we are unable to provide a particular number or say how much it is going to be. That will be included in the appropriation bill that we are wanting to pass.

Senator CROSSIN (Northern Territory) (10.14 pm)—Why wasn’t that explanation included in the explanatory memorandum to this legislation?

Senator SCULLION (Northern Territory—Minister for Community Services) (10.15 pm)—As I understand the convention, there is no explanatory memorandum for an appropriation bill. I know it has been confusing; we are trying to discuss in general terms all five bills.

Senator CROSSIN (Northern Territory) (10.15 pm)—I am not talking about the appropriation bill. I am talking about clause 63 of the NT emergency response bill. It has been my experience that the Scrutiny of Bills Committee regularly points out deficiencies in explanatory memoranda. I just want to add the comment that this is another area where the highly expert Scrutiny of Bills Committee has sought an explanation as to why the use of this special appropriation was not outlined in the explanatory memorandum.

Senator SCULLION (Northern Territory—Minister for Community Services) (10.16 pm)—You are right, Senator; it should have been included in this. I provided the wrong information. It should have been included in the explanatory memorandum. That is the normal place it would be, if the government had decided that it required an explanation. I also understand that no explanation was provided.

Senator CROSSIN (Northern Territory) (10.16 pm)—In another area of the legislation, on page 65, clause 86, I would like clarification on what is meant by "the
wrongdoer’. Perhaps I could start my questions by seeking that first.

Senator SCULLION (Northern Territory—Minister for Community Services) (10.17 pm)—I am advised that, with ‘the wrongdoer’ having been highlighted in that way, there would be a definition attached to it in the normal place. I hope that is the case, and I will just ensure that it is.

Senator CROSSIN (Northern Territory) (10.17 pm)—There is no definition of it in the definitions section of the bill, so perhaps you could provide me with a definition of it.

Senator SCULLION (Northern Territory—Minister for Community Services) (10.17 pm)—I am just getting some advice on that. Perhaps I could take that on notice. Clearly, with the process of having it in italics, that was the intent. I am sure someone will provide me with some advice on that in just a moment.

Senator CROSSIN (Northern Territory) (10.17 pm)—I certainly cannot see it in section 3 under definitions, unless you can point it out to me. Still concentrating on that clause, can I just get you to clarify this for me: a person who is merely suspected by the secretary of the department of having contravened a civil penalty provision is termed a wrongdoer, as I interpret it—you could tell me whether I am right or not—and that person is then obliged to produce information. Subclause 4 provides for an application for a Federal Court order to comply, but subclause 5 appears to make the wrongdoer subject to a penalty for failing to produce information, even in the absence of a Federal Court order. Can you explain to me why there is that inconsistency?

Senator SCULLION (Northern Territory—Minister for Community Services) (10.19 pm)—Again, if you can just give me a moment to consider that particular matter, I will get back to you. You may have another question for me.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (10.19 pm)—I have a question on prohibited pornographic material. There appear to be significant seizure powers here on the part of police. What system will be employed? Will every household be systematically searched for pornographic material and will all that material be automatically seized and removed, or will people be invited to give it up? Will there be a process of them handing it in?

Senator SCULLION (Northern Territory—Minister for Community Services) (10.20 pm)—As in all these matters, first of all we would start off with an education process to explain exactly what pornography is. Then we would ensure that people handed any such material over. The next process would be to examine whether people who had a video machine, a DVD machine or a computer had in fact handed over all the material that this legislation seeks to prohibit from those lands. So it would be a three-tiered process: firstly, the educational process; secondly, the voluntary hand-over of material, which is what would happen in this case; and, lastly, a search of areas to ensure that this sort of material did not exist.

The TEMPORARY CHAIRMAN (Senator Watson)—Which bill are you referring to, Senator Allison? That would help us.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (10.21 pm)—The bill we are referring to at the present time—the emergency response bill; that is my understanding.

The TEMPORARY CHAIRMAN—If you could give us a reference to that, it would help.
Senator ALLISON—I am looking at the explanatory memorandum—page 13. Perhaps the minister could indicate how this will work in practice. Will all these three stages take place within a couple of days? Also, can you tell us what the education process is? Are people going to be given leaflets or brought together in the nearest hall? What form will that education take? I notice that there is provision for appeal and request for seized materials to be returned. Is there a warrant required before police officers can go into households and search if they suspect that all of the pornographic material has not been handed up?

Senator SCULLION (Northern Territory—Minister for Community Services) (10.22 pm)—Again, the important part is to ensure there is an educational process. Exactly how that will take shape, I will have to take on notice. But I am informed that it will be as any educational process would be. There would be a whole suite of ways you would help and assist the community to understand what our intent is. That would be done through a variety of ways. It is normally a suite of either media or interaction. One would imagine that in these communities most of the time it would involve public forums. So there would be networking and interaction of individuals who had a better understanding, who would be able to talk to other members of the community. There is a whole suite of consultation processes that take place quite often in these communities, and we would be utilising those processes.

In terms of what would happen at the end of that, it is simply unlawful to be in possession of a certain classification of pornography. That is a matter for the police, and the police will have to behave lawfully in that matter. When the police are ensuring that there is no pornography in the community, it will be in the same way as if there was alcohol in the community. It is a matter for the police. The police have processes of investigation—people will tell them, and they have processes of networking. It is the same way that police would operate in any criminal matter.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (10.24 pm)—What evidence does the government have about the knowledge or lack of it within Aboriginal communities about what pornography is?

Senator SCULLION (Northern Territory—Minister for Community Services) (10.24 pm)—I am sorry, Senator, could you repeat the question?

Senator ALLISON (Victoria—Leader of the Australian Democrats) (10.24 pm)—In order to embark on an education program, and presumably you have a reason for doing that, the assumption must be that you need to educate people about what pornography is because they do not know. Is that the conclusion you have reached on the basis of research that has been done in communities? Minister, you also did not answer my question about how this will be done—whether it will be township by township; whether it will be a process over three months, two days or three hours—and how this is going to be dealt with in terms of the time frame and the process.

Senator SCULLION (Northern Territory—Minister for Community Services) (10.25 pm)—It will be dealt with township by township. The reason for the education is not that we want to describe what pornography is; it is simply about having a clear understanding of exactly what the legislation says you can and cannot have—for example, what the penalties are and the whole process of introducing new legislation. That would be done at the same time as having a clear understanding about alcohol and other prohibited substances under the act. It would be
an educational provision. But it is not only about saying, ‘So, you understand what pornography is.’ That is not the intent. It would be a discussion about what were the prohibited items so that everybody would have a clear understanding of what was a prohibited item and what was not. That would be the clear intent of the educational process. As I have indicated, it would be done township by township. There are some townships, for example, that we have not gone into yet; and there are some townships that would require, simply because of our knowledge of the assessment, an interdiction later in the piece than those with a much higher level of requirement. We will rolling them out as a matter of priority, but it will also be in the context that some communities are extremely dysfunctional and the people in those communities are at a higher level of risk than those in the other communities that have been assessed. We will be doing it in terms of the priority of protecting those townships that have been assessed as being most at risk.

The **TEMPORARY CHAIRMAN** (Senator Watson)—Senator Crossin, coming back to your theme?

**Senator CROSSIN** (Northern Territory) (10.26 pm)—I am waiting for a response to my question about section 86. But can I ask a question to follow up from Senator Allison’s. If you actually read the Anderson-Wild report, you will see that their concern is not the level of pornography; their concern is access to Austar, and adult channels which are available on Austar, and the fact that they are on day and night and there is no understanding or appreciation from adults that it might be a channel that you should only access after kids have gone to bed or they are not around. Quite clearly, I do not believe you can prohibit people from purchasing those channels on Austar. So, in the government’s attempt to get on top of this in communities, what focus will there be on educating people or focusing people’s attention on the access to Austar that they currently get? My understanding when I go to communities is that it is not actually pornography that is sent into communities that is very explicit that children are being exposed to; it is just the average viewing that you would see on adult channels on Austar that is being made available during the afternoon and early evening. What are you planning to do to get on top of that problem?

**Senator SCULLION** (Northern Territory—Minister for Community Services) (10.28 pm)—Since our intervention I think many of the reports have validated that there is explicit pornography in those communities, and I think substantially we have dealt with that. We are currently discussing ways of ensuring that there are some adult channels that you can purchase at the moment that you will not be able to purchase. We are having discussions with the providers of those services, to look at ways that we can have more control of that. We are in a discussion process at the moment. The current provisions are for specifically classified pornography. It is quite a clear classification. As I understand it, those channels, whilst they may well be harmful—and we understand that may be the case—are not the intention under the existing provisions. But we are looking very carefully at ensuring that we do have provisions, community by community, to ensure that there is some capacity to ensure that they cannot be delivered in certain areas, should that assessment be made. We are in the middle of discussions on that particular issue.

**Senator CROSSIN** (Northern Territory) (10.29 pm)—Will the government try and convince providers of those channels to only make them available at certain hours of the day?
Senator SCULLION (Northern Territory—Minister for Community Services) (10.30 pm)—I am not sure whether that is part of the discussion, but I will ensure that we pass it on. On the original question of the wrongdoer, I understand that the term is simply used to refer to the person who, it appears, may have contravened a civil penalty, and there is no express definition. That is the intent of wrongdoer. In terms of a discrepancy, I am advised that there are two matters. In the first matter, if a person is not a wrongdoer and is requested to give information and they do not give information then it is an offence, and, in the second matter, a person can be compelled by a court to give information.

Senator JOYCE (Queensland) (10.30 pm)—I have two questions. I acknowledge that Senator Scullion is what I would consider a good friend but, nonetheless, this is the committee stage, so I will ask the questions. That is what we on the side of conservative politics do: we believe in the integrity of the Senate and ask questions. Can you please tell me what the consultation process has been with the Indigenous community in its present form and what is the intended consultation process with the Indigenous community into the future? I will leave the next question. The first question is on the consultation process with the Indigenous community, because I know there is a discrepancy. I know Warren Mundine is completely on side with us and believes it is a good program, but there are people who have every right to and have been lobbying the Senate in their belief that the consultation process has not been adequate. Can you please comment on that?

Senator SCULLION (Northern Territory—Minister for Community Services) (10.32 pm)—I thank Senator Joyce for the question. We have been over some of these questions, but for the benefit of the senator I will go over the two aspects. The first is the present consultation. I think you were referring not to consultation right now but to the consultation leading up to the interdiction. I understand what you are asking. There was a large process of consultation that, as a consequence of a whole range of government inquiries over many years, was effective. Senator Heffernan was referring to a substantive report he chaired on the matter some years ago. We could all recognise that this has been an issue for a number of years and, in the media, this government has been roundly criticised for what it has done in 11 years.

In relation to the consultation and recognition of the crisis of child abuse that is occurring in some Indigenous communities, the Little children are sacred report indicated very clearly that the sexual abuse of children was not only happening but happening across a whole range of communities and was largely underreported. When we have gone into the communities, we have been welcomed. As we move into the communities, we are providing an education package to ensure that people understand exactly what we are trying to achieve and to explain what the legislative changes will mean to them, including particular aspects of the requirements—it might be alcohol or pornography; it might be a whole range of things. It is very important that the intervention teams have a good network and are able to communicate to the communities what their roles are and exactly what is going to happen. This has been happening and, I have to say, I am very heartened by the reports back from the intervention teams that they have been very welcomed in the communities.

For the future, for all the changes in the community, we now know that we have to have an education package that is consistent with every aspect of the interdiction. As people become more aware of the interdiction,
we will have a sharper package and we will have a package that, I suspect, becomes more and more effective. At the moment, every aspect of the package that we are rolling out comes with an education system, ensuring that everybody in the community understands what we are on about and particularly understands some technical aspects of the law in what we are trying to achieve. They can then have an understanding, for example, of what the 1,350 millilitres of alcohol means. It is very important that we can explain it in ways that people understand. We can talk about personal penalty points, but we have to explain exactly what that means, so part of the role of the intervention team is an education role. We have been rolling that out and it is a fundamental plank of the intervention. We will continue to ensure that people are as completely informed of the intervention as they can be.

Senator JOYCE (Queensland) (10.35 pm)—Thank you very much and I appreciate your answer, Senator. My second question is about pornography. This is obvious but needs to be restated because there are some minor queries brought by some. Why do you believe that pornography has a detrimental affect on the kids who are exposed to it? I am stating for the record that I have clear beliefs about how it affects them and why it is detrimental, but I think it is very important to get on the record why we have made a specific statement against pornography and are getting it out of these communities.

Senator SCULLION (Northern Territory—Minister for Community Services) (10.36 pm)—A particular concern in respect of this tragedy, in my view—and in the view of those who have read many of the reports or who have been associated with the communities—is the very young age of some of the offenders. That is a fundamental concern for me. I wonder how people thought that this behaviour could be normal—that children of 11 and 12 years of age could be perpetrators. It is a difficult area to even understand, let alone talk about, but some of the experts say that the use of pornography grooms young people—that, if they are exposed to explicit pornography, it is perhaps seen as a function of a normal physical relationship. If young people see that as being the norm—as something people do all the time—it is a great problem.

There has been much documentation on the impact of pornography on young people. As Senator Crossin pointed out, it is not so much that it is explicit pornography but the fact that it is available to such young people. We have laws in this country that prohibit young people from accessing pornography and laws that prohibit the showing of pornography to them. The laws in respect of protecting people from pornography are often related to age. These circumstances are no different. I think the nature of the isolation of the communities and the length of time that people in some of these communities are exposed to television put them at an even higher risk. That is why removing pornography is a fundamental part of the intervention. Pornography is a very negative aspect of their lives and, as with alcohol, we need to remove pornography whilst we provide some normalisation to the community.

Senator JOYCE (Queensland) (10.38 pm)—My final question goes to the issues that have been so clearly pointed out by you and your department with regard to Indigenous children in the Territory. Do you believe these issues are also prevalent in the states? If so, how do we deal with that? Should we explicitly concentrate on children in a certain part of Australia when the same maladies are present for other children of other races and Indigenous children in other parts of our nation?
Senator SCULLION (Northern Territory—Minister for Community Services) (10.40 pm)—There are reports from the Northern Territory and also in a general sense that indicate that there are alarming trends. Many of the communities that are found outside the Northern Territory have the same demographics—the circumstances of the communities are exactly the same, and I am quite sure that drawing a political line would not change the behaviour of any demographic. I cannot provide you with any evidentiary, scientific process but I do not believe that political borders on a map would differentiate anything. I think it is important that the states and territories provide law and order. This legislation is about intervening to prevent current criminal behaviour. States and territories that enjoy large populations of Indigenous people, particularly in remote communities, should look very carefully at the leadership that has been shown by this government. I am sure that the Commonwealth government would be more than happy to work with any other state and territory should they need assistance with a similar intervention. The government has a great deal of experience in these matters. One would hope that the states and territories that have communities of a similar demographic would move swiftly to ensure that those communities get the same level of safety that those in the Northern Territory communities will shortly enjoy.

Senator SIEWERT (Western Australia) (10.41 pm)—I would like to move to the aspect of this legislation that relates to the extraordinary powers over Aboriginal lands that the emergency bill will provide to the minister. Those powers do seem quite extraordinary. They give the minister the ability to terminate any right, title or other interest in the land at any time. The Commonwealth can sublease and license their interest in the land. The minister can amend through regulation certain provisions of Commonwealth laws as they apply to land the government holds under this act. The Law Council calls these provisions ‘Henry VIII clauses’. They give the government the power to exclude anyone from the land—and I would like the minister to confirm that—including the people who live there, which is quite extraordinary. I would therefore like to ask a couple of questions. As I understand it, the reason that the government wants to amend the permit system is so that Aboriginal communities cannot exclude people from the communities, yet the government wants that same power for itself. What sorts of laws does the government envisage that the Commonwealth would be able to exclude itself from applying on lands that it will be administrating under this bill?

Senator SCULLION (Northern Territory—Minister for Community Services) (10.43 pm)—The answer to your question is that these extraordinary powers are there to cope with an extraordinary situation in the Northern Territory. With regard to the circumstances that were there prior to the intervention, the Northern Territory government failed to provide law and order. Perhaps that was a circumstance of their legislation. We are not sure of this, but we suspect it was probably more resource driven and that there was no mischief about it as it happened for a long time over different governments. These extraordinary powers are necessary to deal with an extraordinary situation. In terms of the capacity for the minister to exclude a particular person, it is recognised that there may be somebody who should be expelled from the community—for example, a recidivist smuggler or a paedophile. It may seem inconsistent with our moves in respect of the permit system but the permit system is too broad a footprint and with it come a lot of disincentives for business and for tourism. I am sure you will cross-examine me about all
those issues when we get to them but this is simply a power that is provided to the minister to exercise over a particular person. Fundamentally, these powers that are provided to the minister are there to protect the children. That is what we are about. So the purpose of the power of the minister to exclude a particular person is to ensure that children are further protected by not having that person in the community.

Senator SIEWERT (Western Australia) (10.45 pm)—With respect to the removal of the permit system, you were just talking about allowing business and tourism in. You have previously argued that it could not be used to address child abuse but, if I understand your comments correctly, you essentially want the same powers to address child abuse.

Senator SCULLION (Northern Territory—Minister for Community Services) (10.45 pm)—I realise that there is no question there, but I would just say that the permit system was used time and time again to say, ‘We don’t need police and we don’t need the rule of law and order; we’ve got this permit system and it protects us.’ Senator, as you would know, the permit system has not protected those communities. All the communities that are mentioned in the report were supposed to be protected by the permit system—and it simply has not been enough.

We are saying that we need to replace that notional protection with real protection—the rule of law and order—and police officers, so people feel happy, comfortable and free to be able to report inappropriate behaviour or inappropriate people, knowing that there will not be some sort of payback, bullying or those sorts of behaviours. You do not need the permit system when you have the rule of law and order. The other thing is that there are benefits in having an open community. There are not only the obvious benefits that come from tourism, business and the opportunities of an economy but also the benefits that come from job opportunities. When we lift the permit system, it will only be from the road into the community and a specific discrete area of the township itself. As you would be aware, the permit system applies in all other areas.

Senator SIEWERT (Western Australia) (10.47 pm)—I want to return to addressing the permit system later. I realise that we will be getting into that issue under some of the amendments, so I will leave that for the time being. I would like to follow up on the question I asked earlier on what operations of Commonwealth laws the government envisages will be potentially excluded under regulation from applying to the lands that the Commonwealth controls. Let me give you a specific example. Would, for example, the Environment Protection and Biodiversity Conservation Act be excluded?

Senator SCULLION (Northern Territory—Minister for Community Services) (10.47 pm)—I understand that this is a general power and, as such, the consideration of what it would exclude or otherwise has not been considered. But at this stage it is not envisaged that it would say that the Environment Protection and Biodiversity Conservation Act would be void. That is not a specific yes or no answer to your question, but that has certainly not been envisaged as part of the intent.

Senator SIEWERT (Western Australia) (10.48 pm)—To a certain extent, you have hit the nail on the head, Minister. Another area of concern for us is that it is general. It is not specific and it is left wide open for a number of pieces of legislation to be excluded. The Environment Protection and Biodiversity Conservation Act is just one example that is causing concern in the community—and it is certainly causing concern
for the Greens. So I ask why it is not specific. Why is it so wide open? What guarantee does the community have that the power will not be abused—maybe not by this minister but by a future minister? I am not casting aspersions on any particular minister; I am just saying that the provision is there and, because it is such an extraordinary power, it could be abused in the future.

Senator SCULLION (Northern Territory—Minister for Community Services) (10.49 pm)—I suspect, Senator, that that is why the particular provision, being such a broad-ranging power, is done by regulation and therefore is disallowable in this place.

Senator SIEWERT (Western Australia) (10.49 pm)—How many regulations have been disallowed since the coalition has controlled the Senate?

Senator SCULLION (Northern Territory—Minister for Community Services) (10.49 pm)—We do not control the Senate; we have a certain number of senators—as do others. Senator, I do not have the answer to your question. Since I have been here, I think there may have been one. I think that probably reflects more on the responsible attitude of this particular government than any incapacity of somebody to disallow a motion. This is a regulation. It could have been done in another way. I believe it reflects your concerns. It is a broad-ranging power and, as such, should be disallowable in this place and the issues should be able to be brought back before the Senate.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (10.50 pm)—I move opposition amendment (1) on sheet 5352:

(1) Page 9 (after line 14), after clause 5, insert:

5A Review of operation etc. of Part 4

The Minister must cause to be conducted, as soon as practicable after the first anniversary of the day on which this Act receives the Royal Assent, a review of the operation and effectiveness of Part 4 (Acquisition of rights, titles and interests in land).

This amendment seeks to provide a review of the operation of part 4. This amendment requires that:

The Minister must cause to be conducted, as soon as practicable after the first anniversary of the day on which this Act receives the Royal Assent, a review of the operation and effectiveness of Part 4 (Acquisition of rights, titles and interests in land).

The bill has some provisions for sunset clauses et cetera but no formal provision for a review of the impact of the legislation. I notice that the Democrats have a similar amendment, more broadly expressed, which I think comes up as the next amendment. But the intent of our amendments is really the same, and that is to ensure that a formal review of the act takes place one year after the commencement of the act. Our amendment only seeks to review part 4—the sections dealing with the acquisition of rights, titles and interests in land. This is principally the section that gives the new five-year leases over township areas but also includes the town camps. The government’s argument for these provisions is that they need these leases to provide better housing and infrastructure. They are effectively taking on the responsibilities of the town landlord in an endeavour to quickly improve the vital infrastructure in these communities necessary for better housing and improved economic development. Labor supports the attempt to deal with what are effectively the underlying causes of poverty in these communities. It has been our view for a long time that housing is at the core of Indigenous disadvantage. It has impacts on health, on violence, on all aspects of life. If you are living in housing with 18 or 20 other people then that is fundamental to all the other aspects of your life, including
health and educational disadvantage, and leaves people more prone to the issues of domestic violence and child abuse. I have always accepted that housing is central to resolving the terrible issues of poverty that affect many of these communities.

There is a great deal of distrust about these measures in many Indigenous communities and particularly among the Indigenous leadership. They are concerned about why these leases are necessary. Their argument has been that the government can provide housing and infrastructure without needing to take control of the leases and they argue that there are other provisions that could allow this to occur. We heard the minister talking before about the need to act more quickly, that he has been frustrated by consultation and that the government believes that the lease arrangements are necessary to be able to drive the investment in infrastructure. I am a bit concerned that the funding for housing does not seem to be specified, and that is something we will come to later.

We support the need to make serious investments in infrastructure and housing and the need to take action to resolve those things and to provide better opportunities. You cannot provide security for children if they are living in houses where there are 18 or 20 people to a two- or three-bedroom house. The whole nature of that living arrangement puts those children at risk. There are questions not only of violence and sexual abuse but also of health.

I mentioned in my speech in the second reading debate the issue of disease brought about by those cramped living conditions and often failing sanitary provision. Just imagine 20 people using the same toilet. Domestic bathrooms are not designed to deal with that number of people. All of those things are central to people’s lives, and housing is at the core of many of the issues we are seeking to address.

There is concern about whether these measures will be effective in addressing the issues of child abuse and that is the basis for the package. People say, ‘Well, if you are interested in child abuse what has acquiring land got to do with that?’ The connection is not nearly as obvious as police, pornography and measures to tackle those things. It is not unreasonable for people to say, ‘Explain to me what the link is and explain to me why this has to occur.’ People want some reassurance on those matters. One of the things that is most important is that action on Indigenous affairs is based on evidence and not on ideology. While the government and others often accuse Labor of being driven by ideological obsessions, there is some suggestion that perhaps a sort of anti-self-determination flavour to government action has been driving a lot of the approach of government. I listened to some of the second reading debate speeches and there seemed to be a bit of an ideological tinge to some of the addresses by government members, which concerns me.

But basically Labor support an evidence based approach. We are going to take very serious measures here. Let us quickly assess the evidence on whether it is working or not. What we learned from the COAG trials was that there was not enough focus on the evidence, there was not enough accountability, the program rolled on without people looking at whether it was meeting the objectives and action was not taken to ensure those objectives were being met, so we did not get results. We think that by moving for a review after a year we can look at what is occurring, whether the objectives of the intervention are being met and, if not, what steps have to be taken to correct those. It holds us accountable. We are taking measures to intervene. We ought to be held accountable for whether those measures are working and whether or not they are delivering what we say they are going to deliver. Labor takes that very seri-
ously. We are taking a very big step. We are making a huge intervention in people’s lives and communities. We think it is for good reason, but we have to test whether or not that intervention has worked, whether or not we can do things better or differently and we have to assess whether there are unintended consequences. This stuff has been done in a rush. The legislation is going through in a rush. I would like to think we will get it perfect but we will not. We know we will not get it perfect. I hope the minister does not think we will get it perfect. That is not a reason to necessarily delay; urgent responses are needed. But it is a reason for caution. It is a reason for assessing whether or not we are meeting our objectives. The best way to do that is to have a proper review of whether these measures are meeting the objectives we have set for them.

I have concerns that the objectives, the KPIs if you like, are not spelt out. We are going to charge in and do a whole range of things but what are we going to measure those against? The 12-month review at least provides an opportunity for the intervention to be formally assessed, for a report to be made public and for that assessment to hold the minister, the government and this parliament accountable for the measures that we take. It is important that we give people reassurance that we are going to assess whether we are meeting our objectives. It will help to allay concern about the intervention and we will get much better public policy. I know the minister indicated that the government was sympathetic to some sort of two-year review but he is not prepared to put it into the legislation.

Progress reported.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Order! It being 11 pm, I propose the question: That the Senate do now adjourn.

Boag’s Brewery

Senator WATSON (Tasmania) (11.00 pm)—Who is James Boag? This is the question posed over recent years through an innovative series of advertisements and through which the Boag’s brand of beer products has greatly raised its profile on the Australian—and indeed the international—market. For 12 years now the successful ‘Who is James Boag?’ advertising campaign has highlighted the premium beer products produced at the historic Boag’s Brewery on the banks of the North Esk River in Launceston in Northern Tasmania. Having lived in Launceston all my life, the recent success of the local brewery in reinventing itself as a maker of quality beer for the national market has been something of a very pleasant surprise. Part of this pleasing success has been the degree to which the Boag’s Brewery contributes to the economic life of the city of Launceston and to the prosperity of those who work directly or indirectly in this process. The other pleasing aspect of this success is the way in which Boag’s beers are now seen as a major part of the growing Tasmanian image of so-called clean and green products, which are increasingly characterising the output of my home state, especially in the food products area.

Earlier this year, Boag’s Brewery won the Crystal Prestige award at the 2007 Monde Selection in Brussels in Belgium, the world’s most renowned beer awards. The Crystal Prestige award is awarded to brands that have won gold medals during 10 successive years at the Monde Selection. James Boag Premium is the first Australian beer to ever win this award, and this shows that the historic brewery is reaching the highest standards in its product and bringing pride and prosperity to its home city of Launceston.
This brewery was established during the first decade of the 1800s. Launceston, like so many early Australian towns, soon had a number of small breweries which supplied the local market and whose proprietors were often counted among the more colourful characters in the local business community. James Boag and his son, also named James, officially set up a partnership to take over the Esk Brewery in 1883, and their initial output was seven hogsheads of beer weekly. By 1887, a new malt house had been built, output had risen to 500 hogsheads and the brewery was employing 30 staff. In that same year, James Boag II took over the brewery from his father and the company purchased the Cornwall Brewery and amalgamated it into one of the town’s major businesses.

In 1900, the Cyclopedia of Tasmania reported:
Tasmanian ale and beer enjoy an international fame, and are generally admitted to being infinitely superior to anything produced elsewhere in Australia.
It continued:
Climatic advantages perhaps, to a great extent, account for the superiority of the article brewed on the island, but the aid of nature would be of very little service unless those who are engaged in the industry had taken intelligent advantage of it.
As a northerner in Tasmanian terms, I am forced to admit that these comments also included an excellent product brewed at the Cascade Brewery in Hobart.

In 1919, James Boag II died and was succeeded by his son, James Boag III. The company continued to grow and thrive, with James Boag III passing on in 1944. His place on the board was taken by his son George, the last of the family represented in the company. He finally retired in 1976. I have a particular interest in this because during the 1960s I used to do the audit for the brewery.

Over the years, the quality of the product was maintained at very high levels, with techniques being refined, hops improved and the production process upgraded to meet modern standards and efficiencies. In 1994 James Boag’s Premium Lager was launched nationally and was destined to become the Boag flagship product around Australia. Even though the parent company has changed hands in recent years, Boag’s Brewery has continued to provide employment for many Launceston residents and joy to beer drinkers around the country—indeed, now around the world.

In 2004 the first stage of a $50 million expansion was completed with the installation of a new high-speed packaging line, and the international owners have shown great faith in the future of the brewery by their continued investment in its future. I understand that they have an imaginative capital program planned for the near future. Boag’s now boasts a full range of beer drinkers’ delights, including Premium Light, Strongarm Bitter and Boag’s St George. The Boag’s Brewery now covers a complete block on Launceston’s Esplanade, employs 156 people and produces 30 million litres of beer annually. It is a local enterprise which makes Launceston people proud, and which has survived the economic rollercoaster of the years to emerge stronger and more enterprising than ever. So when you next see the advertisement which entices you with the question ‘Who is Jimmy Boag?’ understand that he was an originator of a little beer-brewing business in Northern Tasmania which now produces beers which are considered among the best in the world. And please enjoy the ads for their originality and enigmatic character even if you do not drink the beer.
Senator IAN MACDONALD (Queensland) (11.06 pm)—On this your first long night presiding over the Senate, can I add my congratulations to you, Mr President.

Last week I attended the National Tourism Alliance annual dinner here in Parliament House. It was a great opportunity to join the tourism and hospitality industries to celebrate the tourism industry and to look towards the future opportunities that the industry may have. The tourism industry is an $81 billion industry for Australia, contributing more than four per cent of Australia’s GDP and directly or indirectly employing more than 880,000 Australians. The National Tourism Alliance is a united force for the Australian tourism industry. Members comprise key national industry associations and all state tourism industry councils, whose members represent over 90 per cent of tourism businesses in Australia.

The total economic value of inbound tourism to Australia in 2006 was $20.5 billion and the total economic value of domestic tourism in 2006 was a little over $60 billion, so a very significant industry for Australia. That brought to mind some of my experiences during this calendar year with the tourism industry. Just after Christmas, my wife and I and a couple of friends booked a P&O cruise out of Brisbane on the Pacific Star. P&O is a great company, well run, well managed in Australia by Mr Gavin Smith, who operates Carnival Australia businesses in this country. Unfortunately, P&O has had some poor publicity, but as politicians we know that the media will always concentrate on the dramas and the bad points. Very rarely does the media indicate the good points. P&O is a fabulous line and I can say from personal experience that the cruise we had, which I think is typical of most people’s experience of cruising on P&O, was just sensational. Being on the cruise ship itself was a magnificent experience, waited on hand and foot by very attentive staff, with magnificent meals. Safety was paramount. The number of security guards P&O had onboard the ship was overwhelming. It was a magnificent tourism and holiday experience and one which I recommend to all senators.

The P&O line gets some bad publicity, because the media expects that either the government or a company like P&O Cruises has to look after every individual and individuals no longer have any responsibility for looking after themselves. If something goes wrong through the decisions we make as individuals, it suddenly becomes P&O’s fault. Certainly, P&O operate a fantastic line with a magnificent holiday experience and, as I said, it is one I could recommend to any senator and indeed to any Australian.

On 21 July I had the honour of representing the Minister for Small Business and Tourism at Malanda in Far North Queensland at the official opening of some new units at the Rose Gums Wilderness Retreat. The Rose Gums Wilderness Retreat is a fabulous example of what we in Australia can do with our great tourism assets. This tourism retreat in Malanda, in the wet tropics rainforest, is just two hours from Port Douglas and the Daintree Rainforest, 80 minutes west of Cairns and the Great Barrier Reef. It is accessible all year by conventional vehicles and magnificently operated by Jon and Peta Nott who share their property, their home, with their guests. This particular retreat now has a conference centre. I recommend that, particularly to any public servants or any departments which may be looking for a retreat for a conference. It is a great venue right in the middle of the rainforest.
Interestingly, this retreat won a $100,000 award from the Australian Tourism Development Program, operated by the Australian government. They have been the winner for two years in a row of the Tropical North Queensland Tourism Award for accommodation. The new units, which I officially opened, are made of natural products and are slap-bang in the middle of the rainforest. If you stay there, which unfortunately I did not, you will have the opportunity of seeing 156 species of birds, on which John Nott is an expert. In these times of climate change, this particular wilderness retreat has a very interesting initiative of guests earning carbon credits. They have a program in place there and, for $25, you can buy your own tree and plant it in the rainforest. You receive a certificate and you become part of the solution to climate change. Over the 13 years they have had this property, Jon and Peta Nott have planted some 20,000 trees in the area, replacing what was a degraded dairy farm and it is a great example.

I want to talk briefly now about Australia’s national airline, recognised worldwide, and that is Qantas. Just after the parliamentary break in June I had occasion to visit Italy, in a private capacity, for a wedding. When you travel the world and see airports and infrastructure and undertake travel arrangements and then you come back home, you know why we are definitely living in the lucky country. Qantas were fabulous to me, as they are, I think, with most of their customers. I particularly want to mention the service I received from Nigel Page, Rosanna, Samantha Tyler in London and an employee in Rome, whose name I did not record, who was the only one who was interested when British Airways lost my suitcase. The Qantas employees and the Qantas people in Australia did a magnificent job in trying to track it down. They did not, because BA at the time had 12,000 bags lost around the world on one particular day—on any particular day—but Qantas were just fabulous. It makes you understand what a fantastic airline it is and why it has such a great reputation. People fly other airlines, and other airlines are good as well, but when you step on a Qantas aircraft anywhere around the world you feel as though you are home. At times we complain about Australia, but when you see our infrastructure and transport systems and compare them with those of anywhere else in the world you know why we really do live in the lucky country.

Finally, I want to relate a story which would restore one’s faith in human nature if it was ever missing. I was coming back from this visit to Rome and I had missed the plane, through nobody’s fault but my own. BA did get us back to London, and Qantas in London then got us back to Australia. I was very grateful for that; I had missed the plane because of my own inefficiency. But whilst in London and feeling rather tired I lost my wallet. I had no idea what had happened; I thought someone had pickpocketed it. We searched everywhere. Qantas staff helped me search. We reported it and cancelled all our credit cards. A few days after we got back to Australia I got a call from Diners Club saying, ‘Ring this number.’ I asked what the prefix was and they said it was for the Netherlands. I rang the number, and a hotel in the Netherlands called the Grand Hotel Huis Ter Duin was on the other end of the line. They said: ‘Yes, Mr Macdonald, a guest came in, went to unpack their baggage and found your wallet in their bag. They brought it down to us and asked us to find the owner.’ They had no idea how it had got there, and neither do I. But it was interesting that, from around the world, a fellow traveller had found my wallet, handed it in and got it back to me. That is a great example of what happens in international tourism. I am particularly grateful to Petra Molenaar at the Grand Hotel Huis Ter
Duin at Noordwijk, the Netherlands, for doing that.

**Senate adjourned at 11.17 pm**

**DOCUMENTS**

**Tabling**

The following documents were tabled by the Clerk:

Civil Aviation Act—Civil Aviation Safety Regulations—Airworthiness Directives—Part 105—

AD/BELL 222/24 Amdt 1—Main Rotor Hydraulic Actuator Support [F2007L02448]*.
AD/BELL 222/25 Amdt 1—Main Rotor Pendulum Weight Support [F2007L02449]*.
AD/CL-600/34 Amdt 2—Flap Operation [F2007L02455]*.
AD/CL-600/35 Amdt 2—Main Landing Gear Main Fitting [F2007L02456]*.
AD/DHC-1/36 Amdt 1—Flap Operating Cables [F2007L02463]*.
AD/ECUREUIL/109 Amdt 3—Sliding Door Rear Fitting Pin [F2007L02464]*.
Currency Act—Currency (Royal Australian Mint) Determination 2007 (No. 5) [F2007L02472]*.
Lands Acquisition Act—Statements describing property acquired by agreement for specified public purposes under sections—

40.
125.

**Tabling**

The following government document was tabled:

Backing Australia’s ability: Real results real jobs—Australian Government’s innovation report—2006-07.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Human Services: Monetary Compensation**  
*(Question No. 2002 supplementary)*

**Senator O’Brien** asked the Minister for Human Services, upon notice, on 8 June 2006:
What is the quantum of payments made as settlements to claims for monetary compensation by the departments and agencies for which the Minister is responsible that are consistent with Legal Services Directions issued under section 55ZF of the Judiciary Act 1903, by financial year, since the first Legal Services Directions were issued.

**Senator Ellison**—The answer to the honourable senator’s question is as follows:

Further to Question on Notice 2002 (*Hansard* Page 152, 7 November 2006), additional information is provided.

**CRS Australia**
Settlement details for claims for monetary compensation are not easily identifiable from CRS Australia records. Comcover holds some of the information necessary to respond accurately to the question. However, Comcover has advised that it is unable without a significant diversion of resources to distinguish between amounts of compensation paid on behalf of agencies and the reimbursement of costs incurred by claimants (eg, legal expenses).

**Medicare Australia**
The total cost of claims for monetary compensation paid by Medicare Australia for each financial year, since the first Legal Services Directions were issued:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999-00</td>
<td>$3,647.00</td>
</tr>
<tr>
<td>2000-01</td>
<td>$101,268.15</td>
</tr>
<tr>
<td>2001-02</td>
<td>$0.00</td>
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<tr>
<td>2002-03</td>
<td>$15,536.20</td>
</tr>
<tr>
<td>2003-04</td>
<td>$4,551.85</td>
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<tr>
<td>2004-05</td>
<td>$811.14</td>
</tr>
<tr>
<td>2005-06</td>
<td>$31,720.34</td>
</tr>
</tbody>
</table>

These payments exclude compensation payments made by Comcover who hold some of the information necessary to respond accurately to the question. However, Comcover has advised that it is unable, without significant diversion of resources, to distinguish between amounts of compensation paid on behalf of agencies and the reimbursement of costs incurred by claimants such as legal expenses.

**Human Milk Banks**  
*(Question No. 2970)*

**Senator Allison** asked the Minister representing the Minister for Health and Ageing, upon notice, on 25 January 2007:

With reference to the approval given by the Therapeutic Goods Administration in 2005 for the establishment of human milk banks and the fact that 12 months later, no milk banks had commenced operating:

QUESTIONS ON NOTICE
(1) Is the Minister aware of the substantial benefit to the health of premature babies of providing human milk banks, as recommended by the World Health Organisation and the United Nations Children’s Fund.

(2) Given that there are 11 human milk banks already operating in North America and the United Kingdom and 300 in Brazil, is the Government considering developing a program for the establishment of such banks in all Australian states; if so, at what stage is this process; if not, why not.

(3) Is the Minister aware that the John Flynn Private Hospital on the Gold Coast, Queensland is ready to operate, but needs $350,000 per year in funding for this to be possible.

(4) What does the Government consider to be appropriate funding sources for the establishment of human milk banks.

Senator Ellison—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

It should be clarified that the Therapeutic Goods Administration has not given approval for the establishment of human milk banks in Australia. It is the position of the Commonwealth Government Department of Health and Ageing (including the Therapeutic Goods Administration) that human milk is classified as a food rather than a therapeutic good and is therefore outside the jurisdiction of the Therapeutic Goods Administration. The food regulatory environment requires that all foods sold are safe and suitable for human consumption.

(1) Yes. I am aware of the benefits of breastmilk and the recommendations of the World Health Organization and other international agencies for member countries, including Australia, to promote and protect the provision of breastmilk to infants.

(2) No, the Commonwealth Government is not giving consideration to a program of human milk banks.

(3) I understand the Mothers Milk Bank Pty Ltd is already operating on the premises of the John Flynn Private Hospital.

(4) The establishment of human milk banks is primarily for the benefit of premature and sick babies in hospitals. The two existing human milk banks in Australia are associated with individual hospitals. It is considered appropriate for human milk banks to be funded as part of the usual hospital funding arrangements.

The Commonwealth Government provides grants to the State and Territory Governments to provide free public hospital services to public patients under the 2003-2008 Australian Health Care Agreements. Issues relating to the overall level of funding available to the public hospital system, and how those funds are allocated, remain matters for each State and Territory Government according to its priorities, and within the scope of its responsibilities under the public hospital funding arrangements. Private hospitals receive indirect Commonwealth Government funding through the private health insurance 30% rebate.

Autism

(1) Given that data from Centrelink was regarded as especially useful, why did Centrelink not provide researchers with a breakdown, by state, of the number of people with autism spectrum disorders (ASD) who receive a Carer Allowance, a Disability Support Pension or other benefits.
(2) (a) Will a breakdown of the number of Carer Allowances relating to autism spectrum disorders be available to researchers in future; and (b) can Centrelink data for autism-related Carer Allowances be provided annually.

(3) (a) Is Pervasive Developmental Disorder - Not Otherwise Specified (PDD-NOSS) a severe and pervasive disorder; and (b) does Centrelink identify persons diagnosed with PDD-NOS; if not, why not.

**Senator Ellison**—The answer to the honourable senator’s question is as follows:

(1) Centrelink has provided responses to all requests by researchers working on a prevalence of autism in Australia research study. Centrelink was not requested to provide state-based data.

(2) The release of information about Carer Allowance customers and care receivers needs to be made by the Department of Families, Community Services and Indigenous Affairs.

(3) (a) This is a medical question and Centrelink is unable to comment on this. (b) Pervasive Developmental Disorder – Not Otherwise Specified, is not included on the Lists of Recognised Disabilities and therefore Centrelink does not collect data about this specific condition. For recording purposes this condition is grouped with other conditions of a similar nature.

**Industry, Tourism and Resources: Appropriations**

(Question No. 3349)

**Senator Sherry** asked the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 15 June 2007:

(1) Was there any appropriation receivable included as an asset in the balance sheet at 30 June 2006.

(2) Is there an appropriation receivable included as an asset in the estimated balance sheet at 30 June 2007.

(3) What are the reasons for any movement in the appropriation receivable between 30 June 2006 and 30 June 2007.

(4) With reference to the estimated actual results and financial position for the 2006-07 financial year, what amounts have been identified, for the 2007-08 financial years and for future years, for funding employee entitlements or asset replacements from the appropriation receivable balance.

(5) For the 2007-08 financial year and future years, what other items have been identified for funding from the appropriation receivable balance.

(6) What tests are applied by the Department of Finance and Administration over access to the appropriation receivable.

**Senator Minchin**—The Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator’s question:

(1) Yes, the Department’s appropriation receivable was included as an asset in the balance sheet at 30 June 2006.

(2) Yes, appropriation receivable is included as an asset for the Department in the estimated balance sheet at 30 June 2007.

(3) The change in the Department’s appropriation receivable is largely attributable to changes in the level of liabilities and the impact of capital expenditure on asset acquisitions after allowing for depreciation funding and equity injections.

(4) The Department’s appropriation receivable and annual depreciation funding will be used to assist funding the replacement of existing assets at the end of their useful lives taking into account the Department’s asset requirements. As at 30 June 2007 accumulated depreciation is $17m. Along with ongoing Departmental appropriations, the appropriation receivable will also be used to fund
the movement in employee entitlements. The employee entitlements balance at 30 June 2007 is $55m.

(5) In addition to the items identified above the Department’s appropriation receivable will be used to fund other balance sheet movements, including in relation to supplier liabilities and other provisions and payables.

(6) The Minister for Finance and Administration will respond to this part of the question.

Redfern-Waterloo Project
(Question No. 3375)

Senator Crossin asked the Minister representing the Minister for Health and Ageing, upon notice, on 20 June 2007:

With reference to the Redfern-Waterloo Project, outlined in the Expression of Interest (EOI) submitted to the department in October 2006 by a partnership of the City of Sydney and the Redfern-Waterloo Authority, which aims to provide a support service to alcohol-dependant men in the Redfern-Waterloo area with a dry day centre, a short- to medium-term dry accommodation facility and weekly meetings for the local Aboriginal men’s group and given that: (a) while the EOI sought $829,745 in funding assistance from the department, the parties involved were given the impression by departmental representatives that the EOI would be the first step in the development of the project: and (b) the department refused funding for the project on 27 February with no further consultation or reason given:

(a) Why did the department refuse funding for the project.
(b) What alcohol management or support services does the department currently fund in the Redfern region and can a list be provided that details, for each of these services:
   (i) The name,
   (ii) It’s purpose and main activities,
   (iii) The regions it intends to cover or service: and
   (iv) For the 2006-07 financial year, the amount of funding it received.

Senator Ellison—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(a) The Department’s decision not to fund the project is based on two factors. First, the proposal sought funding under the “Addressing Indigenous Needs – National Illicit Drug Strategy – Capacity Building in Indigenous Communities Initiative”. Under the funding guidelines and principles for this program, funding is available over four years, from 2005-06 to 2008-09 to support projects on a trial and/or one off basis that could be implemented or adapted in other communities. The Redfern-Waterloo Project seeks capital funding and recurrent funding to establish and then maintain an ongoing service (funding sought for 12 staff over four years), which extends beyond the life of the Initiative. The focus of the program and the inability to provide recurrent funding for core activities was discussed with the organisation by phone on 5 March 2007.

Second, the project primarily has an accommodation or housing rather then a treatment and intervention focus and may be more appropriately funded by another agency.

The Department has also written to Mr Robert Domm, Chief Executive Officer of the Redfern-Waterloo Authority proposing a joint meeting with the NSW Indigenous Coordination Centre, the Department of Family, Community Services and Indigenous Affairs (FACSIA), Aboriginal Hostels Limited and the Redfern-Waterloo Authority, to assess the proposal further.

(b) The Department currently funds the following services in the Redfern area relating to alcohol and other substance misuse:
The Office for Aboriginal and Torres Strait Islander Health (OATSIH) Substance Use Program provided recurrent funding to the Aboriginal Medical Service Cooperative Ltd - Redfern, for their substance use program.

**Funding:** Funding for 2006-07 is $72,667 (GST exclusive).

Purpose and main activities: The service has a non-residential drug and alcohol unit providing the following substance use programs: family based programs, prevention and early intervention programs, harm minimisation programs, case management, relapse prevention programs and counselling.

The service also provides outpatient detoxification and pharmacotherapy maintenance services, counselling and welfare support, self-help relapse prevention and support groups, community education and outreach programs in high risk communities.

**Area of Service:** Metropolitan Sydney

The Non-Government Organisation Treatment Grants Programme (NGOTGP) currently provides funding to Aboriginal Medical Service Cooperative Ltd - Redfern

**Funding period:** July 2006 to June 2008

**Funding:** The total value of the funding agreement is $640,946 (GST exclusive). To date, $240,354 (GST exclusive) has been paid in 2006-07.

**Purpose and main activities:** Outpatient detoxification, maintenance, pharmacotherapy services for Aboriginal illicit drug users in the inner city.

**Area of Service:** Metropolitan Sydney

The Community Partnerships Initiative (CPI) currently funds the Drug and Alcohol Multicultural Education Centre (DAMEC) for two projects in the Strawberry Hills/Redfern area.

**Project (1):** Young African Companions Project

**Amount Funded:** $80,000 (GST exclusive)

**Purpose and main activities:** The ‘Young African Companions’ Project aims to build on the existing project currently running in partnership with the NSW Refugee Health Service and the Service for the Treatment and Rehabilitation of Torture and Trauma Survivors to provide support to young people from African refugee backgrounds regarding drug and alcohol issues. The objectives of the project are to increase understanding of drug and alcohol issues among young people from African refugee backgrounds; and enhance the ability of African refugee young people to seek appropriate help when required.

**Area of Service:** The Sydney Metropolitan Area.

**Project (2):** HOA BINH Families Talk Project

**Amount Funded:** $78,700 (GST exclusive)

**Purpose and main activities:** The ‘HOA BINH’ Families Talk’ Project aims to improve the capacity of families of Vietnamese speaking background to prevent and limit the harm caused by illicit drug use among young members of the community. The Project will endeavour to provide parents, extended family members and the community with the skills and knowledge required to interact effectively with young people and respond appropriately in relation to drug related matters.

**Area of Service:** Sydney Metropolitan Area.

**Credentialing of Clinical Psychologists**

(Question No. 3391)

Senator Allison asked the Minister representing the Minister for Health and Ageing, upon notice, on 21 June 2007:
With reference to the credentialing of clinical psychologists for Medicare rebates under the ‘Better Access to Psychiatrists, Psychologists and GPs through the Medical Benefit Schedule (MBS)’ initiative:

(1) How many psychologists are currently waiting for credentialing by the Australian Psychological Society, in order to be eligible for the Medicare rebate.

(2) What is the average waiting time between applying for a credential and receiving the credential.

(3) When the department provided funds to the Australian Psychological Society (APS) for the credentialing process did it specify any targets for the number of psychologists to be credentialed or any time frames for the credentialing process.

(4) Has the Minister considered the implications of reports that some psychologists are experiencing delays of up to 5 months for credentialing on the availability of rebates to consumers.

(5) (a) Can the department provide details of the eligibility criteria for the APS College of Clinical Psychologists membership; and (b) have these criteria changed since the announcement of MBS rebates for psychologists; if so, how.

(6) (a) What are the college’s current guidelines and standards for the evaluation of university education and training courses in clinical psychology; and (b) have these guidelines changed since the announcement of MBS rebates for psychologists; if so, how.

Senator Ellison—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) As at 31 May 2007, 1654 clinical psychologists were registered with Medicare Australia to provide Psychological Therapy services (Medicare items 80000 to 80020) under the Better Access to Psychiatrists, Psychologists and GPs through the Medical Benefit Schedule (Better Access) initiative. The Australian Psychological Society (APS) has advised that data on the number of applications from psychologists awaiting assessment of eligibility for membership of the APS College of Clinical Psychologists is only used for internal processing purposes and as such is not publicly available.

(2) The APS has advised that the time taken to assess applications varies depending on the complexity of assessing whether the education, training and experience of an applicant is equivalent to the standard pathway for entry into the APS College of Clinical Psychologists and the extent of the verification required. Where gaps in clinical practice and training are identified applicants may be required to undertake further training and supervised practice. In such cases a formal Individual Bridging Plan is agreed between the applicant and the APS and the application remains open while additional training is completed. This process of keeping applications open significantly extends the time taken to complete an assessment.

If applicants are concerned about the length of time their application has been under consideration, they can contact the APS to check the status of their application.

More detail on the application process referred to is available at the APS website at www.psychology.org.au

(3) No targets or timeframes for the completion of credentialing have been set as such targets and timeframes are not appropriate. The credentialing process is to ensure that all clinical psychologists registered to provide Psychological Therapy services under Medicare have the appropriate qualifications, experience and clinical training to provide these services at the higher rebate level. The length of time taken to assess each application will vary based on individual applicant’s circumstances and the nature of the verification process required.
(4) The Department is not aware of any significant problem with delays and therefore this issue has not been brought to the Minister’s attention.

(5) (a) The eligibility criteria are outlined on the APS’s website (www.psychology.org.au). (b) The APS has advised the Department that there have been no changes to the requirements for eligibility for membership of the Australian Psychological Society’s College of Clinical Psychologists in response to the introduction of the Better Access initiative.

(6) (a) In the credentialing process, the APS applies the requirements for eligibility for entry into the Australian Psychological Society’s College of Clinical Psychologists. Refer to answer to (5) above. (b) The requirements have not changed in response to the introduction of the Better Access initiative.

Food Labelling
(Question No. 3398)

Senator Milne asked the Minister representing the Minister for Health and Ageing, upon notice, on 22 June 2007:
Given that the Heart Foundation has concerns over the health effects of palm oil, due to the fact that it is a saturated fat, and in particular the potential risk of heart disease, what action is being taken to ensure more stringent labelling of products containing palm oil.

Senator Ellison—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

Current labelling requirements require the declaration of the saturated fat content in the Nutritional Information Panel. This enables consumers to take account of saturated fat levels in their purchasing decision if they wish. Therefore, there is no additional requirement to indicate the presence of palm oil where ‘vegetable oil’ is provided on the label as the name of the food or where provided in the ingredient list.

FSANZ has received an Application which is requesting that where the source of vegetable oil is palm, the specific name of the oil is declared. The Application is not based on health and safety concerns but the disclosure of whether palm oil has been sourced from sustainable palm oil plantations. The concern relates to deforestation and possible extinction of the Orangutan population.

The Application was received 24 October 2006 and the assessment process is due to start in the latter part of 2007. There is no prescribed completion date.

Asia-Pacific Economic Cooperation Health Ministers Meeting
(Question No. 3399)

Senator Allison asked the Minister representing the Minister for Health and Ageing, upon notice, on 27 June 2007:
In regard to the Asia-Pacific Economic Cooperation (APEC) Health Ministers Meeting in Sydney in early June 2007:

(1) What decisions were made regarding the Millennium Development Goal for reducing AIDS, tuberculosis and malaria.

(2) Will Australia’s contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria be increased to $100 million in 2007 and to $640 million over the next 4 years as part of a combined action by APEC members; if not, why not.

Senator Ellison—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:
(1) The APEC Health Ministers’ Meeting discussed matters relating to the impact of health threats on economic activity. The agenda for those discussions built on previous work done within APEC, and focused on avian and pandemic influenza. The Millennium Development Goal relating to HIV/AIDS, tuberculosis and malaria was not discussed at the meeting.

The APEC 2007 Health Ministers’ Meeting also considered emerging health threats affecting the Asia Pacific region, such as the economic and social impact of HIV/AIDS. During the meeting, Ministers received a presentation from Ms Annmaree O’Keeffe, Australian Ambassador for HIV/AIDS regarding the economic and social impact of HIV/AIDS in the Asia Pacific region.

In their Ministerial Outcomes Statement, APEC Health Ministers recognised the need for a multi-sectoral response to address health threats in the region.

The APEC Health Task Force Meeting, held in Sydney on 5-6 June 2007 also sought to further APEC’s fight against HIV/AIDS in our region, including the development of guidelines and projects to assist economies in developing measures to address HIV/AIDS.

(2) The Global Fund to Fight AIDS, Tuberculosis and Malaria is a partnership between governments, civil society, the private sector and affected communities. The funding contributions structure is set up for individual donor countries to contribute on a voluntary basis. To date, 11 APEC Economies have contributed.

In the 2007-08 Budget, the Commonwealth Government announced increased funding for the Global Fund of up to $45 million in this financial year. This follows Australia’s existing pledge of $75 million over four years (2004-2007).

In addition to this financial commitment, Australia supports the Global Fund through its active involvement with the Board. The Government is also involved in the management and implementation of Global Fund grants in countries in our region.

**Australian Federal Police: April Fools Day Inquiry**

*(Question No. 3402)*

Senator Nettle asked the Minister for Justice and Customs, upon notice, on 9 July 2007.

(1) From 2005 to 2007, what has been the total cost incurred by the Australian Federal Police (AFP) in conducting investigations into matters arising from the inquiry by the House of Representatives Privileges Committee into ‘documents fraudulently and inaccurately written and issued in a member’s name’, also known as the April Fools’ Day inquiry.

(2) On what date was the Honourable Gary Nairn MP, who initiated the reference to the committee on 10 August 2005, advised by the AFP that since the events occurred on April Fools’ Day they may have been a prank.

(3) What costs were incurred by the AFP after Mr Nairn was advised that the matter may have been an April Fools’ Day prank.

Senator Johnston—The answer to the honourable senator’s question is as follows:

(1) The AFP has conducted two separate investigations in relation to these matters.

The AFP investigated an allegation referred by the Hon Gary Nairn MP on 18 April 2005, for offences relating to forgery of documents. This investigation was finalised in February 2006.

The cost incurred by the AFP for this investigation was approximately $25,000.00, primarily from the time allocated to the investigation (241.75 hours).

The AFP conducted a second investigation in 2006 relating to similar allegations which arose from a separate set of actions. The second investigation was finalised in December 2006.

The cost incurred by the AFP for the second investigation was approximately $41,000.00, primarily from the time allocated to the investigation (389 hours).
(2) On 3 May 2005, the AFP wrote to the Hon Gary Nairn MP and advised of the likelihood that the forged documents related to April Fools Day.

(3) The cost incurred by the AFP in the first investigation subsequent to the correspondence to the Hon Gary Nairn MP on 3 May 2005 was approximately $25,000.00 (239.75 hours).

**Human Rights: China**

(Question No. 3408)

**Senator Milne** asked the Minister representing the Minister for Foreign Affairs, upon notice, on 17 July 2007:

(1) What measures is the Government taking to urge Chinese authorities to immediately release from custody all detained Falun Gong practitioners.

(2) What measures is the Government taking to urge Chinese authorities to immediately allow an independent investigation into organ harvesting allegations and to cooperate fully with the investigators.

(3) What measures is the Government taking to warn Australians against visiting China for organ transplants, given that prisoners of conscience can be murdered to provide organs and that the level of medical care is below Australian standards.

**Senator Coonan**—The following answer has been provided by the Minister for Foreign Affairs to the honourable senator’s question:

(1) The Australian Government makes regular representations to China regarding China’s arrest and mistreatment of Falun Gong practitioners, including, most recently, at the last Australia-China Human Rights Dialogue held in Beijing in July 2007.

(2) The Government has raised the allegations of organ harvesting with China on numerous occasions, including at the last two Australia-China Human Rights Dialogues (the most recent of which was held in Beijing on 30 July 2007), and in discussions between senior officials. The Government has impressed on China the need to address the organ harvesting allegations and suggested that one way to do so would be to allow an independent, credible investigator unfettered access to facilities of his/her choosing.

(3) Our travel advisory for China currently advises that the standard of medical care and the range of available medicines in China are often limited, particularly outside of major cities. The Government does not propose to include a reference to organ harvesting allegations in our travel advisory for China.