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the Senate and committee hearings are available at

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**SITTING DAYS—2007**

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

- **CANBERRA** 103.9 FM
- **SYDNEY** 630 AM
- **NEWCASTLE** 1458 AM
- **GOSFORD** 98.1 FM
- **BRISBANE** 936 AM
- **GOLD COAST** 95.7 FM
- **MELBOURNE** 1026 AM
- **ADELAIDE** 972 AM
- **PERTH** 585 AM
- **HOBART** 747 AM
- **NORTHERN TASMANIA** 92.5 FM
- **DARWIN** 102.5 FM
FORTY-FIRST PARLIAMENT
FIRST SESSION—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
Nationalals 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

<table>
<thead>
<tr>
<th>Senator</th>
<th>State or Territory</th>
<th>Term expires</th>
<th>Party</th>
</tr>
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<tbody>
<tr>
<td>Abetz, Hon. Eric</td>
<td>TAS</td>
<td>30.6.2011</td>
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<td>AG</td>
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<td>30.6.2011</td>
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<td>30.6.2011</td>
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<tr>
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<td>30.6.2011</td>
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<td>30.6.2008</td>
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</table>

(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 Hon. Santo Santoro, 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 Hon. Richard Kenneth Robert Alston, resigned.
(7) Chosen by the Parliament of Tasmania to fill a casual vacancy vice Hon. Amanda Eloise Vanstone, resigned.
(8) Chosen by the Parliament of Western Australia to fill a casual vacancy vice Hon. Ian Gordon Campbell, resigned.
(9) Chosen by the Parliament of Tasmania to fill a casual vacancy vice Hon. Paul Henry Calvert, resigned.

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
<table>
<thead>
<tr>
<th>Position</th>
<th>Minister</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prime Minister</td>
<td>The Hon. John Winston Howard MP</td>
</tr>
<tr>
<td>Deputy Prime Minister</td>
<td>The Hon. Mark Anthony James Vaile MP</td>
</tr>
<tr>
<td>Treasurer</td>
<td>The Hon. Peter Howard Costello MP</td>
</tr>
<tr>
<td>Minister for Trade</td>
<td>The Hon. Warren Errol Truss MP</td>
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<tr>
<td>Minister for Defence</td>
<td>The Hon. Dr Brendan John Nelson MP</td>
</tr>
<tr>
<td>Minister for Foreign Affairs</td>
<td>The Hon. Alexander John Gosse Downer MP</td>
</tr>
<tr>
<td>Minister for Health and Ageing and Leader of the House</td>
<td>The Hon. Anthony John Abbott MP</td>
</tr>
<tr>
<td>Attorney-General</td>
<td>The Hon. Philip Maxwell Ruddock MP</td>
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<td>Minister for Finance and Administration, Leader of the Government in the Senate and Vice-President of the Executive Council</td>
<td>Senator the Hon. Nicholas Hugh Minchin</td>
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<td>Minister for Agriculture, Fisheries and Forestry and Deputy Leader of the House</td>
<td>The Hon. Peter John McGauran MP</td>
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<td>Minister for Immigration and Citizenship</td>
<td>The Hon. Kevin James Andrews MP</td>
</tr>
<tr>
<td>Minister for Education, Science and Training and Minister Assisting the Prime Minister for Women’s Issues</td>
<td>The Hon. Julie Isabel Bishop MP</td>
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<tr>
<td>Minister for Families, Community Services and Indigenous Affairs and Minister Assisting the Prime Minister for Indigenous Affairs</td>
<td>The Hon. Malcolm Thomas Brough MP</td>
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<tr>
<td>Minister for Industry, Tourism and Resources</td>
<td>The Hon. Ian Elgin Macfarlane MP</td>
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<tr>
<td>Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service</td>
<td>The Hon. Joseph Benedict Hockey MP</td>
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<tr>
<td>Minister for Communications, Information Technology and the Arts and Deputy Leader of the Government in the Senate</td>
<td>Senator the Hon. Helen Lloyd Coonan</td>
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<td>Minister for the Environment and Water Resources</td>
<td>The Hon. Malcolm Bligh Turnbull MP</td>
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<td>Minister for Human Services</td>
<td>Senator the Hon. Christopher Martin Ellison</td>
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*(The above ministers constitute the cabinet)*
<table>
<thead>
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<th>Minister</th>
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<tbody>
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<td>Minister for Fisheries, Forestry and Conservation and Manager of</td>
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<td>Government Business in the Senate</td>
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<tr>
<td>Minister for Small Business and Tourism</td>
<td>The Hon. Frances Esther Bailey MP</td>
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<tr>
<td>Minister for Local Government, Territories and Roads</td>
<td>The Hon. James Eric Lloyd MP</td>
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<td>Minister for Revenue and Assistant Treasurer</td>
<td>The Hon. Peter Craig Dutton MP</td>
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<td>Minister for Workforce Participation</td>
<td>The Hon. Dr Sharman Nancy Stone MP</td>
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<td>Minister for Veterans’ Affairs and Minister Assisting the Minister for</td>
<td>The Hon. Bruce Frederick Billson MP</td>
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<td>The Hon. Christopher Maurice Pyne MP</td>
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<td>Parliamentary Secretary to the Prime Minister</td>
<td>The Hon. Anthony David Hawthorn Smith MP</td>
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<td>Senator the Hon. Richard Mansell Colbeck</td>
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<td>The Hon. Robert Charles Baldwin MP</td>
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<td>The Hon. Gregory Andrew Hunt MP</td>
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<td>The Hon. Sussan Penelope Ley MP</td>
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<td>The Hon. Patrick Francis Farmer MP</td>
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<td>The Hon. Peter John Lindsay MP</td>
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<tr>
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</table>
SHADOW MINISTRY

Leader of the Opposition
Deputy Leader of the Opposition, Shadow Minister for Employment and Industrial Relations and Shadow Minister for Social Inclusion
Leader of the Opposition in the Senate and Shadow Minister for National Development, Resources and Energy
Deputy Leader of the Opposition in the Senate and Shadow Minister for Communications and Information Technology
Shadow Minister for Infrastructure and Water and Manager of Opposition Business in the House
Shadow Minister for Homeland Security, Shadow Minister for Justice and Customs and Shadow Minister for Territories
Shadow Assistant Treasurer and Shadow Minister for Revenue and Competition Policy
Shadow Minister for Immigration, Integration and Citizenship
Shadow Minister for Industry and Shadow Minister for Innovation, Science and Research
Shadow Minister for Trade and Shadow Minister for Regional Development
Shadow Minister for Service Economy, Small Business and Independent Contractors
Shadow Minister for Multicultural Affairs, Shadow Minister for Urban Development and Shadow Minister for Consumer Affairs
Shadow Minister for Transport, Roads and Tourism
Shadow Minister for Defence
Shadow Minister for Climate Change, Environment and Heritage and Shadow Minister for the Arts
Shadow Minister for Veterans’ Affairs, Shadow Minister for Defence Science and Personnel and Shadow Special Minister of State
Shadow Attorney-General and Manager of Opposition Business in the Senate
Shadow Minister for Sport and Recreation, Shadow Minister for Health Promotion and Shadow Minister for Local Government
Shadow Minister for Families and Community Services and Shadow Minister for Indigenous Affairs and Reconciliation
Shadow Minister for Foreign Affairs
Shadow Minister for Ageing, Disabilities and Carers

Kevin Michael Rudd MP
Julia Eileen Gillard MP
Senator Christopher Vaughan Evans
Senator Stephen Michael Conroy
Anthony Norman Albanese MP
The Hon. Archibald Ronald Bevis MP
Christopher Eyles Bowen MP
Anthony Stephen Burke MP
Senator Kim John Carr
The Hon. Simon Findlay Crean MP
Craig Anthony Emerson MP
Laurence Donald Thomas Ferguson MP
Martin John Ferguson MP
Joel Andrew Fitzgibbon MP
Peter Robert Garrett MP
Alan Peter Griffin MP
Senator Joseph William Ludwig
Senator Kate Alexandra Lundy
Jennifer Louise Macklin MP
Robert Bruce McClelland MP
Senator Jan Elizabeth McLucas
Shadow Minister for Federal/State Relations, Shadow Minister for International Development Assistance and Deputy Manager of Opposition Business in the House

Robert Francis McMullan MP

Shadow Minister for Primary Industries, Fisheries and Forestry

Senator Kerry Williams Kelso O’Brien

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

Tanya Joan Plibersek MP

Shadow Minister for Health

Nicola Louise Roxon MP

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

Senator the Hon. Nicholas John Sherry

Shadow Minister for Education and Training

Stephen Francis Smith MP

Shadow Treasurer

Wayne Maxwell Swan MP

Shadow Minister for Finance

Lindsay James Tanner MP

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

Senator Penelope Ying Yen Wong

Shadow Parliamentary Secretary for Foreign Affairs

Anthony Michael Byrne MP

Shadow Parliamentary Secretary for Defence and Veterans’ Affairs

The Hon. Graham John Edwards MP

Shadow Parliamentary Secretary for Environment and Heritage

Jennie George MP

Shadow Parliamentary Secretary for Treasury

Catherine Fiona King MP

Shadow Parliamentary Secretary for Education

Kirsten Fiona Livermore MP

Shadow Parliamentary Secretary to the Leader of the Opposition

John Paul Murphy MP

Shadow Parliamentary Secretary for Industrial Relations

Brendan Patrick John O’Connor MP

Shadow Parliamentary Secretary for Industry and Innovation

Bernard Fernando Ripoll MP

Shadow Parliamentary Secretary for Northern Australia and Indigenous Affairs

The Hon. Warren Edward Snowdon MP

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

Senator Ursula Mary Stephens
## CONTENTS

**Chamber**

Questions Without Notice—  
- Iraq ........................................................................................................................... 1  
- National Security ........................................................................................................... 2  
- Climate Change ................................................................................................................. 3  
- Economy ........................................................................................................................ 4  
- Equine Influenza ............................................................................................................... 5  
- Fishing Industry ............................................................................................................... 7  
- Proposed Pulp Mill ............................................................................................................. 8  
- Arts Funding ................................................................................................................... 10  
- Recreational Fishing ........................................................................................................ 11  
- Distinguished Visitors ......................................................................................................... 13  

Questions Without Notice—  
- Parental Leave ................................................................................................................. 13  

Questions Without Notice: Take Note of Answers—  
- Equine Influenza ............................................................................................................... 14  
- Proposed Pulp Mill ............................................................................................................. 21  

Petitions—  
- Indigenous Affairs ............................................................................................................. 22  
- Workplace Relations ......................................................................................................... 22  

Notices—  
- Presentation ................................................................................................................... 23  
- Postponement ................................................................................................................... 24  

Business—  
- Rearrangement .................................................................................................................. 25  

Northern Territory National Emergency Response Amendment (Alcohol) Bill 2007—  
- First Reading .................................................................................................................. 25  
- Second Reading ................................................................................................................. 25  

Committees—  
- Foreign Affairs, Defence and Trade Committee—Meeting ................. 26  
- Public Works Committee—Meeting ........................................................................... 26  
- Nuclear Energy and Health ............................................................................................. 26  
- Obesity ........................................................................................................................ 27  

Committees—  
- Treaties Committee—Reference .................................................................................... 28  

Notices—  
- Postponement ................................................................................................................... 29  
- Climate Change ................................................................................................................. 29  
- Climate Change ................................................................................................................. 30  
- Iraq .................................................................................................................................. 31  
- Australian Heritage Buildings .......................................................................................... 32  
- Asia-Pacific Economic Cooperation .................................................................................. 33  

Parliamentary (Judicial Misbehaviour or Incapacity) Commission Bill 2007—  
- First Reading .................................................................................................................. 34  
- Second Reading ................................................................................................................. 34  

Documents—  
- Responses to Senate Resolutions ....................................................................................... 37  

Auditor-General’s Reports—  
- Report No. 6 of 2007-08 ................................................................................................. 37
Parliamentary Zone—
  Proposal for Works ........................................................... 37
Committees—
  Privileges Committee—Report ............................................. 37
Budget—
  Consideration by Estimates Committees—Additional Information...................................................... 40
Offshore Petroleum Amendment (Miscellaneous Measures) Bill 2007—
  Report of Economics Committee ......................................................... 40
Business—
  Rearrangement.................................................................................................................. .. 40
Telecommunications Legislation Amendment (Protecting Services for Rural and
Regional Australia into the Future) Bill 2007—
  Third Reading.................................................................................................................. ... 40
Northern Territory National Emergency Response Amendment (Alcohol) Bill 2007—
  Second Reading................................................................................................................. . 43
  In Committee................................................................................................................... ... 64
  Third Reading.................................................................................................................. ... 75
Trade Practices Legislation Amendment Bill (No. 1) 2007—
  Second Reading................................................................................................................. . 75
Adjournment—
  Corio, Corangamite, Ballarat and Bendigo Electorates...................................................... 97
  National Blood Donor Week .............................................................................................. 99
  Iraq ................................................................................................................................... 101
  Water .......................................................................................................................... ...... 103
  Workplace Relations........................................................................................................ 106
  Budget 2007-08................................................................................................................. 107
  Housing Affordability....................................................................................................... 110
  Health: Eye Care .............................................................................................................. 112
  Bendigo Electorate ........................................................................................................... 114
Documents—
  Tabling........................................................................................................................ ...... 115
  Tabling........................................................................................................................ ...... 115
  Tabling........................................................................................................................ ...... 115
Questions On Notice
  Transport and Regional Services: Appropriations—(Question No. 3280) ....................... 117
  Transport and Regional Services: Appropriations—(Question No. 3300) ....................... 120
  Transport and Regional Services: Employee Entitlements—(Question No. 3310) .......... 121
  Transport and Regional Services: Employee Entitlements—(Question No. 3330) .......... 124
  Industry, Tourism and Resources: Appropriations—(Question No. 3359) ................... 124
  Baileys Diesel Services—(Question No. 3379) ................................................................ 125
  Baileys Diesel Services—(Question No. 3383) ................................................................. 127
Tuesday, 11 September 2007

The President (Senator the Hon. Alan Ferguson) took the chair at 2.30 pm and read prayers.

QUESTIONS WITHOUT NOTICE

Iraq

Senator Faulkner (2.31 pm)—My question is directed to Senator Coonan, the Minister representing the Minister for Foreign Affairs. I refer the minister to General David Petraeus’s Iraq report to the US congress overnight, in which he stated that he had ‘recommended a drawdown of the surge forces from Iraq’ and indicated that ‘force reductions will continue beyond the pre-surge levels of brigade combat teams that we will reach by mid-July 2008’. Given that the US administration is now working on plans to withdraw its forces and that the United Kingdom has clear-cut plans to reduce its forces in southern Iraq, why is the Australian government refusing to plan for any withdrawal? Why is Australia the only country that does not have a withdrawal strategy for its troops in Iraq?

Senator Coonan—I thank Senator Faulkner for the question. The first point is that the testimony of General Petraeus and Ambassador Crocker states that the current strategy remains the very best hope for the Iraqi people. Senator Faulkner asked about proposed troop withdrawals for Australian troops. I can say unequivocally on behalf of the government that Australia is committed to staying in Iraq with coalition partners until the Iraqi security forces no longer require our support. Any timetable for withdrawal of Australian troops will be conditional and not calendar based. As Ambassador Crocker stated in his testimony, 2007 has brought improvement. He makes the point that the commitment of the Iraqi leaders to work together on hard issues is indeed encouraging. There are pronounced gains at the provincial level. Iraq is starting to make some gains in the economy.

General Petraeus confirmed in his report that the military objectives of the surge are in large measure being met, producing improvements in security. Based on his assessment, he has recommended some drawdowns in the US forces in Iraq. If his recommendations are followed, these drawdowns would reduce the forces of the United States to the pre-surge level of 15 brigade combat teams by mid-July 2008, leaving approximately 130,000 US troops still in Iraq.

But, as both Petraeus and Crocker said, Iraq continues to face many difficulties, as we all know. Much work remains to be done, as there are certainly no easy answers or quick solutions. We have always maintained that premature or precipitate draw-downs would have devastating consequences, so we agree with that assessment. Petraeus said that it is not possible to assess any further force reductions until about mid-March of 2008. He said:

... Iraq has repeatedly shown that projecting too far into the future is not just difficult, it can be misleading and even hazardous.

This is one of a number of US reports on the situation in Iraq. General Petraeus and Ambassador Crocker will give further testimony to congress this week. President Bush is expected to speak later this week to provide his decisions on US policy and strategy in Iraq. The position of the government is very clear: Australia is committed to staying in Iraq with our coalition partners until the Iraqi security forces no longer require our support.

Senator Faulkner—Mr President, I ask a supplementary question. I refer the minister to Mr Downer’s comments on the AM program this morning, in which he said: ‘Um, I think, you know, we’ll maintain them
there, um, for the foreseeable future.’ Can the minister now explain to the Senate what ‘the foreseeable future’ means? Does the government have any idea when it will withdraw troops from Iraq?

Senator COONAN—I thank Senator Faulkner for the supplementary question. I have now said twice—and I will say it a third time so that it is abundantly clear—that Australia is committed to staying in Iraq with our coalition partners until the Iraqi security forces no longer require our support. Any timetable for withdrawal of our troops will be conditional on those matters and certainly will not be calendar based.

National Security

Senator FIERRAVANTI-WELLS (2.37 pm)—My question is to the Minister for Justice and Customs, Senator Johnston. Minister, with today being the anniversary of the tragic events of 11 September 2001, could you advise the Senate of the actions that the government and law enforcement agencies have taken to increase Australia’s security against the threat of possible terrorist attacks?

Senator JOHNSTON—I thank Senator Fierravanti-Wells for her question and acknowledge her longstanding interest in matters of national security. Today marks the sixth anniversary of the tragic events of 11 September in New York City, in the United States of America. The tragic events that unfolded on that fateful day are etched in everybody’s memory. Too many innocent lives were lost—nearly 3,000—as a result of the hijacking of a number of aircraft and their being flown into buildings, into the ground or into the Pentagon. For my part—and I know I speak on behalf of Western Australians—when I take off from an airport in Canberra, Melbourne or Sydney with a plane-load of fuel, not a moment goes by that I do not consider the people who were on those aircraft back on 11 September 2001. Those aircraft were turned into bombs.

The Australian government rightly, thoroughly and diligently responded to the challenges of that act of terrorism and the subsequent acts of terrorism around the world. By 2010, this government will have spent $10.4 billion on the implementation of domestic and regional security measures to help keep Australians safe from the scourge of terrorism. These measures include increasing and improving the capabilities of our intelligence agencies, particularly ASIO. I have been to ASIO in my ministerial capacity and seen their capabilities, which fill me with great confidence. Money has been spent on boosting Australia’s civil aviation security at airports and on engineering. In respect of maritime security, the installation of X-ray machines into parcel-handling companies such as FedEx, DHL and Qantas has enhanced our capacity to respond to and manage emergencies.

Our special forces, our Australian Federal Police, our Customs agents, ASIO and the Australian Crime Commission have been enhanced. Currently there are 28 actions before the courts of our country in respect of terrorism. Those matters have not been undertaken by the Commonwealth alone. The $10.4 billion is part of a cooperative partnership with the law enforcement agencies of the states—so everything we do we impart to the states. Indeed, numerous exercises have been held where Australian Federal Police, Customs officers and other law enforcement agencies have worked cooperatively with law enforcement agencies in the states to ensure that there are measures and responses which can be undertaken in the face of these sorts of terrorist attacks. This year the Attorney-General announced $35.7 million to fund important national security and counter-terrorism measures. My time is running out, and I want to pay tribute to all of those peo-
ple involved in counterterrorism in Australia. I want to mark this day and say that we will never forget what happened on that day, September 11. Every time we catch a plane back to Perth I know my colleagues from Western Australia think of what happened then and are vigilant, as most Australians must be.

Climate Change

Senator HOGG (2.41 pm)—My question is to Senator Minchin, the Minister representing the Prime Minister. Can the minister confirm that the Prime Minister failed in his attempt to sideline the Kyoto protocol in his APEC Sydney declaration? Didn’t Chinese President Hu insist on amendments to the declaration that allow the next round of Kyoto to form the mechanism for securing international action post 2012? Didn’t President Hu also make it clear to the Prime Minister that he believes that Kyoto is ‘the most authoritative universal and comprehensive international framework for tackling climate change’? Given the Prime Minister’s failure to sideline Kyoto, will the government finally ratify Kyoto to ensure that Australia has a seat at the table in Bali in December for the discussions on a post-2012 agreement so that our national interests are represented?

Senator MINCHIN—I appreciate Senator Hogg’s confidence in our government being here in December and providing someone to attend the Bali meeting! I am quite sure that we will send a coalition government representative to the meeting in Bali in December. So thank you for your confidence, Senator Hogg.

The government’s position on the Kyoto protocol is very well known. We do believe that the world has moved beyond Kyoto. About the only people in the world who do not realise that are the Labor Party, who are still stuck with this idiotic symbolism of signing Kyoto. The world has moved well beyond Kyoto, and the Labor Party have not yet caught up. Kyoto is a failed doctrine. It does not include the developing nations, it does not set targets for the developing nations and it does not have comprehensive coverage of the world’s greatest emitters. Therefore, by definition, it is doomed to fail. The government, on the other hand—without signing up to Kyoto per se—have accepted our obligations to act in accordance with the targets that we set for ourselves. The Labor Party say that we do not have targets, but we have had a target for the last 10 years.

We made it quite clear that, of our own volition, we would adopt the 108 per cent target for Australia that was part of the Kyoto protocol—and we are on target to meet it without having signed up to that failed and doomed protocol. What I understand the Chinese government to be saying is that the development of the post-Kyoto world should be under the auspices of the UN Framework Convention on Climate Change. We support that position. We do think that the way in which climate change must be addressed by the world should be under the auspices of the UN. We are in accord with the Chinese government on that matter.

We subscribe to the view that moving forward does require the UN to be the guiding hand, but we do believe the Sydney declaration, under the auspices of APEC, is a very important part of bringing together, in the Asia-Pacific region, the developed and developing countries, who I think represent about 60 per cent of the world’s emissions, to help advance the cause of developing a post-Kyoto protocol, under the auspices of the UN, which will actually work. We invite the Labor Party to recognise reality, to get mugged by reality for once, to forget about Kyoto and move on and accept what is happening in the world—that is, that we need to have a comprehensive declaration that does involve the developed and the developing
world if we are to effectively combat climate change.

Senator HOGG—Mr President, I ask a supplementary question. Is the minister aware that President Hu also stated on the weekend:

Developed countries should ... strictly abide by their emission reduction targets set forth in the Kyoto protocol.

Can the minister confirm that Australia will fail to meet our generous Kyoto target of 108 per cent, even with a large offset of land clearing? Given the government’s failure to meet that target, and its refusal to ratify Kyoto, isn’t it understandable that countries like China are sceptical about the Howard government’s commitment to tackling climate change?

Senator MINCHIN—Nothing that Senator Hogg has said indicates any scepticism on the part of the Chinese government. The Chinese government has joined with the Australian government, the United States government, the Russian government and every other member of the Asia-Pacific economic community to support the Sydney declaration. We welcome Chinese support for that. The Chinese government, which is not a signatory to or bound by Kyoto, would of course like to see the developed world meet its obligations. We are in fact going to meet our 108 per cent target, which we agreed to of our own volition in relation to Kyoto. We are proud of our record on climate change. It is practical, realistic, and it protects jobs—unlike the Labor Party, which will trash jobs to chase Green preferences.

Economy

Senator RONALDSON (2.46 pm)—My question is also to the Minister for Finance and Administration, Senator Minchin. Is the minister aware of recent indications as to the strength of the Australian economy? Will the minister outline how international financial developments could pose challenges to the Australian economy? Will the minister inform the Senate of policies required to deal with these challenges?

Senator MINCHIN—I thank Senator Ronaldson for that very good question. Last week the ABS released the June quarter national accounts. They indicated that the Australian economy grew by 0.9 per cent in the June quarter to bring about a very good 4.3 per cent growth in the year to June. That return to above four per cent real GDP growth compares very well with the 1.9 per cent growth in the US and 2.5 per cent in the euro area.

Our very good economic performance was underpinned again by a strong rise in investment spending. New business investment grew by 4.6 per cent in real terms in the June quarter to be 13.3 per cent higher than a year ago. Engineering construction has grown by no less than 28½ per cent through the year. That does reflect the ongoing profitability and confidence of Australia’s business sector, which is investing heavily in future growth, particularly in infrastructure to support exports.

Household disposable income rose 7.4 per cent through the year to June. Real disposable incomes are rising faster than household consumption, reflecting increased savings by the household sector. The household savings ratio is now at its highest level since 2002.

Productivity, a subject we no longer hear about from Mr Rudd, has risen substantially, with real GDP per hour worked in the market sector growing by 1.3 per cent in the June quarter alone, and 2.9 per cent throughout the year. There was strong growth in sectors like construction, property, business services, finance and insurance. It was good to see a 4.5 per cent rise in manufacturing output in the year to June.
It is important to note that this strong growth is being achieved with low inflation and low unemployment. Our high productivity and our flexible IR system do allow us to maintain this remarkable set of conditions for Australia.

There are of course challenges posed by the volatility we have recently seen in international financial markets and developments in the real economy. This international credit squeeze has caused borrowing costs to rise. Share markets have been volatile and the Australian dollar has experienced that volatility. US jobs data has suggested a weakening in the world’s largest economy. Real GDP in Japan was actually negative in the June quarter. But fortunately Australia is very well placed to deal with these challenges. We have profitable and well-capitalised financial institutions and negligible direct exposure to subprime mortgages. We have a very flexible economy and stable macroeconomic policies. We have cut taxes, eliminated government debt and we are fully providing for our unfunded superannuation liabilities.

If Australia is to weather the global economic shocks and continue our run of low-inflation sustainable growth, as we did in relation to the Asian financial crisis in 1997, we do need strong, stable and experienced economic management. In particular, we very much need to maintain our flexible economy and our stable macroeconomic settings. That is why our message to the Australian people is and will continue to be that a Labor government, and a monopoly on power in this country by the Labor Party, does pose a risk to our ongoing economic success. If Australia were to be silly enough to wind back our labour market flexibility and return to regulated, union dominated workplace policies, Australia would lose the ability to respond effectively to economic challenges and opportunities. If Labor were to win and raid the Future Fund, embark on the spending spree implied by Mr Rudd’s lavish promises and follow the state Labor pattern of racking up debt, as they did under Mr Keating, then they will damage Australia’s ability to maintain strong growth in the face of economic instability on the international stage.

**Equine Influenza**

**Senator O’BRIEN** (2.51 pm)—My question is to Senator Abetz, the Minister representing the Minister for Agriculture, Fisheries and Forestry. I refer the minister to a letter from the Australian Racing Board to former minister for agriculture Mr Truss dated 24 September 2004. Can the minister confirm that in this letter the board raises serious concerns about the quarantine risk of using private vets to inspect imported horses? Is it true that Mr Truss assured the Australian Racing Board that all imported horses would be under the direct control of an AQIS vet? Can the minister now confirm that, despite this assurance, a number of horses that entered Australia through Melbourne airport after January 2005 were only checked by private practitioners employed by the importer, with no supervising AQIS vets present?

**Senator ABETZ**—We are talking here about an industry that is worth about $3.6 billion to the Australian economy and has about 10,000 commercial horses involved in it. It is a very important employer for rural and regional areas in particular. Everybody knows that we have had an outbreak of equine influenza in this country. Everybody also should know that we have acted very expeditiously in this regard and appointed Mr Callinan to oversee an inquiry into it. I suggest to Senator O’Brien that he take a deep breath and wait and see what that report indicates. If Senator O’Brien has all the answers and knows exactly how equine influ-
enza got into Australia and knows all those responsible, can I suggest to him that he give the benefit of his evidence to the Callinan inquiry. That is the issue.

In relation to the Victorian racing industry, I do know that they have made representa-
tions to the government that some of our quarantine restrictions have, in fact, been a bit too tough from time to time.

Senator Sterle—So they should be!

Senator ABETZ—Are you supporting them or aren’t you, Senator Sterle? They should be tough. I fully agree with you, Senator Sterle. That same industry body that your frontbencher seeks to quote has been critical. If Senator O’Brien were honest with the Senate, if my memory serves me correctly I think that letter related to foot-and-mouth disease and was not in relation to the particularities of equine influenza. I stand to be corrected in the supplementary question in relation to that, but I do not think I will be. So is it a serious issue? Of course it is. We have put—

Senator Chris Evans—Have a crack at the question.

Senator ABETZ—The ongoing arrog-
gance of the Leader of the Opposition in the Senate ought to be silenced. He is a non-stop interjector with all the hubris that I thought his leader was telling him not to show. The reality is that this is an important issue. We have acted expeditiously.

Senator Chris Evans—No, you haven’t.

Senator ABETZ—Senator Evans inter-
jects again and says, ‘No, you haven’t.’ Can I tell you something, Senator Evans? Those people in government—like the state Labor government in Victoria, the state Labor gov-
ernment in New South Wales and the state government in Queensland—have been co-
operating with us and have been praising the cooperation of the Australian government.

You see, we as a Liberal-National govern-
ment are able to cooperate with state Labor governments in the national interest and not play cheap politics, unlike those on the other side. I suggest to the Leader of the Opposi-
tion in the Senate, who, if he is so interested in the topic, should have asked the question himself and not left it to the hapless Senator O’Brien: if he were genuinely interested, he would be talking to the relevant ministers in the state Labor governments, who are fully supportive of the approach that we are taking and supportive of our $110 million package to boot.

Senator O’BRIEN—I ask a supplemen-
tary question, Mr President. The only foot in
mouth was Senator Abetz’s, of course. I will quote from the letter of September 2004 from the Australian Racing Board, which states:
If equine influenza gained entry into Australia, it would close down racing and other horse events for several months with catastrophic economic consequences.

Hear that? It goes on:
A quarantine breakdown is the only way Australia will be exposed to this exotic disease.

So is it true that Mr Truss assured the ARB that all imported horses would be under the direct control of an AQIS vet? Is it true that a number of horses were not inspected under the control of an AQIS vet from January 2005? Aren’t members of the horse and rac-
ing community now suffering because of the government’s failure—

Senator Robert Ray interjecting—

Senator Ian Macdonald interjecting—


Senator O’BRIEN—Aren’t members of the horse and racing community now suffer-
ing because of the government’s failure to listen to these prophetic warnings three years ago? How could the government have been so incompetent—

The PRESIDENT—Your time has expired, Senator O’Brien.

Senator O’Brien—I raise a point of order, Mr President. You asked me to resume my seat. Did that come out of my time?

The PRESIDENT—It came out of your time.

Senator ABETZ—The sorts of interjections that the people of Australia were able to witness from the Labor Party whilst the Labor Party senator was seeking to ask a question shows that they do not take this matter seriously and with the degree of concern that those involved in the racing industry would want them to take in relation to this matter. Regarding the letter, I am sure that the heading on the letter does say that it is, in fact, in relation to foot-and-mouth, and it is interesting that Senator O’Brien was not able to contradict that.

Senator Chris Evans interjecting—

Senator ABETZ—Mr President, Senator Evans is continuing, yet again—I can hardly hear myself. This is the sort of arrogance that the Australian people will see.

The PRESIDENT—Order! Senator Abetz, resume your seat. We will not continue until the Senate comes to order.

Senator ABETZ—Thank you, Mr President. Isn’t it nice when the Labor Party actually stop to listen? If they were to stop to listen, they would listen to their own state Labor ministers in relation to this matter. (Time expired)

The PRESIDENT—Before I call Senator Boswell, I would like to make a correction. Senator O’Brien, the time did not come out of your question. The clock was stopped while I was asking the Senate to come to order.

Fishing Industry

Senator BOSWELL (2.59 pm)—My question is to the Minister for Fisheries, Forestry and Conservation, Senator Abetz. Will the minister update the Senate on the decisive actions the government has taken to secure a profitable long-term future for Australia’s crucial Commonwealth fishing industry? Is the minister aware of any alternative policies?

Senator ABETZ—I thank that excellent senator Senator Boswell for his excellent question. He is a very keen supporter of the fishing industry. All senators would be aware that the Howard government have taken decisive action to better position the Commonwealth fishing industry for a sustainable and, equally importantly, profitable future through our landmark $220 million Securing our Fishing Future package. I acknowledge Senator Ian Macdonald, the leader of the coalition Senate team in Queensland, for his impressive role in that regard. We have voluntarily bought back over 550 fishing concessions at a cost of $149 million to improve the profitability of the catching sector. We are, at the moment, rolling out the onshore elements of the package. I had the pleasure of announcing over $6 million in grants for Queensland businesses just last week. I am pleased to report that today I have taken the next step on the journey towards a sustainable and profitable Commonwealth fishing industry through the release of a world’s best practice Commonwealth Fisheries Harvest Strategy Policy. The policy aims to maximise the net economic returns to the Australian community from the harvest of Commonwealth fish stocks while at the same time maintaining stocks at safe and productive levels. I thank all the stakeholders who contributed to its development, in particular the
fishing industry, who have engaged very responsibly throughout the whole Securing our Fishing Future package, and those environment groups who have also come to the table very positively.

I am asked about alternative policies. There are alternative policies out there, and they are policies that would destroy this vital sector, because there are being espoused by the would-be environment minister of this country, Mr Peter Garrett. We are all aware that Mr Garrett served as President of the Australian Conservation Foundation, during which time he presided over and advocated the policies of that organisation. He has not recanted from those policies. It is instructive for Australia’s valuable seafood industry to have a close look at those policies. Here is what Peter Garrett’s ACF said about the commercial use of wildlife, including commercial fishing:

No existing commercial use of a wild stock, in particularly those harvested for export, can be demonstrated to be ecologically sustainable.

I say to the seafood industry: this is the man that Mr Rudd would put in charge of deciding whether Australian fisheries can export their products under the EPBC Act, a man who supported a policy which says that no export fisheries are acceptable. What about marine parks? Mr Garrett’s view is to ensure that 20 to 50 per cent of the marine environment per bioregion is highly protected by 2010. We can see what the state Labor governments are doing at Moreton Bay and Batemans Bay and then we can have a look at the way the Commonwealth, under the Howard government, has handled marine parks in the south-east marine area. Our friends in Queensland would be interested to know that Mr Garrett believes that we should increase the green zones on the Great Barrier Reef to 50 per cent. I will finish on this note: the fishing industry in Australia knows that in the Howard government it has a great friend. It also knows that if the Rudd government were to be elected then Mr Garrett would be the minister for the environment and he would spell the end of the fishing industry.

Proposed Pulp Mill

Senator MILNE (3.04 pm)—My question is to Senator Abetz, the Minister representing the Minister for the Environment and Water Resources. Is the minister aware that the Intergovernmental Panel on Climate Change, the IPCC, has made it clear that global emissions must peak by 2015 and thereafter fall quickly if we are to avoid a global temperature increase of more than two degrees and, further, has made it clear that greenhouse gas emissions from deforestation are the major driver of climate change? If so, will the minister ensure that, consistent with the findings of IPCC, any assessment of the Gunns pulp mill will include the emissions from native forest logging—given that it is projected that emissions from the logging and the pulp mill itself will be over 10 million tonnes of greenhouse gases every year? If not, why not?

Senator ABETZ—This is another example of the misinformation that the Greens deliberately seek to peddle in relation to the proposed pulp mill in the state of Tasmania. What has the Australian Greenhouse Office, the authoritative Australian Greenhouse Office, said about the forestry sector in Australia? They have said it is the only carbon-positive sector of our economy. As the trees are growing, they are cleaning up the atmosphere. That is the ‘inconvenient truth’ that the Australian Greens refuse to listen to, refuse to accept and refuse to acknowledge because it undermines their misinformation campaign. The simple fact is that the pulp mill in Tasmania as currently proposed would in fact be largely using renewable energy sources. As we know, the IPCC, quite
rightly, has pointed to the evils of deforestation. What the Greens continually mischievously say to the people of Australia is that forest practices are equal to deforestation. The IPCC and others in the know on this draw a clear difference, a stark contrast, between wholesale deforestation and a responsible forest practice like we have in this country. As I have often said to the Australian Greens, I encourage Senator Milne, when she asks her supplementary question, to tell me one country where they do forestry better than we do in Australia. I will take myself over there to learn their practices and will seek to import them here. I have thrown down that challenge to the Australian Greens time and again, and they are unable to answer. Why? Because in their heart of hearts they know that the forest practices in this country are the best in the world. We must be on broadcast, because Senator Bob Brown has a point of order.

**Senator Bob Brown**—On a point of order, Mr President: they have stopped native forest logging in New Zealand. The minister ought to go there and see how they do it. I have thrown down that challenge to the Australian Greens time and again, and they are unable to answer. Why? Because in their heart of hearts they know that the forest practices in this country are the best in the world. We must be on broadcast, because Senator Bob Brown has a point of order.

**The PRESIDENT**—Senator Brown, what is your point of order?

**Senator Bob Brown**—He asked for the name of a country which has better practices and I said ‘New Zealand’.

**The PRESIDENT**—There is no point of order.

**Senator ABETZ**—Mr President, thank you to Senator Brown—and come in spinner! Can you now tell us how many pulp mills there are in New Zealand coexisting with wineries? You know that there are six pulp mills in New Zealand which coexist and are not melting the icecaps. Your colleague Senator Milne so dishonestly put to the RPDC a submission—

_Opposition senators interjecting_

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*Chamber*
Senator ABETZ—I am glad that Senator Milne did correct herself. I said that the forest industry is carbon positive; I did not say that about the pulp mill. If Senator Milne is genuinely concerned about greenhouse gases, why would she suggest that 80 per cent of the product, which is going to be sourced from north-east Tasmania, be sent by diesel truck from the north-east to the north-west to be processed, which will put literally thousands of extra tonnes of greenhouse gases into the atmosphere? Why do you oppose a pulp mill, which will ensure that fossil fuels continue to be burnt by shipping the woodchips from Tasmania to Japan to be processed, only to be returned to Australia, through fossil fuels and the shipping industry, knowing full well that in Japan they will be processed in a dirtier mill than exists in Tasmania? It is so typical of the Greens’ ‘not in my backyard’ mentality.

Arts Funding

Senator BIRMINGHAM (3.12 pm)—My question is to the Minister for the Arts and Sport, Senator Brandis. Will the minister inform the Senate of how the Australian government is supporting the arts in Australia? Further, will the minister advise how this approach compares with that of the Australian Labor Party and, in particular, with that of state Labor governments?

Senator Robert Ray—Mr President, I raise a point of order. As you would realise, Mr President, the second part of that question is out of order. One is allowed to ask about alternative policies but not about those of a specific party. That type of question has been ruled out of order dozens of times. I would have thought their questions committee would have straightened this out.

The PRESIDENT—Senator Brandis, you will answer that part of the question which is relevant but not the last part of the question.

Senator BRANDIS—Thank you, Mr President. The Howard government’s support for Australia’s cultural institutions in particular and creative industries overall is one of its proudest achievements. The best way, I think, to determine the level of interest in and support for the arts in Australia by this government is the amount the government has been prepared to commit to funding our major cultural institutions and cultural agencies. Let us make a comparison. Mr Paul Keating, a former Labor Prime Minister, has taken it upon himself to complain that the arts are not funded in Australia as well as they ought to be, a complaint he made at the Sydney Film School in July this year. Mr Keating is right: the arts are not funded by government as extensively as they should be, but the fault lies exclusively in state Labor governments, which have cut arts funding across the board. The only Australian government which is supporting the arts by putting real money behind cultural institutions and creative industries is the Howard government. Let us compare the record.

In the last year of the last Keating Labor government, total Commonwealth support for the arts was $410.93 million. This year, in the 2007-08 budget, support for the arts through funding of Australia’s cultural agencies had risen to $681.11 million, an increase of some 66 per cent or $270.2 million across that period, including a massive increase from $73 million to $161 million in support for the Australia Council, which directly funds individual artists and projects.

Wherever I go around the country, arts leaders say to me two things. First of all, they say, ‘We want to thank the Howard government for the very strong support that it has given the arts agencies and the creative industries in Australia.’ In fact, as recently as 15 August, during her visit to this Parliament House, Ms Cate Blanchett, the distinguished Australian actress, and her husband, Andrew
Upton, came to see me to commend the government for the very strong support that the government has given drama in this country—as evidenced by a 40 per cent increase in funding for the Sydney Theatre Company.

The previous month I happened to be at a function for the Queensland Orchestra—a function which the state’s arts minister did not bother to attend, I might say—and the director of the orchestra, Mr Michael Smith, described the support of the Australian government for the orchestras of Australia as nothing short of terrific.

Mr President, I suppose if you are not interested in the sector then you would not commit any funding to it. The other question that arts leaders ask me is: ‘Why can’t we get any interest out of the shadow minister?’ You probably do not even know who the shadow minister for the arts is. Who is it? Can I tell you that it is Mr Peter Garrett. Mr Peter Garrett is so interested in the arts that he is yet to ask a question about the arts in all the time that he has been the shadow minister.

(No time)

Recreational Fishing

Senator O’BRIEN (3.18 pm)—My question is to Senator Abetz, the Minister for Fisheries, Forestry and Conservation. I refer the minister to the recent announcement of a $200,000 grant to study ‘the concept of levies for the establishment of a secure, reliable and independent revenue stream from recreational fishers’. Doesn’t the concept paper for the study make it clear that it will examine whether the new tax should apply to boats, trailers, fishing tackle, outboard fuel and even bait? Can the minister explain to recreational fishers why he is funding a study to develop a new tax on fishing? Given the hardship that families are already suffering because of rising fuel, food and childcare costs, how can the minister justify a new tax on recreational fishing?

Senator ABETZ—The only person talking about a new tax on recreational fishing is Senator Kerry O’Brien. Can I indicate to those who are interested—and there are a vast number of them in Australia—that the recreational fishing sector is a vitally important sector. Indeed, it is only in recent times that Senator O’Brien as shadow minister has even deigned to acknowledge the existence
of the recreational fishing sector, by issuing a media release.

We went to the last election with a package of $15 million of assistance to the recreational fishing sector which has put grants into virtually every single community, right around Australia. Can I compliment Senator Ian Macdonald on that magnificent scheme, which has been accepted right around Australia as a recognition by the Howard government of its deep and abiding interest in the recreational fishing sector?

Having spent $15 million on the recreational fishing sector to assist it, to help it and to allow people to engage with it and in it, can I assure you that the government has absolutely and utterly ruled out imposing any tax on the recreational fishing sector in the form suggested by Senator O’Brien or in any other form. Indeed, if Senator O’Brien were in tune with the recreational fishing sector, he would be aware that Recfish Australia has had some difficulty from time to time in getting a funding stream for itself on an independent basis. We have been providing $100,000 per annum and we are willing to provide assistance to them on an ongoing basis; however, at the end of the day, these bodies should explore independent financing.

When Recfish Australia approached the recfish grants scheme, an independent panel looked at the application. One of the forms of potential independent funding was that supported by Recfish Australia, which I had already indicated to them was not government policy and will not be government policy. I have made that perfectly clear in media releases, immediately in response to the mischievous first ever press release by Senator O’Brien on recreational fishing.

Having been told we have no such intention, having had it absolutely and utterly ruled out, Senator O’Brien is disingenuous enough to come into this chamber today to assert that it is somehow on the government’s agenda. I repeat: it is not on the government’s agenda. But what is on the government’s agenda is a $15 million package to enhance recreational fishing, something that the Labor Party did not have the capacity to think of themselves and an area where they have not been supportive of the recreational fishing sector. We are proud of our support. We fully accept that more can be done, and, if given the opportunity by the Australian people, more will be done.

Senator O’BRIEN—I ask a supplementary question, Mr President. I note that the minister does not in any way contradict the fact that he has funded a study which promotes the concept of a tax on fishing and on fishing equipment. Given that the minister says that he rules out imposing any tax, why has the minister wasted $200,000 of taxpayers’ money investigating a measure that he now says will not happen? Was the minister simply caught out planning a tax on families who want to take their kids fishing and, having been caught out, he had to back out of it?

Senator ABETZ—I would have normally thought that Senator O’Brien knew better but I think that he actually does not, and that is a very sad reflection on him. I have absolutely ruled out any ‘tackle tax’ or anything of that nature in relation to the recreational fishing sector.

If Senator O’Brien were genuinely concerned about the recreational fishing sector, he might be able to answer this question: which are the only governments that impose a tax on the recreational fishing sector? The state Labor governments, through fishing licences. If this gentleman opposite were genuine about his concern for the recreational fishing sector, he would be asking his state Labor colleagues to remove the tax that they actually do have and he would not seek
to peddle misinformation about a policy that we do not have and have specifically ruled out. This is the sort of desperation which comes from an opposition that is bereft of policies and seeks to skate into government without any decent policies of its own. (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 Indonesia, led by Dr AM Fatwa, Deputy Speaker of the People’s Consultative Assembly. On behalf of all senators, I wish them a warm welcome to Australia and, in particular, to the Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Parental Leave

Senator STOTT DESPOJA (3.25 pm)—My question is addressed to the Minister representing the Minister Assisting the Prime Minister for Women’s Issues. In light of the positive visit and address today by the Canadian Prime Minister, I wonder if the minister is aware that working women in Canada have 15 weeks paid maternity leave at 55 per cent of the average wage, followed by 35 weeks parental leave at a percentage of the average wage. I ask the minister why Australia is one of only two OECD countries without a system of paid maternity leave. Clearly, it is not related to expense, given that the baby bonus costs more than $1 billion per annum and that a paid maternity leave scheme would be less than half of that. Why is this government dragging its feet on the issue of basic entitlements for Australia’s working women?

Senator COONAN—I thank Senator Stott Despoja for her question. I am sure that I am not out of order and that I speak with the best wishes of the whole Senate when I congratulate Senator Stott Despoja on her happy news: a playmate for the adorable Conrad. I commend Senator Stott Despoja for her enduring interest in advocacy for the interests of women, an interest that she has pursued over many years.

When it comes to maternity leave, it is much broader than just women—it is of course for the benefit of whole families, not to mention a new infant. The government share the objectives of supporting families and supporting women. We do it a slightly different way and I am very pleased to outline for Senator Stott Despoja, for the Senate and for those listening the fact that the government strongly believe that paid parental leave is best negotiated at the workplace level and that the baby bonus makes a very specific and very significant financial contribution to support parents, regardless of their employment status. Equity in these sorts of matters is something that our government is very conscious of. We target it in a different way and to good effect.

As at 31 March 2007, 50 per cent of women covered by current federal collective agreements have an entitlement to paid maternity leave and 29 per cent of all employees have access to paid paternity leave—that is, secondary carers leave. The Equal Opportunity for Women in the Workplace Agency reported that, in 2005, 46 per cent of organisations provided paid maternity leave, up from 36 per cent in 2003. In 2006 the Equal Opportunity for Women in the Workplace Agency reported that 32 per cent of its surveyed reporting organisations offered paid paternity leave, up from 14.7 per cent in 2001.

The government provides a range of support for women and families. In 2007-08 the government will spend around $30 billion in assistance to families through programs such as the family tax benefit, childcare benefit,
parenting payment and baby bonus. The baby bonus is non means tested and is available to all families on the birth or adoption of a child, regardless of workforce status. We think that that is very important, because this assistance is needed regardless of whether or not someone is in the workforce. The payment is currently $4,133 non means tested and will increase to $5,000 in July 2008. When paid by instalments, the baby bonus provides ongoing income during the vital early weeks after birth to compensate for time taken off from paid employment.

In answer to Senator Stott Despoja, the government have taken a different but, we think, more effective and more targeted approach. We consider that $30 billion in assistance to families underscores this government’s very clear commitment to the welfare of families and children.

Senator STOTT DESPOJA—Mr President, I ask a supplementary question. I thank the minister for her answer and best wishes. I also acknowledge a conflict of interest! I ask the minister: given that in reality only around 34 per cent of Australian working women do have access to paid maternity leave; given the low workforce participation rates of working women in Australia in comparison to the rest of the OECD—we are eighth lowest; given that the Equal Opportunity for Women in the Workplace Agency has told us that those workplaces that do provide paid maternity leave have a 19 per cent higher return to work rate by women; given that the baby bonus does nothing to ensure workplace attachment for women, nor the continuation of their superannuation; and given the fact that women who still get the baby bonus sometimes have to give up their job or go back to work too early or they cannot do what is in their best interests, those of their family or the child, will the government rule out paid maternity leave as a policy?

Senator COONAN—Thank you to Senator Stott Despoja for the question but, as I said in answer to her primary question, the government strongly believe that when it comes to paid parental leave it is best negotiated at workplace level. We think that the figures indicate that that is taken up by a lot of employment agencies and certainly by a lot of employers. It is certainly taken up under federal collective agreements. The fact that our workforce participation for women has increased substantially indicates that these policies do assist rather than inhibit women. We think that the approach that we have taken has very adequately targeted the need to assist women and families at the time of the birth. The $30 billion and the baby bonus are a pretty impressive suite of measures that support women and support families. That is the government’s approach to the matter. (Time expired)

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

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS
Equine Influenza

Senator O’BRIEN (Tasmania) (3.33 pm)—I move:
That the Senate take note of the answer given by the Minister for Fisheries, Forestry and Conservation (Senator Abetz) to a question without notice asked by Senator O’Brien today relating to quarantine arrangements and equine influenza.

We would have to say that this is an issue on which we have a clear failure of this government’s approach to quarantine. We have a system where this government was warned not just once in 2004, not just once in 2005, but on repeated occasions that its system of quarantine, particularly in relation to the disease equine influenza, made us more liable for the incursion of that disease into Australia. And did the government know that the
disease was such a debilitating disease and could be communicated so easily? Well, yes, it did.

Indeed, the AUSVETPLAN, the government’s own document, makes it very clear that it is a disease which can spread on the wind over a distance of eight kilometres. It is a disease that can be carried on the bodies or clothes of human beings who come in contact with horses. It is a disease, indeed, which can be carried by animals that have been vaccinated against it. And yet, in August of this year, horses were returned from Japan after stud duties—horses that had been vaccinated and introduced into the Eastern Creek quarantine facility. Those horses, in the presence of other horses, came from a country which, it very soon became apparent, was in the throes of an equine influenza outbreak. What special steps did the government take? Well, none. What new arrangements were put in place in relation to the horses at Eastern Creek? Well, none. What other measures were put in place to ensure that everyone was aware that there was a potential problem because of the horses coming in and the risk? Well, none again.

The fact of the matter is that what we have seen is a massive failure of our quarantine system. Despite the fact that the government will try to paint this up as a matter which is in doubt, the reality is that the overwhelming weight of evidence will indicate that this disease originated from the Eastern Creek quarantine facility, that this disease emanated from there because the quarantine arrangements at Eastern Creek were not up to standard, that this disease occurred because the government was not alive to the real consequences of the introduction of the disease and that this disease occurred because the government was not listening to the Australian Racing Board’s warnings back in 2004-05 about the risks that the disease posed, the very infectious nature of the disease and the damage the disease would cause to the Australian racing and breeding industry.

We have seen racing close down in parts of Australia. Certainly New South Wales and Queensland are bearing the brunt, but of course the racing industry in Victoria are now saying that they are bearing a financial burden disproportionate to that which they should have to carry because of the lack of racing product in other states and the fact that they have to provide a product for other states’ betting mechanisms—the mechanisms which fund the whole industry.

We are seeing in the Hunter Valley major studs being closed down and the movement of animals stopped, including the movement of stallions locked up in Eastern Creek. There is the potential threat to the new foal crop. It is said that this disease can have up to a 40 per cent mortality rate for young horses. That could see not just the crop coming from this year’s stallion services but also the crop from last year’s stallion services being reduced by the spread of the disease. The damage that this disease could do to Australia’s breeding and racing thoroughbred industries could be enormous, and of course the standardbred industry is being affected as well because of movement restrictions. New questions, questions which I need to further investigate, are being raised about whether the transportation of semen for the standardbred industry—which, unlike the thoroughbred industry, allows artificial insemination—might be affected by some of these horse transportation bans. All of these issues need to be addressed.

Frankly, the main issue could have been avoided. There were warnings in the letter from the Australian Racing Board about the impact of this disease in the Republic of South Africa in late 1986, when the racing industry was closed down. Veterinarians in
that sector played a primary role in the outbreak as well, and the suggestion from the Australian Racing Board was that if you did not control the access of people to these horses you had no chance of controlling the disease. We will find in all likelihood that that has been the problem here. *(Time expired)*

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (3.38 pm)—The judgement that people ought to make as to whether or not an opposition is mature enough to gain government should be made on the way it approaches national emergencies such as the one we are looking at with equine influenza. Senator Kerry O’Brien has comprehensively failed that test. He does not acknowledge the cooperative response of state Labor governments in Queensland, New South Wales and Victoria. He does not acknowledge, for example, that we have in place protocols that are very good but that we are willing to look at them.

Senator O’Brien—Very good? They have failed!

The DEPUTY PRESIDENT—Order! Senator O’Brien! Senator Abetz, resume your comments through the chair.

Senator ABETZ—Thank you, Mr Deputy President. Mr Deputy President, I did listen to a nonsensical speech in silence, so I would have thought that Senator O’Brien might have listened in silence to a sensible speech in response. For example, on 8 May 2001 the Australian Racing Board wrote to the Australian government under the heading, ‘Suspension of importation of horses from Europe because of foot-and-mouth disease’. They were expressing their frustration regarding the continuing ban on the importation of horses from England and Europe imposed as a result of the outbreaks of foot-and-mouth disease in those regions of the world. So we have a foot-and-mouth disease outbreak and we put in very strict controls, but what happens? The industry is critical. With all quarantine matters, what you need is a good, sensible balance. If what Senator O’Brien says is correct—that the disease was introduced to Australia from overseas—then the question is: were the appropriate protocols undertaken prior to the export of those horses? Then it is: were proper procedures followed in Australia after their importation?

Senator O’Brien—But were they quarantined in Japan? Were they vaccinated in Japan?

Senator ABETZ—Senator O’Brien, if he were to be silent for a while and stop all the hubris that the opposition has been going on with for the last two days and if he were actually willing to listen, would know that we as a government have said that these issues are of such a serious nature that they deserve investigation by the highest possible sort of inquiry. Hence retired High Court judge Ian Callinan has been appointed to undertake an inquiry. The inquiry will not be stifled. In fact, when Mr Callinan and the Minister for Agriculture, Fisheries and Forestry, Mr McGauran, went to the media to announce the inquiry, Mr Callinan was asked whether his terms of reference would be good enough and he made comments to the effect that if he thought he needed broader terms of reference he would in fact ask for them—and Mr McGauran indicated that they would be granted.

What else would a responsible opposition want other than a full, transparent inquiry? A responsible opposition would stop there and congratulate the government on that initiative. An irresponsible opposition would seek to make political capital out of the plight of an industry that is worth $3.6 billion to the Australian economy, has 10,000 commercial horses and employs I do not know how many thousands of people on a part- and full-time
basis right around this country, especially in rural and regional areas. Can I indicate that when there is an outbreak of a particular disease—and it has happened under Labor governments, it has happened under a coalition government and it will continue to happen into the future as long as we have international travel and international trade—what we need to do is try to minimise the risk as much as possible. Above all, what the Australian people want is government—their Commonwealth government and their state governments—and opposition cooperating in moments of emergencies like this, not the sort of cheap politicking that we have been exposed to by Senator O’Brien.

Senator LUDWIG (Queensland) (3.43 pm)—I rise to speak on this motion. What is clear is that the federal government has provided $110 million for the equine influenza assistance package. What isn’t clear is whether that is sufficient, whether that is accepted by the industry and whether that will in fact be able to deal with the seriousness of the outbreak to date. We will have an opportunity to hear from the government about those matters, and we do need the government to explain its role. It should not hide behind an inquiry such as the one that has been announced. It needs to be able to detail in fact what have been the events that have occurred and what the government’s role and actions have been.

Rather than apportioning blame this government should be rolling up its sleeves, putting its support behind those affected by the outbreak and taking the matter seriously. What we have not had in this area to date is a responsible government. It is the government’s responsibility to determine what the rescue package should be and how to help people who find themselves in dire financial circumstances because of a ‘failure’, as I will call it, in Australia’s quarantine system. I do not want to apportion blame. The inquiry will determine where the fault lies in this matter.

As is so often the case, it is clear that things have now been left up to the states, to Queensland and New South Wales, to cope with the fallout after this quarantine breach. That is what is happening: while the federal government is passing the buck and the federal Minister for Agriculture, Fisheries and Forestry, Mr McGauran, is accusing Queensland of responding too slowly to the EI threat, Queensland has been putting its money where its mouth is. Queensland has been employing people to take on the role and investing thousands of dollars and man-hours endeavouring to contain this devastating disease.

Let’s look at the actions of Mr McGauran. How seriously should we take him? This is a minister who communicates via media statements but cannot get his facts right. Instead of adhering to the national and industry approved AUSVETPLAN procedures, the minister right up to the last minute maintained in the media, in the Melbourne Age on Friday, 24 August, that ‘we are determined that it get no further than the gates of the quarantine centre’.

We now know that it has got further than that. Sometimes it is best simply to say nothing at all, quite frankly. Again, on 5 September, when the states were battling equine influenza and all the federal government had come up with was a $4 million assistance package, the foot went back in the mouth. Mr McGauran accused Queensland of failing to act on the national standstill put in place on 25 August. He was wrong. Let’s look at the facts: Queensland did act, along with all states and territories which took part in the discussion that led to the decision on the national standstill. He then said that the lockdown at Morgan Park, Warwick, was ‘put in place the following day’. Wrong again! The
fact is that, despite there being no definitive proof that EI was at Morgan Park on 25 August, the Queensland Chief Veterinary Officer quite rightly erred on the side of caution and quarantined the park that afternoon. I am told that equine influenza has now affected more than 80 properties in Queensland. It is costing the horse industries, not just the racing industries, in Queensland and New South Wales tens of millions of dollars. It will affect those industries for months, possibly even years, to come.

It is all very well for the federal government to ride in—I was going to say on a horse but in this instance they are more likely to be on a motorbike—and say, ‘We’re here and we’ve got our taxpayer funded chequebook with us.’ That is what they said. Would it not have been better for them to have said, ‘It’s entered our country and we need to do something about it’? I know what the horse industry would prefer: they would prefer a government that are honest with them.

Turning to the inquiry still to come, I hope the minister has the terms of reference and can table them today so that the industry can see what they are. The government have had quite a while to provide the terms of reference. I hope they are also going to explain that they have consulted with the industry about the terms of reference, that they have worked through those terms of reference and will be able to table them as soon as possible so that the industry can see what they are. This is a difficult area, but what needs to happen is that those terms of reference—

(Time expired)

Senator IAN MACDONALD (Queensland) (3.48 pm)—I entered the debate on this motion in order to have a sensible debate about this very important issue, but I have to say that the contribution of Senator Ludwig, the previous speaker, was confused and disjointed and I really suggest that he get a better speechwriter. He obviously read every word of his speech. Someone obviously wrote it for you, Senator Ludwig, but perhaps you should check out your speechwriter because it was a very confused and disjointed approach. I can understand, Senator Ludwig, why you are a little confused today.

Senator Ludwig—You’ve got nothing to say on the matter. Why don’t you enter the debate?

The DEPUTY PRESIDENT—Order! Senator Ludwig!

Senator IAN MACDONALD—I know that Anna Bligh is going to become the Premier of Queensland and I know that you and your faction, Big Bill Ludwig’s faction, do not want Anna Bligh there, do you? So I can understand why you are a fraction confused today, Senator Ludwig. You really should be out working the phones to try to make sure that Queensland does not have its first female Premier. For that reason, I guess I can understand the disjointed nature of your contribution and the very confused way in which it was put.

On our side of parliament we do consult very widely, and Senator Abetz, although only the representative minister here, does understand the question and has spoken with the industry, as I know Minister McGauran has. I have to say as well that, on our side of parliament, we do have people who are actually experts in this field. I refer you to my colleague in the other place Wilson Tuckey, who was for several years the head of the racing industry, the equine competition industry, in Western Australia. We have those sorts of people on our side of parliament because we do attract people to parliament from a wide range of walks of life.

On that note, I was interested to see in the paper today that, of the 20 people standing for the Senate for the Labor Party at the next
election, 15 of them have a union background, four of them are staffers and one is a state MP. So, of the 20 candidates from the ALP wanting to come into this chamber, not one of them has ever had a real job. They are simply union hacks, political staffers or state Labor MPs looking for greener pastures.

Senator Ludwig—How embarrassing: you’ve got nothing to say.

Senator IAN MACDONALD—I can understand your embarrassment, Senator Ludwig, and your interjections. I know you are very concerned about Anna Bligh getting into the Queensland parliament.

Senator George Campbell—Mr Deputy President, I raise a point of order. I do not mind listening to Senator Ian Macdonald’s ravings and rantings—sometimes they are quite amusing—but he at least should be relevant to the subject. He has not even touched on the subject before the chamber—that is, the debate in respect of the answers given to questions on equine flu. He has not even mentioned it yet and he has been speaking for 2½ minutes.

The DEPUTY PRESIDENT—There is no point of order, Senator George Campbell. Senator Macdonald, you know what the question before the chair is; I am sure you will address that.

Senator IAN MACDONALD—Thank you, Mr Deputy President. I can understand Senator George Campbell’s embarrassment. Every person coming into the Senate from that side is a union hack or a parliamentary staffer. I was only making the point that on our side of parliament we have people like Wilson Tuckey who are genuinely interested in this horse epidemic and who have expertise, because we select candidates from a wide range of services.

But I could not understand Senator Ludwig’s approach when he said, ‘The government doesn’t need to hide behind the inquiry.’ I thought that was pretty strange. Do I take it from that, Senator Ludwig, that the Labor Party does not support the inquiry by former High Court judge Ian Callinan? I would have thought that the government showed a great deal of common sense and courage in appointing a fearless jurist like Mr Callinan to conduct this inquiry—a person who not only has a long history in the legal profession and in higher juristic intents but also is well versed in the racing industry. I would have thought the best thing the government could have done—and I congratulate Mr McGauran on this—is to appoint a person of the calibre of Mr Ian Callinan to conduct this inquiry.

Whatever Senator O’Brien or Senator Ludwig might be talking about, if there is any accuracy in what they say, it will come out in this judicial inquiry. That inquiry is the approach we should all be supporting to see where the influenza came from, how it was dealt with, who should have been responsible and what we should do in the future. That is the way we should deal with it. I am delighted that Mr McGauran has understood that and encouraged and in fact set up this inquiry so that we can get to the bottom of the issue. I am disappointed that it now appears the ALP are not supporting that inquiry by Mr Callinan. (Time expired)

Senator STEPHENS (New South Wales—Parliamentary Secretary to the Leader of the Opposition) (3.54 pm)—I am quite astounded by that contribution to the debate because it is quite clear to me that if the government had actually listened to the Australian Racing Board three years ago, when it said that changes to quarantine procedures on imported horses would expose this country to just the kind of equine influenza pandemic that we are currently dealing with, we would not be here debating this issue today. The ARB was so concerned at the time about quarantining procedures that
it highlighted the risks that were going to be presented in hiring commercial horse floats and in the use of private vets instead of AQIS officers. But the government was prepared to let all of that go by the by, and what have we got? We have the most extraordinary devastation of the racing industry in Australia that could possibly have been imagined.

I want to focus today on the influence of this pandemic on my home state of New South Wales, because it is most significantly affected by equine influenza. What do we have in New South Wales? Fifty thousand or so people earn their living in the horse-racing industry, and in New South Wales at the moment we have 410 properties with 4,427 horses and 24 restricted areas being quarantined because of the outbreak of equine influenza. That has to have quite an extraordinary economic impact.

Let me tell you, Mr Deputy President, what the impact will be, not just on this racing season but on the next racing season. There will be huge impacts, first of all on horse breeding. A whole series of horse-breeding regimes have now been placed in serious jeopardy. We know that the young horses that are being bred at the moment are particularly vulnerable to equine influenza, and in fact it is fatal in up to about 40 per cent of young horses—that is vulnerability just for this year. Alongside that, we have the inability to move mares and stallions around, and that will have a drastic impact both this year and next year on the breeding season.

The inability to move horses around affects almost all rural industries. It impacts on the sheep and cattle industries because stockhorses cannot be moved to do mustering and droving, and this in turn stops people from inoculating or weaning their stock. People have to start thinking about the fact that the impact is actually beyond the racing industry in New South Wales. We have the farriers, who are usually in contact with multiple and successive horses. They have just about lost their work for this season, as have the companies involved in livestock transport. The livelihood of the veterinarians is also affected. Vets in regional areas and vets specialising in equine services have been particularly hard-hit already.

Let me tell you about the impact of this just on my home town. This is where we see the importance of having appropriate quarantining facilities.

Senator Abetz interjecting—

Senator STEPHENS—We have already lost one race meeting, Minister, and up to five more events are under threat, including the first at the new pacing racetrack. Goulburn’s association with the industry goes back more than 100 years and the first Goulburn Cup was run in 1885. Harness events have been run since the early 1900s and last Sunday the Goulburn Pony Club celebrated its 50th anniversary. But Goulburn’s eight-race program has been cancelled because of the lockdown across New South Wales, costing the club more than $20,000.

These race meetings are very important for a community like Goulburn. Much of the money raised goes back into the community, so the flow-on effect to the local charities is just one more impact of this pandemic that we are facing. The Goulburn hospital has its Melbourne Cup Day race and $10,000 or so is raised in that event for the Goulburn hospital. There is also $10,000 for the Challenge Foundation, which supports disabled children in Goulburn. All of this is now up in the air. The Spring Racing Carnival is scheduled to start on 8 October and we do not know that it is going to happen.

Let’s be real about this. Where are the terms of reference for this inquiry? Where are they? Are they going to the issue of the responsibility of Mr McGauran and Minister
Truss in dealing with what has been a deba-cle in terms of the breaking of quarantine, the failure of our quarantine— (Time ex-pired)

Question agreed to.

Proposed Pulp Mill

Senator MILNE (Tasmania) (3.59 pm)—

I move:

That the Senate take note of the answer given by the Minister for Fisheries, Forestry and Con-servation (Senator Abetz) to a question without notice asked by Senator Milne today relating to climate change.

In particular, I want to note the failure of the Minister for Fisheries, Forestry and Conserva-tion to ensure that the proposed Gunns pulp mill in Tasmania is assessed for its greenhouse gas emissions. We have a Minis-ter for Fisheries, Forestry and Conservation who tried to mislead the parliament when I asked the question about the pulp mill by saying that the Australian Greenhouse Office measures carbon in forests and so on. I asked specifically about the pulp mill proposal. Under the RPDC process, the greenhouse gas emissions were to be assessed. Once that process was dumped by the Lennon govern-ment, there was no prospect of the green-house gas emissions being assessed. And yet the minister and his colleagues stand up and say to the rest of the world in the Sydney declaration that they are concerned about climate change. In fact, under ‘forests’ the Sydney declaration says:

Forests can play a critical role in the carbon cycle. Ongoing action is required to encourage affore-station and reforestation and to reduce deforesta-tion ... 

The pulp mill in Tasmania is going to lead to massive deforestation and we are going to see at least 10 million tonnes of greenhouse emissions every year as a result of the pulp mill, and the minister will not allow it to be assessed. What are you afraid of? What is the government so afraid of? What is the opposition so afraid of? Why won’t you allow the greenhouse gas emissions from this pulp mill to be assessed? How can the community have any faith in all this talk about climate change when we know that deforestation is a major driver and you will not allow this to be assessed?

Senator Colbeck interjecting—

Senator MILNE—What is it that Senator Colbeck is so afraid of that he is not prepared to have scrutiny of the level of forest logging for and the emissions from the pulp mill? I have legal advice, which I have provided to both the government and the opposition, showing that under the EPBC Act the gov-ernment has the power to assess the green-house gas emissions. So why won’t it do so?

I would suggest to you that the reason that the government and the opposition do not want the greenhouse gases assessed is that they will be horrified to find that 10 million tonnes is in fact an underestimate. The rea-son that this is so serious is that the logging starts now, the deforestation occurs now, the emissions go into the atmosphere now and it takes decades, if not centuries, for that car-bon dioxide to be taken out of the atmos-phere. The IPCC has told us that those emis-sions must be capped and must be reduced by 2015. You are prepared to put all that greenhouse gas into the atmosphere now, when we simply cannot.

Senator Abetz—You are wrong.

Senator MILNE—The minister says that I am wrong. Let the minister assess this. Why are you so afraid to have the green-house gas emissions from the Gunns pulp mill assessed? As for the misrepresentation here, let me say that I was shocked today to hear Senator Minchin say that China has not signed or ratified the Kyoto protocol. What level of ignorance is that? In fact, the Chi-nese government signed the Kyoto protocol
in May 1998 and it was ratified by China on 30 August 2002. The government goes round saying that China has done nothing and that China is not included, but they cannot even get their basic facts right. China has not only ratified the Kyoto protocol but is benefiting enormously from investment under the clean development mechanism in the Kyoto protocol.

Further to that, we have Senator Abetz telling us that the IPCC agrees with the government, when in fact Dr Pauchauri has said:

Nothing that I said in my telephone interview with Mr Matthew Warren implied or even remotely conveyed that I supported or opposed the Australian Government’s policies on climate change.

In a letter to me, he went on to say: ‘It is not for me to comment on the climate change policy of any country and I’ve been scrupulously careful in maintaining this stance. What was clearly a distortion was the publication by the Australian of my views as an endorsement of the Australian government.’ So I hope that the government is now going to desist from misrepresenting the Chairman of the IPCC.

Let us hear from the government. Will you now have the emissions from the pulp mill and the logging assessed? If not, why not? Why are you so intent on protecting Gunns and making a lie of any suggestion that you are serious about climate change? Obviously, you are not serious about climate change. You are prepared to drive climate change with emissions from logging for this pulp mill in Tasmania. If you say that it is not 10 million tonnes every year, what is it? (Time expired)

Question agreed to.

PETITIONS

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

Indigenous Affairs

To the Honourable President and. Members of the Senate in the Parliament assembled.

This petition of the undersigned citizens of Australia draws the following to the attention of the Senate:

That it has been a decade since the Bringing Them Home report into the stolen generations was tabled. This set out the gross human rights violations that many Indigenous people endured because of official government policies and laws which enabled and often encouraged children to be removed from the parents and separated from their community and culture on the basis of the colour of their skin.

As a result of this inquiry, some important and effective actions have been taken to facilitate family reunion and to improve counselling and family support services for victims. However, many recommendations from the report were rejected or have been inadequately implemented.

We the undersigned therefore call upon the Senate to:

• support actions and enact laws to give effect to all recommendations from the Bringing Them Home report which have yet to be implemented; and
• in particular, to support legislation implementing a mechanism to provide monetary compensation for all those who suffered as a result of past forcible removal policies, in accordance with recommendations 3, 4 and 14-20 of the Bringing Them Home report.

by Senator Bartlett (from 186 citizens)

Workplace Relations

Petition Regarding Workers’ Constitutional Rights Arising From Unlawful Termination Case of Hilda Zhang.

To the Honourable President and Members of the Senate in Parliament assembled: The Petition of the undersigned shows:

The Federal Court struck out Hilda Zhang’s claim of unlawful termination of employment, which is certified by the Industrial Relations Commission, and ordered her to pay the employer’s cost, holding that her claim was vexatious or without, rea-
sonable course because she only complained her former employer’s unlawful instructions and activities to the employer, the Auditor, the Unions, Victorian Employers Chamber of Commerce and Industry, the ATO and the WorkCover etc. other than Court or Tribunal before the termination. The judgments of the Federal Court do not uphold the employee’s right and obligation to uphold and obey law in the workplace under the Commonwealth Constitution.

Your petitioners request that the senate:

- ensure that employees’ rights under the Constitution are upheld by the laws and courts;
- ensure that the Attorney General of Commonwealth responds to Hilda Zhang’s Notice of A Constitutional Matter, which is certified by the High Court, and intervenes the matter in the High Court under section 78B of the Judiciary Act 1903.

by Senator Marshall (from 1,714 citizens)

Petitions received.

NOTICES

Presentation

Senator Humphries to move on the next day of sitting:

That the time for the presentation of the report of the Community Affairs Committee on the cost of living pressures on older Australians be extended to the last sitting day in March 2008.

Senator Siewert to move on the next day of sitting:

That the Senate—

(a) notes the figures released by the Climate Institute, which show that:

(i) from June 2004 to February 2007, greenhouse pollution from the energy sector in Australia increased by more than 22.5 million tonnes, despite high petrol prices and the switch in some power generation from coal to gas due to water shortages,

(ii) 22.5 million tonnes of greenhouse pollution is the equivalent of adding more than 5 million cars to the road or increasing the national car fleet by approximately a third,

(iii) emissions from diesel and aviation fuel continued to grow and rose 0.6 per cent and 0.5 per cent respectively in August 2007,

(iv) consumption of petrol and liquid petroleum gas declined in 2006 but has levelled out and increased 0.3 per cent in May 2007, and

(v) overall, Australia’s emissions, by May 2007, were just 4.5 million tonnes below Australia’s Kyoto target for 2010;

(b) calls for decisive and urgent action to:

(i) put in place an energy efficiency trading scheme to achieve reductions in electricity consumption of 2 per cent a year, and

(ii) substantially increase the availability of alternative and renewable fuels through abandoning the proposal for excise on these fuels; and

(c) notes that the Mandatory Renewable Energy Target (2010) has effectively been reached and calls on the Government to immediately lift the target to 10 per cent by 2012 and 20 per cent by 2020.
Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (4.05 pm)—I give notice that, on the next day of sitting, I shall move:

That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the Quarantine Amendment (Commission of Inquiry) Bill 2007, allowing it to be considered during this period of sittings.

I also table a statement of reasons justifying the need for this bill to be considered during these sittings and seek leave to have the statement incorporated in Hansard.

Leave granted.

The statement of reasons read as follows—

Purpose of the Bill

The bill amends the Quarantine Act 1908 to provide for the Minister for Agriculture, Fisheries and Forestry to appoint a person to conduct a Commission of Inquiry into the outbreak of equine influenza in Australia in 2007. The Bill also provides the Commissioner with the powers needed to effectively conduct such an inquiry, and makes other consequential amendments to the Archives Act 1983, the Freedom of Information Act 1982 and the Privacy Act 1988.

Reasons for Urgency

The proposal is urgent in order to facilitate the commencement of a full and effective inquiry under the Quarantine Act 1908 as soon as possible.

Senator WATSON (Tasmania) (4.05 pm)—On behalf of the Standing Committee on Regulations and Ordinances, I give notice that, on 26 September, I shall move:

That the Radiocommunications Taxes Collection Amendment Regulations 2007 (No. 1), Select Legislative Instrument 2007 No. 142

This instrument makes retrospective amendments to the principal Regulations to correct an error which has made certain licencees ineligible for licence tax exemption. Subregulation 5(7) has been amended to include a Note advising affected licencees that they may be entitled to a refund of tax paid in respect of apparatus licences. Notwithstanding the insertion of the Note, the Committee has written to the Minister seeking advice as to how those licencees will be made aware of their right to seek a refund of licence tax paid.

Senator MILNE (Tasmania) (4.06 pm)—At the request of Senator Bob Brown, I give notice that, on the next day of sitting, he shall move:

That the Senate—

(a) notes the death of Dame Anita Roddick, founder of the Body Shop, award-winning businesswoman, and campaigner against poverty and for the Earth’s environment; and

(b) while celebrating her work, her generosity and her life, expresses its condolences to Dame Anita’s family and her friends and colleagues in the United Kingdom, the United Nations and around the world.

Postponement

The following items of business were postponed:

General business notice of motion no. 877 standing in the name of Senator Stott Despoja for today, relating to Hearing Awareness Week, postponed till 12 September 2007.

General business notice of motion no. 882 standing in the name of Senator Wong for today, relating to Japan and sexual slavery during World War II, postponed till 19 September 2007.
Senators, I would like to start by making a statement regarding Wednesday's business.

**Rearrangement**

Senator ABETZ (Tasmania—Manager of Government Business in the Senate) (4.07 pm)—I move:

That consideration of the business before the Senate on Wednesday, 19 September 2007 be interrupted at approximately 5 pm, but not so as to interrupt a senator speaking, to enable Senator Bushby to make his first speech without any question before the chair.

Question agreed to.

**NORTHERN TERRITORY NATIONAL EMERGENCY RESPONSE AMENDMENT (ALCOHOL) BILL 2007**

**First Reading**

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (4.09 pm)—I move:

That:

(a) the following bill be introduced: A Bill for an Act to amend the Northern Territory National Emergency Response Act 2007, and for related purposes [Northern Territory National Emergency Response Amendment (Alcohol) Bill 2007]; and

(b) the provisions of paragraphs (5) to (8) of standing order 111 not apply to the bill allowing it to be considered during this period of sittings.

Question agreed to.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (4.08 pm)—I move:

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

Question agreed to.

Bill read a first time.

**Second Reading**

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (4.08 pm)—I present the explanatory memorandum and I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

This bill makes minor amendments to consolidate the alcohol measures that are a key part of the government’s recent legislation to protect Aboriginal children in the Northern Territory.

These adjustments will make the alcohol provisions as practical as possible, particularly for people in the industry working with the government in this vital area.

First, the trigger for licensees seeking and recording details of takeaway alcohol sales (currently a sale of 1,350 millilitres of pure alcohol) will be replaced with a trigger of a quantity of alcohol with a purchase price of $100 or more (including GST), or a quantity of cask or flagon wine exceeding five litres. The change was put forward by the liquor industry to simplify the way the threshold was calculated.

The new formulation will still capture the vast majority of larger purchases over 1,350 ml, but will be quicker and easier for takeaway staff to apply, and easy for customers to understand.

The intent and effect is the same—stemming the flow of alcohol into remote Aboriginal communities by tracking large purchases to help us locate and prosecute grog runners.

Second, the bill will allow more flexibility for liquor licensees required to store records of takeaway alcohol sales. The legislation currently requires a licensee to keep these records for at least three years, and produce them to an inspector upon a demand made on or at the licensed premises.

As a practical solution to a simple on-site storage problem for some licensees, it will now be possible for a licensee to store these records at a location directed by the Northern Territory Licensing Commission, and still be considered to meet their obligations under the legislation.

Third, the bill will add new defences to an offence applying under the alcohol bans. Visitors to national and Northern Territory parks will be able...
to take alcohol into a prescribed area in the park if it is to be consumed in a responsible way as part of recreational activities undertaken with a tourist operator, consistent with any management plan or similar document that may be in place for the park.

The bill also provides some incentives for communities to work towards their own sustainable alcohol management plans. It will allow the alcohol measures to be "turned off" in relation to a particular prescribed area, or part of an area. For example, if a particular community demonstrates that it has developed appropriate alcohol management measures, and is winning the battle with alcohol, it may be desirable to stop applying the alcohol bans in that area. The Commonwealth Minister would make that decision after seeking advice from the Northern Territory Emergency Response Taskforce.

These consolidation measures have been developed in conjunction with industry and demonstrate our willingness to make adjustments while ensuring the intent of the legislation can be realised.

Debate (on motion by Senator Abetz) adjourned.

Ordered that the resumption of the debate be made an order of the day for a later hour.

COMMITTEES

Foreign Affairs, Defence and Trade Committee

Meeting

Senator PARRY (Tasmania) (4.09 pm)—At the request of the Chair of the Foreign Affairs, Defence and Trade Committee (Senator Payne), I move:

That the Foreign Affairs, Defence and Trade Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 13 September 2007, from 4 pm, to take evidence for the committee’s inquiry into Australia’s involvement in international peacekeeping operations.

Question agreed to.

Public Works Committee

Meeting

Senator PARRY (Tasmania) (4.10 pm)—I move:

That the Parliamentary Standing Committee on Public Works be authorised to hold a public meeting during the sitting of the Senate on Thursday, 13 September 2007, from 9.30 am to 11.45 am, to take evidence for the committee’s inquiry into the refurbishment of staff apartments at the Australian embassy complex in Tokyo, Japan.

Question agreed to.

NUCLEAR ENERGY AND HEALTH

Senator ALLISON (Victoria—Leader of the Australian Democrats) (4.10 pm)—I move:

That the Senate—

(a) notes that the Medical University of South Carolina has conducted a sophisticated meta-analysis of 17 research papers covering 136 nuclear sites throughout the Western World with the following findings:

(i) death rates from leukaemia for children up to 9 years of age were between 5 per cent and 24 per cent higher depending on their proximity to nuclear facilities,

(ii) death rates from leukaemia for those up to 25 years of age were 2 per cent to 18 per cent higher, and

(iii) incidence rates of leukaemia were increased by 14 per cent to 21 per cent in zero to 9 year olds and 7 to 10 per cent in zero to 25 year olds;

(b) considers that research such as this shows the health impact of nuclear activity; and

(c) urges the Government not to proceed with uranium enrichment or nuclear power reactors in Australia in the light of this research.

Question put.

The Senate divided. [4.15 pm]

(The President—Senator the Hon. Alan Ferguson)
Ayes........... 32
Noes........... 37
Majority........ 5

A Y E S
Allison, L.F.       Bartlett, A.J.J.
Bishop, T.M.       Brown, C.L.
Campbell, G. *     Crossin, P.M.
Evans, C.V.        Faulkner, J.P.
Forshaw, M.G.      Hogg, J.J.
Hurley, A.         Hutchins, S.P.
Kirk, L.           Ludwig, J.W.
Lundy, K.A.        Marshall, G.
McEwen, A.         McLucas, J.E.
Milne, C.          Moore, C.
Murray, A.J.M.     Nettle, K.
O'Brien, K.W.K.    Polley, H.
Ray, R.F.          Siewert, R.
Stephens, U.       Sterle, G.
Stott Despoja, N.  Webber, R.
Wong, P.           Wortley, D.

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

P A I R S
Carr, K.J.         Coonan, H.L.
Conroy, S.M.       Brandis, G.H.
Sherry, N.J.       Minchin, N.H.

* denotes teller

Question negatived.
Question put.
The Senate divided. [4.20 pm]
(The President—Senator the Hon. Alan Ferguson)

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<td>Ayes</td>
<td>31</td>
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<td>Noes</td>
<td>34</td>
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<td>Majority</td>
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**AYES**

- Allison, L.F.
- Bishop, T.M.
- Campbell, G.
- Evans, C.V.
- Fielding, S.
- Hogg, J.J.
- Hutchins, S.P.
- Ludvig, J.W.
- Marshall, G.
- McLucas, J.E.
- Moore, C.
- Nettle, K.
- Ray, R.F.
- Stephens, U.
- Stott Despoja, N.
- Wortley, D.

**NOES**

- Abetz, E.
- Barnett, G.
- Birmingham, S.
- Boyce, S.
- Chapman, H.G.P.
- Cormann, M.H.P.
- Ellison, C.M.
- Fierravanti-Wells, C.
- Fisher, M.J.
- Humphries, G.
- Kemp, C.R.
- Macdonald, I.
- Mason, B.J.
- Nash, F.
- Patterson, K.C.
- Ronaldson, M.
- Trood, R.B.

**PAIRS**

- Brown, B.J.
- Carr, K.J.
- Conroy, S.M.
- Sherry, N.J.
- Wong, P.
- Scullion, N.G.
- Coonan, H.L.
- Brandis, G.H.
- Minchin, N.H.
- Johnston, D.

* denotes teller

Question negatived.

**COMMITTEES**

**Treaties Committee**

Reference

Senator MILNE (Tasmania) (4.22 pm)—by leave—I move the motion as amended:

That the following matter be referred to the Joint Standing Committee on Treaties for inquiry and report by 3 December 2007:

The Australia-Russia Nuclear Cooperation Agreement signed on 7 September 2007, with particular reference to:

(a) the ramifications of the agreement with respect to global and regional security;
(b) the risk that Australian uranium would be exported from the Russian Federation (Russia) to third states, contrary to agreements;
(c) 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;
(d) the implications of the agreement for sale of nuclear fuel to India;
(e) the extent to which the supply of Australian uranium would enable Russia to increase its export of nuclear material;
(f) the weakness of the rule of law, including corporate law, in Russia;
(g) the ability to verify Russia’s compliance with any agreed safeguards noting, in particular, the European Parliament’s resolution of 10 May 2007 on the European Union-Russia Summit which expressed concern about, inter alia:
(i) Russia’s lack of respect for human rights, democracy, freedom of expression, and the rights of civil society and individuals to challenge the authorities and hold them accountable for their actions,

(ii) the use of force by Russian authorities against peaceful anti-government demonstration and reports of the use of torture in prisons, and

(iii) the restriction of democratic freedoms in the run-up to the Duma elections in December 2007 and the presidential elections in March 2008; and

(h) any related matters.

Question put.

The Senate divided. [4.24 pm]

(The President—Senator the Hon. Alan Ferguson)

AYES

Allison, L.F. 
Bishop, T.M. 
Campbell, G. * 
Evans, C.V. 
Fielding, S. 
Hogg, J.J. 
Hutchins, S.P. 
Ludwig, J.W. 
Marshall, G. 
McLucas, J.E. 
Moore, C. 
Nettle, K. 
Ray, R.F. 
Stephens, U. 
Stott Despoja, N. 
Wortley, D. 

NOES

Abetz, E. 
Barnett, G. 
Birmingham, S. 
Boyce, S. 
Chapman, H.G.P. 
Cormann, M.H.P. 
Ellison, C.M. 
Ferravanti-Wells, C. 
Fisher, M.J. 
Humphries, G. 
Kemp, C.R. 
Macdonald, I. 
Mason, B.J. 
Nash, F. * 
Patterson, K.C. 
Ronaldson, M. 
Trood, R.B. 

Ferguson, A.B. 
Fifield, M.P. 
Heffernan, W. 
Joyce, B. 
Lightfoot, P.R. 
MacGauran, J.J.J. 
Parry, S. 
Payne, M.A. 
Troeth, J.M. 
Watson, J.O.W. 

PAIRS

Brown, B.J. 
Carr, K.J. 
Conroy, S.M. 
Sherry, N.J. 
Wong, P. 

Johnson, D. 
Coonan, H.L. 
Brandis, G.H. 
Minchin, N.H. 
Scullion, N.G. 

* denotes teller

Question negatived.

NOTICES

Postponement

Senator BARTLETT (Queensland) (4.27 pm)—by leave—I move:

That general business notice of motion No. 884 standing in my name for today, relating to the Tarkine wilderness in Tasmania, be postponed till the next day of sitting.

Question agreed to.

CLIMATE CHANGE

Senator MILNE (Tasmania) (4.27 pm)—I move:

That the Senate—

(a) notes:

(i) the Asia-Pacific Economic Cooperation Leaders’ Sydney Declaration on Climate Change, Energy Security and Clean Development which states that ‘Ongoing action is required to encourage afforestation and reforestation and to reduce deforestation, forest degradation and forest fires...’;

(ii) that Australia is a signatory to the United Nations Framework Convention on Climate Change, which includes the following commitments:
(f) Take climate change considerations into account, to the extent feasible, in their relevant social, economic and environmental policies and actions, and employ appropriate methods, for example impact assessments, formulated and determined nationally, with a view to minimizing adverse effects on the economy, on public health and on the quality of the environment, of projects or measures undertaken by them to mitigate or adapt to climate change’, and

(a) Each of these Parties shall adopt national policies and take corresponding measures on the mitigation of climate change, by limiting its anthropogenic emissions of greenhouse gases and protecting and enhancing its greenhouse gas sinks and reservoirs’, and

(iii) emissions from Gunns Limited’s proposed pulp mill in Tasmania’s Tamar Valley will result in annual greenhouse gas emissions of at least 10.2 Mt CO₂ per annum, equivalent to 2 per cent of Australia’s total emissions in 2005; and

(b) calls on the Government to determine the quantity of greenhouse gas emissions that would be emitted by the pulp mill, including emissions resulting from forest harvesting, in line with the Sydney Declaration and Australia’s obligations under the United Nations Framework Convention on Climate Change Treaty.

Question put.

The Senate divided. [4.29 pm]

AYES

Allison, L.F.
Milne, C.
Nettle, K.
Stott Despoja, N.

NOES

Abetz, E.
Barnett, G.
Birmingham, S.
Boswell, R.L.D.
Brown, C.L.
Campbell, G.
Coibec, R.
Crossin, P.M.
Ellison, C.M.
Ferguson, A.B.
Ferravanti-Wells, C.
Fisher, M.J.
Hogg, J.J.
Hurley, A.
Joyce, B.
Kirk, L.
Ludwig, J.W.
Macdonald, J.A.L.
McEwen, A.
McLucas, J.E.
Nash, F. *
Patterson, K.C.
Polcay, H.
Ronaldson, M.
Sterle, G.
Trood, R.B.
Webber, R.

* denotes teller

Question negatived.

CLIMATE CHANGE

Senator ALLISON (Victoria—Leader of the Australian Democrats) (4.32 pm)—I move:

That the Senate—

(a) notes that:

(i) 150 industrialised countries bound by the Kyoto Protocol met in the week beginning 27 August 2007 in Vienna and agreed to cut greenhouse gas emissions by an average of 5 per cent by 2012 and reached a non-binding agreement...
to target new cuts of 25 to 40 per cent by 2020 in an extension of the treaty,
(ii) the meeting also agreed on a position to take to the United Nations Framework Convention on Climate Change annual meeting in Bali in December 2007 to make substantial progress towards a final post-2012 agreement to extend Kyoto into a second commitment period,
(iii) the meeting agreed that the 25 to 40 per cent reduction was necessary if global warming was to be constrained to a temperature increase of between 2 and 2.4 degrees Celsius,
(iv) the meeting officially recognised the findings of the Intergovernmental Panel on Climate Change in 2007 that global greenhouse emissions needed to be stabilised in the next 10 to 15 years and then substantially reduced by mid-century, and
(v) Australia and the United States of America were the only two industrialised nations not involved in the talks; and
(b) concurs with the agreement reached at the Vienna meeting and urges the Government to:
(i) re-engage with the Kyoto Protocol process in time for the Bali meeting, and
(ii) adopt a target for greenhouse cuts of at least 25 per cent by 2020.

Question put.
The Senate divided. [4.34 pm]
(The President—Senator the Hon. Alan Ferguson)

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AYES
Bartlett, A.J.J. *
Murray, A.J.M.
Siewert, R.

NOES
Adams, J.
Bernardi, C.
Bishop, T.M.
Boyce, S.
Bushby, D.C.
Chapman, H.G.P.
Cormann, M.H.P.
Eggleston, A.
Faulkner, J.P.
Fielding, S.
Fifield, M.P.
Forshaw, M.G.
Humphries, G.
Hutchins, S.P.
Kemp, C.R.
Lightfoot, P.R.
Macdonald, I.
Mason, B.J.
McGauran, J.J.J.
Moore, C.
Parry, S.
Payne, M.A.
Ray, R.F.
Stephens, U.
Troeth, J.M.
Watson, J.O.W.
Wortley, D.

IRAQ

Senator NETTLE (New South Wales) (4.37 pm)—I move:
That the Senate—
(a) notes the congressional testimony by the Commander of the United States of America’s forces in Iraq, General David Petraeus; and
(b) calls on the Government to immediately withdraw Australian forces from Iraq.
Question put.
The Senate divided.  [4.37 pm]
(The President—Senator the Hon. Alan Ferguson)

| Ayes......... | 7 |
| Noes......... | 53 |
| Majority....... | 46 |

AYES
Allison, L.F.      Bartlett, A.J.J.
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.
Boyce, S.           Brown, C.L.
Bushby, D.C.      Campbell, G.
Chapman, H.G.P.  Colbeck, R.
Cormann, M.H.P.    Crossin, P.M.
Eggleston, A.     Ellisson, C.M.
Faulkner, J.P.     Ferguson, A.B.
Fielding, S.       Fierravanti-Wells, C.
Fifield, M.P.      Fisher, M.J.
Forshaw, M.G.      Hogg, J.J.
Humphries, G.      Hurley, A.
Hutchins, S.P.     Joyce, B.
Kemp, C.R.        Kirk, L.
Lightfoot, P.R.    Ludwig, J.W.
Macdonald, I.      Macdonald, J.A.L.
Mason, B.J.       McEwen, A.
McGauran, J.J.J.  McLucas, J.E.
Moore, C.          Nash, F. *
Parry, S.          Patterson, K.C.
Payne, M.A.        Polley, H.
Ray, R.F.          Ronaldson, M.
Stephens, U.       Sterle, G.
Troeth, J.M.       Trood, R.B.
Watson, J.O.W.    Webber, R.

* denotes teller

Question negatived.

AUSTRALIAN HERITAGE BUILDINGS
Senator MILNE (Tasmania) (4.44 pm)—I move:
That the Senate—
(a) notes the:
(i) value and importance to the cultural landscape of Australia of its estimated 15,000 architectural heritage buildings, almost a third of which are in Tasmania,
(ii) dismantling of the independent Australian Heritage Commission, the relegation of the Register of the National Estate to state oversight and the subsequent downgrading of heritage issues at the federal level,
(iii) need for urgent repairs to some of Australia’s most significant heritage buildings, and
(iv) threat to one specific example, being the Holy Trinity Church in Hobart, designed by convict architect James Blackburn, which faces closure and an uncertain future because the Anglican Church cannot afford the cost of sandstone renovation work; and
(b) calls on the Government to allocate monies in the form of a National Cultural Heritage Fund, along the same lines as the Higher Education Endowment Fund, to ensure that Australia’s culturally significant heritage buildings are adequately maintained into the future.

Question put.
The Senate divided.  [4.44 pm]
(The President—Senator the Hon. Alan Ferguson)

| Ayes......... | 6 |
| Noes......... | 53 |
| Majority....... | 47 |

AYES
Allison, L.F.      Bartlett, A.J.J.
Milne, C.        Murray, A.J.M.
Nettle, K.       Siewert, R. *
Tuesday, 11 September 2007

SENATE

33

CHAMBER

NOES

Abetz, E. Adams, J.
Barnett, G. Bernardi, C.
Birmingham, S. Bishop, T.M.
Boyce, S. Brown, C.L.
Bushby, D.C. Campbell, G.
Chapman, H.G.P. Colbeck, R.
Cormann, M.H.P. Crossin, P.M.
Eggleston, A. Ellison, C.M.
Faulkner, J.P. Ferguson, A.B.
Fielding, S. Fierravanti-Wells, C.
Fifield, M.P. Fisher, M.J.
Forgash, M.G. Hogg, J.J.
Humphries, G. Hurley, A.
Hutchins, S.P. Joyce, B.
Kemp, C.R. Kirk, L.
Lightfoot, P.R. Ludwig, J.W.
Macdonald, I. Macdonald, J.A.L.
Mason, B.J. McEwen, A.
McGauran, J.J.J. McLucas, J.E.
Moore, C. Nash, F. *
Parry, S. Patterson, K.C.
Payne, M.A. Polley, H.
Ray, R.F. Ronaldson, M.
Stephens, U. Sterle, G.
Troeth, J.M. Trood, R.B.
Watson, J.O.W. Webber, R.
Wantley, D.

* denotes teller

Question negatived.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (4.47 pm)—I seek leave to incorporate in Hansard a brief statement as to why government senators oppose that motion.

Leave granted.

The statement read as follows—

The Australian Government recognises and values Australia's architectural and other heritage, however, this motion fails to recognise the shared responsibility for heritage and the woefully inadequate funding provide by State Labor governments around the country to support and manage places on State heritage lists.

The functions of the former Australian Heritage Commission continued to be performed within the Department of the Environment and Water Resources - these functions have not been abolished as stated in this misleading motion. The Register of the National Estate has been replaced by the National and Commonwealth Heritage lists which confer recognition and protection to places that truly meet national criteria for heritage listing. The protection accorded to places on those lists far exceeds that provided under the old Register of the National Estate.

It is time for State Labor Governments to step up to the plate and provide the resources needed to protect places under their own legislation.

The Australian Government continues to invest in the protection of heritage listed places, including places of worship; however it is my understanding that the Government has not been approached by the parish of the Holy Trinity Church, Hobart.

ASIA-PACIFIC ECONOMIC COOPERATION

Senator NETTLE (New South Wales) (4.48 pm)—by leave—I, and on behalf of Senator Stott Despoja, move the motion as amended:

That the Senate—

(a) notes:

(i) that the Asia-Pacific Economic Cooperation (APEC) meeting was held in Sydney in the week beginning 3 September 2007 and that this event cost more than $300 million to stage, and

(ii) that the security operation involved:

(A) overzealous policing methods, including the violent arrests of journalists, an accountant and numerous peaceful protestors,
(b) intimidatory video surveillance of members of parliament and the community,

(c) rifles being pointed at the people of Sydney in low-flying helicopters and by rooftop snipers,

(b) freedom of movement being curtailed throughout Sydney by police,

(E) the prohibition of people entering parts of Sydney, based on unsubstantiated police accusations and secretive blacklists,
(F) police discouraging peaceful dissent against APEC through unnecessary shows of force, including police dogs, water cannons, deployment of the riot squad and the disproportionate show of force,

(G) police not wearing name badges, and

(h) the suspension of fundamental legal principals such as the presumption of innocence, presumption in favour of bail, and the requirement of reasonable suspicion to conduct personal searches, and

(iii) the statement of the Prime Minister (Mr Howard) backing the conduct of the APEC security and police operations; and

(b) calls on the Government to:

(i) immediately apologise to the people of Sydney, who have had their civil liberties and freedoms suspended by APEC, and

(ii) support an independent inquiry into the conduct of the New South Wales police and others involved in the security operation during APEC.

Question put.
The Senate divided. [4.50 pm]

(The President—Senator the Hon. Alan Ferguson)

Ayes.......... 6
Noes.......... 51

Majority........ 45

AYES

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

NOES

Abetz, E. Adams, J.
Barnett, G. Bernardi, C.
Birmingham, S. Bishop, T.M.
Brown, C.L. Bushby, D.C.
Campbell, G. Chapman, H.G.P.
Colbeck, R. Cormann, M.H.P.
Crossin, P.M. Eggleston, A.
Ellison, C.M. Faulkner, J.P.
Ferguson, A.B. Fielding, S.
Ferravanti-Wells, C. Fifield, M.P.
Fisher, M.J. Forshaw, M.G.
Hogg, J.J. Humphries, G.
Hurley, A. Hutchins, S.P.
Joyce, B. Kemp, C.R.
Kirk, L. Lightfoot, P.R.
Ludwig, J.W. Macdonald, J.A.L.
Mason, B.J. McEwen, A.
McGauran, J.J.J. McLucas, J.E.
Moore, C. Nash, F. *
Parry, S. Patterson, K.C.
Payne, M.A. Polley, H.
Ray, R.F. Ronaldson, M.
Stephens, U. Sterle, G.
Troeth, J.M. Trood, R.B.
Watson, J.O.W. Webber, R.

* denotes teller

Question negatived.

PARLIAMENTARY (JUDICIAL MISBEHAVIOUR OR INCAPACITY) COMMISSION BILL 2007

First Reading

Senator KIRK (South Australia) (4.53 pm)—I move:

That the following bill be introduced: A Bill for an Act to establish the Parliamentary (Judicial Misbehaviour or Incapacity) Commission.

Question agreed to.

Senator KIRK (South Australia) (4.53 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 KIRK (South Australia) (4.53 pm)—I move:

That this bill be now read a second time.

I table the explanatory memorandum and I seek leave to have the second reading speech incorporated in Hansard.
The speech read as follows—

Today I introduce into the Senate the Parliamentary (Judicial Misbehaviour or Incapacity) Commission Bill 2007.

This Bill will establish an independent Commission to hear and determine matters concerning alleged judicial misconduct or incapacity and will require the Commission to report its findings to Parliament.

Australia currently lacks a transparent rule-based method for adjudicating judicial misbehaviour and incapacity in the federal jurisdictions.

The responsibility for determining whether a federal justice should be removed from office resides with the Commonwealth Parliament as provided for in section 72 of the Constitution.

This Bill in no way challenges this constitutional responsibility. The power to remove a judge from office will remain exclusively with Parliament.

The Commission and the hearing process established by the Bill will provide Parliament with the information it requires to make decisions pursuant to its constitutional power.

Section 72 of the Constitution provides that persons appointed as federal judges shall hold such office until they reach the stipulated retirement age of 70.

A federal judge may be removed from office on the ground of proved misbehaviour or incapacity following an address praying for the Justice to be removed passed by both houses of Parliament in separate proceedings but in the same session.

What is missing from the existing procedure is a method for determining whether an allegation of misbehaviour or incapacity is proven.

Parliament does not have an established mechanism for collecting or compelling evidence in such matters, nor does it have a reliable system for sensitively adjudicating the facts of such a matter.

The judiciary needs to be held to high standards of personal behaviour but this must be done within a framework which respects and appreciates the high office they hold. Parliament is currently ill-prepared to deal with judicial incapacity or misconduct should it occur in the future.

It is against this background that I introduce the Parliamentary (Judicial Misbehaviour or Incapacity) Commission Bill.

This Bill was first introduced into the House of Representatives on 5th of September 2005 by Duncan Kerr, the member for Denison.

The Bill establishes an independent Commission with statutory powers to hear and determine allegations of misbehaviour or incapacity against a judicial officer.

When an allegation against a judicial officer is made, the legislation will enable Parliament to refer the matter to the Commission for its investigation. The Commission will be empowered to conduct a hearing and compel evidence and will be required to report its findings to the Parliament.

The Commission will comprise three members appointed by the Parliament including a retired judicial officer. Members will be available to convene a panel and determine matters that are referred to it by Parliament.

The Commission will have the authority to conduct proceedings, compel evidence, issue search warrants and offer certain protections to those involved in the inquiry. The Bill also contains enforcement provisions for compliance with the work of the Commission and these provisions will be given effect by way of the Commonwealth Criminal Code.

The Bill requires the Commission to report its findings and recommendations to Parliament. The Commission will not have the power to remove judicial officers. That power rests solely with the Parliament in exercising its section 72 constitutional duties.

The role of the Commission is to assist the Parliament by making recommendations following an investigation of an allegation of judicial misconduct or incapacity.

The standard of proof upon which the Commission will determine matters is on the balance of probabilities. The standard of proof has the same meaning as the civil standard outlined in section 140 of the Evidence Act 1995. This requires
a decision-maker, in deciding whether a matter has been proved on the balance of probabilities, to take into account the nature of the action or defence, the subject-matter of the proceeding and the gravity of the matters alleged.

A number of factors motivated the introduction of this Bill into Parliament.

In recent years there has been a marked growth in the federal judiciary. The number of federal judicial officers is now in the order of 140 and spans a number of courts including the High Court, Federal Court, Federal Magistrates Court and Family Court.

With the increased number of judicial officers at the federal level there is the increased likelihood that Parliament may have to exercise its constitutional power to remove a federal judge for reason of proven incapacity or misconduct.

Judges hold privileged positions in the community and exercise important powers and hold a significant level of responsibility. As a consequence, they are held in high regard and to a high standard of ethical and professional behaviour by the community.

The Commission will provide a transparent method for investigating and determining misconduct with the appropriate procedures in place for hearing evidence about allegations against a judicial officer. The Commission will provide a forum for determining sensitive matters within a framework of respect for the office held by the judicial officer.

The establishment of the Commission also aims to discourage damaging and unfounded attacks being made against members of the judiciary. The Commission puts in place a forum for testing allegations against judicial officers, so that allegations which cannot be proved are unlikely to carry any weight.

The public must also have confidence in the Parliament in exercising its constitutional duties. This Bill will promote such confidence as it is a demonstration to the public that Parliament is serious about ensuring that it is a responsible guardian of the integrity of the federal judiciary.

The case concerning Justice Lionel Murphy of the High Court in the early 1980s was a strong motivating factor behind the introduction of this Bill.

This was the first case to require the Parliament to consider whether or not to remove a federal justice from office under section 72.

Given the controversy surrounding the case and the plethora of proceedings that ensued to determine the matter, it is little wonder that Parliament has since shied away from addressing the complexities of the issues raised by this case.

Odgers 11th edition, in its conclusion to its commentary on the Murphy case commented that:

If a case arises in the future which causes the House to consider action under section 72 of the Constitution, it is likely that the Parliamentary Commission of Inquiry of 1986 will be looked to as precedent. As this chapter has suggested, that body, apart from the questions of its constitutionality, had serious defects, particularly the provisions for hearing evidence in private and for withholding evidence from the Houses. Those features of the commission should not be followed in any future cases.

This Bill will introduce a process that is designed to ensure that history does not repeat itself. The Murphy case highlighted the need for a Commission such as the one established by the Bill which will ensure a thorough and independent examination of misconduct allegations.

This Bill will:

1. Introduce a fair and unbiased procedure for decision-making in relation to judicial misconduct;
2. Provide assistance to the Parliament in the execution of its constitutional duties;
3. Establish an appropriate forum for determining allegations of misconduct and incapacity;

At a time when there is no current allegation against a federal judicial officer, it is appropriate for Parliament to turn its mind to this Bill and the procedures it establishes.

As the Murphy case demonstrated, when an allegation is made against a judicial officer, it is too late to seek to establish an appropriate procedure for determining whether misconduct can be proved.
If Parliament fails to remove a judge when it is necessary to do so due to the lack of an appropriate process for determining whether misconduct can be proved, the long term ramifications will be dire if it is found that Parliament failed to act when there were well-founded suspicions surrounding the conduct or capacity of a sitting Judge.

While no-one wishes that there be a case of judicial misconduct or a situation of incapacity in the near future, we must be prepared.

We cannot afford a situation where a suspicion arises about a judicial officer and Parliament fails to investigate because it simply does not have the resources or mechanisms in place to do so. Such a situation would undoubtedly erode public confidence in the Parliament and the Judiciary.

Determining an appropriate process for proving judicial misconduct or incapacity requires a proactive approach to be taken by Parliament. A fair hearing and the rule of law will be compromised if a reactive approach is taken.

This Bill represents a proactive approach by putting in place a mechanism to assist the Parliament to exercise its constitutional powers. This Bill provides the opportunity to be prepared for the future and it ensures that the Parliament and Judiciary retains public confidence.

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

Leave granted; debate adjourned.

DOCUMENTS

Responses to Senate Resolutions

The DEPUTY PRESIDENT—(4.54 pm)—I present a response from the Minister for Foreign Affairs, Mr Downer, to a resolution of the Senate of 19 June 2007 relating to the human rights of children.

AUDITOR-GENERAL’S REPORTS

Report No. 6 of 2007-08

The DEPUTY PRESIDENT—In accordance with the provisions of the Auditor-General Act 1997, I present the following report of the Auditor-General: Report No. 6 of 2007-08—Performance Audit—Australia’s preparedness for a human influenza pandemic: Department of Health and Ageing and the Department of Agriculture, Fisheries and Forestry.

PARLIAMENTARY ZONE

Proposal for Works

Senator COLBECK—(Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (4.55 pm)—In accordance with the provisions of the Parliament Act 1974, I present a proposal for works within the Parliamentary Zone to redevelop the National Library of Australia forecourt to create the Humanities and Science Campus Square. I seek leave to give a notice of motion in relation to the proposal.

Leave granted.

Senator COLBECK—I give notice that, on Thursday, 13 September 2007, I shall move:

That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the National Capital Authority for capital works within the Parliamentary Zone, to redevelop the National Library of Australia forecourt to create the Humanities and Science Campus Square.

COMMITTEES

Privileges Committee

Report

Senator FAULKNER—(New South Wales) (4.56 pm)—I present the 131st report of the Senate Standing Committee of Privileges, entitled Possible false or misleading evidence and improper refusal to provide information to the Finance and Public Administration Committee, dated September 2007.

Ordered that the report be printed.
Senator FAULKNER—by leave—I move:

That the Senate—

(a) agree to the recommendation at paragraph 40; and

(b) endorse the finding at paragraph 41, of the 131st report of the Committee of Privileges.

On 7 February 2007, the following matter was referred to the Privileges Committee on the motion of Senators Forshaw and Murray:

Having regard to the material presented to the Senate by the President on 6 February 2007, whether any false or misleading evidence was given to a Senate committee, whether there was any improper refusal to provide information to a committee and whether any contempt was committed in that regard.

Senator Forshaw had been the chair, and Senator Murray a member, of the former Senate Finance and Public Administration References Committee, which reported on the Regional Partnerships and Sustainable Regions programs in October 2005. The report described difficulties that the committee had experienced with a witness, Tamworth businessman Mr Greg Maguire.

After hearing evidence from Mr Tony Windsor MP about alleged political interference in a proposed grant to the Australian Equine and Livestock Centre in Tamworth, the committee invited Mr Maguire to respond to adverse comments by Mr Windsor, in accordance with the procedures in privilege resolution 1 for the protection of witnesses before Senate committees. In responding, Mr Maguire claimed to have made financial contributions to past election campaigns of Mr Windsor and volunteered to the committee to provide a list of the companies that he owned which had made those contributions.

Despite reminders, Mr Maguire did not produce the list of companies. Mr Maguire’s claim was also directly contradicted by further evidence from Mr Windsor, who denied that Mr Maguire had made any financial contributions. The references committee provided this material to Mr Maguire for further response and again reminded him of his undertaking to produce the list of companies. The committee indicated that it required Mr Maguire to produce the information and explained the consequences should he fail to do so.

In the meantime, the committee had referred the matter to the Australian Electoral Commission because there appeared to be no record of Mr Maguire’s companies having made donations to Mr Windsor’s campaigns in the disclosures required by law. The AEC reported on progress in its inquiry at several estimates hearings following the presentation of the Regional Partnerships report in October 2005 but, a year later, at a supplementary budget estimates hearing, the AEC reported that it had been unable to find any independent evidence of these campaign donations and could take the matter no further. In other words, the only material the AEC had to go on was covered by parliamentary privilege and could not therefore be used.

By this time the references and legislation committees had been amalgamated and the new Senate Standing Committee on Finance and Public Administration wrote once more to Mr Maguire demanding that he produce the information and informing him again of the consequences of noncompliance. Mr Maguire did not respond. At this point, Senators Forshaw and Murray raised his conduct as a matter of privilege under standing order 81. Because Mr Maguire had not substantiated his evidence, and because it had been directly contradicted, there was a real possibility his evidence was false or misleading. The other possible contempt was that Mr Maguire had improperly refused to provide
the committee with relevant information when required to do so.

In conducting its inquiry, the Committee of Privileges followed its usual procedures, seeking comment from the various parties and exchanging the responses amongst them for any further comment. The committee did not hear from Mr Maguire by its initial deadline but allowed him an extension of time to provide his response to the terms of reference. A response was received on his behalf from a firm of Tamworth solicitors. The information in question was still not forthcoming and the committee gave Mr Maguire one last chance to produce it. The committee received a second response on Mr Maguire’s behalf from the solicitors but not the list of companies.

The Committee of Privileges was thus in the same position as the finance and public administration committee in relation to the allegation of false or misleading evidence. Without the corroborating material, it was not possible for the committee to judge whether the evidence given by Mr Maguire had indeed been false or misleading.

The solution seemed obvious. The committee needed to exercise its coercive powers to require Mr Maguire to attend before it and produce the missing information. Before taking this step, however, the committee analysed the other aspect of the reference—namely, whether Mr Maguire had improperly refused to provide information to the finance and public administration committee. The committee was assisted in its analysis by advice from the Clerk of the Senate. The committee examined the correspondence between the finance and public administration committee and Mr Maguire and concluded that there had been a clear requirement for Mr Maguire to comply. The committee had written to him on a number of occasions, expressed the requirement clearly and, on two occasions, explained to him the consequences of noncompliance. The information requested was also, in the view of the Privileges Committee, relevant to that committee’s terms of reference. Was there perhaps a reasonable excuse for Mr Maguire to refuse to provide the information? The committee looked at a number of matters but found nothing compelling.

The committee then encountered a major difficulty. To make a finding whether false or misleading evidence had been given, the committee would clearly need to question Mr Maguire, examine the documents and test his claims. These claims had, however, been directly contradicted by Mr Windsor. Testing Mr Maguire’s claims would inevitably involve the committee examining the evidence of Mr Windsor.

Mr Windsor is a member of the House of Representatives. As a member, he enjoys all the immunities of that House. Senators will know that it is a well-established rule that one house may not inquire into or adjudge the conduct of a member of another house. It would of course be possible for the Senate to seek Mr Windsor’s attendance at a hearing of the committee, by message to the House of Representatives, but authorisation by the House for Mr Windsor to attend would not suspend the operation of the rule. The committee could not examine Mr Windsor’s conduct or evidence and, importantly, nor could Mr Maguire. Therefore, an important element of the procedural fairness established under privilege resolution 2, which sets out procedures for the protection of witnesses before the Privileges Committee and includes the ability of parties to an inquiry to cross-examine one another on their evidence, could not be honoured.

The committee is not implying that there is anything in Mr Windsor’s evidence or conduct that raises questions; it is simply
pointing out that there is an insuperable procedural barrier to the proper and full examination of all the circumstances of this matter that prevents the committee reaching a definite finding on the allegations. The committee is highly critical of Mr Maguire’s conduct but, after an unsatisfactory inquiry, it is in the awkward position of being unable to make a definite finding. I should add that in other circumstances—that is, circumstances not involving an issue of comity between the houses—the committee almost certainly would have found a strong case against Mr Maguire. Reluctantly, it is recommending that the Senate accept that the matter is not amenable to further pursuit by use of its coercive powers. I commend the report to the Senate. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

BUDGET
Consideration by Estimates Committees
Additional Information
Senator McGauran (Victoria) (5.07 pm)—On behalf of the Chair of the Legal and Constitutional Affairs Committee, I present additional information received by the committee relating to evidence at estimates hearings concerning Mr Mamdouh Habib.

OFFSHORE PETROLEUM AMENDMENT (MISCELLANEOUS MEASURES) BILL 2007
Report of Economics Committee
Senator McGauran (Victoria) (5.08 pm)—On behalf of the Chair of the Economics Committee, Senator Ronaldson, I present the report of the committee on the provisions of the Offshore Petroleum Amendment (Miscellaneous Measures) Bill 2007 together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

BUSINESS
Rearrangement
Senator Scullion (Northern Territory—Minister for Community Services) (5.09 pm)—I move:

That, on Tuesday, 11 September 2007:

(a) the hours of meeting shall be 2.30 pm to 6.30 pm and 7.30 pm to adjournment;

(b) the routine of business shall be:

(i) questions,

(ii) the items specified in standing order 57(1)(b)(iii) to (ix), and

(iii) from 7.30 pm, government business only; and

(c) the question for the adjournment of the Senate shall be proposed at 10 pm.

Question agreed to.

TELECOMMUNICATIONS LEGISLATION AMENDMENT (PROTECTING SERVICES FOR RURAL AND REGIONAL AUSTRALIA INTO THE FUTURE) BILL 2007
Third Reading
Debate resumed from 10 September, on motion by Senator Coonan:

Today I would like to speak on the Telecommunications Legislation Amendment (Protecting Services for Rural and Regional Australia into the Future) Bill 2007.

Senator McGauran (Victoria) (5.09 pm)—I seek leave to incorporate Senator Eggleston’s speech as agreed to by the whips.

Leave granted.

Senator Eggleston (Western Australia) (5.09 pm)—The incorporated speech read as follows—

Today I would like to speak on the Telecommunications Legislation Amendment (Protecting Services for Rural and Regional Australia into the Future) Bill 2007.

This bill is to amend the Telecommunications (Consumer Protection and Service Standards) Act 1999 and while not a very large or complex bill, it
is very important for the communications future of rural, regional, and remote Australia.

What this Bill does is help protect the $2 billion Communications Fund so that it can continue in the future to generate a reliable income stream that can be put into improving the telecommunications services in rural, regional, and remote areas.

This Bill represents part of the comprehensive telecommunications policies developed by this government since coming into power to improve telecommunications around the country and ensure that no one is denied the benefits of developing technology.

In 1998, this government made clear its intention of conducting an independent inquiry to assess the adequacy of telecommunications services in metropolitan, regional, rural and remote areas.

This inquiry, the Besley Inquiry, reported in September 2000, that aspects of services in rural and remote Australia were inadequate.

The report recommended that government ‘continue to provide financial and strategic assistance to ensure that those currently disadvantaged—especially in regional, rural and remote Australia—are able to take their place in an information society’.

The government accepted this report and took steps towards better addressing people’s needs across Australia and much to its credit many improvements were made.

To make sure that needs were being met, the government initiated another inquiry in August 2002 which released its findings in June 2003.

The regional Telecommunications inquiry, also known as the Estens Inquiry, had revealed that while many issues that had been raised in the previous inquiry were being dealt with, there was still improvements to be made.

The government accepted all of the recommendations of the Estens Inquiry which specifically recommended that the government should provide funding for future service improvements in regional, rural and remote Australia.

This Bill will help address that recommendation.

As it stands, this bill will require that the Minister must take all reasonable steps to ensure that the sum of:
- Amounts standing to the credit of the Fund Account; and
- The value of investments of the Fund;
does not fall below $2 billion.

The Fund investment, under the permanent management, will focus on short-term, low-risk assets.

The interest from this, up to $400 million every three years, shall be put back into the bush to make sure that people outside of the cities are not left behind and can continue to reap the benefits of a quality telecommunications service.

This money will not be spent willy-nilly but it shall be in response to reviews that are to be conducted by the Regional Telecommunications Independent Review Committee established under the Telecommunications Legislation Amendment (Future Proofing and Other Measures) Act 2005.

The first of these reviews is to commence in 2008 and they will take place every 3 years.

What this will give is an adaptive and flexible response to the needs of people in the bush.

This is very different to those on the other side who would like to simply take all this money, and a fair bit more from the Future Fund, much to the detriment of many Commonwealth public servants, and all for what?

To lay out across this huge country a singular technology as a one off, silver bullet for the telecommunications needs of all Australians in rural, regional and remote areas.

With Australia’s geographic conditions, one size does not fit all.

Rather, what is needed is a mix of technologies as is currently being delivered through the Australia Connected initiative.

This network will extend high-speed services to 99% of the population, and it will do so through a mix of fibre optical cabling, ADSL2+ and wireless broadband platforms.

Australia Connected is scheduled for completion in 2009 but the complexity of such a large project, combined with evolving technology, chang-
ing needs and the unique circumstances of individual cases means that funds will be required into the future so as to fill in any gaps that may appear.

We have all seen how technology changes and providing Australians, particularly those in rural, regional, and remote with access to that technology is not something we can do once and shelve.

We must respond as the situation requires and the funds generated by the Communications Fund will allow this.

Australians in the bush need good access to telecommunications, their needs are just as real as those of the city if not greater.

When a person or community is isolated, telecommunications services mean so much in so many ways, be it on the telephone, video-conferencing, or the internet.

By putting money aside for people in the bush, we are ensuring that distance is not their disadvantage and that they too can partake in the benefits of state-of-the-art technology.

Some of the benefits of being connected are more important for people in rural or remote settings than for others.

In some cases, it is their lifeline to the outside world, be it for education, health or business.

Access to adequate telecommunications is of great importance, it allows students across the country regardless of where they are to study more efficiently and tap into the vast information resources that are currently available.

It allows businesses to function better no matter what they are doing or where they are doing it. Internet services are allowing a lot more people to work at home, this means greater lifestyle options for individuals and families.

If a person wants to carry out a business from their home, they should be able to, and they should be able to contact customers and suppliers and be able to search out new markets without being held back by their physical location.

In the case of Western Australia, the mining industry is growing and this is something that should not hold back either.

We cannot choose where our resources are to be located but we can choose to respond to the needs of Industry with the technology required.

A strong government response will mean that businesses in Australia will be armed with the tools necessary to not only survive but to provide first class competition on the world stage.

In terms of future needs, the development of new mineral resources and also the potential development of agriculture in the North means that we cannot accurately predict when and where tele-communication investment will be required.

I am sure that the tax payers of Australia will be happier knowing that when those needs are identified and investment is needed that the good economic management of this government will mean that there is already around $133 million a year for investment.

Putting it another way, there is $133 million that people will not need to fork out through higher taxes.

Now this Communications Fund exists only due to the strong economic management of this government and this legislation carries on that management by reassuring the people of Australia that if any future government wants to put its hand in the cookie jar, it cannot do it behind anyone’s back and any such move would require the scrutiny of both houses of this parliament.

It would have been hard to imagine in 1996 when this government came into power that we would be talking today about securing a $2 billion Communications Fund.

Back then, setting up such a fund would have blown out government debt from $96 billion to $98 billion.

We have come along way since then and we are continuing to grow strongly but to make sure that we can do this we need to be prepared and part of being prepared is giving people and business access to telecommunications services no matter where they are.

Whether you are talking about a farmer on the Ord River in Western Australia or a stockbroker in Sydney, you are looking at two business people that need quality telecommunications services to function well.
Tuesday, 11 September 2007 SENATE 43

This government has always supported business regardless of where it carries out its activities. This Bill will help continue with that egalitarian support and to show people in rural, regional, and remote areas that we will be there for them. I support this bill and commend it to the Senate.

Question agreed to.

Bill read a third time.

NORTHERN TERRITORY NATIONAL EMERGENCY RESPONSE AMENDMENT (ALCOHOL) BILL 2007

Second Reading

Debate resumed.

Senator STEPHENS (New South Wales—Parliamentary Secretary to the Leader of the Opposition) (5.10 pm)—I rise to present Labor’s position on the Northern Territory National Emergency Response Amendment (Alcohol) Bill 2007. Federal Labor gave our bipartisan support for measures to tackle child abuse in the Northern Territory’s Aboriginal communities when they were first announced in late June. Our in-principle support was given because the chronicle of abuse that Pat Anderson and Rex Wild had detailed in their report into the protection of Aboriginal children from sexual abuse in the Northern Territory compelled action, as did the litany of reports that preceded Little children are sacred. We believed that to lament that action should have been taken sooner did not lessen the imperative to act now; nor is the reality that child abuse occurs in all communities a reason to sit on our hands in the face of this report.

Over the last decade all sides of politics have failed to ensure children’s safety in Aboriginal communities. In considering our response to the intervention, Labor articulated a simple test when assessing the government proposal: will it improve the safety and security of our children in a practical way? We applied that test to the last legislative package and decided, on balance, to give our support. After consideration of the detail of those bills, we noted that they were deficient in many ways, so the opposition moved several amendments to the bills to strengthen the legislation.

We moved to ensure that ‘just terms’ compensation is paid in all instances of land acquisition. We moved to enable access for traditional purposes to land acquired through the five-year township leasing arrangements. We moved to protect children by retaining and strengthening the Northern Territory land permit system to allow journalists and government agents such as doctors to enter Indigenous communities without permits. We moved to introduce the capacity to review aspects of the legislation after 12 months, including the effectiveness of the township leases and the Territory-specific quarantining of welfare payments, and we moved to clarify that these are special measures under the Racial Discrimination Act and delete the exclusion of the Racial Discrimination Act.

Unfortunately, the government did not accept that these or any amendments to the legislation were necessary. That is the legislation that, by his own admission, the Minister for Families, Community Services and Indigenous Affairs had not fully read. So it is no surprise to us that we are back at the next sitting of the Senate with amendments to this legislation. Again, the opposition applied the same test of whether these amendments will help protect children in a practical way. These amendments are aimed at stopping sly-grog runners, at stopping the flow of alcohol into these communities, which is critical to protecting children from alcohol fuelled abuse. In this task of protecting children, the government has our support. So, again, we are supporting this bill.

Labor strongly supported the measures in the intervention legislation designed to stop the rivers of grog flowing into and around
Aboriginal communities. The scourge of grog is well documented. The many inquiries that have been conducted into family violence and child abuse consistently identify alcohol as a major contributing factor to family violence. The Anderson-Wild reported noted:

... there has been inadequate restriction of the “sly grog” trade, where alcohol is brought in illegally to Indigenous communities by both Indigenous and non-Indigenous people, exacerbating the alcohol problem, and consequently violence in the communities ...

The report recommended:

... as a matter of urgency, the government makes greater efforts to reduce access to takeaway liquor in the Northern Territory, enhance the responsible use of takeaway liquor, restrict the flow of alcohol into Aboriginal communities and support Aboriginal community efforts to deal with issues relating to alcohol.

We all know that alcohol can facilitate or incite violence by providing a socially acceptable excuse for negative behaviour. It can also act as a disinhibitor, allowing people to do things they would not normally do when they are sober. Grog cultures can and do develop a force of their own, perpetuating disastrous cycles for communities. Alcohol control is critical to achieving community stability. Many Aboriginal communities recognise this and have taken action in the past to declare their towns dry, but it is clear from experience that these are not easy solutions.

The Northern Territory National Emergency Response Act 2007, passed by the Senate just last month, set out a new liquor-licensing regime for the Territory. The act created new offences with harsher penalties aimed at sly-grog runners and new restrictions on takeaway sales of alcohol. The amendments presented here today change these new arrangements in several ways. Specifically, the bill changes the 1,350 millilitre trigger for seeking and recording details in relation to takeaway alcohol and sets a new trigger of purchases of over $100 or the sale of wine exceeding five litres in a single container or two or more two-litre containers. Requirements for storage of these records of takeaway purchases are changed so that the records can be stored at the direction of the Licensing Commission, the implication being that the commission can regularly collect and store the records on the licensees’ behalf. The bill provides certain exceptions to the alcohol offences in relation to tourism operations in national parks, Northern Territory parks and other areas declared by the Commonwealth minister. Thus, there is now a defence if a person is engaged in recreational activities in a park that have been organised by a person in the tourist business and are consistent with any park management plan, and the person is behaving in a responsible manner.

The bill also provides that the alcohol measures can be determined not to apply in a particular area if warranted—for example, where comprehensive and effective alcohol management measures are implemented—and makes clear that no past or future Northern Territory legislation undermines the emergency response alcohol measures. The change from the volumetric alcohol measurements to a dollar-value purchase, with the exception of wine casks, makes practical sense. The potential problems in the government’s original proposal were highlighted almost immediately as unworkable. A submission to the Senate inquiry from Woolworths, for example, expressed concern about the difficulty involved in actually calculating the amount of alcoholic beverages which equates to 1,350 millilitres of pure alcohol. The government members’ report from the inquiry noted this problem and recommended explanatory material to assist people to understand what is meant in practical terms by the phrase ‘a quantity of alcohol
greater than 1,350 millilitres’. Clearly the government felt that, for the measures to succeed in stopping bulk purchasing of takeaway alcohol by problem drinkers and by grog runners, change was needed, because controls are meaningless unless they can be effectively administered.

The NPY Women’s Council told the Senate inquiry that the availability of alcohol through outlets in Indigenous communities was actually only one part of the problem. The supply of alcohol from the major towns in the Northern Territory also presents a significant problem, so the opposition hopes that these measures will help to stop the sly-grog runners. The inquiry submission of the Bawinanga Aboriginal Corporation noted that the ready availability of alcohol in centres located close to Indigenous communities can undermine the effectiveness of prohibition measures. They said in their submission:

The majority of illegal drugs and alcohol are brought in by road during the dry season. By opening the roads and townships, there is significant evidence to suggest that these problems will be exacerbated. Another impact of prohibition experienced by Maningrida was an outmigration of residents to Darwin. This had the effect of significantly disrupting local employment outcomes, family structures and also resulted in a number of alcohol related deaths in Darwin.

The opposition remains concerned that other elements of the emergency response will undermine attempts at stopping sly groggers. Labor is concerned that removing the permit system would increase the capacity for sly-grog runners to enter communities. In their submission to the inquiry, the Police Federation of Australia said:

Operational police on the ground in the Northern Territory believe that the permit system is a useful tool in policing the communities, particularly in policing alcohol and drug-related crime. It would be most unfortunate if by opening up the permit system in the larger public townships and the connecting road corridors as the Government intends, law enforcement efforts to address the ‘rivers of grog’, the distribution of pornography, and the drug running and petrol sniffing were made more difficult.

That is why Labor opposed the removal of the permit system in towns and roads in Aboriginal communities—because removing the permit system will make harder the task of protecting children.

The tourism industry in the Northern Territory has the capacity to benefit local Aboriginal communities by being the catalyst for greater economic development. However, there has been concern expressed that the alcohol controls could have adverse consequences on the tourism industry. The Northern Territory government has said that the restrictions will have a great impact on the Territory’s tourism industry and that the measures were not actually addressing the target of the legislation—problem drinkers. The Commonwealth government’s intervention in Aboriginal communities has targeted the supply of alcohol through sly-grog runners. This is critically important and has Labor’s unequivocal support. Labor will also work with the Northern Territory government to review the impact of takeaway outlet hours and locations on problem drinking in Aboriginal communities.

The Northern Territory government’s response to the Anderson-Wild report includes recruiting eight additional alcohol compliance inspectors and two court clinicians, implementing a licensing identification system across the Territory, implementing regional alcohol management strategies and implementing an alcohol education program. In addition to addressing alcohol supply, more needs to be done on the demand side, such as alcohol rehabilitation and diversionary programs.

In the appropriations for the intervention, the Commonwealth committed $16.2 million
to child care, early childhood services and alcohol diversionary programs to support young people aged between 12 and 18 living in remote communities; however, the low level of detail provided about the programs being rolled out did not specify how much will be spent on alcohol diversionary programs. I ask the minister in his summing up to detail how much has been provided specifically for alcohol diversionary programs as part of the intervention.

In June 2006, during its summit on family violence in Indigenous communities, the Commonwealth government committed $49.3 million for drug and alcohol services in regional and remote Indigenous communities across three states and the Northern Territory. So again I ask the minister: how much of this money is going to the Territory? This money committed in 2006 was not released by the Commonwealth until August 2007, so I also ask the minister: how much of this $49 million has now been spent? We believe that this delay is totally unacceptable, and I certainly hope it is not an indicator of how the new funding associated with the intervention will be handled.

Aboriginal children in the Northern Territory need a long-term commitment to their future from all levels of government and all sides of politics. So far the government have only funded their Northern Territory emergency measures for one year. The department told the Senate inquiry that there is simply no money for any programs beyond the end of June next year. The government must immediately outline what their commitments are to children’s education, health and safety beyond the next year.

Labor has a long-term commitment to improving the lives of Aboriginal people in the Northern Territory and right around Australia. Tackling the alcohol problem is a necessary initial step and an ongoing challenge in providing that improvement. But more is necessary. The Anderson-Wild report said that the cycle of alcohol dependency, of having the pursuit of alcohol as the reason for living, needs to be broken. A resident in the western Top End community told the Anderson-Wild inquiry:

At present people are living to pursue grog so they can forget why they are living.

We need to give people much more. We need to rebuild the social and economic infrastructure in Aboriginal communities, to change destructive behaviour and to provide positive pathways. It is dehumanising for Indigenous people to be talked about as just a problem instead of recognising their strength. There are many Indigenous people across Australia taking control of their lives and their communities. There is great strength and resilience in Indigenous communities—in the arts, on the radio, in our schools, in sport and in local businesses. They are smart, resilient people who know that change is achievable.

Labor stand for looking to the future. We want to work with Indigenous communities to turn the fresh ideas that many people have into real change and development. We must all take responsibility for improving the lives of Indigenous Australians: closing that appalling health gap, providing education services and delivering employment, economic development and a future for Indigenous communities across Australia. All of these things are necessary to enable Indigenous children to grow up safe, healthy and happy.

Senator BARTLETT (Queensland) (5.26 pm)—The Senate has before it the Northern Territory National Emergency Response Amendment (Alcohol) Bill 2007, which already seeks to make amendments to the federal government’s so-called Northern Territory National Emergency Response Act. It is the first sitting week since the Senate finished debating that legislation and a range of
other legislation related to it and already we are back here amending it. You could not get a starker example of the unseemly and, I might say, unnecessary rush involved in the legislation being forced through the Senate so quickly in the first place. That legislation was forced through in a way that did not allow adequate scrutiny—not just adequate scrutiny by senators but adequate scrutiny by affected parties including, and most particularly of course, Aboriginal people in the Territory.

The point has to be made that it was the Democrats specifically that sought to defer final consideration and debate on this legislation until this very week so that there would be the opportunity to identify flaws and unworkable aspects and try at least to increase the chances of this legislation operating in a way that would maximise the prospects of its achieving some of the stated intentions. It should be said that that is an approach the Democrats continually try to make. Even if we are not in agreement with aspects of legislation, even if we think that the policy intent is not matched by the processes being put forward, we do try to engage in a way that at least makes it as likely as possible that the final outcome will be workable and that there will be minimal unintended consequences. A key part of doing that is not allowing just the Democrats to have a say but allowing the community and affected people within the community, along with people who have direct expertise and experience in the relevant areas, to say to the Senate: ‘Hang on, that is not going to work that way. You should do it this way. If you really want to achieve outcome X then this approach will be better than the one you put forward.’

The government’s arrogance and contempt for due process and the views of anyone other than themselves, and their total certainty that they are the ones that know best, have meant that that approach was not taken. They just bulldozed everything through, in many cases smearing along the way anybody that even expressed any concerns. I am not saying that Minister Scullion did that, but certainly many of his colleagues were quite happy to do that. I repeat my outrage at being quite flagrantly and falsely defamed by Minister Brough in his Press Club speech and in his responses at the Press Club about our supposed lack of interest in the Little children are sacred report. That is the sort of attitude we have had from many in the government—thankfully, again, not from Minister Scullion but from many of his colleagues. That is the reason why, having rushed through the legislation, on the next sitting day, pretty much, you come back saying, ‘Hang on, we need to fix some of that up.’

The second point that needs to be made, as is specifically stated in the government’s second reading speech on the legislation, is that some of the changes before us have been put forward by the liquor industry and the tourism industry. That is fine—I am quite comfortable with our taking on board the views of relevant industries to make sure the impacts on them are minimised—but it just sends another signal that, as soon as the government do something which causes a problem for the liquor industry, they are there in a flash saying, ‘We’ll fix that up.’ If the tourism industry says, ‘Hang on, this is going to hurt us,’ they are in like a flash saying, ‘We’ll stop that.’

There was an amendment put into the original legislation because recreational fishing people were worried. The amendment was made to ensure that they were not inconvenienced, but is there any listening to the concerns of Aboriginal people? It seems as if there are instant responses when concerns come forward from everybody else but, when the concerns come from Indigenous people, the government just bulldoze straight ahead saying, ‘We know best.’ There has
been open celebration of the new—or ultra-old—principle of paternalism being a justification for some of the government’s approaches. That is not to say that every Aboriginal person in the Territory is opposed to what the government is doing, but, even among those who support the government’s actions, almost every single one of them would come up with areas where they think things could be done better and where they would call for different approaches.

Those people are not being listened to, and that is of extreme concern to the Democrats. It is a concern because of the negative and discriminatory signals that it sends, but I have an even greater concern than that. I could live, extremely reluctantly, with those sorts of things if it meant the legislation would provide results on the ground but, as we all know, it actually increases the chances that the results on the ground will not be achieved. I think the legislation has to be seen in that context.

I turn now to the changes within this bill. There are changes to the trigger requiring details to be kept of takeaway alcohol sales. Questions about this were raised in the Senate committee process very fleetingly. There was minimal opportunity for them to be raised because the legislation was bulldozed through the single-day hearing, with minimal opportunity for people to put in submissions let alone for questions to be asked or answers to be provided. But, even within that ridiculous, contemptuous, truncated time frame, concerns were raised about the workability of a trigger of 1,350 millilitres of total alcohol content within an alcohol purchase. Those concerns were raised in the Senate committee process by the Democrats and I think by pretty much everybody else—the Greens and Labor as well.

The response was, ‘We’ll have an education campaign.’ Clearly, on closer examination it was decided that that will not be good enough and the government have introduced another mechanism which is just a flat purchase price of $100 or more, a base quantity of cask or flagon wine exceeding five litres, or two or more two-litre containers. That is certainly simpler. Anybody who spends more than $100 on grog or buys over five litres of wine in a single container or two or more two-litre containers will trigger it. That is obviously a lot easier than figuring out when the 1,350 millilitres of total alcohol content gets triggered. It is more workable for the retailer and it should be more workable for the customer.

It is certainly an improvement to the workability. Whether it is an improvement to the overall effect of reducing grog running and stemming the flow of alcohol into remote Aboriginal communities by tracking large purchases we will see. This legislation is certainly more workable in terms of ease for the customer and the retailer; whether it is also more workable for the grog runner and whether it has more loopholes for the grog runner and any retailers that are not interested in complying with the spirit of the legislation, we will see. I can certainly see some more easily circumvented potential loopholes with regard to this legislation.

I think the intent is appropriate. The intent is broadly in line with the problems that were identified in the Little children are sacred report, so let us roll it out there. Let us give it a go and see how it works. The Democrats are prepared, as we were with the original legislation, to give this a go and to see what the impact is. But let us not forget that the core aim of these changes and the core aim of this part of the legislation is to try and reduce the problems caused by severe alcohol abuse—the issues of violence and chronic health problems in particular.
This legislation is not about making life easier for retailers or consumers—if you were going to make life easier for them you would not have the restrictions in the first place; it is a matter of getting a balance. Let us roll it out there and see how it works but let us not forget the core aim of it.

In some states and in some circumstances where alcohol controls have been put in place it is very hard to come to any other conclusion than that they were just a veneer so that governments could say, ‘We’ve put in alcohol restrictions,’ and could be seen to be doing something that they could point to while the focus was diverted elsewhere. They have not really thought about whether it will work.

Let us face it: making these things work—controlling and containing the flow of alcohol or any other substance that is prone to be abused—is chronically difficult over a prolonged period of time. The key issue is not whether you have a trigger of 1,350 millilitres or a trigger of $100; the key issue is whether you have the support of people at the community level—the reinforcement of those restrictions by the community’s support, and the culture and mores of that local community adopting and reinforcing it by virtue of social and peer group pressure. That is what makes the difference in the long term. That is one of the reasons the Democrats continually re-emphasise the necessity for consultation, involvement, control and ownership by people at the local level, in Indigenous communities in particular.

I notice that in the explanatory memorandum the government have once again relied on and given specific mention to the Little children are sacred report, which the sweeping measures of the national emergency response act were in response to. Again, we get this continual mixed message where on the one hand the government are saying, ‘We’re doing all these sweeping measures’—to use their terminology—and this extreme intervention in response to the Little children are sacred report,’ and on the other hand, as we heard in this debate in the last sitting week, they are saying: ‘The Little children are sacred report’s recommendations are inadequate. They are the past and we need to go way beyond them.’ I really think it is about time that the government make it clear whether they are doing things in response to the Little children are sacred report or the report is inadequate and they have decided to go down their own path.

Stop using it as a cover, because we know that the authors of the Little children are sacred report are strongly condemnatory of the government. We know that despite the fact, and it needs to be repeated, that the Senate committee inquiry—the truncated, disgraceful, inadequate one-day hearing to look into these measures, which, in the government’s own words, were put in place in response to the Little children are sacred report—refused to hear from the authors of that report. Stop trying to use that report as a cloak for what you are doing when you would not even allow the Senate committee examining the response to hear from the authors of that report. It is that forked tongue approach that massively increases the cynicism about the government’s motives and massively increases the difficulty in achieving success with what the federal government and many other people in the community are trying to achieve. There are many people that disagree with the process the government has chosen but support the stated intent of what the government is doing. If there was more effort put into trying to unite people who disagree with the method but very much agree with the goals then we would maximise the chances of success.
That is the approach the Democrats will continue to take. We will criticise aspects of the government’s approach that we think are wrong. Whether it is the policy detail; the false, misleading, slanderous and grossly politicised rhetoric that we are getting from some in the government; or their refusal to work together with people, we will keep criticising those things because we think they get in the way of success for the goals that we agree with. But we will also maintain an overarching long-term aim of maintaining the momentum that the government, to their credit, have started, and, together with people across the political spectrum and people across the community, keeping our eye on the ultimate goal. Along the way we will complain about or point to areas we disagree with and put forward alternatives that we believe will work—that is part of the process—whilst always keeping our eye on the ultimate goal. The ultimate goal is the same as what the government say their goal is, and that is to reduce and ideally eliminate violence and abuse against children and other family violence in Aboriginal communities in the Territory and elsewhere. But it would be irresponsible of us not to criticise aspects of the government’s approach that we think will not work, because that is part and parcel of maintaining the accountability of the government, maximising continuing community debate and focus on the ultimate goal that we all share and along the way, I hope, improving the process so that it does move more towards where it needs to.

It also needs to be reinforced repeatedly that the key component of the Little children are sacred report, and the response that the authors believed needed to occur, was not specifically about alcohol measures or anything else; the key component was that every aspect of the response needed to be done in conjunction with Indigenous communities in the Territory. The government can keep saying as much as they like that their medical teams are welcomed with open arms. I am sure they are in some places—I know they have not been in other places. I am sure it is a mixed picture; that is human nature. It is a reality that in Aboriginal communities, as with every other community, there is a diversity of opinion. But, unless you continue to try to do better at working with people—whether it is with the alcohol measures or any of the other restrictions, the CDEP changes, the construction of infrastructure or the relationships with organisations on the ground—then you will fail. That failure will hurt Indigenous people in particular and children most of all, and that is something we should not forget either.

Another part of the changes here is to provide exceptions to alcohol offences in relation to tourism operations in parks and other areas if declared. Again, if you look at this measure in isolation it appears to be a reasonable one. I have had the enormous privilege of going to Uluru as part of a Senate committee inquiry into national parks and protected areas, and I have to take this chance to say to people who have not been there that, if there is one place you need to get to before you die, that is one of them. You really need to get there; it is an amazing place. Looking at the rock at sunset is part of that experience.

If I could go off on a tangent just briefly, it is a real tragedy that there is not a fuller opportunity for a more comprehensive experience for visitors to the Uluru and Kata Tjuta National Park because it is far, far more than just looking at the spectacular vista of the rocks and surrounds, whether at sunset or any other time of the day. The cultural richness of the place is extraordinary and, frankly, grossly underutilised by many of the people that go there, and that should not have anything to do with whether or not they can have a glass of champagne while they watch
the rock while the sun goes down. I do not begrudge them the opportunity to do that. Nonetheless, it is very hard not to think of the double standards involved—rich, non-Indigenous tourists from all over the world pour in and get to have their alcohol but the people whose land it actually is do not. It is a bit hard not to think of the double standards there, frankly.

Whether that double standard is going to impede the ultimate goal of reducing harm towards children and reducing family violence and the like, I do not know. That may be a double standard that is worth wearing because of the undoubted benefit to the tourism industry and the resources it brings to the region. Those resources flow in great proportion to a lot of people other than the actual owners of Uluru, but there is no doubt that they get some economic benefit out of it. It is very hard not to contrast the extraordinarily opulent resort just outside the national park with the conditions that many of the traditional owners live in. The measure itself, in isolation, is an understandable and appropriate response to the concerns raised by the tourism industry, but it is hard not to see the double standards involved.

There are other components of this bill that seek to make things more workable and which, in isolation, are understandable, but there is no reason why we could not have done this properly in the first place had we simply delayed the original bill an extra few weeks to properly examine it, as the Democrats proposed. We were not seeking to hold it up until after the election, as others were; we were repeating the wishes of the Indigenous people of the Territory who simply asked that it be deferred until the first sitting week in September and debated then. At least it would have given us a bit of an opportunity to hear not only from Indigenous people in the Territory but also from the tourism industry and others. We could have got it right the first time around, saving ourselves the trouble. (Time expired)

Senator SIEWERT (Western Australia) (5.46 pm)—We are seeing here the first cracks in the Northern Territory National Emergency Response Amendment (Alcohol) Bill 2007. Unfortunately, many of us predicted that this would occur, as it does when legislation is rushed through and when you do not adequately consult with the community or adequately subject it to the proper review processes of this place. Although we had the oft-quoted 27 hours of debate in this place, these were five separate pieces of very important legislation and with many details included in that legislation. We were only given one day to review them in the Senate committee, and we barely touched on the alcohol provisions. The alcohol provisions were one of the three areas that the Greens did not oppose in this place. I will come back to that a little later. We did not oppose them because we thought that they were at least a step in the right direction. However, we said at the time that we did not think that they would work properly because they were ill-conceived, they had not been adequately discussed with the community and the community did not have any ownership of the provisions. It is hardly surprising that we are back here, and I fully expect that we are going to be seeing more problems with this legislation as it is rolled out.

Unfortunately, these changes seem to be driven more by industry concerns, in particular the tourism industry—and that is why we are back here so urgently—rather than by the government going out and speaking to alcohol experts and the community to see what actually works in a community, what works overseas and what changes could be put in place which might be unpopular but which need to be put in place. The Greens have, in the limited time we have had available, taken the opportunity to talk to experts in alcohol...
and alcohol consumption reduction, Aboriginal communities and people working with communities to see what they think would work better and to use that opportunity to try and finetune this legislation. Perhaps I should say ‘coarse-tune’, because it is going to need an awful lot of tuning to get this legislation to deliver what the government wants it to deliver and which of course we all want—that is, a reduction in child abuse and violence in the Northern Territory and a reduction in alcohol consumption.

The question we are asking ourselves is really quite simple. What alcohol reduction strategies actually work? What strategies are there to prevent excessive alcohol consumption and the harm caused by excessive drinking? This must, we believe, be strongly evidence based. There is plenty of evidence internationally, within the Northern Territory and in Australia that shows what could work and what is likely to have the most chance of success. The international evidence that we have looked at is quite clear and is confirmed by the success or failure of measures and pilot programs in the Territory in the past. Unfortunately, what the evidence shows is that, by and large, the popular measures do not work and what works is not popular—which you could probably understand if people are reducing their consumption. The evidence has found that alcohol education programs and demand reduction programs—which are popular with the hotel industry, the hotel industry lobby and some governments—have largely had no impact on alcohol consumption. This comes from 300 independent international studies.

The one thing that has been shown to have a direct and significant impact is reducing the supply of alcohol. Supply reduction strategies have an immediate impact on heavy drinkers and provide a circuit-breaker that offers a breathing space while other strategies, like education and employment programs, can begin to work. This is exactly the same strategy that we have talked about from the findings of the Senate’s recent inquiry into petrol sniffing. The Senate has recently heard some success stories of how reducing the supply of sniffable fuel through the Opal roll-out has dramatically reduced petrol sniffing and created a space in which youth diversionary programs can give people an opportunity to turn their lives around. We have articulated some of those very successful stories in this place.

The international evidence shows that the most effective way to reduce alcohol consumption and harm is through a price mechanism. The review by the World Health Organisation’s international experts group looked at 53 appropriate studies across 17 countries and data spanning 121 years. They all showed that increasing the price decreased consumption. Price is the only intervention strategy to which the WHO report gave three stars for all of its outcome measures. Price based interventions have been successfully trialled in the NT and have been shown to be effective. This is why, any moment now, the Greens will be introducing an amendment to this bill which directly targets—

Senator Scullion interjecting—

Senator SIEWERT—we are working as fast as we can—the price of cheap takeaway grog. This measure will not affect the price of standard or premium takeaway liquor and will not affect the price of alcohol consumed on licensed premises. International evidence shows that heavier drinkers and younger drinkers—which is exactly the group we need to be targeting with this intervention—respond more to price controls. Other data, from the Northern Territory Living with Alcohol Program—which ran from 1995 to 1997, where there was a levy on cask wine—showed that there was a one-third reduction
in the consumption of alcohol and no shift to other types of alcohol. I understand that the federal government cancelled this particular program because only the Commonwealth can levy a tax. In Tennant Creek, they removed four- and five-litre casks, which worked well until industry brought in two-litre casks of cheap port in 1999. In the past, where we have had effective strategies, either industry or, unfortunately, in the other case, government have acted to undermine the effectiveness of these programs.

After increasing the price, the most effective supply reduction mechanism is to reduce takeaway trading hours. To this end the Greens are also proposing an amendment to this bill to introduce two takeaway-free days a week: Sunday—which is already a quiet day in the Northern Territory, with some restrictions in place—and Thursday, which is commonly known, particularly in some places, as ‘Thirsty Thursday’, which is the day on which many people still receive their Centrelink payments. Thirsty Thursday programs have been successfully run in the past in the Northern Territory—for instance, in Tennant Creek. While changes which allowed those on income support to change the day they received their Centrelink payments have, to some extent, reduced the impact of takeaway-free days, we believe that can be relatively easily dealt with by returning to making regular income support payments on one prescribed day a week. We understand that the Northern Territory police support the idea of having takeaway-free days. Even without synchronising dry days with pay days, we believe that simply by having a couple of quieter days a week could make a major difference to the level of alcohol consumption and alcohol related harm and its consequent cost to the community.

After increasing the price of takeaway alcohol and reducing the number of days on which takeaways are available, the third most effective strategy would be to reduce the number of outlets where takeaway alcohol is available. We understand that this is not a matter for Commonwealth legislation. However, it is a matter on which the Commonwealth government, working together with the Northern Territory government and the community, could make a significant impact by buying back liquor licences from inappropriate outlets, such as petrol stations, corner grocery stores and fish and chip shops. You can buy grog almost anywhere in the Northern Territory. We believe that the best way to proceed would be for the communities concerned to identify problematic licences with the NT government, which the NT government could buy back, perhaps with Commonwealth support.

When the Northern Territory intervention program was presented to the Senate, the Australian Greens did not oppose the provisions relating to alcohol supply, because we believed they were a step, albeit a small one, in the right direction. However, we were not convinced and remain unconvinced that by themselves the current measures will be successful in making the kind of impact on drinking in the Territory that is needed to deal with the problems there.

The Northern Territory, per capita, has by far the highest rates of alcohol consumption and alcohol related harm. Territorians consume, on average, 15 litres of pure alcohol per person per year, which is around 1,300 green cans, as compared to the national average of nine litres. It is estimated that 80 per cent of Territorians drink in a high-risk manner, according to the NHMRC guidelines. The high level of drinking costs the whole community through higher rates of injury, including homicide and suicide, and through higher rates of accident, particularly motor vehicle accidents.
It also affects the whole community through higher rates of chronic and acute health problems, through lost productivity, absenteeism and injury in the workplace. The Northern Territory consistently scores the highest rates of harm on all these measures. There is no doubt that there is a drinking problem in the Territory which is not just an Aboriginal problem. Changes which can reduce the level of problem drinking for all Territorians will benefit the whole community.

We need to recognise that alcohol misuse is not just a symptom of social isolation, poverty, poor education and employment but also a cause of serious social problems. The government bill introduces some amendments to the trigger for seeking and recording details of takeaway alcohol purchases and for how these records are stored. We do not have a problem in changing from the difficult-to-administer 1,350 millilitre trigger to a purchase price of over $100 or to the specific volumes of the commonly known ‘chateau cardboard’.

However, the Greens note the concerns of alcohol experts and the Northern Territory community organisations that simply requiring sellers to record sales may not of itself have an impact on grog-running into Aboriginal communities if there is not timely action to follow up large and suspicious purchases. To this end, the Greens are seeking to amend the bill to add provisions that would require liquor retailers to immediately report large or suspicious purchases to the Licensing Commission. In this case, the provisions to require reporting of suspicious purchases are similar to those provisions already in place to report suspicious purchases of fertilisers. ‘Large purchases’ are simply defined as twice as large as those which would trigger an obligation to identify and record purchases.

In relation to the new provisions in the bill relating to tourist activities, as we note there are probably very few members of the Northern Territory Aboriginal communities facing drinking problems who are likely to be booking themselves on champagne cruises. It probably will not affect their consumption of alcohol. As I have articulated, there are other measures to address these problems. Interestingly, the stated intent of the new provisions which amend section 19 to give the minister discretion to lift some or all of the emergency alcohol provisions for some or all of a prescribed area is where there are comprehensive and effective alcohol management plans in place.

As senators would be aware from our previous comments in the chamber, the Greens are very supportive of community based alcohol management plans and initiatives. We have been critical of the government’s approach in the past for failing to recognise and support these kinds of community initiatives and for failing to consult with communities about what strategies they believe would most effectively help them to manage alcohol related problems.

To this extent we welcome these provisions. But we are keen to see that they are followed up, as we are well aware of a significant number of communities where efforts to put in place alcohol management plans to limit alcohol sales or to declare communities dry have been undermined by a lack of resources and policing, have simply not been supported by governments or have been undermined by the alcohol industry. A significant number of prescribed areas in the Northern Territory are in fact declared dry communities. We hope that this indicates a willingness on behalf of the minister to engage with these communities to help them implement their alcohol management plans and to effectively police ‘dry’ community by-laws.
To sum up, we believe there are three approaches to reducing the harm caused by alcohol. There is supply reduction. We could enhance what the government has already done by putting in a price and availability trigger. I fully expect industry not to like this, because it reduces the sale of alcohol and the places where you can get it. We need demand reduction after we have created space through supply reduction. We need effective education, treatment and rehabilitation. We need harm reduction, through night patrols and sobering-up shelters, for example. The challenge is to ensure that there is action in all of these three areas. There need to be comprehensive and complementary community based action plans that balance these three elements.

On a recent trip to the north-west, I heard stories in a number of places of concerns about individual and isolated measures failing to make a real difference. Over and over again it was articulated to me that people needed comprehensive, continuing programs. For instance, during that trip last week I heard that there are in place sobering-up shelters where you can get a feed, a shower, clean pyjamas and a clean bed for the night but you do not actually get help to reduce your alcohol consumption. The people running the shelters are now questioning whether they are contributing to the problem by simply providing a bed. In three towns that I visited there were no rehabilitation services for the people seeking the shelter services, so these people were not getting help to overcome their alcohol addictions or treatment when they were coming off alcohol. There were also no provisions for counselling or for support to help the families of the people that had alcohol problems.

I would like to quote the comments of Professor Robin Room, President of the Alcohol and Other Drugs Council of Australia, who said, in an article in the Age in May, that there is a recurring problem in the attempt to reduce alcohol harm. He said:

“What’s popular doesn’t work and what works isn’t popular ...

The article continued:

High-profile media campaigns urging the public to drink responsibly are far less effective than reducing density of alcohol outlets, restricting trading hours and increasing taxes, he argues.

But despite international evidence proving the success of such measures, the industry is not supportive.

“I don’t think it helps that the Federal Government put $5 million into Drinkwise, an industry-funded organisation meant to educate the public about responsible alcohol use. Fundamentally, the industry’s interest is in channelling any concerns about alcohol into strategies that won’t affect their bottom line,” said Professor Room.

It is time that we stopped caring about the interests of the industry and actually looked at other measures besides those that have already been put in place and are the subject of this legislation. We believe that we urgently need to reduce the supply and that evidence suggests that we do this through price and availability. When are we going to be tackling these problems and making a real difference as to alcohol consumption? We believe that more work needs to be done to develop proper alcohol strategies—that is, if the government is serious about a comprehensive approach to dealing with alcohol related problems in the Northern Territory. Obviously, that requires consultation with industry experts, alcoholism experts and the community.

Unfortunately—and, as I said before, we are deeply concerned about it—this legislation seems to have been driven more by the concerns and complaints of the tourism industry that it will hurt business than by what is actually going to be effective in turning around the alcohol problems that nobody is denying are in Aboriginal communities and
in the Northern Territory. That is why the Greens, given that the government have recognised the flaws in their legislation—albeit not all of them—are urging the government to support our amendments to improve how to deal with alcohol in the Northern Territory. We hope that they will see the rationality of these amendments.

I am hoping they have actually read the evidence that shows what does in fact help to reduce alcohol consumption. This is coming from the experts; this is not something that we have dreamed up. We have taken the trouble to read the literature and talk to people and the communities about what they think has worked in the past. We would also encourage the government to put funding into programs on a continuing basis. The other thing you hear continually, when you go to talk to community based organisations, Aboriginal organisations and Aboriginal communities is: ‘Oh, yeah, we had funding for that program for a year or two and it stopped’; ‘Oh, yeah, we had funding for that shelter but it stopped’; ‘Oh, yeah, we did have funding for that education program.’ I heard last week of an excellent education program that was being run in Derby and actually addressed Aboriginal students’ needs. As I understand it, people were going to it from all over the Kimberley. But it stopped, and truancy numbers have gone up again. Programs that have been working have not continued to be funded, and that is a major problem too. So let’s get it right this time. Let’s put the proper provisions in place, fund them and try to deal with this problem once and for all.

Senator CROSSIN (Northern Territory) (6.06 pm)—I rise to provide some comments in relation to the Northern Territory National Emergency Response Amendment (Alcohol) Bill 2007. I am not sure if we are seeing the first cracks in the Northern Territory National Emergency Response Act, which we dealt with about four or five weeks ago, but I do think we are seeing the result of a lack of consultation with the Northern Territory government and a lack of willingness by the Australian government not only to inform the Northern Territory government about what it is doing but also to consult with the Northern Territory and form a genuine working relationship and partnership in relation to this matter.

This bill changes the 1,350 millilitre trigger for seeking and recording details in relation to takeaway alcohol. These details will now be recorded for purchases of over $100 or five litres of wine in casks or containers of over two litres. The bill makes changes to clarify the storage or records of takeaway purchases so that they can be stored at the direction of the Northern Territory Licensing Commission—the implication being that the commission can regularly collect and store the records on the licensees’ behalf. That is yet to be determined and the implications of that are yet to be seen, I would have thought.

The bill also provides certain exceptions to the alcohol offences for tourism operations in parks, and other areas if declared, it being a defence if a person is engaged in recreational activities in a park if the activities have been organised by a person in the tourism business and are consistent with any park management plan and the person is behaving in a responsible manner. It provides for the alcohol measures to be determined not to apply in a particular area if warranted—for example, where comprehensive and effective alcohol management measures are implemented—and makes clear that no past or future Northern Territory legislation undermines the emergency response alcohol measures.

We know that alcohol is a factor in a very high number of welfare and criminal justice interventions in Aboriginal families. It is
well known that it is associated with the incapacity to care for children and it can lead to violence, lack of money for food and other essentials, stealing, poor health and many other problems. The Little children are sacred report recognised that, alcohol having been identified as such a critical problem for some time, many programs have already been tried and implemented—and many programs, such as the Northern Territory government’s alcohol framework, which are aimed at supply, harm and demand reductions, are continuing and, in fact, on a region by region basis, are having some success.

I think it should be widely noted that these proposals are not new; nor are they comprehensive. Although the Labor Party has now determined that it will support the bill, on my first reading of this bill I found the proposals illogical and inconsistent. Because the government has done this without extensive consultation and without thought about its implications, I do not believe that this legislation will reach the areas or the people it is targeted at. I think it will create an enormous backlash throughout the wider community in the Northern Territory. Senator Scullion, you know the Territory like I do—and better than anyone else in this place—and you would know that this legislation will cause many problems, mainly in the regional centres.

Senator McGauran—Do you support it or not?

Senator CROSSIN—I do support it, Senator McGauran, but I am highlighting to you that I think your policy process behind this is severely flawed. I do not remember you ever actually coming to the Northern Territory—so perhaps you are not in the best position to make informed, intelligent comments on this legislation.

Northern Territory Minister Burns wrote to Minister Brough on 28 August, and one would want to assume that the legislation has now been amended as a result of that letter and representation by the Northern Territory government. As I say, it is a pity that this government is not working closely with the Northern Territory government—whose view, of course, is that they would want to see alcohol reforms on a region by region basis. In that letter Minister Burns highlighted the problem in the industry with having to calculate purchases of 1,350 millilitres of alcohol. Let us picture this. We are talking about liquor outlet by liquor outlet, bottle-o by bottle-o, your takeaway outlet at Woolworths and Coles and—as Senator Siewert correctly pointed out—at garage and petrol stations in the Northern Territory. How on earth could anyone selling that alcohol to you or me calculate that instantly at the time of purchase? That was an impractical, illogical measure, and we have now moved to purchases over $100 or a certain quantity.

The Australian Hotels Association spoke publicly about the lack of consultation on this matter. If my memory serves me right, they sent a submission to the Senate inquiry. The complexity of the calculations at the point of sale and the severity of the penalties for breaching the law are of utmost concern to people in the industry, and the AHA made representations to the government on this matter. This legislation critically affects the industry and the general public. I will go to some comments about the changes to this legislation. People need to know—there should be no doubt now—that, if they walk into a bottle shop on the weekend, as they finish their weekly shopping, and they want to buy $100 or more of alcohol, they will need to produce ID. The ID that is needed is listed in the legislation.

In the Northern Territory, a carton of VB—or, as we say, green cans—is around $48 now. So you will be able to get about two slabs of beer and maybe a $15 bottle of wine before you have to produce your driv-
ers licence or an age pension card; that is, of course, if you have it. This legislation assumes that everybody over the age of 18 has some form of ID. Bad luck if you want to buy a bottle of Jim Beam and you do not have that ID and you happen to be 22. This legislation does not address that situation. If you are down in Alice Springs, a carton of VB is also about $48. So let us picture this. A person may want to buy six bottles of wine—say, when Woolworths has that special where, if you buy six bottles, you get a 20 per cent discount—and that may well come to about $60. That is for the missus. The husband might want to pick up a carton of VB for the weekend, and that will cost $48. Sorry, but you will now have to produce either your drivers licence or some form of photo ID to make that purchase. I think this will cause severe angst amongst the general community.

If you are one of these people at whom this legislation is targeted—and, for the purposes of this legislation, let us assume this government is targeting the middle-aged Aboriginal man—he is still able to go into a bottle shop and buy five litres of wine in a cask, or he can buy a number of containers that have two litres. Let us say he is able to buy five litres of wine in a cask, which of course is pretty cheap alcohol and has fairly major effects. He can do that day after day after day. In fact, if he is smart enough, he can probably run around to the bottle-o at the Coles supermarket in Alice Springs and, within 10 minutes, be at the Todd Tavern and purchase another cask of wine. Who will cop the brunt of that? The workers in the industry will—the 22- or the 28-year-old behind the cash register—who will not have to record this.

There are huge anomalies about who we are really trying to target with these alcohol reduction measures, and the broader non-Indigenous community will be more or less affected by the restrictions in this alcohol bill. Why do I think it is poorly targeted? Because what it does not do is stop the source of supply, as Senator Siewert said. What it does not do is say to the Northern Territory Licensing Commission, ‘Let’s have a Northern Territory inquiry, supported and assisted by the Australian government, into how many liquor outlets there are in the Northern Territory.’ There are 38 liquor outlets in Alice Springs for a town of 25,000. Senator Siewert is right—you can pull up at a Mobil service station, fill up your car with petrol and buy a slab of beer, which is unheard of in most other places around this country. The number of liquor outlets in the Northern Territory is far too many—that is my belief. There is nothing in this legislation that suggests that this government is going to attempt to buy back liquor licences or reduce the supply outlets. Therefore, if you are a person that this government wants to target under this legislation, you will still be able to get the amount of alcohol that you want, that will get you drunk each night. It may not be more than $100 worth—it could be two slabs of VB. I could buy that night after night. This legislation does not do anything to stop, hinder or restrict that. I think it is poorly targeted; it is window-dressing.

The government heard from the Central Australian Tourism Industry Association and is amending this legislation to appease them. The government says, ‘You can now only drink alcohol in Uluru National Park or Kakadu National Park if you are in a certain area’—we would agree with that—‘or if you are behaving responsibly’—we would agree with that—’but only if you are associated with a tourism business or if you are a part of a tourism venture.’ If I happen to be a family person from Darwin and I head to Kakadu for the weekend and want to sit at Gunlom Falls or Ubirr Rock and have the ultimate tourism experience with a chardonnay and a
bit of cheese at sunset, I cannot do it. As a single, individual, family person in the Territory, I cannot do it. I cannot do it if I have driven up from South Australia. I have to be with a tourism association now in order to have a drink at these tourism parks. We have tried to appease the tourism industry, but I do not believe we have quite got there, and I think it is poorly targeted. It is a change to this legislation that has been done on the run and without considering any logistical, logistical consequences.

I do not believe that the bill takes account of any of the work that the Northern Territory government is seeking to do. It does suggest that, where there are alcohol measures in place, they will perhaps remain and will be implemented. I hope that refers to places like Maningrida, although Maningrida, of course, has now been declared a dry community. As I said in my original speech on this legislation, it is a pity that some of those communities that have shown leadership in alcohol management plans and were dealing with it responsibly were not recognised and protected by this federal government or, in fact, encouraged to continue.

The other issue has been about Daly River and the consumption of alcohol by anglers on waterways such as Daly River. The issue was raised by the Northern Territory government, who tell me they have now received advice from the justice department on the subject of consuming alcohol on the waterways in prescribed areas. This advice suggests that the only way anglers can be absolutely sure of not breaching the legislation is to launch their boats from outside the prescribed areas. The advice also indicates a range of popular fishing spots that could be affected in relation to the consumption of alcohol, which includes Daly River. This is because, in some cases, the banks and the beds of the rivers have been granted under the Aboriginal Land Rights (Northern Territory) Act and are therefore prescribed. In other words, if you are a recreational fishing person and you want to take a slab of beer with you out fishing for the weekend and you decide to launch your boat at Daly River, as Senator Scullion suggested on radio today, you would have to wait until it is high tide, because if it is low tide you will have problems taking your alcohol across the land, across the low tide and into your boat. How illogical and stupid is legislation that would suggest that you have to put up with this in the Northern Territory if you are simply a recreational fishing person that goes out every now and then? No-one is going to wait until high tide to launch their boat, and why should they? Maybe that is what you do, but why should they? No-one is going to want to launch their boat in areas that are prescribed. People in the Territory have a lifestyle which includes having a cool drink as the sun goes down, watching Ayers Rock and launching their boats for fishing at places where they want to. I think that this legislation will prove, at the end of the day, not to be targeted at the people at which it is meant to be targeted.

I have noticed that senators today have also raised the issue that there are no plans under this government to fund drug and alcohol rehabilitation programs or to support youth programs. We are going to turn off the tap but we are not going to assist those people who are most affected by this legislation and who will need the most support. The government should perhaps turn its attention to well-funded, well-resourced and comprehensive alcohol and drug rehabilitation programs. The funding for that is just not in this package.

While I have a few minutes, I want to make a few other comments about this intervention. I have now been to more than a dozen communities—I think that I have lost count—in the last couple of weeks, so I
probably have the most immediate and recent experience of how this intervention is going on the ground. Is it a success out in the communities that I went to last week in Central Australia? I have to say to the Senate that it is not all bad. To be honest with you, I have to report that government business managers—except of course for the person at Yuendumu, whose comments are on the public record and which are not supported by anybody—who I met in Central Australia are senior Commonwealth public servants and mature-age gentlemen who have experience in finance, accounting or corporate services and are out there to work with the community and the councils, which was good to see. They have spent their time getting to know the communities—who the senior people in the communities are, how to treat them and how to talk to them. Their attitude has been welcomed and their commitment to making a difference and channelling Commonwealth money into those communities where it is meant to go—such as to getting a childcare centre up and open, refurbishing a respite centre and creating fencing programs—has been welcomed. They will do good work if they are well supported.

In terms of the health checks, we know that in Central Australia a number of kids have been checked. We know that eight of them have been found to have a hole in their heart and will require an operation in Adelaide. The Northern Territory government and the Commonwealth government are working to ensure that those kids get the operation that they need. But we also know that there are Aboriginal kids who have gone to Alice Springs town camps and the child health checks do not cover the Alice Springs town camps. I mentioned to Minister Brough this morning that he needs a way around that. He needs to ensure that all Aboriginal kids, no matter where they are—even if they are in the town camps in Alice Springs—are checked and are looked after. At the end of the day, the focus of this intervention has got to be on the children in the Northern Territory.

The children are starting to turn up to school. Is that a good thing? Yes, it is. But for my colleagues who work in the teaching industry, it is a pretty stressful time, I have to tell you. There were 9,315 students enrolled in these 77 remote government schools on 17 August. That is an increase of 360 since last year and since the intervention started there have been a further 290 enrolled. So we have seen 650 additional students turn up in these 77 communities, either in the last year or since the end of June, but we have not seen one additional teacher put out there. In fact, a memorandum from the Northern Territory government says that schools have had to manage with the increased attendance and enrolment.

Schools are funded on a yearly basis, so the Northern Territory government has not got the funding to cope with these kids who are turning up, because they have not been funded for this expectation. DEET tell me that they are yet to be advised on the specific actions that the Australian government may take and the impact on their schools. They are yet to see any kind of correspondence from the Northern Territory government about the impact on these schools. When you have an intervention that suddenly kicks in halfway through the funding year and 290 kids turn up to school, you would have thought that part of it would have been a constructive dialogue between the two governments, with additional money found to support colleagues in the school industry to cater for these children. But that is not happening. (Time expired)

Senator WEBBER (Western Australia) (6.26 pm)—In the brief amount of time left to me, I would like to also rise to make a few
comments on the Northern Territory National Emergency Response Amendment (Alcohol) Bill 2007. As I remarked in this place when we considered the initial complex package of legislation, no matter what personal difficulties those of us, particularly on this side of the chamber, confront when dealing with these issues, we will not allow those difficulties to stand in the way of offering assistance to children in need. That has to be our first priority in considering these matters. If there is any good to come of considering this legislation or the previous legislation, it is the increased awareness that all of us in this place now have of some of the challenges that those communities face.

Like Senator Scullion and Senator Crossin, I have been to some of the communities in the Northern Territory, because that is where I spent my childhood. I have very fond memories of all of my visits to those communities. In my time in Western Australia, I have also visited a lot of regional and remote communities there. I have some understanding of the challenges faced by those communities. One of the complexities confronting us in both the first bill and this piece of legislation—and Senator Crossin and Senator Siewert went part of the way to explaining this—is that there is no one-size-fits-all solution. The issue of the use and abuse of alcohol is complex. It is complex if we are talking about white individuals in metropolitan areas. There is not a one-size-fits-all solution in remote and regional Indigenous communities either. I hope that this amendment that is before us today is a considered amendment and an amendment that is going to be practical and is going to work in all of those communities. I hope that this is the last amendment that we will see.

When the Prime Minister first announced his intervention, he hinted that he would recall the parliament because this was a matter of such urgency. None of us on this side quibbled about that, because it is a matter of great urgency and for some of us it has been a matter of great urgency for a considerable amount of time. However, it is also a complex area and sometimes it is best to get it right in the first place rather than putting a package of legislation out there and having to refine it because of its unintended consequences. So I hope that there has been consultation on and thoughtful consideration of this, given that dealing with alcohol use and abuse in remote and regional communities is a very complex and sensitive issue. I hope that that has all been taken into account by this government and that this is a framework that will work. We owe it to those communities to make this work and to not come back here every fortnight that we sit with another piece of legislation, another consideration, another refinement to the package in the hope that it will work. I note Senator Crossin’s comments about what needs to go with a legislative framework.

Sitting suspended from 6.30 pm to 7.30 pm

Senator WEBBER—I will not detain the chamber for much longer, as I am sure we are almost ready to move into the committee stage in considering this legislation. Before we were interrupted by the dinner break I was saying that when we are dealing with issues to do with alcohol use and abuse, particularly in remote and regional communities, it is important to consider not only the legislative impact when there is no one-size-fits-all solution but also that we cannot solve these issues by legislation alone. It is just one part of what should be a holistic approach. Every individual, as I said before, deals with these challenges in their own way. They arrive at the challenge in their own way; they confront the challenge in their own way; and they and their families deal with it in their own way. So to enable them to do that we need to put some money into service delivery.
as well. It is one thing to be in this place considering legislation that determines how, when and what quantity of alcohol can be sold; it is another thing to actually provide the services the communities need when they decide that alcohol abuse is a challenge for them.

The government has come in here with a last-minute rushed amendment on a complex issue. We on this side of the chamber believe that we should not impede any measure to protect children and therefore we will support this legislation. But we say to the government that you need to put money into funding the services that these communities so desperately require. I would have thought it could not be too hard to do that. Given the amount of money that the government has appropriated to address some of the other issues involved in the initial package of legislation, it is passing strange that there is no discussion about funding for sobering-up shelters or for other services that these communities so desperately need in order to address this issue.

This issue is not going to go away in 12 months. This is not going to be just the 12-month appropriation that we dealt with in the last sittings. This is a long-term struggle. It is a struggle that Senator Scullion, Senator Crossin and others of us who have been out in remote and regional communities know has been there for a long time. Some of us have been aware of it for an extremely long time. It is not a new issue, but it is a struggle that each community deals with its own way—and it takes a long, long time. Alcohol has a very insidious effect on some of those communities. But to determine that controlling the sale of it is our only solution is, I think, very short sighted. There are people—and we like to think that includes us in this place—who can responsibly use alcohol. So saying that your measure for addressing this particular challenge is to control only the sale of it and the quantity of it—although now you are putting a numerical value on it rather than a quantity, which is probably a good change in terms of the simplicity of enacting the legislation—is not enough. What you need is the funding for the service delivery. You also need real service delivery that is accountable to the local communities and that those communities feel will address their specific problems, rather than a model of service delivery that is determined either by us sitting in this place or by those in the mainstream bureaucracy. It needs to be relevant service delivery that is locally based and that is accountable. We cannot deal with this piece of legislation in isolation. We need an acknowledgement and a commitment that there will be some support, some encouragement and some funding for service delivery for the individuals and communities who decide they want to address this issue.

Senator SCULLION (Northern Territory—Minister for Community Services) (7.34 pm)—The follow-up bill to the government’s recent legislation to protect Aboriginal children in the Northern Territory is to make minor consolidating amendments to the alcohol measures that were central to the reforms. We want the alcohol provisions to be as practical as possible, particularly for people from the liquor industry who are working with the government in this very important area. The legislation currently has a trigger for when licensees must seek and record details of takeaway alcohol sales. This trigger is the sale of 1,350 millilitres of pure alcohol. The Northern Territory National Emergency Response Amendment (Alcohol) Bill 2007 changes the trigger so that the record-keeping requirement cuts in for the sale of a quantity of alcohol with a purchase price of $100 or more, including GST, or more than five litres of cask or flagon wine. It was the liquor industry itself that suggested this change to simplify the
away that the threshold was calculated. The new trigger will make sure the vast majority of larger alcohol purchases, over 1,350 ml, will be covered. It will be easier for customers to understand, and quicker and easier for takeaway sales staff to apply. However, the intent and effect of the original provisions will not be undermined. We will still be stemming the flow of alcohol into remote Aboriginal communities by tracking large purchases to help us locate and prosecute the grog runners.

A second measure in the bill will help some liquor licensees who may find themselves faced with a simple on-site document storage problem under the new provisions. This may arise because of the requirement on licensees to store records of takeaway alcohol sales for at least three years and then produce them to an inspector upon demand made on or at the licensed premises. Licensees will now have the flexibility of storing these documents not necessarily on site but at a location directed by the Northern Territory Licensing Commission. This will still meet their obligations under the legislation.

New defences will be introduced to an offence applying under the alcohol grants. Under these defences visitors to national and Northern Territory parks will be able to take alcohol into a prescribed area in the park in certain circumstances. This will apply if the alcohol is to be consumed in a responsible way as part of recreational activities undertaken with a tourist operator and consistent with any management plan or similar document that may be in place for the park.

As an incentive for communities to work towards their own sustainable alcohol management plans, the bill will allow for alcohol measures to be turned off in relation to a particular prescribed area or part of an area. This may be activated, for example, if a particular community demonstrates that it has developed appropriate alcohol management measures and is winning the battle with alcohol. In that case the Commonwealth minister may decide, after seeking advice from the Northern Territory Emergency Response Task Force, that it is desirable to stop applying the alcohol bans to that area. These measures to consolidate the emergency response legislation follow discussions with industry and show the government’s openness to reasonable adjustments while ensuring the thrust of the legislation is realised.

I will take this opportunity to deal briefly with some of the issues in the original speeches on the second reading. I would like to thank Senator Stephens for her contribution. She posed, as part of that contribution, several questions in relation to matters outside the legislation we are dealing with now, but, in the spirit of support and of how this is being progressed, I will undertake to get answers to Senator Stephens on notice rather than trying to provide it at this moment.

Senator Crossin spoke of a number of issues which I will touch on in a moment. One of the principal issues was that we should consult closely with the Northern Territory government. It is interesting to note that the ABC reported today:

The Northern Territory’s chief minister has supported changes by Australia’s federal government to alcohol bans ...

I think that is pretty comprehensive support, in a nutshell. There are a number of issues about which I think Senator Crossin was a little confused. I will be very restrained, and perhaps if she wishes to quiz me further on some of those matters in committee I will be happy to take them up with her at that time.

Question agreed to.

Bill read a second time.
In Committee

Bill—by leave—taken as a whole.

Senator SIEWERT (Western Australia) (7.40 pm)—I move Greens amendment (1) on sheet 5382 revised:

(1) Schedule 1, page 4 (after line 34), after item 6, insert:

6A After section 19

Insert:

19A Levy of sale of cheap liquor for consumption away from licensed premises

(1) A minimum price of 90 cents per standard drink must be charged.

(2) Alcohol products that cost more than 90 cents per standard drink for consumption away from the licensed premises are exempt from the levy mentioned in subsection (3).

(3) Alcoholic products that cost less than 90 cents per standard drink for consumption away from licensed premises are subject to a levy (to be known as the emergency response alcohol levy) of 25 cents per standard drink.

(4) The proceeds of the levy are payable to the Northern Territory Community Based Rehabilitation Fund.

Note: The levy is imposed by the Northern Territory Emergency Response (Alcohol Levy Imposition) Act 2007.

19B Establishment and purpose of the Northern Territory Community Based Rehabilitation Fund

(1) A Northern Territory Community Based Rehabilitation Fund is established to:

(a) disburse funds from the emergency response alcohol levy; and

(b) promote the health and welfare of the people of the Northern Territory.

(2) The Fund is a special account for the purposes of the Financial Management and Accountability Act 1997.

19C Credits to the Fund

(1) There must be credited to the Fund, amounts equal to amounts of emergency response alcohol levy imposed by the Northern Territory Emergency Response (Alcohol Levy Imposition) Act 2007.

(2) If interest is received by the Commonwealth from the investment of an amount standing to the credit of the fund, an amount equal to the interest must be credited to the fund.

19D Purpose of the Fund

The purpose of the Fund is to make grants to persons to promote public health and welfare, including the construction and staffing of health and welfare facilities.

19E Grant payments

(1) Grants from the Fund are to be determined by the Northern Territory Community Based Rehabilitation Fund established under 19B.

(2) Subject to this Act, further determination of grant payments, the operation of the fund and the operation of the board may be prescribed by regulation.

19F Northern Territory Community Based Rehabilitation Fund Supervisory Board

(1) The Northern Territory Community Based Rehabilitation Fund Supervisory Board (The board is established).

(2) The board consists of:

(a) the chair who is to be the Chief Minister of the Northern Territory;

(b) two board members nominated by the Northern Territory Government; and

(c) three board members nominated by the Commonwealth.

(3) The chair has a casting vote in all deliberations of the board.

19G Duty of chair

The chair must advise the Minister for Health and the Minister for Fi-
nance and Administration of grants determined by the board in accordance with section 19E.

19H Appointment of chair and board members

(1) The chair is to be appointed by the Governor-General by written instrument.

(2) A board member is to be appointed by the Governor-General by written instrument.

(3) The chair or a board member holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.

(4) A person is not eligible for appointment as a board member unless the person has a high level of expertise in the provision of public health services and the financing of health projects.

19I Remuneration of board members

A board member is to be paid such remuneration and allowances as are prescribed by the regulations.

As I foreshadowed in my speech on the second reading, the Greens believe that the bringing in of this bill to seek to amend the Northern Territory national response package is an opportunity for the government to actually bring in some more comprehensive changes to deal with the issue of alcohol. I will not go through all the arguments again about why we believe we need a comprehensive strategy to reduce alcohol supply. This amendment seeks to put in place a levy on cheap alcohol, because that has been identified as one of the key issues that need to be dealt with to deal with the problem of alcohol. The levy only applies to alcohol where the purchase price is less than 90c per standard drink. Again, we are using evidence based work to determine that. A standard drink is defined in the liquor laws, and alcohol packaging needs to identify the number of standard drinks a product contains.

This series of amendments seeks to set up the structure for the levy. We understand the levy needs to be imposed by another act, so if these amendments were successful they would be introduced into the House of Representatives and could be named the Northern Territory Emergency Response (Alcohol Levy Imposition) Act 2007, as shown in the note in clause 19A. This appropriation bill needs to originate in the House of Representatives, and we will seek to have it drafted if these amendments are supported.

The proceeds of the levy would be used to create a Northern Territory community-based rehabilitation fund, and the series of clauses in this amendment seeks to establish that fund. It also seeks to establish operational provisions under clauses 19C and 19I. Clause 19D outlines the purpose of the fund, which is to make grants to persons to promote public health and welfare, including the construction and staffing of health and welfare facilities. This goes to the other issues that I and other speakers have mentioned about the need for much more comprehensive rehabilitation, counselling and health services for people dealing with alcohol addiction and for people coming off alcohol, who need significant rehabilitation services. These amendments are designed to put the levy in place. As I have said, the international evidence clearly articulates that the price of alcohol is the key strategy that needs to be put in place to help reduce the supply of alcohol.

Can I take this opportunity to ask the minister: has the government considered the use of a pricing structure to help reduce the supply of alcohol?

Senator SCULLION (Northern Territory—Minister for Community Services) (7.44 pm)—First of all, I would like to acknowledge the work that the Greens have put into the amendment. As you made a very
passionate contribution, Senator Siewert, I acknowledge that you were asking me to support the amendment. At this stage of the conversation, it would appear that I am not able to, but I recognise the genuine work that has gone into this. That may be because you were unaware of other things the government was doing. That is in fact the case with regard to the first aspect of your amendment.

A joint Australian government/Northern Territory government working group, led by Minister Pyne, have been considering evidence about what works in dealing with alcohol issues. As part of that work they have been conducting a feasibility study into a floor price on wholesale alcohol across the Northern Territory, and we will be looking at the findings of this group before making any decisions about pricing controls. This group also reviewed the current alcohol restrictions which have been in place in Alice Springs since September last year to ensure that any future planning is underpinned by some evidence from that process. We recognise, as you say, that it has been well documented that the pricing of alcohol is one of the ways with which you can influence what sort of alcohol people buy. It is also something that has been implemented in the Northern Territory and in other places on a much less grandiose scale, I suppose. But, before making any advances in this area, we are looking for some scientific evidence. We will certainly look towards the joint working group between the Northern Territory government and us on that matter.

Senator SIEWERT (Western Australia) (7.46 pm)—I do not have that particular aspect of the answer. In view of the fact that it is a joint Australian government/Northern Territory government working group, I am unable to say that I can take it on notice, because it would also involve the Northern Territory government. In the days to come, I will undertake to provide those answers, if that is okay with you, Senator, but I am not able to say that I will take it on notice because I cannot do that on behalf of the Northern Territory government. However, I will do what I can.

Senator SIEWERT (Western Australia) (7.46 pm)—I appreciate that undertaking. From that bundle of information, could I also ask for the membership of that working group, please?

Senator STEPHENS (New South Wales—Parliamentary Secretary to the Leader of the Opposition) (7.47 pm)—I want to indicate on behalf of the Labor Party that we too acknowledge the thinking and the work that have gone into this series of amendments but indicate to the Greens that, at this stage, we are not able to support this amendment, because we believe it is too specific to the Northern Territory. It does not take into account the work that is being undertaken by the joint working group in relation to wholesale alcohol, and we believe that there needs to be a more comprehensive approach beyond just the Northern Territory interventions.

Senator BARTLETT (Queensland) (7.47 pm)—I would like to make a few comments on the amendment put forward by the Greens. I think it needs to be said at the outset that there needs to be a more comprehensive national approach to more effectively addressing the problems of alcohol abuse. There are a wide range of angles that need to be taken on that. I am certainly not in any way suggesting that nothing at all is being
done. Indeed, as you would know, Mr Temporary Chairman Murray, a specific fund was set up some years back. From memory, it was funded from resources provided by the government which was recompense, if you like, for what was assessed to be the overcharging of taxation on alcohol in response to various adjustments made following the introduction of the GST. The Democrats played a pivotal role in that. It was four or five years ago, I think—time flies when you are having so much fun! Certainly there are precedents for this type of fund. The fund in this amendment is to make grants to people to promote public health and welfare, including the contracting and staffing of health and welfare facilities.

It is appropriate in the context of this legislation specifically, or in parts at least, because of the need to ensure that any alcohol control measures, whatever they may be—whether it is a pricing barrier or enforced restrictions on how much can be purchased or what type can be purchased or where it can be consumed—are all part of a package and that wider package has to include education measures, support for people who are trying to deal with substance abuse and addiction issues, support for relevant health facilities and support for families, relations and others in the wider community. There are a whole lot of factors. Again, those points have been made already in this debate and, I think, in the previous debates in recent weeks.

The intent here is certainly a positive one and the mechanism of focusing a levy on the sale of cheap liquor is also an understandable one. Again, it is a point that certainly some within the Democrats have made a number of times. We also acknowledge that pricing, particularly for cheap liquor, is a key factor—there is no doubt about that, as Senator Siewert has said—and levies or tax measures are one part of that. I certainly agree with the statements that have been made by some of my colleagues, at least, over the years that one part of the solution on a more comprehensive level is to look at changing the way taxation on alcohol occurs in Australia. It is a very messy and not overly logical set of rules that we have at the moment, and a straight volumetric taxation approach towards alcohol is one that I think is highly justified, firstly in terms of simplicity and, secondly, but much more importantly, particularly in the context of this debate, in terms of public health outcomes. That in itself, I might say, can save money down the track. You can have a taxation measure that not only raises funds but also, by virtue of the way it operates, has flow-on public saving consequences. So you get extra value, if you like, and of course components of the proposed levy can be put into public health and welfare measures relating to alcohol consumption.

So the intent and much of the structure of what is put forward here are something that the Democrats support and are consistent, at least in part, with some of the approaches that the Democrats have taken in the past. I think there are issues—and this is not a criticism of the amendment; it is more of a wider commentary while I am on my feet—with the desirability of taking a national approach rather than a Territory-specific approach. Obviously, because of the context of this bill, a Territory-specific approach is what would be required, and certainly the statistics show that the Northern Territory does have issues with regard to the high percentage of people consuming greater levels of alcohol than are healthy for them.

There goes the Black Rod! I am not sure whether we all turn into pumpkins now. It is like the centrepiece of the TARDIS coming out. All is back in order there, Senator Joyce?
Senator Joyce—Unfortunately when the Black Rod falls over everyone has to leave the chamber for an hour!

Senator Bartlett—If only that were true. Okay, order is restored.

The TEMPORARY CHAIRMAN (Senator Murray)—I am hoping that it is not an omen of any kind, Senator Bartlett.

Senator Bartlett—In summary, the Democrats support the intent of the approach here. I take the opportunity to repeat our longstanding views that reform of taxation related to alcohol is part and parcel of a more consistent solution particularly for the side of the issue that deals with pricing. It certainly has an impact.

It is interesting to compare the approach in the measures being taken in the Northern Territory with regard to alcohol restrictions for Aboriginal communities with what is being done in other parts of Australia. As is readily acknowledged, there are various other types of alcohol restrictions in place in Aboriginal communities in Western Australia, for example, and certainly in my own state of Queensland in a number of DOGIT communities—deed of grant in trust communities—mostly in the northern part of the state. Within each of those communities varying models have been put in place with different restrictions. In some communities very, very limited amounts of alcohol are allowed at all. In others it is restricted to consumption of alcohol in a particular place—the canteen, as it usually called—without anyone being able to have takeaways. In other communities it is restricted to the certain types of alcohol. In one community that springs to mind all that is allowed is mid-strength beer. No full-strength beer and no spirits are allowed in the community at all.

Those things depend on the community, in some cases anyway, having a say in deciding how the restrictions will work. It depends on the proximity of the community to the nearest alcohol outlet. If it is a long way from the nearest outlet, as is the case with the communities of the cape, then it is much easier to enforce. If there is only one road in and there is no alcohol outlet in the community and the nearest one is a fair hike away and you cannot get across to it in the wet season, then that makes it a lot easier to enforce alcohol restrictions than if the community is on the open highway and there is a pub 20 minutes up the road outside the community. So you have different circumstances and different responses for different areas.

Looking a little more closely at the model that is put forward in this legislation of a $100 purchase limit, I would have to say that that is quite generous—if I could use that word—compared with some of the communities in Northern Queensland that would have tighter restrictions on bringing that level of alcohol into the community. I appreciate that this $100 limit is not the be-all and end-all of the restrictions that the government is putting in place in the Territory. I am simply taking the opportunity to make the contrast and to emphasise the point, which is that there is no one single approach with some magic aspect attached to it, whether it is the nature of the alcohol that can be bought, the amount that can be bought in volume or in price.

There is no doubt that pricing is a key component, particularly in the lower price, high-alcohol content end of the market. If you are specifically purchasing alcohol for the purpose of wiping yourself out, then quality is not foremost in your mind and availability and cheapness are key factors, as they are of course with any substance where that type of consequence is the intent of consumption. I make that point also to emphasise the obvious point that it is not just about alcohol that we have to be wary with regard to substance abuse, particularly over time.
That is one of the challenges that will need to be faced, and it already has been attempted to be faced of course, both in the Territory and elsewhere.

When you put restrictions on alcohol, people divert to other substances. As I said in the previous debate on this, that has meant other challenges with regard to petrol sniffing and other sorts of substance abuse. Those challenges have been addressed with varying levels of success in recent times, and those challenges will continue, and I have no doubt that federal and Territory governments and the community more widely will continue to seek to address those challenges. But the issue of pricing is a key part of it and that is something that would be addressed by this amendment in a positive way.

Another key part which I want to take the opportunity to re-emphasise concerns the support of the community, particularly in the longer term. Whether you are talking about working with and constraining substance abuse with regard to alcohol or any other type of substance at all, particularly legal substances, then community support is crucial. That is an area where we really need to focus our continuing attention on what happens in the Territory, to make sure that community support is monitored and is built wherever possible. If support is lost and support builds for other approaches, we need to ensure that there is a willingness to move down that path.

Senator SIEWERT (Western Australia) (7.59 pm)—I would like to ask a few more questions about the working group report and feasibility study. I seek clarification from the minister because it is my understanding from what he said that, following the completion of the feasibility study, the government intends to look at using a pricing mechanism. I seek some clarification from the minister on that point.

Senator SCULLION (Northern Territory—Minister for Community Services) (8.00 pm)—I understand, Senator Siewert, that that is the case. That is the idea of looking at this process. We accept, as does most of the evidentiary documentation, that this is an area that we need to look at as part of the suite of initiatives to ensure that we stop the rivers of grog.

Senator SIEWERT (Western Australia) (8.00 pm)—I am going to be a little bit cheeky.

The TEMPORARY CHAIRMAN (Senator Sandy Macdonald)—Permission granted.

Senator SIEWERT—I note the ALP’s comment about wanting something that goes beyond the Northern Territory. I, also, would welcome measures that address the issue of alcohol consumption and overconsumption in the wider Australian community. I look forward to hearing the ALP’s views on how that could be done, but I feel that—given the debate that we have been having on the need for some urgent action in the Northern Territory, and given that we are considering a bill that deals specifically with the Northern Territory and the issues of alcohol abuse and overconsumption—we should be using every mechanism that we can to deliver the outcomes that we are looking for.

As we have just been discussing, and as the minister just acknowledged, price is the best mechanism. We should be looking at these mechanisms now so that we can put a comprehensive package in place, because half-measures do not work. That is why the Greens want to see this now rather than in the future. I appreciate the fact that there is a feasibility study being undertaken and I appreciate the fact that you are going to provide more information to us but I hope that it has a short time frame rather than a long one. I hope that the government—of whichever
persuasion—which is making these decisions will act quickly on the recommendations of the working group on the feasibility study.

Question negatived.

Senator SIEWERT (Western Australia) (8.03 pm)—I move Greens amendment (2) from sheet 5382 revised:

(2) Schedule 1, item 8, page 7 (after line 4), after section 20, insert:

20A Sales of liquor for consumption away from licensed premises on certain days

(1) The Liquor Act has effect as if it included the following provisions of this section.

(2) A licensee of licensed premises commits an offence if:

(a) the licensee sells to a person (the purchaser) a quantity of liquor at any time on a Thursday or on a Sunday; and

(b) the licensee knows that the liquor is for consumption away from the licensed premises or is reckless as to whether it is for consumption away from the licensed premises.

Maximum penalty: 340 penalty units.

(3) An employee of a licensee of licensed premises commits an offence if:

(a) the employee sells to a person (the purchaser) a quantity of liquor at any time on a Thursday or on a Sunday; and

(b) the employee knows that the liquor is for consumption away from the licensed premises or is reckless as to whether it is for consumption away from the licensed premises.

Maximum penalty: 60 penalty units.

(4) A licensee of licensed premises commits an offence if:

(a) an employee of the licensee sells to a person (the purchaser) a quantity of liquor at any time on a Thursday or on a Sunday; and

(b) the employee knows that the liquor is for consumption away from the licensed premises or is reckless as to whether it is for consumption away from the licensed premises.

Maximum penalty: 170 penalty units.

(5) It is a defence to a prosecution for an offence under subsection (4) if the licensee proves that the licensee took all reasonable steps to ensure that the employee was aware of obligations of employees under this section.

20B Sales of certain amount of liquor for consumption away from licensed premises

(1) The Liquor Act has effect as if it included the following provisions of this section.

(2) A licensee of licensed premises must report to the officer in charge of the nearest police station:

(a) any single purchase of a quantity of liquor that has a purchase price of $200 or more including GST;

(b) any single purchase of a quantity of wine that exceeds 10 litres and is in a single container or is in 5 or more containers of at least 2 litres each; or

(c) if the licensee has reason to believe that the purchaser of any amount of liquor intends to supply the liquor to a prohibited community.

(3) An employee of a licensee of licensed premises must report to the licensee:

(a) any single purchase of a quantity of liquor that has a purchase price of $200 or more including GST;

(b) any single purchase of a quantity of wine that exceeds 10 litres and is in a single container or is in 5 or more containers of at least 2 litres each; or

(c) if the licensee has reason to believe that the purchaser of any amount of liquor intends to supply the liquor to a prohibited community.
(4) A licensee commits an offence if they do not comply with subsection (3).
Maximum penalty: 340 penalty units.

(5) An employee commits an offence if they do not comply with subsection (4).
Maximum penalty: 60 penalty units.

This amendment relates to further controls on the sale of liquor. As I articulated in my speech during the second reading debate, after price the next mechanism that you can use to reduce supply is to reduce the total number of trading hours during which you can buy takeaway. The first clause of this amendment seeks to put restrictions on the days on which you can buy takeaway.

This mechanism has been used in the Northern Territory before, on what is commonly known as 'thirsty Thursday'. It has been shown to be successful. I acknowledge that the government would need to move back to having Centrelink payments on one day but I think that is a fairly simple administrative arrangement.

This has worked in the past. I have spoken to experts and community members about these amendments—admittedly it has been very rushed, because these amendments have been rushed—and they have said that it would be a good idea to have a second day, and that Sunday would perhaps be a good day. So we thought it would be good to put two days in place, to reduce the number of days on which takeaway can be bought.

The second clause in the Greens amendment deals with sales of certain amounts of alcohol for consumption away from licensed premises. It seeks to do something with the information that is being collected. This clause is a bit tricky and I think some people will see it as a bit of a police-state reaction. Everybody agrees that we have to stop the rivers of grog. We are concerned about collecting this information—I appreciate that the legislation has progressed what was in the bill that passed through this chamber in the last sitting—so the Greens amendment allows the police to take action to pursue large purchases of alcohol and/or suspicious purchases of alcohol. The police will be able to do something to stop the rivers of grog going into communities. They will be able to stop the grog Runners.

People may see this as an imposition on their lifestyles: they buy $200 worth of alcohol and all of a sudden the police come to their door. We appreciate that the police would be sensible about how they implement this law. If we are going to get serious about these issues and deal with them we need to take some pretty serious action. As I said in my speech during the second reading debate, the things that work are not popular. When it comes to dealing with alcohol, if something is popular it will not work. I can guarantee that this will not be popular but it will help address the grog-running into those communities that we are trying to keep grog out of.

I will ask the minister a question about this because it seems to me that the bill is unclear at the moment about what is going to be done with the information when it is provided to the commission. When we sat down to look at the bill and these amendments, we were unsure about the operating factor and what happens once the information goes to the commission. So we are seeking to do something that will stop grog-running. This amendment was suggested to us by Aboriginal community members as a way of dealing with this issue. We have talked to the communities about this and we thought it would be another way to deal with grog-running into communities.

Senator SCULLION (Northern Territory—Minister for Community Services) (8.07 pm)—Whilst giving an answer to the senator, specifically with regard to the way
we use the material that is collected, I thought I would make another couple of comments to clear up our view on the amendments. Senator, the provisions of the original Northern Territory National Emergency Response Act were effectively for prescribed communities, and all the areas we are dealing with now are outside of the prescribed communities. You will be aware that it is clearly an offence under the new legislation to have alcohol anywhere. The assumption is that, upon discovery of a criminal offence or the intent to commit a criminal offence, the police will be able to call on information about similar levels of alcohol purchased, for example, because the amount of the purchase will be taken down as well as who the purchasers were. You can imagine the difficulty that police may have in circumstances where they have no ready reckoner saying, ‘We suddenly discovered this much alcohol in the community.’ With that, they can go to the place they suspect it has come from and they may find very similar areas that may narrow down their investigation. It is all about narrowing down. There is no magic wand with this, but the police have provided us with the information that this is a very useful tool, and to me as a practical person it does seem that that is very likely to be correct. So the clear answer is that the information collected will be held by the liquor Licensing Commission but will be available to police officers on request.

I refer to the first part of the other amendments you just spoke to. I think we would refer to this as the Siewert ‘thirsty Thursday’ amendment. I agree—there has been a long history of having particular days of the week that you can buy takeaway alcohol. In your good state, Senator Siewert, Kalgoorlie never had two-up on payday. It is a very sensible approach. ‘Thirsty Thursdays’, particularly in Tennant Creek, were much spoken about. As you have indicated, they were unsuccessful because of the choice and the flexibility that was provided through Centrelink income supplements. I was approached in Tennant Creek in 2003 to reverse that, and the minister agreed to do so on the basis that the community came forward and said that that was a good thing, rather than having the choice and balance that we would have ‘thirsty Thursdays’. It was unfortunate that the community at that time was unable to provide that support.

In terms of ‘thirsty Thursdays’, this is a non-prescribed area. The mechanisms that you are speaking of are available to the Northern Territory government at the moment. You may not be aware—I know a bit more about it because I live in the Northern Territory—that there are a number of initiatives from the Northern Territory government with regard to alcohol, not generally but regionally. There has been one in Alice Springs, which I spoke about in an earlier response, and they are considering Katherine and Tennant Creek as models of alcohol control and quite stringent measures. One would hope that they look at the suite of opportunities available to them in those considerations. But we would see that as fundamentally outside of the prescribed areas and not our responsibility. The reason that we have only talked about this legislation—saying ‘the recording of’ and those sorts of things—is that we know that it is to do with the traffickers and our responsibility for the prescribed areas. That is why there is that link.

Senator Siewert, I have not had your amendments for very long. I will speak generally to the last part in terms of the reporting to the police officer. I respect that you have put this together quite quickly; I will not take time pulling feathers off it, but there are some issues. I understand and respect the intent, but I do not think reporting specifically to the police force is useful. You can imagine that, in a place like Katherine, where
there are a huge range of farms and those sorts of things around the place, people would simply come up and get a pallet of beer for the three months over the wet. I can assure you that the police officer in charge of the Katherine police station has better things to do than dealing with that. I respect the intent, but I feel that a lower amount being available to police should they have something is still a practical measure and meets the intent of your amendment in terms of whatever the police officers would have done with the information that would have been provided to them under your amendment.

I know, Senator Siewert, you have made the comment that it might be unpopular and it might not work, and that is true, but there is no point in it being unpopular and not working either. I can assure you these amendments come to this place as very simple amendments that have arisen from clear unintended consequences. A number of people have reflected here that already there are cracks appearing. This is emergency legislation, and I know you accept that. I can assure you these amendments are there because there have been unintended consequences. We have moved to ensure that those unintended consequences are removed, and if there are more unintended consequences in the future we will come back here and amend the legislation again.

This is a very practical amendment that I think will improve the situation. Whilst, as I said, I really respect the fact that you have not had much time—you are a small organisation but you have brought these amendments to us—I and the government do not believe they will improve the situation on the ground, and that is why we will not be supporting them.

Senator STEPHENS (New South Wales—Parliamentary Secretary to the Leader of the Opposition) (8.13 pm)—I want to place on the record Labor’s position on these amendments, and that is that we are not able to support them for a number of reasons. Like the government we respect the intent and acknowledge that there has been a fair amount of lateral thinking involved in trying to draft some amendments to the act that will actually strengthen the government’s hand in relation to managing the movement of alcohol, but we do see proposed amendments 20A and 20B as problematic.

Certainly the point you raised yourself, Senator Siewert, about the receipt of Centrelink payments not being all on the same day is one of the problematic issues. We also acknowledge that the issues around people travelling and the logistics of having to comply with this regime would seem to make for a very complex regulatory environment and one that perhaps does not give any real sense to the idea of curtailing the movement of alcohol.

We are interested in the fact that, given the strength of the first four provisions of 20A, paragraph (5), the fifth provision, just gives a bit too much wriggle room to make much sense. On that basis, we are not able to support these amendments either, but I share many of the concerns that you have raised and I will be interested to hear from the minister about the issue of data management: what information is being collected, how is it going to be stored, how long is it going to be stored, who is going to be able to have access to it, what are the privacy considerations around data management and has the government considered the issues of protecting the privacy of individuals who purchase alcohol? I am thinking, for example, of young women in a store who might have to hand over their personal details, including their address, and how that information might be protected from people who might not have the best intentions—perhaps following them out into a supermarket car park and then fol-
lowing them home. We believe that there is a fair amount of exposure there. There needs to be consideration of the privacy issues around collecting so much data.

**Senator SCULLION** (Northern Territory—Minister for Community Services) (8.16 pm)—We have asked both the Federal Privacy Commissioner and the Northern Territory privacy commissioner to work with government. Whilst we have not started the process, they have agreed to the process and to develop guidelines about the use of the material. We think that is most appropriate. The intent is for the data to provide information only to the police if they should require it for an investigation or where they think a criminal act may occur.

**Senator STEPHENS** (New South Wales—Parliamentary Secretary to the Leader of the Opposition) (8.16 pm)—Has there been any consideration of both the storage and security of the data and also the length of time for which the data will be kept?

**Senator SCULLION** (Northern Territory—Minister for Community Services) (8.17 pm)—These amendments clarify that there is a three-year period for which the data will be kept. The organisations that are selling the liquor may choose to keep the data, but the Director of Licensing, either through a process of writing directly to the outlets in the Northern Territory or by submission from the outlets, actually holds the documentation with the Licensing Commission under the same privacy provisions.

**Senator SIEWERT** (Western Australia) (8.17 pm)—I would like to ask some further questions around that also. Is it planned for there to be analysis of the data if somebody, for example, is buying relatively large amounts of alcohol in a number of outlets? Will there be a proactive approach taken to identify potential grog-runners?

**Senator SCULLION** (Northern Territory—Minister for Community Services) (8.18 pm)—In partnership with the Northern Territory Licensing Commission, the Northern Territory government and the Northern Territory Police, we are working on how they might mine that data specifically for that purpose. Again, it is useful to stress that the collection of the data is specifically for that purpose at this stage. I cannot see any other reason for using the data apart from compliance with the previous legislation.

**Senator SIEWERT** (Western Australia) (8.18 pm)—Previously, in the minister’s answer to a question on our amendments of 20B, the minister said—as I understood it—that the reason that data was being collected was so that if the police found somebody carrying a lot of alcohol they could then trace it back. It looks like there is a two-way thing there. If police find somebody carrying a lot of alcohol in community they can trace back where it was bought—there will be an evidentiary trail. Are you now are saying that it is also going to be used for a proactive approach, which is to see whether people are buying large amounts for sale, potentially, in community?

**Senator SCULLION** (Northern Territory—Minister for Community Services) (8.19 pm)—It will be available to the Licensing Commission for both those purposes—that is, to inform and for compliance purposes.

**Senator SIEWERT** (Western Australia) (8.19 pm)—I go to the other issue that I raised during the second reading debate, as did Senator Crossin, and that is the closing down of outlets. I know that we also raised this during the previous debate. How far are you into the process of negotiations with the Northern Territory government about getting rid of some of the large number of outlets, particularly, for example, in Alice, where
everybody acknowledges that there are an excessive number of outlets in what many people feel are very inappropriate places?

Senator SCULLION (Northern Territory—Minister for Community Services) (8.20 pm)—I indicated a little earlier that, whilst the Commonwealth always has an interest in the general health of the public, outside of those prescribed areas it is really the responsibility of the Northern Territory government. As I have indicated, I know that the number of liquor-licensed outlets, particularly takeaways, in the Northern Territory has been a concern to the Northern Territory government and I understand that they are looking closely at a whole suite of initiatives, including licensing, slowing down the number of licences and buying licences back. They have all been discussed in the media. I am not sure exactly where they are up to with those initiatives, but it is not something that the Commonwealth is specifically looking at. That is a Northern Territory government responsibility and they are, I understand from my reading in the media, actively looking at all of those issues. But that it is not the sort of space that the Commonwealth is going to walk around in.

Senator SIEWERT (Western Australia) (8.21 pm)—I understand that it is the responsibility of the Northern Territory government. What we were looking at are the negotiations and discussions over this whole package, the negotiations over what the Northern Territory government is doing and any support that the Commonwealth can potentially give. To clarify—as I understand it you are not involved in that level of discussion and you are not looking at what incentives the Commonwealth can give to encourage the Northern Territory government to maybe have a more speedy response or approach to this issue. You are not engaged in that level of discussion.

Senator SCULLION (Northern Territory—Minister for Community Services) (8.22 pm)—The task force is in constant discussion with the Northern Territory government across a whole range of issues. With regard to pricings we have said that we, in partnership with the Northern Territory government, are looking very carefully at that space. I am quite sure that the task force will be looking at a suite of issues, including the number of sales outlets, which impact on those prescribed areas. In terms of compliance and information we have clearly looked at volumes, amounts and those sorts of things. I am sure the task force will be looking at all those matters, but at this stage I cannot give you any detail of that area, except to say that it is clearly an area of responsibility for the Northern Territory government. I do know that they are actively working in that area.

The TEMPORARY CHAIRMAN (Senator Sandy Macdonald)—The question now is that Australian Greens amendment (2) moved by Senator Siewert be agreed to.

Question negatived.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Senator SCULLION (Northern Territory—Minister for Community Services) (8.23 pm)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

TRADE PRACTICES LEGISLATION AMENDMENT BILL (No. 1) 2007

Second Reading

Debate resumed from 9 August, on motion by Senator Coonan:
That this bill be now read a second time.

(Quorum formed)

Senator STEPHENS (New South Wales—Parliamentary Secretary to the Leader of the Opposition) (8.27 pm)—Tonight we are finally debating strengthening section 46 and section 51AC of the Trade Practices Act. This debate has been a long time coming and it has not come soon enough. In 2004, the Senate Standing Committee on Economics produced a report on the effectiveness of the Trade Practices Act, and government senators produced a minority report. Even that report, which was less far reaching than the majority report, actually acknowledged that the Trade Practices Act required changes. That was over three years ago and at the end of the last term. Now at the very end of this term, near an election, the government has suddenly decided to legislate its response to the 2004 inquiry. And what a half-hearted response it is.

However, today, at the eleventh hour, the government has caved into pressure, moving an additional amendment dealing with predatory pricing. This backflip is designed to make the Treasurer look as though he cares about small business and trade practices reform, while the truth is that he has been dragged kicking and screaming every step of the way. Labor has consistently argued that the Trade Practices Act needs to be strengthened to deter predatory pricing. The government’s amendment—which was circulated today—to its own bill means that if a company has substantial market share it cannot sell for a sustained period of time below relevant cost for an anticompetitive purpose. This new, specific predatory pricing section has some fundamental differences to existing section 46 so that there will now be two tests: one for predatory pricing and one for other examples of misuse of market power. The concept of substantial market share and the removal of the ‘take advantage’ connection makes this new provision different from section 46, which uses the concept of substantial market power.

Labor moved sensible, balanced amendments which the government rejected in the House, and this government amendment appears to have been hastily cobbled together at the last minute. Labor will support the government amendments but will monitor any unintended consequences that may arise from this complex, two-test proposal.

This government is not interested in rectifying the weaknesses in the Trade Practices Act that are very well known by all. The recent Senate Standing Committee on Economics inquiry into this bill heard evidence from a number of small business groups and competition law experts that said the bill does not go far enough and, in fact, adds very little to the Trade Practices Act. I will be moving a second reading amendment and detailed amendments in the committee stage which would strengthen the Trade Practices Act to protect competition in the Australian economy and small businesses from unfair practices. This would be good for the economy and good for consumers. The amendments were moved in the House of Representatives. Labor’s amendments represent the approach that Labor will take to the Trade Practices Act if we form government later this year. We will certainly take some action to protect small businesses through an amended and improved Trade Practices Act.

I turn now to the amendments that are in this bill. The bill seeks to clarify the operation of section 46 of the Trade Practices Act. Section 46(1) prohibits a corporation with a ‘substantial degree of power’ from ‘taking advantage’ of that power for the purpose of:
(a) eliminating or substantially damaging a competitor of the corporation or of a body corporate that is related to the corporation in that or any other market;
(b) preventing the entry of a person into that or any other market; or
(c) deterring or preventing a person from engaging in competitive conduct in that or any other market.

In 1986, the then Labor Attorney-General, Mr Bowen, introduced major reforms to section 46 of the act. Before 1986, section 46 was known as the monopolisation clause. It prohibited a company which substantially controlled a market from abusing its market power. This clause was ineffective because the threshold to establish substantial control of a market meant that only monopolists or near-monopolists were captured by the old section 46. So in 1986 the Labor government amended the act to relax the test: it made it illegal for a firm with substantial power in a market, as opposed to one substantially controlling a market, to abuse its market power. However, the High Court has interpreted the concept of substantial degree of power in the market in a narrow way which does not accord with the parliament’s intention of 1986 to lower the bar of section 46.

In the Boral case in particular, the majority of the High Court found that the key test for establishing whether a firm has a substantial degree of power in a market is whether it is able to raise its prices to recoup its losses after it sells goods below cost for a sustained period of time. It is hard to conceive of any company which is not a monopoly passing this test. The ACCC, for example, has said:

The majority judgments in Boral contain several statements indicating an absolute freedom of constraint is required to establish a ‘substantial degree of power’—effectively restoring the threshold to monopolists or near monopolists contrary to Parliament’s intention behind the 1986 amendments.

Similarly, Associate Professor Frank Zumbo has written:

For the small or medium sized entity competing with larger, more economically powerful corporations, the High Court’s decision appears to mean they will ordinarily have little, if any, recourse under s46—

for allegations of predatory pricing by those corporations which, while being large and economically powerful, are unable to set prices unilaterally without losing custom or to act totally or almost totally without competitive restraint...

The government’s response is to legislate to clarify that a substantial degree of power is a lower test than control of the market, that a corporation can have a substantial degree of power in a market even if it is not free of constraint and that more than one corporation can have a substantial degree of power in a market.

Labor agrees with including the elements that the government proposes, but the fact is the government’s amendments do not go far enough. The opposition believes that it is vital to include a provision in the act to make it clear that the ability to recoup losses is not required to establish market power, and I will be moving as such in the in-committee stage.

There is another element that this bill completely fails to deal with. That is the definition of ‘take advantage’. Section 46 of the Trade Practices Act prohibits a firm from taking advantage of its market power. Courts have defined ‘take advantage’ in a very narrow way. The courts’ interpretation in such a way means that, if the firm is able to act in the way it is alleged, in the absence of market power it shall not be regarded as having taken advantage of that power. To overcome this, I will be moving an amendment to make it clear that ‘take advantage’ encompasses action being materially facilitated by market power. This amendment will make it clear that the key test is whether the firm would
have been likely to undertake this action in the absence of market power and whether the conduct was related to the market power.

The bill does make it clear that it is an offence for a firm to abuse its market power in any other Australian market. This is an important amendment due to the finding of the Federal Court in the Rural Press case that it is only an offence to abuse market power in that market. We support this amendment but note that its usefulness is limited unless the government addresses that 'take advantage' issue.

The bill also makes clear that firms can gain market power by acting in concert with other firms. The bill amends section 46 to note that a court may take into account any market power that a firm has by virtue of agreements with others or covenants which the corporation is bound by or entitled to benefit from. We support this measure.

In relation to the creation of a second deputy chair, I note the government has indicated that this will be someone from a small business background; however, this is not mandated by the legislation. The act does mandate, however, that one of the commissioners be from a consumer background.

The bill also amends part IVA of the act, which deals with unconscionable conduct. Section 51AC, which prohibits unconscionable conduct in transactions between businesses, applies only to transactions under $3 million, because it is designed to protect small business. The 2004 Senate committee majority report recommended that the $3 million limit be abolished, as it is arbitrary, and unconscionable conduct should be illegal regardless of the size of the transaction or the businesses involved. This is also the recommendation of the ACCC and several small business groups.

Unconscionable conduct is unconscionable conduct regardless of the size of the transaction. There are small businesses that engage in transactions greater than $10 million, and we agree with the ACCC that the concept of a threshold is a flawed one. Labor will be moving an amendment to abolish that threshold. Under section 51AC of the act, when considering whether a corporation has engaged in unconscionable conduct in business transactions, a court may have regard to a non-exhaustive list of factors. This bill amends the section to add to the list of matters that can be considered the ability to unilaterally vary a contract. It has always been open to the courts to take into account the ability to unilaterally vary contracts as part of unconscionable conduct cases. Therefore this amendment, whilst unobjectionable, adds little to the unconscionability provision that already exists.

This bill does not go far enough to strengthen the Trade Practices Act. It omits a number of important amendments to the Trade Practices Act that would take us a step forward to better protect honest businesses from anticompetitive conduct. First among these must be the government’s complete failure to deal with the matter of jail terms for cartel operations. The 2003 Dawson committee recommended the imposition of prison terms for individuals found to have engaged in serious cartel conduct. The government accepted this recommendation in 2005 and said then that it would legislate for prison penalties; however, we are now in 2007 and the government has not legislated for prison terms in this legislation. The ACCC has been persistently calling for the imposition of such prison terms.

I note that an amendment to the TPA to introduce criminal penalties is on the agenda for the next sittings. Labor certainly hopes that this will settle the issue, but it should have been included in this bill. There is no reason for it not being included in this bill. The second reading amendment that I move
will condemn the government for not introducing prison terms for very serious cartel behaviour and will call on the government to honour its commitment to introduce those jail terms as a matter of urgency.

Labor will give the ACCC the powers it needs to do the job that Australian consumers expect. At the moment, there is a strong case that some of those powers are lacking. Under section 155 of the Trade Practices Act, the ACCC can obtain information relevant to its inquiries by requiring people to provide documents to it or to be interviewed by it. This is the ACCC’s primary information-gathering power. However, the courts have ruled that this power ceases when a court case commences. In evidence before the 2004 committee, the ACCC argued that revocation of section 155 powers is a disincentive to begin court actions and seek injunctions for anticompetitive behaviour, thus delaying the provision of relief to affected businesses and consumers. I will be moving an amendment which deals with this to ensure that the ACCC has the information it needs to do its job.

The Federal Magistrates Court can hear certain matters under the Trade Practices Act but not section 46 matters. This means that small businesses wishing to bring an action under section 46 must commence it in the more expensive and cumbersome Federal Court. In addition, under section 83 of the act a company can bring an action for damages based on findings of fact in another case which allows a small business to bring an action for damages based on the findings of fact in an ACCC case. However, this section 83 action must be brought in the Federal Court. The necessity to bring an action in the Federal Court means that small businesses will be faced with substantial costs. An action in the Federal Magistrates Court is cheaper and there is a conciliation process to resolve matters without proceeding to a full hearing. Several small business groups have called for the Federal Magistrates Court to be given jurisdiction in both types of matters. I will be moving an amendment to give the Federal Magistrates Court, as well as the Federal Court, jurisdiction over section 46 matters, to make it easier for small business to access justice when they have been subject to anticompetitive conduct by bigger players.

Creeping acquisition is a vitally important matter which is completely ignored in this bill. Section 50 of the act gives the ACCC power to disallow mergers or acquisitions if they will lead to an unacceptable degree of control of the market. The lack of the ability for the ACCC to look at small mergers over time means that the ACCC is not able to consider the impact of creeping acquisitions on the national market. The cumulative impact on competition of a series of acquisitions may be something that the ACCC wishes to examine in determining market concentration, but it will have no authority to do so. It is time to give the ACCC the unquestioned and clear power to regulate creeping acquisitions. The second reading amendment I will move will call on the government to do this, and I can indicate that the Labor Party will do this should we form government later in the year.

A major complaint of small business is their lack of bargaining power when it comes to negotiating with big business. An option to protect small business from unfair practices would be to insert a new section into the act which allows unfair contract terms to be struck out by a court, based on the UK and Victorian models. Both the British and Victorian models provide courts with the power to declare as unenforceable terms in contracts that are unfair. Under our proposal, if a court held that a contract term was unfair, there would be no penalty for the larger company imposing the term, but the term would be struck out of the contract. If the
contract were viable without the term, then the rest of the contract would stand. There is, of course, a balance to be struck between promoting competition by outlawing unfair terms and allowing vigorous, even aggressive, contract negotiations in an open market. However, there is considerable merit in inserting a new clause in the Trade Practices Act which enables a firm or an individual to seek to have an unfair contract term struck out in the Federal Magistrates Court.

Labor has always been a strong supporter of the Trade Practices Act. In fact, it was Labor that introduced the Trade Practices Act in 1974 and, again, the Labor Party that strengthened the act in 1986. The coalition, on the other hand, have a poor history when it comes to this act. For all their bluster on being the party of small business and better economic managers, we see precious little on their supposed commitment to the Trade Practices Act. The government have waited until the very last minute, the eleventh hour just before an election, to introduce this legislation. It is a case of too little, too late, with a desperate last-minute amendment to its own bill in an attempt to quell well-deserved criticism from small businesses.

I now move the second reading amendment standing in my name, which has been circulated in the chamber:

At the end of the motion, add “but the Senate:

(a) notes that:

(i) the Economics References Committee handed down its report, The effectiveness of the Trade Practices Act 1974 in protecting small business, in March 2004, and the Government responded in June 2004 and yet the Government is only now introducing its legislative response,

(ii) this failure to act represents a disregard for the importance of promoting competition by preventing anti-competitive behaviour directed against small business and consumers, and

(iii) this bill fails to introduce gaol terms for serious cartel operations, despite the Dawson Review recommending this in 2003 and the Government accepting this recommendation in 2005 and despite the Australian Competition and Consumer Commission (ACCC) consistently calling for such penalties to be introduced;

(b) condemns the Government for the failure to legislate for gaol terms for serious cartel conduct;

(c) further notes with concern that this bill does not give the ACCC power to investigate and regulate ‘creeping acquisitions’; and

(d) calls on the Government to:

(i) legislate for this as soon as possible, and

(ii) closely examine options for introducing a regime dealing with unfair contract terms between businesses as well as between businesses and consumers”.

Senator Murray (Western Australia) (8.46 pm)—If these amendments had been introduced in 2004, the same year as the recommendations of the Senate Standing Committee on Economics report in March 2004 into the effectiveness of the Trade Practices Act to protect small business, now a long 2½ years ago, they would have had my nearly unqualified support as a good first step in finally strengthening the Trade Practices Act from the perspective of small business and consumers. In fact, the amendments set out here mirror a number of the amendments I have proposed over the years based on the recommendations of that committee—amendments that have been supported by the opposition and that have been rejected by the coalition government on several occasions. I can only surmise that they were rejected be-
cause they were Democrat, not coalition, amendments, and that is pathetic, but it is true. I do not think it reflects well on the government, as a result.

Now that the Trade Practices Legislation Amendment Bill (No. 1) 2007 has come before us, and although my party and I support the bill, it still does need to be improved by further amendments such as those which have been circulated by me, on behalf of Senator Joyce and by Labor. The Senate Standing Committee on Economics reported on this bill in August. I wrote a precise set of additional remarks to the report. I do agree with many of the points raised in the Labor Party’s minority report and the report from Senator Joyce. I compliment Senator Joyce on being able to achieve some of his objectives since that report came down. The amendments contained in this bill generally reflect the minority senators’ report from 2004—that of the coalition senators, not the majority report of Labor and the Democrats. While I am as certain as can be that Senator Brandis, principal author of the minority report, would have gone further towards the majority position if his party had allowed him, the minority view is, nevertheless, a useful advance on the law as it stood.

The consequent Trade Practices Legislation Amendment Bill (No. 1) 2007 has two weaknesses: it is long overdue and it does not go far enough. Its strength is that it does not weaken the Trade Practices Act; it strengthens it in a number of ways. The bill will create a second deputy chairperson position for the ACCC and allow for the effective operation of the ACCC with that additional position focusing on small business. It amends section 46 of the act to provide that a corporation must not take advantage of a substantial degree of market power, either in the market in which the power is held or in any other market. It amends section 46 to provide that, for the purposes of determining the degree of power that a corporation has in the market, the court may have regard to any market power the corporation has that results in contracts, arrangements or understandings with others, or results in covenants that the corporation is bound by or entitled to the benefit of. It amends section 46 to provide that courts may take into consideration the supply of goods or services for a sustained period at a price less than the relevant cost to the corporation, and the reason for that conduct, when determining whether a corporation has misused its market power. It amends section 46 to provide that, without limiting the matters to which the court may have regard, a body corporate may have a substantial degree of market power, even though it does not substantially control the market or have absolute freedom from constraint by the conduct of its competitors or persons to or from whom it supplies goods or services. It amends section 46 to provide that more than one corporation may have a substantial degree of power in a market.

It makes amendments to ensure the continued consistency between sections 151AJ and 46 in relation to leveraging of market power, coordinated market power and predatory pricing. It makes amendments to the version of section 46 found in part 1 of the schedule to the Trade Practices Act, which is the version that applies in the states and territories by virtue of application legislation in those jurisdictions, to correspond to the changes in the bill. It amends section 51AC of the act to extend the non-exhaustive list of factors in sections 51AC(3) and 51AC(4) to provide that the court may also consider whether a party has a contractual right to vary, unilaterally, a term or condition of a contract between a supplier and a business consumer, or between an acquirer and a small business supplier. It amends sections 51AC(9) and 51AC(10) of the act to raise the price limita-
tions relating to the supply or acquisition of goods or services from $3 million to $10 million and it makes amendments to section 12CC of the Australian Securities and Investments Commission Act 2001, which applies the unconscionable conduct rules of section 51AC of the Trade Practices Act to the supply and acquisition of financial services, to duplicate the changes made by the bill to section 51AC.

When I read these, you will not be surprised to know that I get a sense of grievance, because I have heard much of it somewhere before. Several of those amendments reflect the gist and substance of amendments which I have moved in the past—although for a number of them the wording has changed very slightly from the wording that I proposed—and which have been rejected by the coalition and probably forgotten by people listening to this debate, because they were passed by. Two years have been wasted by the foot-draggers in the Treasurer’s office. It is absolutely unacceptable that that happened—this, I might add, from a Treasurer who has initiated brave and wholesale reform in many legislative areas under his control. His slow and modest efforts on trade practices law reform for small business stand in stark contrast to what otherwise is a very credible record in many areas.

I appreciate the amendment to section 46(1) of the Trade Practices Act, but, as Associate Professor Zumbo rightly states in his submission to the economics committee, in order for section 46 to be effective there is an urgent need to restore the parliamentary intention behind both the concept of a ‘substantial degree of power in the market’ and the concept of ‘take advantage’. I emphasise the words ‘both’ and ‘and’. I note that Senator Joyce was reported in the media as saying that he will put forward an amendment which addresses the concept of substantial financial power in a market, taking his lead from the 2004 report. He is right to do so.

The greater the financial power an entity has in any market, the greater freedom of action it has in undercutting the price of goods. This was shown in a recent story on Today Tonight featuring a small grocer located right beside a Woolworths store. When he reduced his prices, he was undercut. Even when he reduced the price to well below his cost, they followed him down. The only reason that this small grocer could do that was because Today Tonight was subsidising the difference between the cost price and the reduced sale price. Woolworths simply reacted to the competition with perfectly natural behaviour. But its effects in certain circumstances can be anticompetitive. It was shown that a Woolworths in another suburb where there was no grocer competition did not reduce its prices at all.

An entity does not have to be in a monopoly position or even in an oligopoly position to have substantial financial power in the market if it can take advantage of that financial power in the market to impose unsustainable prices on competitors. The reference to a ‘substantial financial power in the market’ would, many commentators believe, have the effect of overcoming the current problem with section 46 which arose from the Boral case. I will be proposing amendments which I hope will address these shortcomings. I believe that these amendments of mine will provide more guidance to the courts to overcome the difficulties presented by the Boral case—in particular in relation to the issue of ‘substantial degree of power in the market’. I am hoping that Labor and Senator Joyce, as supporters of trade practice law reforms for small business, will be willing to support these amendments.

Predatory pricing exists. It is a daily problem for many small and medium businesses,
both upstream and downstream. From a public policy point of view, the issue is that the destruction of competitors, if taken to its logical conclusion, can result in the destruction of competition. That is why market power has to be regulated and constrained. That is why modern dynamic markets have proper competition law to restrain this sort of behaviour.

Section 46 of the Trade Practices Act currently applies only to the conduct of monopolists and near-monopolists, so small businesses have little protection against large and powerful corporations choosing to throw their financial and material resources around. Two possible measures could overcome this problem and still maintain fairness. The first is to remove the requirement to show intention and instead put in place a requirement to show that the actions of the alleged perpetrator have had the effect of damaging competition—in other words, you examine the results, not the intent. The second is to get behind the corporate veil by changing the onus of proof when the ACCC pursues the matter. The onus would fall on the defendant and not the applicant to show that there was no purpose of eliminating competition. A system of protecting and rewarding whistleblowers who provide evidence about collusive and anticompetitive conduct could also be considered.

The ACCC should be given a power to grant cease-and-desist orders against companies involved in anticompetitive behaviour. Such a power would allow intervention on behalf of small firms who are being harmed by the behaviour of a large competitor. Rather than wait years for a court to determine the legality of a firm’s behaviour—by which time the small business’s lease has expired and they have moved on—a cease-and-desist power, where it is relevantly and carefully applied by an independent regulator, would allow early intervention before a competitor was driven out of business by anticompetitive conduct. This would not affect normal competitive conduct, which can include price cutting. These are matters which could have been addressed in this bill but have not been, and the Democrats and small business have to await a time when a Labor government will give the Trade Practices Act some sharper teeth to truly protect small business. In that respect, I note the remarks of the shadow minister in the Senate and of Labor speakers in the lower house, and I will hold them to them.

In the 2005 report of the Senate Standing Committee on Rural and Regional Affairs and Transport on the operation of the Australian wine-making industry, there was reference to the discussion of unconscionable conduct in the 2004 report of the Senate Economics References Committee in relation to unilateral variation clauses in a contract, which allow one party to vary the contract without further negotiation or without the other party’s agreement. That recommendation by the rural and regional affairs committee was unanimous. During the Senate Economics References Committee’s inquiry, the ACCC had voiced concern that unilateral clauses could be unreasonably exploited by the stronger party, and it was the recommendation of the ACCC, followed by the Senate economics committee in its March 2004 report, that unilateral variation clauses should be added to the list of matters which a court may have regard to in deciding whether conduct is unconscionable. I refer to sections 51AC(3) and 51AC(4) of the Trade Practices Act. I welcome those particular amendments wholeheartedly. But why were farmers and others made to wait two years for those amendments to come forward?

I have noted the argument articulated in the minority report of Labor senators which says that these amendments add little or nothing to the operation of the sections be-
cause unilateral variations are already a matter which the courts can take into account in determining whether there is unconscionable conduct. With respect to that argument—unless I have misunderstood it—we would not need statutes at all, of any kind, if that were true. Rather than subject business to the time and costs of courts, it is better to point to black-letter law and say to the stronger party, ‘You cannot do that; the legislation says that you cannot do that.’ That is much easier than having to say, ‘I don’t think you can do that; I think it’s unconscionable, so let’s all go to court,’ and, after a number of years—during which your lease has expired and you have gone out of business—and several hundred thousand dollars later, see if that is one of the things that the court will consider. Black-letter law in competition law is good, not bad, because it enables clearer decisions and clearer understandings to occur.

The practicalities of life on the front line of small business are substantially different, and this amendment is very welcome. However, you will see from my amendments that I do not think it goes far enough. In both Victoria and the United Kingdom there is legislation regarding unfair contract terms, and my amendments attempt to incorporate aspects of those pieces of legislation to beef up section 51.

This bill fails to address the substantial areas of creeping acquisitions and divestiture. These continue to be areas of concern for small business and the Australian community, and we continue to be out of step with major jurisdictions such as the United States, that dynamic market which has its terrific reserve power known as anti-trust legislation. Section 50 of the Trade Practices Act currently prohibits corporations from making acquisitions that would have the effect of substantially lessening competition. Divestiture can be ordered to remedy a breach of section 50. However, this provision is limited in scope. One limitation is the difficulty of applying it to creeping acquisitions. It is difficult to establish that a smaller, more recent acquisition following a series of other small acquisitions over a number of years finally tips the balance to create a substantial lessening of competition by someone moving into a monopolistic situation in a particular market.

Creeping acquisitions can allow very large corporations to achieve a market size that might have been prohibited by the ACCC if those acquisitions had been aggregated into one purchase which could therefore have fallen foul of the existing merger provisions in the Trade Practices Act. I think there is no better example of that point than the Franklins purchase, when the very large corporations that wished to take advantage of Franklins’ troubles and acquire the stores on the break-up were forced to divest or shape their acquisitions to ensure they did not achieve the kind of market power that was regarded as a danger to full competition—yet if they had achieved those same stores by creeping acquisitions there would have been no similar action.

In Australia, many markets are experiencing oligopolisation, which is a concentration of power in the hands of a small number of competitors. One that is of substantial concern to Australian consumers is the grocery market because they see that, if it becomes much more controlled than it is at present, that will directly impact their hip pockets, their choices and the opportunities for competition. It is a fact of life and economy that the big get bigger. With respect to our market and its size, sometimes that is natural, necessary and unavoidable. But as they get bigger they do develop the ability to operate more cheaply and efficiently. Over time, the smaller players are forced out of the market. That is the way of the market, and that activ-
ity is valuable while it promotes efficiency, innovation and competition—but only up to a point, as I said earlier.

Eventually, the destruction of competitors results in the destruction of competition, or the predatory intimidation of competitors reduces effective competition—and I have noted recent court cases where major retailers in the bread market and in the liquor market, for instance, have been had up for abusing their market power. Where that has occurred or will occur, the state must intervene to save the market from eating itself. By its very nature, the power to order divestiture should be regarded as largely a reserve power. As international precedents indicate, it would be seldom employed. It should be used rarely and used responsibly by an independent and powerful regulator. The great virtue of divestiture, of anti-trust power, is as a cautionary power, making oligopolies careful of abusing their market power. It would be used only where necessary to maintain or restore competition. This is an area which this country must address at some stage.

The United States Federal Trade Commission’s 1999 study of the divestiture process found that about three-quarters of divestitures appear to have created viable competitors in the relevant market. It further found that divestitures of ongoing businesses tended to succeed more frequently compared to asset divestiture. The ACCC has indicated that it is not supportive of an open-ended divestiture power, but it has supported consideration of a divestiture power where there is a breach of the section 46 prohibition on the abuse of market power. Examining divestiture in the context of section 46 is essential, but it may need even broader scope in light of Australian court decisions. At the very least, I believe that concentrated industry sectors need a trigger market-share percentage at which point the ACCC takes formal and public note of potential danger—similar to that used in Europe. Such thresholds recognise market power but do not constitute an automatic declaration of market dominance; nor are they an automatic signal as to the existence of anticompetitive prices or an abuse of power. They act instead as a trigger to the regulator to maintain a watching brief on the company concerned. I consider the figure of 25 per cent used under the United Kingdom Fair Trading Act as constituting a fair market-power measure. If such a measure were adopted in Australia, the ACCC would thereafter notify a company so identified that it needed to keep the ACCC advised of all market acquisition activity, with a specific requirement to report to the ACCC annually on the concentration of market power in the markets it operates in. The ACCC could then, of its own volition, review the company or the industry concerned.

I have previously moved amendments to allow the ACCC to order divestiture where an ownership situation has the effect of substantially lessening competition. This is necessary to ensure that the ACCC can effectively break up megagroups that substantially inhibit competition as a result of monopolistic characteristics and can reduce monopoly market power, particularly in regional markets, by requiring limited and selective divestiture. The government turned down those amendments. I will be moving those amendments again in relation to this legislation. I am also including amendments to expand the role of the ACCC to monitor prices. There will be those who argue that this will require an increase in staffing for the ACCC and cost a lot of money, but that is not the concern. The concern is to ensure competition is maintained and enhanced. The fact is that price monitoring through the ACCC is an effective way of making sure prices operate well in a competitive marketplace. It has been shown on a small scale by the Fuel-Watch website in WA with regard to petrol
pricing, and it is an effective stratagem in key market sectors. *(Time expired)*

Senator RONALDSON (Victoria) (9.06 pm)—I want to address a number of matters raised tonight, not by way of the set piece speeches my colleagues have delivered—which is, of course, their entitlement—but to go through and look at some of these matters. The first thing I want to say is I am always amused when I hear the Australian Labor Party talking about their concern for small business. If you look at their record, Madam Acting Deputy President, you would be acutely aware that it is absolutely appalling.

I want to give you some quotes in relation to what the Australian Labor Party thinks of small business. In July 2000 Kim Beazley, the member for Brand, admitted:

... we have never pretended to be a small business party, the Labor Party, we have never pretended that.

The opposition leader, Kevin Rudd, admitted that the party has been absolutely atrocious on small business. Greg Combet, who is coming in, said in 2005, ‘I’m afraid I am not a small business advocate.’ Of course he is not, and no-one in the Australian Labor Party is.

Senator George Campbell interjecting—

The ACTING DEPUTY PRESIDENT (Senator Troeth)—Order! Senator Campbell, you will cease interjecting. Senator Ronaldson has the floor.

Senator George Campbell—Tell Senator Ronaldson not to be a bully and I will not interject.

The ACTING DEPUTY PRESIDENT—Order! You will cease interjecting. Senator Ronaldson has the floor.

Senator George Campbell—Thank you, Madam Acting Deputy President. Tell Senator Ronaldson not to be a bullyboy and I will not interject.

Senator RONALDSON—What an extraordinary outburst! I can understand you are upset about what is happening, Senator Campbell, but I think to bring it here is very unfortunate.

Senator George Campbell—I just think you are a moron.

Senator Ellison—I rise on a point of order, Madam Acting Deputy President. Senator George Campbell should withdraw the remark that he just made.

The ACTING DEPUTY PRESIDENT—Yes, he should withdraw that unparliamentary term.

Senator George Campbell—I am not aware that it is unparliamentary, Madam Acting Deputy President, but if it is I withdraw it.

The ACTING DEPUTY PRESIDENT—I would like an unqualified withdrawal, please.

Senator George Campbell—I am not sure it is unparliamentary, but if it is I withdraw it.

The ACTING DEPUTY PRESIDENT—it is casting aspersions on another senator, and I am asking you to withdraw it.

Senator George Campbell—I am not sure it is unparliamentary, but if it is I withdraw it.

The ACTING DEPUTY PRESIDENT—I would ask you to withdraw it unconditionally.

Senator George Campbell—I am doing that.

The ACTING DEPUTY PRESIDENT—I would like you to withdraw that unconditionally, please.

Senator George Campbell—Are you ruling that it is unparliamentary?
The ACTING DEPUTY PRESIDENT—
I am ruling that the term you used is casting aspersions on the character of another senator and I am asking you to withdraw it.

Senator George Campbell—Are you ruling that it is unparliamentary?

The ACTING DEPUTY PRESIDENT—
Yes, I am ruling that it is unparliamentary.

Senator George Campbell—Then I will withdraw it.

The ACTING DEPUTY PRESIDENT—
Thank you.

Senator RONALDSON—Thank you, Madam Acting Deputy President. I say, in all fairness to Senator Campbell, Madam Acting Deputy President, you have not heard some of the ways I describe some of his golf shots, so I will not be offended by the comment that he has made; I can assure you of that.

Clearly, this has got under your skin, Senator Campbell. You know and I know that those who are going to replace you and who have removed you from this place are the very people who have acknowledged that they are not small business advocates. Exactly. So what is going to change? When you are gone and others come in—

Senator George Campbell—I rise on a point of order, Madam Acting Deputy President. If I was casting aspersions on Senator Ronaldson, then he is casting aspersions on me. I do not mind Senator Ronaldson picking on me for what I do, but at least attribute it to me. Do not attribute it to others. I will deal with the other situations in my own good time.

The ACTING DEPUTY PRESIDENT—
Senator Ronaldson has not yet used a term that is unparliamentary, whereas you did, Senator Campbell, which is why I asked you to withdraw. Senator Ronaldson will proceed.

Senator RONALDSON—Thank you, Madam Acting Deputy President. We were having, I thought, a quite sensible debate with Senator Stephens and then Senator Murray. I was making my contribution and Senator Campbell seems to have gone completely troppo over the whole thing.

This is a good bill. Senator Stephens made comments about the government’s amendment. We actually listen. These amendments are a direct result of us listening to small business, and indeed this bill comes about through us listening to small business. I will take the chamber through some of that consultation and find the passage of the government’s Trade Practices Amendment Act (No. 1) 2006—the Dawson act. The government has met with small business groups on many, many occasions. Unlike Mr Combet, we actually are small business advocates, and unlike what the member for Brand said about Labor we have always been a small business party.

If Senator Campbell would like me to repeat it, the member for Brand said, ‘We have never pretended to be a small business party, we have never pretended that.’ Exactly. We on this side of the house unashamedly say that we represent—as the minister said—small business, and this bill is just part of the government’s commitment to small business and to supporting small business. As Senator Stephens has quite rightly indicated, although her pious amendment referred to it—but she knows as well as I do that it has been addressed, so why would you put in a pious amendment? Why would you do that? Because you are not serious, that is why. She knows what is coming in. Senator Stephens knows what is going to happen with jail terms for serious cartel conduct, so why put in the pious amendments in (c) and (d)? Why put them in when she knows full well what is going to happen?
Senator George Campbell—What is a pious amendment?

Senator RONALDSON—You know exactly what a pious amendment is. How long have you been here for? If you do not know what that is, no wonder they have got rid of you. If you do not know what a pious amendment is by now—and I was thinking of putting you on as a staffer, too, after the election, Senator Campbell! I think you might have just done your dash in relation to that.

Senator George Campbell interjecting—

The ACTING DEPUTY PRESIDENT—Order! Senator Ronaldson, would you resume your seat. I would ask senators other than Senator Ronaldson, who is speaking, to desist from interjecting and I would ask Senator Ronaldson, who is speaking, to direct his remarks through the chair and to pay no attention to interjections.

Senator RONALDSON—I will indeed do that, Madam Acting Deputy President. The consultations that I was referring to, before I was so rudely interrupted, have involved the Minister for Small Business and Tourism, the Hon. Fran Bailey; the leader of The Nationals in the Senate, Senator Ron Boswell; and Senator Barnett and other senators. The groups consulted included the National Association of Retail Grocers of Australia, NARGA; the Council of Small Business Organisations of Australia, COSBOA; the Fair Trading Coalition, FTC; and the National Farmers Federation, NFF. The government has also consulted on the amendments with the Housing Association, the Australian Chamber of Commerce and Industry, the Business Council of Australia, the Law Council of Australia and the Australian Competition and Consumer Commission. That is consultation to make sure that we are delivering for small business. I want to now turn—and I appreciate that the Senate has a lot to get through—to some of the matters that Senator Stephens referred to.

Senator George Campbell interjecting—

Senator RONALDSON—I am happy to give Senator Campbell a briefing on this bill after this, because he clearly knows nothing about it at all. I thought it was interesting that Senator Stephens was talking about cartel conduct. The Labor Party’s pious amendment said:

(4) condemns the Government for the failure to legislate for gaol terms for serious cartel conduct ...

Guess what Senator Stephens did in relation to the Dawson bill? The Australian Labor Party opposed it. What did the Dawson bill have in it which the Australian Labor Party opposed? It increased the penalties for cartel conduct. This brought increased penalties of ‘the greater of $10 million or three times the value of the benefit it and any related body corporate derived from the cartel or, where that value cannot be determined, 10 per cent of its annual turnover’. Senator Stephens stands up here and talks about cartel conduct, knowing full well that we are just about to address that. She comes in here having opposed a bill that would have strengthened this provision. What an extraordinary approach.

Senator Ellison—Totally.

Senator RONALDSON—Totally, as the Minister for Human Services said. I would now like to turn to the matters raised by Senator Stephens in relation to the Federal Magistrates Court, particularly section 46 of the Trade Practices Act. From the evidence given to the committee, it is interesting that, in relation to these matters, there seems to be a notion, an assumption by some, including Professor Zumbo, that there are no costs associated with appearing before the Magistrates Court. This was the secondary boycotts matter we were inquiring into recently. There
is a notion that you can just run off to the Federal Magistrates Court and have a duty solicitor there and it does not cost you anything—and they can do exactly what the Federal Court can do and exactly what the ACCC can do. What a load of patent nonsense! There were costs associated with all this.

In 2006 we amended the Trade Practices Act to enable the Federal Magistrates Court to consider unconscionable conduct under part 4A of the act and the contravention of industry codes under part 4B, which has obviously assisted small business in bringing these actions in court. This includes the ability of the Federal Magistrates Court to accept evidentiary findings, as permitted under section 83, in relation to matters for which it has jurisdiction. Senator Stephens also referred to creeping acquisitions. The Dawson review examined this in detail and concluded that section 50, in its current form, is adequate to enable the ACCC to consider creeping acquisitions. There is nothing in the wording of section 50 that would permit a merger acquisition of any size that would result in a substantial listing of competition in the market.

My other colleagues want to talk on this bill so I will not continue much longer. But what I will say to the Senate is that this is part of a comprehensive package of amendments to the TPA that this government is frankly quite proud of. We had the Dawson act, the Trade Practices Legislation Amendment Act (No. 1) 2006, this bill, the cartels bill, the Trade Practices Amendment (2006 Measures No. 2) Bill and the secondary boycotts bill. Of course, we have the cartel matter as well. This is a comprehensive approach to an issue that has been here for a long time. Our commitment to small business is clearly evidenced by the ministry. The last Labor government did not have a minister for small business until, from recollection, five or six years into its term. What a remarkable legacy that is.

_Senator George Campbell interjecting—_

_Senator RONALDSON—_While we are talking about legacies to small business, because I have been provoked again by Senator Campbell and I feel duty bound to respond—

_The ACTING DEPUTY PRESIDENT (Senator Troeth)—_If I were you, I would not, Senator Ronaldson.

_Senator RONALDSON—_Okay, Madam Acting Deputy President. I think I know what Senator Campbell is thinking and I am going to respond to that. It is obvious to me that Senator Campbell is thinking about interest rates. It is obvious to me that he heard Senator Sterle yesterday—and I hope Senator Sterle is listening. Senator Sterle corrected one of our ministers, who suggested that interest rates had only got to 18 per cent. To his great credit, Senator Sterle interjected: ‘No; it was 22 per cent.’ I have found in my dealings with Senator Sterle a refreshing honesty. So this is your legacy to small business.

_Senator George Campbell interjecting—_

_Senator RONALDSON—_Senator Campbell, I do not expect you to understand this, but for small business during the enforced recession of the Australian Labor Party—and you would not know this, Senator Campbell, because you are not a small business advocate; you, of course, like your colleagues—

_Senator George Campbell—_Madam Acting Deputy President, I rise on a point of order. Again, Senator Ronaldson is attributing things to me. I do not know whether he is right or wrong but I do know a fair bit. I have been around a long time and I do know that the only time we had a wage freeze in this country when workers suffered a decline in living standards—
The ACTING DEPUTY PRESIDENT (Senator Troeth)—Order! That is not a point of order.

Senator George Campbell—I know it is not, but I just make the point.

The ACTING DEPUTY PRESIDENT—That is not according to the Senate rules of debate, so there is no point of order.

Senator RONALDSON—I presume, from where Senator Campbell is sitting, that he is a member of the Australian Labor Party. I think that is a reasonable assumption, isn’t it?

Senator George Campbell—For 42 years!

Senator RONALDSON—Terrific. I am glad that you acknowledge that, because I was talking about you before, my friend, when I said: we have never pretended to be a small business party—the Labor Party of which you are a member, Senator Campbell. I am not attributing something to you that you are not part of. You are part of the Australian Labor Party and that is what was said. You have never pretended to be a small business party.

But small business does remember 22 per cent interest rates plus, as do those whose businesses that were marginal, paying upwards of 24 or 25 per cent. That was your legacy to small business. Your other legacy to small business was high inflation. But the best legacy you gave to small business, which you have reintroduced in your so-called changes to IR in relation to small business, is the proposal that you keep those unfair dismissal laws which have destroyed small business in this country.

In the last 15 months there have been close to 410,000 jobs created in this country—some 86 per cent plus of which are full-time jobs. As for the comments of the Australian Labor Party that this is all in the mining sector, that is absolute bunkum. A substantial amount of this new employment has been driven by the renewed confidence of the small business sector in their ability to hire. That has been directly responsible for the enormous job growth. You gave this country part-time work and 18 per cent unemployment. We have given this country in the last 15 months an extra 400,000 jobs and an unemployment rate of 4.3 per cent.

Senator George Campbell—And part-time wages and no security of employment.

Senator RONALDSON—In four decades we have not seen this level—and you have got the gall to stand up here and constantly interject. I just wonder whether Senator Campbell might be feeling a tad guilty, because he has not stopped interjecting since I started. If you like, I will go through—

Senator George Campbell—Because you are a bully!

Senator RONALDSON—Senator Campbell is calling somebody a bully! That is breaking new ground—

The ACTING DEPUTY PRESIDENT—Order! Senator Ronaldson, would you address your remarks through the chair.

Senator RONALDSON—Thank you, Madam Acting Deputy President, I will. I think that it is Senator Campbell that is a bully. I distinctly remember playing golf with him when he forced me to play a lot quicker, and I was bullied by Senator Campbell. If you look at what this government has done for small business—and obviously lower interest rates have been extraordinarily important for the small business sector—we have reduced company tax from 36 to 30 per cent. There were reductions in personal income tax rates in the last four federal budgets—tax changes that you would never deliver because you have never been committed to lower taxation. We have reduced tax compliance particularly through streamlining
the simplified tax system, BAS lodgement and GST compliance with the raising of the annual turnover thresholds for registration for the GST from $50,000 to $75,000 for business. We have established a dedicated $50 million Regulation Reduction Incentive Fund to reduce the red-tape burden imposed on small business by local government. This will save small business over $450 million in time and money. We made workplace relations simpler and easier—

**Senator George Campbell**—You certainly made it easier!

**Senator RONALDSON**—We took the yoke of unfair dismissal from the neck of small business, and they responded, as Senator Campbell will see if he reads the Econtech report. If the Australian Labor Party is proud of an increase of 1.4 per cent in interest rates, if the Australian Labor Party is proud of a loss of 360,000 jobs, if the Australian Labor Party is proud of a significant reduction in GDP, then you go ahead and make your changes. Then you can come back to the Australian people again after you have destroyed small business and you can apologise. The Australian Labor Party has never been a friend of small business. This legislation is just part of a package of support for the small business sector, which we have always supported and will continue to support.

**Senator JOYCE** (Queensland) (9.29 pm)—I would like to start by acknowledging and thanking some people who have been involved with this piece of legislation. I acknowledge that the legislation has taken a dramatic step forward, although in the past I thought that this would not be the case. The first person I would like to thank is the Treasurer. He has listened. I will be so presumptuous as to term the government amendment ‘the Birdsville amendment’ because that is the town in which it was devised. It was devised in a motel room whilst I was travelling out to the west of Queensland. Taking that on board was a great step forward, not just for small business in Australia but for the way in which small businesses throughout the world assess market share.

I would also like to thank the Senate Standing Committee on Economics, which I see as a very informed and bipartisan committee. It works very effectively on some of these more complicated pieces of legislation. The members generally have their hearts in the right place. I would like to thank my colleague Senator Boswell who, for as long as he has been in this place, has been a fighter for small business. I hope that Senator Boswell sees this legislation as yet another endorsement of his career in working for small business. Senator Boswell and I—being National Party senators from Queensland—have been working with small business to try to get a better deal.

I would like to acknowledge Senator Murray from the start. This legislation, which we all know he has an extremely strong connection to, will possibly be one of the last pieces of legislation he deals with. Senator Murray has been one of the most diligent and hardworking senators to have graced this chamber. If you want an expert on this issue and if you want someone who will go through the fine detail and who is always a gentleman in the way in which he deals with other people doing committee work, then Senator Murray is a pretty good exemplar. I would like to acknowledge the effort he puts in.

Finally, I would like to acknowledge the support of all colleagues but especially my National Party and Liberal Party colleagues, who have put up with what they would see as my irrational and threatening behaviour at times in trying to get a better deal. There are
some people who have said tonight that they believe this legislation could have gone further—that will always be the case—but they must agree with what we have. It is always easy to say we should have gone further and not acknowledge the point which we have reached. The point we have reached is a major step forward. I know it is major step forward because people such as the Australian National Retailers Association—who inform me that they were founded in 2006 to become the voice of large-scale retailers in Australia—have big problems with my amendment. That, for me, is a great endorsement.

We have to look after small business. Small businesses encapsulate the freedom of living in this nation—the freedom to go into business, to be master of your own ship, to determine your own destiny, to profit by the sweat of your brow and by so doing to espouse that freedom in the way you think and the way you act in society. Small business is the absolute seedbed from which the freedom of democracy is built. You have to make sure that you keep looking after that seedbed so that you keep the ability for people to enter at the ground level and prosper.

One of the things that the Australian people have spoken loudly on—whether it be on the Alan Jones show; Today Tonight; Leon Byner’s show, in South Australia; or Steve Austin’s show up in Queensland—is the fact that the scale has tipped too much in favour of big business. That needed to be addressed. In this legislation we are addressing that. We are taking that issue on board. There is a substantial change here. The substantial change is to do with the assessment of predatory pricing and the move to ‘significant market share’ and away from ‘substantial lessening of competition’.

I just want to run through those two terms because they are very important. The ‘substantial lessening of competition’ test, as Senator Stephens pointed out, was the premise that you had to prove that someone had the ability to put up prices without losing market share. Unless you could pass that test you could not proceed with a predatory pricing case. The only people who can put up prices without losing market share are monopolies. That issue had to be addressed. In this legislation and the amendment that the government has put forward that issue is addressed. We are now moving to a completely new definition which says that a corporation that has a substantial share of a market must not supply goods and services for the purpose of eliminating or substantially damaging a competitor, preventing the entry of a person into a market, or deterring or preventing a person from engaging in competition. To put that in another way, a big supermarket cannot drop its price below cost to put the corner store out of business. A big liquor distributor attached to a big supermarket cannot drop the price of a case of beer to a level that puts out of business every bottle shop in town. That is now illegal, and that is a major step forward.

Some people say that it is going to be the end of discounting. What a load of rubbish! When you do it with the motive of destroying small businesses—those mum-and-dad businesses which are the cornerstone of our economy and which encapsulate the aspiration of freedom to advance within Australia—then you are breaking the law. That is why this amendment, and this legislation, has been so well received today. It has been unanimously well received, whether it was on the Alan Jones show, Leon Byner’s show or the ABC in Melbourne. People have been looking for this and this is a dramatic step in the right direction for the protection of small business.

The other issue that is dealt with is the conjecture that has surrounded the recoup-
ment test. The recoupment test is the belief that you have to prove that the person who put you out of business is going to put up the price to recoup the loss that they incurred in that action. It has never actually been defined, but it has morphed into that through the actions of the court. The explanatory memorandum in this bill clearly deals with that issue, and no doubt we will be hearing about that in the second reading speech as well. That is something that needs to be put to bed, because it was one of the problems that emerged from the Boral decision in 2003. That issue has hung around and stymied—in fact, not stymied but completely stopped—predatory pricing cases. There have been no successful predatory pricing cases since the 2003 Boral decision. If we believe in predatory pricing, we must believe in dealing with the issues that have stymied the progression of those cases, and this deals with them.

This bill reflects hard work and the aspiration of democracy. Certainly within the National Party—I am not fully aware of Liberal Party resolutions; I imagine they have been the same—there have been unanimous resolutions from our state conference in Queensland that started on the ground and said people wanted this issue dealt with. When the democratic process of the state conference indicates they want an issue dealt with, you have the responsibility when you get yourself to Canberra—if you are so lucky as to have the honour of representing your nation—to try and progress it, to try and pursue the issues on their behalf. It is good to be able to go back to your membership of the National Party in Queensland and say: ‘You’re a member of a political party because you want to see change. You asked for change, and here the change is.’ It reinforces that sense of democracy, certainly within my party, the National Party, but also within this nation, and says that aspirations for change, when you take them through a political forum, can be achieved.

In the future we know that cartel issues are going to be dealt with. That issue is coming forward. People have mentioned other things. In the future I suppose it would be good to see a move to deal more effectively with divestiture. We do have divestiture powers, but they are only very temporary—just after any merger or acquisition. If divestiture powers are enhanced in the future that will be yet another move that will assist small business. I acknowledge what Senator Murray says, not so much for the wish to use them, because they are a very heavy instrument, but just for the fact that they are there. That puts people on notice that if they play up they will be broken up. They have them in the United States and other countries, and they are something that over time we should certainly move towards in this country.

Creeping acquisition is another issue that in the future we should seriously consider. Creeping acquisition is not to make a major purchase of another organisation but to increase your market share bit by bit over a period of time. That also needs consideration in the future. I acknowledge the movement that the Treasurer has made on this issue, and I also believe in being honest with the people. We talk about just terms and the terms of the deal. The terms of the deal are that we get a major move forward. I will be supporting the government’s amendments and I will not be supporting any others, because that is a fair outcome for this issue. I hope that everybody acknowledges just how seminal this legislation, especially the government amendment, is in changing the anticipation and assessment of the corruption of big business in pushing small business out of business. This is a statement, which I believe will speak to the conservative core constituency, that we believe in their aspirations above all others. We believe in the aspirations of the
small business person above all others, because we know that once that aspiration is taken out of the economy, once the prospect of being your own master is squeezed out of our society, the tenets of a range of freedoms are lost.

It might be a joke, but I use the example that even Jesus Christ, when he was looking for disciples, went and found small business people. He went out and found fishermen. Even just looking at that as an example, he found people who had the freedom to make their own decisions on whether to stay or go; they did what they wished. It is a very important point. I do not know how he would go if he turned up today and he had to stand at the back of a queue at a major bank and scream to people to listen to a message. That is also part of why I have such an entrenched fervour for the protection of small business. It is a key thing that we need to look to.

Within the National Party there is one thing that is unique about all of us, every senator who sits in here. We are all small business people, the whole lot of us: I was an accountant, Senator Nash was a farmer, Senator Scullion was a fisherman and Senator Boswell was a paintbrush salesman. That is where he came from.

Senator Boswell—A superb one!

Senator JOYCE—A superb one! Senator Sandy Macdonald was also in farming. They were all small business people. People say, ‘What is the core ethos, a similar tenet, that runs through the whole lot of you?’ It is small business. You have to protect small business because they are so damned busy trying to look after their own businesses that they do not have the ability to have lobbyists walk up and down our corridors. They do not have the money to put on marvellous gala functions so you can swan around all night. All that they rely on is your intent, your goodwill and their belief that you will go in and fight for them. Probably the best support that they can give you is to turn up to a function in Brisbane, Cairns or out at Longreach, and that is about as close as it gets. They rely more than most on the good nature of this chamber to do the right thing by them. Big business has big pockets to fund strong lobbying positions in this building, and that is why we must always be mindful of small business.

As we go forward, I hope that this ‘Birdsville amendment’ is something that people will reflect on and think that there was a change that came about, and that when people go to Birdsville, amongst other things like going to the races, they will say that this is where a new stage—not the complete stage, not the panacea, not the be-all and end-all—of looking after small business started. That would be another part of the intrigue of how these issues are pursued and how they get somewhere.

Finally—and I hear some people denigrating me, which I do not think is needed—I would also like to acknowledge the support and the hard work of Professor Zumbo. I do not feel that he is welded to any political group. I believe that he has a belief in small business. When I read him in the Australian Financial Review I see that he understands legislation and the Trade Practices Act like nobody else I know. That does not mean that I agree with everything that he says—I do not—but I think that he has been a great advocate for small business. I thank the Senate and hope the Senate gives strong support to this bill—I know it will—and to the amendments. I look forward in the future to progressing other issues pertaining to small business.
Senator BOSWELL (Queensland—Leader of The Nationals in the Senate) (9.47 pm)—This is a big day for small business. The amendment that the government is putting through, and which has Barnaby Joyce’s fingerprints on it, is one of the biggest breakthroughs for small business that I have seen in my time in parliament, and it deserves the support of all senators. It would be absolutely churlish of anyone to say that this has not gone far enough. I do not believe that. This is just about the panacea for small business. It is very important because, as Senator Joyce has said, if we want an egalitarian society—which Australia is well noted for—with a bit of poverty on one end and a bit of wealth on the other but with an overwhelming middle class, then that has to be supported by a strong small business community. Whether it be retail trade, engineering, manufacturing or whatever, small business definitely underpins the egalitarian society of this nation.

My view has always been that you have to have competition—it is healthy for the consumer and it is healthy for the economy in the long term. If we have manipulation or control of a market by one or two larger players, without competition and without competition being provided by small business, it will eventually lead to higher prices, less range, less innovation and less opportunity for producers to sell their products. We have seen a number of trade practices amendments come through this house over the past few years, and we have always tried to maintain that balance. We amended the Trade Practices Act in 2006 with the Dawson reforms, which introduced a faster, cheaper system of collective bargaining for small businesses with their suppliers and buyers and provided them with a new formal merger process which big business had been asking for. That was when this legislation became a goer and was supported in this chamber. After the Dawson reforms there was agreement on the legislation that came through this chamber to amend section 46. But those changes were not as significant as the changes that we are making today.

In my 24 years in the Senate, there has been no more contentious issue than the misuse of market power under section 46 of the Trade Practices Act. Misuse of market power is where a business holds an advantage in market power over its competitors and uses that market power to unfairly compete with other businesses. A classic example of that was the Boral decision. That was where the whole of section 46 changed and got out of whack. Boral undercut a particular block maker—I was involved in this—and the block maker went to the ACCC. The ACCC took Boral to court and Boral won; the ACCC appealed and won. Boral then took the ACCC to the High Court and won, and then the whole of section 46 was knocked out of whack. Since that time, as Senator Joyce and others have said, there has not been another predatory pricing case before the ACCC.

So this amendment will bring back the balance in the misuse of market power. I will just explain what it means. A classic example of misuse of market power is the practice of predatory pricing where a larger competitor prices a product or service below cost price for a sustained period for the purpose of driving competitors out of the market. Predatory pricing can end in ruin for the targeted business or in the bigger company buying the smaller company out and absorbing it, often burying the innovation and the new technology it had begun to produce—a new product, design, production or method of operation.

That is exactly what happened in the Boral case. A particular brickmaking operation designed a new machine which worked three times as fast as previous ones and was able...
to reduce the cost of the Besser blocks or whatever. Then Boral decided to take them on. To cut a long story short, Boral ended up buying this particular brickmaker out after trying to predatory price him out of the market. Predatory pricing and other misuse of market power actions to drive out a competitor are poison for the Australian consumer. Not only do they reduce competition in the marketplace, which we aim to encourage and promote, but they also reduce innovation and the essential search for business efficiencies, which have been the hallmark of small businesses forever.

Small business remains an integral part of the Australian economy. Certainly, it has an importance for rural and regional areas, where it is the backbone of local communities and towns. It is the employer and contributor to the local footy club, the local scout group. Small business is always good for a touch: when the scouts, the football club or the basketball club come around, the first port of call is the local shop and it is always good for a donation. So it is very important to the National Party.

You cannot expect business just to be there; it has to grow from something. It just does not become big business overnight. Big businesses start from a seed; an oak tree grows from an acorn. The existing legislation envisages that new, internationally competitive business will just come into existence without encouraging, nourishing and providing fair protection for small business not only in the regions but also in the cities. It just will not happen. We have an effective trade practices regime that relies on three basic premises. One is effective merger laws and we have those. In 1986 the Labor Party changed that. When Chris Schacht was the Minister for Small Business, I asked him to change the merger laws. He was a great mate of mine, and I said to him, ‘Chris, you’ve given Keating 23 votes; call in your IOUs and change the merger test.’ And that is what he did. He was a great believer in small business, and we were great mates. I said to him at the time: ‘You cannot just create small business; it has to grow. You cannot just have a monopoly test’—and that is what we had. You had to have a monopoly before section 46 would cut in. We changed that act to say, ‘You cannot substantially lessen competition in a substantial market.’ It was called the Chris Schacht amendment. I always claim victory for that, because I said to him: ‘Chris, you’ve just given Keating 23 votes in his leadership challenge. He is now the new Prime Minister, call your IOU in.’

We have effective merger laws and we have effective laws against cartels and pricing. We have very effective laws against predatory pricing and the misuse of market power, as a result of corporations possessing substantial market power. I do not believe you can go any further than this amendment. Small business must think it is Christmas today. We have negotiated and dealt with changes to the merger process through the Dawson reforms. We have maintained the strong mergers test in section 50 of the Trade Practices Act that Chris Schacht and I concluded to bring forward, which states that you cannot lessen competition in a substantial market.

We have a strong law and penalties against cartel behaviour which have been further strengthened under the coalition government, and legislation is imminent to strengthen them even further. The Treasurer has recently introduced a bill to allow the ACCC to take court action to access compensation for victims of secondary boycotts, and now we are going to revisit section 46. Section 46 must be available as a working remedy for small business in a form which reflects the intention of the 1986 test. The intention of the last change to section 46 in 1986 was to ensure that it was not just a mo-
hopoly business that could be prosecuted for misuse of its market power under the Trade Practices Act—and full credit to Mr Duffy, who I think was the Attorney-General at the time. I had an interesting interlude with Mr Duffy. I said to him, ‘You have to be able to get a small business to grow.’ He said, ‘You’re right; I can never buy Bulla yoghurt in the shops and I love Bulla yoghurt.’ I said, ‘That’s because Bulla is small and it can’t get on the shelves, and Bulla will be bought out if you don’t change section 46.’ Bulla yoghurt was one of the mediums that we got section 46 changed through.

However, the High Court decision in the Boral case changed all that and knocked it back. I raised this issue time and again in the party room with Senator Brandis, who is a noted trade practices lawyer. The Brandis committee was set up, which Senator Joyce has given accolades to. It brought down recommendations, and that is how this legislation came before the House. A number of us in the party room kept raising this issue, saying: ‘Since the Boral decision, section 46 is rendered useless. You have to be a monopoly.’ It is almost like Qantas attacking Cairns Air with two Barons or something like that. That is an example of the way it would work.

Debate interrupted.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Troeth)—Order! It being 10.00 pm, I propose the question:

That the Senate do now adjourn.

Corio, Corangamite, Ballarat and Bendigo Electorates

Senator RONALDSON (Victoria) (10.00 pm)—I want to take a sweep through country and regional Victoria. I want, as the time allows, to talk about the seats of Corio, Corangamite, Ballarat and Bendigo, as it is interesting to look at them. I will start with Corio because it is one of the patron seat areas. The Liberal Party candidate is Angelo Kakouros, a very successful small businessman, and one of the ALP candidates is Richard Marles. Richard is an assistant secretary of the ACTU, so he joins other imports from the ACTU that are coming into the Australian Labor Party. Of course the other player in that is the sitting Labor Party member, Gavan O’Connor. Mr O’Connor and Mr Marles have been having a ding-dong battle for about two years. I have not got time to go through all of the clips from the Geelong Advertiser and the Geelong Independent tonight, because they are far too numerous, but they indicate the unworthiness of Mr Marles to represent the people of Corio. He has been accused by branch members of being a branch stacker. He has been accused by his former girlfriend of being a branch stacker. Indeed, in the Geelong Advertiser on 26 January 2006, under the heading ‘Former lovers in stack spat’, Roxanne Bennett and Richard Marles were going at it hammer and tongs in the paper in relation to whether he had or had not branch stacked. I want to go back to the Geelong Advertiser of 12 March 2005. It reports:

Disenchanted Labor Party members yesterday labelled as farce an inquiry into allegations of branch stacking in Corio after news its findings would be kept from the public.

The inquiry will be completed by the end of April after members within the federal seat of Corio petitioned the state administrative committee with claims of branch stacking.

The allegations came after speculation ACTU assistant secretary and Labor Unity member Richard Marles would challenge incumbent non-aligned Corio MP Gavan O’Connor for the seat before the next election. Mr Marles says the speculation is unfounded.

So Mr Marles was out busily branch stacking, denying he was going to try to unseat Gavan O’Connor, the member for Corio.
Gavan O’Connor, quite rightly, has significant support from people such as Simon Crean—indeed, strong support from Simon Crean—and there are other Labor luminaries who support him, whereas Mr Marles is supported by Dean Mighell from the ETU. Dean Mighell of all people supports Mr Marles; a colleague of Mr Marles is Dean Mighell—with friends like that who needs enemies?

I will sweep through to Corangamite. In Corangamite we have a gentleman whom I know from Ballarat by the name of Darren Cheeseman. In 15 or 20 years time this young man might possibly make a member of parliament. The best I can say is that he is toilet trained but I think he probably still wears a night nappy.

Senator Moore—Mr President, I rise on a point of order. I do think the last comment should be withdrawn. I actually do think the last comment reflecting on the gentleman should be.

The PRESIDENT—Senator Moore, if a person is a candidate he is not actually a protected person.

Senator Moore—No, it is the actual phrase, Mr President. I am saying I do not think the phrase about toilet-training is a professional statement.

The PRESIDENT—Senator Moore, I do not believe there is a point of order.

Senator RONALDSON—So we have got Mr Cheeseman from Ballarat coming into Corangamite to take on Stewart McArthur, a proven performer, and Mr Cheeseman will be dispatched back to Ballarat. Speaking of Ballarat, the Liberal Party candidate is Samantha McIntosh, who is receiving good advice from a wide range of people.

Senator Chris Evans—Who was the former member?

Senator RONALDSON—If my memory serves me rightly, it had a very distinguished and hardworking member—and thank you very much for the interjection. While we are on Ballarat, we have Samantha McIntosh, another small business person, and the incumbent member, Catherine King, one of the EMILY’s List sort of leading lights. We saw in the last two weeks behaviour that I have never seen in my life in politics.

The Leader of the Opposition in the Senate referred to my time as the member for Ballarat. I can tell you that I had four Labor candidates running against me, and we acted as decent human beings. It was tough and it was rough but I tell you what: it did not sink to the levels that Catherine King sunk to two weeks ago. She ran an ad against Samantha McIntosh that broke all the rules. Then, having got a massive community backlash, she started to backtrack and she started invoking the name of the Leader of the Opposition as a peacemaker.

I think it is unlikely that Mr Rudd would have intervened, but he may have because he knows that this was a low act. You have never heard any member of this government commenting on the Leader of the Opposition’s wife—and, quite frankly, nor should we. What she does is entirely her business, and we would not reflect on that.

Senator McGauran—Unlike Catherine King.

Senator RONALDSON—As Senator McGauran says, ‘Unlike Catherine King,’ who took it upon herself to viciously attack another candidate. She stands condemned for that. It is interesting to look at the pages of the Ballarat Courier and see where, all of a sudden, having realised that she is facing a massive backlash, her office are frantically sending letters to the editor and anyone who has even thought about voting for the ALP in the last 15 years. Letters have been shoved in to try to defend the indefensible.
If Mr Rudd did intervene—which I think is highly unlikely—he should also have had the intestinal fortitude to drag her screaming and make her apologise for her behaviour in relation to the advertisement. I think we all get involved in the rough and tumble of politics. If you play it hard, you expect to get it back just as hard. But, when you start attacking someone personally with information that does not stand up, I think it is a very low point.

Finally, I will swing to the federal seat of Bendigo. Again, in Bendigo we have standing for the Liberal Party a person with small business credentials. Again, we have someone who can adequately and properly represent the people of Bendigo—as Samantha McIntosh can represent the people of Ballarat, as Stewart McArthur represents the people in the electorate of Corangamite and as Angelo Kakouros will represent the people of Corio. There is a clear choice. It is either a collection of union and other hacks or people with a small business background who will represent appropriately and properly the people of those electorates.

National Blood Donor Week

Senator MOORE (Queensland) (10.10 pm)—As an ex union official, I will be speaking this evening about National Blood Donor Week. This week, from 10 to 16 September, is National Blood Donor Week—and it was launched today at Parliament House. A number of politicians attended the lunch. The major feature was the role of youth in raising awareness in our community about the importance of blood donation. They showed what they were doing as young people to encourage more young people to become lifelong donors and help other people in their communities.

At the launch we had the opportunity to hear the young people’s stories and to see a new video which is, hopefully, going to be circulated to all schools in Australia. The video gets across the quite simple message that giving blood is something that is worth while and it does not hurt too much. That was focused on a lot, because there are still many people in the community who are afraid of giving blood. One in three Australians will probably need to have access to a blood donation in their life but only one in 30 people donate blood. So it is a straightforward mathematical exercise.

The stories that were shared today by the young blood ambassadors, the Youth Ambassadors, from all states and territories will be part of the national program. Naturally, being from Queensland, I want to talk about the Queensland ambassador. Christopher Nobile, from Ignatius Park College, Townsville—a school I know quite well—is the Queensland blood ambassador. He came down from Townsville with his mum, Karen, for the launch. Christopher’s story is, I think, particularly valuable. He is a senior student at Ignatius Park College, which already has a well-established program of blood donations over many years. Iggy Park has always celebrated this aspect of community service. Christopher asked me to particularly mention one of his teachers. I always think that is a particularly brave thing to do. He asked me to mention Mr Dennis McCloskey, who has been supporting the program at Ignatius Park.

At this moment at Iggy Park 140 donors donate blood every month when the mobile van comes to the school. Students, teachers and workers at the college give up their time and take part in what I think is a wonderful community service. Christopher’s own story has been enhanced one step further. Not only is he a regular donor and encourages other students at his school and other schools in the region to take part in this process but he also had the opportunity, through Ignatius Park College, to visit South Africa earlier
this year. He shared his story with us and told us that meeting so many people in Africa who were suffering from blood diseases—particularly HIV and AIDS related illnesses—gave him an even greater insight and encouraged him to come back to Australia and work with other young people and families. One of the major successes of the program has been that Christopher’s mum, Karen, has now become a donor. She told us at the lunch that her son’s experience gave her the impetus to decide to become a blood donor—so, in fact, the message is already getting across.

After this week, Christopher and the other ambassadors—who came from all states and territories—are going to visit schools and talk with young people about what it means to give blood. To coincide with National Blood Donor Week, the Australian Red Cross Blood Service released research findings on the feelings of the 16 to 24 age group about giving blood. The research talked about what stimulates the interest and also what the fears are. We talked today about a fear that I think a lot of us could understand—the fear of having a needle. The thought of having a needle is something that does scare people. The Youth Ambassador from South Australia, Sam Miles, talked about his own experience. You would understand, Mr President, being from South Australia. Mr Miles is quoted in the publicity as saying: The thought of the needle did freak me out at first, but when I made my first donation I realised it didn’t hurt at all! And best of all I was able to help save up to three lives.

It is a very straightforward message and the blood bank is now going to use that message: part of their program is going to be, ‘It doesn’t freak you out.’ When we were talking today at the lunch, Nicola Roxon, who is the shadow minister for health from the Labor Party, talked about whether there was being a little bit inconvenienced, to being a little afraid, to being actually freaked out by the whole concept.

We can talk about these issues, but I think it is particularly valuable when you have the young ambassadors themselves talking to their peers. It is particularly effective when they can say what it was like from their own experience. Each of the young people today was able to explain what stimulated them to make the first decision to give blood, and there were a range of experiences. Some of the kids came from families where there had been illness and they had actually seen the immediate need for blood donation. Some were caught up in talking about the issue and part of the decision was to become part of a community service, because the key aspect of giving blood is that, by giving blood, you are helping others. That is the major message.

This year we have been thinking about the need for more blood donation. There has been significant publicity about the urgent need for more donors in our community. Earlier this year, the blood bank launched the 4 Seasons program, where they were grabbing individual stories about people who were the beneficiaries of blood and about what it meant to their lives to be able to receive a blood donation. Today at the lunch we met Marnie, who is the face of the 4 Seasons program at this time. She is a young 13-year-old girl who received red blood cells and platelets because she had a tumour in her left ankle. Her own experience is so confronting—she spent many months in hospital; she has had her limb amputated and is rebuilding her life. We found out today that she wants to be an anthropologist in the future, which is really exciting and a lot of hard work. She is saying that the experience of other people who are choosing to become regular blood donors has made an immediate difference to her life and has allowed her to rebuild and
get through significant ill-health, and now she has a future. And she has chosen to be a part of the 4 Seasons program and give her face to it as part of the online experience for blood donation promotion.

We have the opportunity through events like the awareness week for people to share stories. There are celebrations in most states this week of significant achievements of blood donation. There was one gentleman today at the lunch who had given blood over 300 times. I think for most of us that is a number that we could only sit back and be amazed by. Nonetheless, the officials from the blood bank can trace the immediate impact of each of those blood donations, so, when you give up about an hour of your time on a regular basis, that can translate immediately to people having greater hope and making life-saving gains. The blood bank has been using this promotional technique and personalising the experience so that it is not just something you can put aside and think about later; it is something that can make a difference today. I think that there is a challenge for all of us.

Tony Abbott, today, was able to announce that the government has given money to designate 2009 as the Year of the Blood Donor, and the government will now provide $2 million to the Australian Red Cross to support this initiative. The year 2009 marks the 80th anniversary of the provision of blood transfusion and collection services in Australia. It is the aim of celebrating 2009 as the Year of the Blood Donor to encourage more people to become donors. We know and it is a well-known fact, I think, amongst most people in the community that more than half of the population will need blood or some blood product at some point in their lifetime. What we can do, and something that we also know, is that many of us are able to provide a blood donation very easily. There are many people who, for various reasons, cannot, but that does not mean they cannot support the service. The Red Cross is seeking volunteers at all levels. They want the community to be involved. On behalf of Christopher, who is the Queensland young ambassador, we have a chance to listen to his message and, through 2007, we can become blood donors so that by 2009, when we have the national year, I think that we will be able to reach the targets that we have to reach to make sure that people like Marnie have the opportunity of a healthy future.

**Iraq**

**Senator ALLISON** (Victoria—Leader of the Australian Democrats) (10.20 pm)—Today is the anniversary of 9-11—of course, the illogical trigger for the attack on Iraq. It is also the day that General Petraeus told congress that the goal of a self-sustaining Iraq would be neither quick nor easy. He said that the military objectives of the surge are, in large measure, being met but that the violence is still at a troubling level and that Iraqi forces are sustaining tough losses. General Petraeus’s report was seen by the Democrats in the US congress to be compromised, but what is happening in the US is something that does not happen here in Australia.

Our Prime Minister admitted, just last week, that Australia went to war against Iraq for the sake of our alliance with the United States. Apparently this allows the government to avoid all scrutiny and blame for the disaster that is Iraq. It has no idea how many civilian deaths there have been over the last four years and has not asked. It did not make any attempt to verify the claims that there were no weapons of mass destruction and, just this week, we understand Israel warned America against attacking Iraq, saying that Iran was the real enemy. It is hard to believe the Australian government was not also told this and it did not bother to ask.
The United States Government Accountability Office reported this week that, of the 18 legislative, security and economic benchmarks that were established in January this year, only three were met, four were only partially met and the remaining 11 were not met at all.

As I understand it, the Iraqi parliament is no longer meeting, after 17 of the 38 members of cabinet walked out, including all the Sunnis and members from the two big Shia factions. It has yet to pass legislation the US wants, such as bills on ‘de-Baathification’—that is, allowing the Baathists back into government—oil revenue sharing, provincial elections, amnesty and militia disarmsments. The oil bill is one that gives global oil companies control over Iraq’s oil reserves and has been hugely unpopular in both the parliament and the public arena, generating yet more anti-US anger. The Iraqi government has not eliminated militia control of local security, has not eliminated political intervention in military operations, has not ensured even-handed enforcement of the law and has not increased army units. It cannot allocate and spend the $10 billion available for reconstruction.

All of this begs this question: do the Iraqi government have the capacity to do all this? They have inherited a country the invasion of which wiped out most of the infrastructure and which was then occupied. Sectarian violence is still killing people daily, ethnic cleansing occurs in neighbourhood after neighbourhood and their parliament no longer functions. Four million Iraqis have fled, including most of the teachers, doctors, civil servants and businesspeople. The number of Iraqi security forces capable of conducting independent operations has declined and the militias have not been disarmed. Australia stood by and watched the United States disband the Iraqi army, leaving 400,000 men destitute and no doubt very angry. But these were men who were trained as combatants and who were armed and dangerous. If they did not hang on to their arms, then insurgents probably did. The US lost 110,000 AK-47 assault rifles and 80,000 pistols that were supposedly supplied to Iraqi security forces. Australia and the UK were partners in this coalition of the willing and either they turned a blind eye to the stupid mistakes made in this ill-conceived invasion or their partnership had no meaning other than the political symbolism of being there.

The four years, the deployment of 162,000 US troops and the spending of nearly $370 billion have clearly not created an environment where all these benchmarks are achievable. It is fair to say that General Petraeus has been called in to find an acceptable way out of a disastrous situation. He says that, without risking the security gains of the surge, small reductions in troops would be possible. A unit of 2,000 marines could be sent home later this month, and the brigade combat teams could be out by August 2008. Petraeus did not, however, say how much longer the remaining 130,000 US troops would have to stay in Iraq in order to stabilize the country. There are of course an additional 100,000 contractors and thousands of military vehicles and weapons in 100 bases around the country.

There are 18,000 detainees held by US forces, most of them Sunnis. Unemployment and underemployment affect half the population, and oil exports were down to less than half the $55 billion that they were worth in 1980. The chief US diplomat in Iraq, Mr Brian Crocker, who analysed Iraq’s political state, told congress committee hearings yesterday that the political goals were attainable, but he too would not give a time line for success and acknowledged that the lack of progress was deeply frustrating. He said:
It is no exaggeration to say that Iraq is, and will remain for some time to come, a traumatized society.

According to an article in the *Financial Times* last month, there are no political institutions and no national narrative. Ministries are sectarian booty and factional bastions. The interior ministry, headquarters for several death squads, is partitioned into factional fiefdoms on each of its 11 floors, with the seventh floor split between the armed wings of the two US allied groups.

The Shia majority was empowered by the invasion, giving the sect—a dispossessed minority within Islam—rights denied them for centuries, but they have broken into factions now. The invasion has created large numbers of Shia and Sunni jihadists that probably did not need any assistance from Iran.

Writing in the *Los Angeles Times*, Tina Susman reports on Amil and Bayaa, two middle-class neighbourhoods of Baghdad where 160 bodies have been found since May—men tortured and shot. In these suburbs of Baghdad, Shias and Sunnis once lived happily together without conflict. The Sunnis have now been killed or driven out. The Iraqi security forces are complicit, according to residents, and the US forces are powerless to stop the violence. Scores of people have died in car bombings and others have been assassinated or abducted. The Shia militia took to the streets after the May bombings, which police and residents blamed on Sunni Arab militants. A loudspeaker on a Sunni mosque called for Shites to be attacked and bombs began appearing outside Shia homes.

The Iraqi army does nothing to stop these attacks. Residents say that they stay at checkpoints on main roads and do not go inside dangerous neighbourhoods. People who witness crimes are afraid to speak up.

This fear, mixed with bitterness over bombings, is turning everyone into silent conspirators. In these neighbourhoods there is no electricity, no running water and no means to buy fuel for their generators. This is the mess that is Iraq, and Australia has to share some of the responsibility for it. Doing more of the same for another four years will not work any more than it has over the last four years. Our government has no exit strategy and if it does not create one soon it will be left waving goodbye to the US troops as the pressure on the Bush administration forces a withdrawal. It has to be time to call in help from countries in the region and the United Nations. We need to start talking. We need to reach agreement on a way forward in the damaged country that Iraq now is.

**Water**

*Senator CORMANN (Western Australia)*

(10.28 pm)—Just over a week ago, I attended a meeting in Manjimup, together with the Liberal candidate for Forrest, Nola Marino, with about 100 farmers and landowners. Nola Marino is another one of those great Liberal Party candidates with a background in small business—she was a farmer in the Harvey area—and she will make a great contribution to this parliament after the upcoming election as the member for Forrest. The meeting was organised by the Manjimup and Pemberton landowners group and the office of the local state member of parliament, who also happens to be the state leader of the Western Australian Liberal Party, Paul Omodei. The reason I went along was to listen to the very serious concerns of farmers and landowners about the way the state Labor government in Western Australia has been implementing the introduction of water licence fees and the metering of dams.

By way of background, Manjimup is the largest shire in the south-west of Western Australia, covering an area in excess of
7,000 square kilometres. The area contains about 40 per cent of Western Australia’s potable surface water and is responsible for in excess of $150 million worth of agricultural production per annum. At the meeting, farmers and other landowners very strongly expressed their view that the way water licence fee arrangements were being implemented by the state Labor government was irrational, inequitable and unfair. Having listened very carefully to their case and assessed all of the information, I agree that what the state Labor government is doing is unfair to landowners in the south-west. There is also significant fear among farmers that this is only the start and that fees are likely to continue to rise rapidly on the basis of this irrational, unfair and inequitable starting formula. This of course would contribute to the increased input costs experienced by farmers.

The shire of Manjimup is the largest agricultural producer in the south-west and the fees could force farmers to move away from agricultural farming to farm plantation timbers, which would place even more pressure both on local water availability and on other regions to contribute to the state’s food bowl. What is particularly concerning is that the state government, rather than taking political responsibility for the unfairness they are seeking to impose on farmers in the south-west of Western Australia, are attempting to blame the federal government for what they are doing. Somehow, it is all about the National Water Initiative. Even though they have had plans for years to introduce these fees, now that the National Water Initiative has come along they are blaming the federal government because that is politically convenient. I was able to assure the meeting that, while there is provision in the National Water Initiative for water licence fees to recover the cost of the water licensing process, there is no provision which would require the state government to implement those fees in a way that was irrational, unfair and inequitable.

Incidentally, most landowners at the meeting did not disagree with the proposition that a fee was going to be charged. They understand more than most that water is indeed a precious resource, and they are prepared to do their bit. However, they strongly disagree with the way the fee is being implemented by Labor in Western Australia and with the fact that it is targeted at them while leaving a large number of other water users essentially watching them from the sidelines as they are being asked to pay the lion’s share. Indeed, the issue is not that water licence fees are being implemented but, rather, the inequity in the level of fees being imposed. Farmers who have used generational, strong water management processes are in effect being penalised by fees well above the average for other water users.

One farmer in particular became very emotional about it. He related the story of how his family had gone without for years to be able to invest in the construction of private dams on his property in order to add value to the property and, by catching rainfall, to make his contribution to the production of food for the people of Western Australia and Australia. Now he was being penalised and targeted by his state government. Where is the fairness in that? What about our principle of a fair go?

To give you a specific example of that unfairness, under the WA state government’s plan, landowners in Manjimup and Pemberton who have been licensed for 40 gigalitres of water from their private dams will end up paying about $6.40 per megalitre, while in the Ord River area the Ord River Co-operative, which has been licensed for 335 gigalitres of water, will pay only one $3,000 water licence fee, translating to less than a cent per megalitre. Simi-
larly, the fees levied on ‘irrigators’ in Harvey, where water is conveyed by either channel or pipe from public dams, appear incongruous when compared with fees imposed on farmers in Manjimup and Pemberton: 6c per megalitre in Harvey and more than a hundredfold greater, at $6.40 per megalitre, for ‘self-supply’ farmers in Manjimup and Pemberton who have totally self-funded the dam infrastructure responsible for catching the rainwater. Farmers in Manjimup have put millions of dollars into infrastructure on their own properties at their personal expense in an effort to drought-proof their farms and conserve rainwater. However, no distinction is made between fees on public and private infrastructure. Again I ask: where is the fairness in that? Where is the commitment to a fair go?

The fees as implemented by Labor in Western Australia appear to go well beyond what is required for cost-recovery purposes. As such, there is a view that most of the new fees essentially are nothing more than a new tax rather than cost recovery. In line with advice received from the office of the Minister for the Environment and Water Resources prior to the meeting, I was able to advise landowners in Manjimup that the minister was well aware of their concerns and that he had asked the National Water Commission to consider the Western Australian licence fee arrangements. I also understand that the state government has been put on notice by a number of state members of parliament that a disallowance motion will be moved in the state upper house in the near future with the aim of forcing the state Labor government to go back to the drawing board and come up with a fee arrangement that is fairer and more equitable. I have since met with advisers in the minister’s office and written to him urging him to consider very carefully what is happening in Western Australia. I look forward to the National Water Commission considering the Western Australian water licensing fee arrangements as a matter of urgency. Following on from that, I look forward to a statement in due course from the minister for the environment clarifying the Commonwealth’s position in relation to the state government’s approach to water licence fee arrangements in Western Australia.

Before concluding I would like to thank and congratulate Neil Bartholomaeus on the work he has done in supporting his community in their fight to achieve fairness and equity for farmers and landowners in the face of a state Labor government intent on getting away with picking off what they perceive to be a weak and politically convenient target. I would also like to thank our state leader, Paul Omodei, and my local state parliamentary colleagues who attended the meeting in Manjimup: upper house members Barry House, Robyn McSweeney and Nigel Hallett and the shadow minister for the environment, Steve Thomas. I thank them not only for their attendance at the meeting but for their ongoing commitment to helping resolve this issue in the interests of farmers and landowners in Manjimup and Pemberton. I also thank Kym De Campo for all her work behind the scenes in helping to make it all happen. Finally, a very special thankyou to our federal member for Forrest, Geoff Prosser, for his ongoing mentoring and advice not only on this important issue in his electorate but on many other issues as well.

Let me conclude. The easiest way to resolve this is for the state government to go back to the drawing board. We should not have to force them to do the right thing. We should not have to force them to come up with a water licensing fee arrangement that is fair, equitable and just—which would be the easiest way. I call on the state government to reconsider the way they are approaching this, but in the absence of that I look forward to the conclusions of the Na-
tional Water Commission and I look forward to coming up with a resolution that is going to be fair for the farmers and landowners of Manjimup and Pemberton.

Workplace Relations

Senator FIELDING (Victoria—Leader of the Family First Party) (10.37 pm)—Australians who want to send a protest vote to the government over Work Choices should vote for Family First, because it is the only party standing up for workers and small business. Work Choices will be the No. 1 election issue and, if the polls are correct, it looks set to cost the government its 11-year reign—and the government only has itself to blame.

It is understandable that many people want to punish the government for arrogantly dismissing their concerns. Those people should send their protest vote to Family First. From day one, Family First warned the government it was going too far with its radical Work Choices changes. Family First lobbied hard to restore basic working conditions which the government had taken away. Family First voted against Work Choices because it undermined family life.

Sad to say, it appears to Family First that the opposition’s approach is little different. It is extremely disappointing to read that a Rudd Labor government would also allow workers to give up conditions such as overtime, penalty rates for working public holidays, weekends and antifamily hours, along with trading meal breaks and rest breaks for more money. Public holidays and penalty rates are about family time, not about money, and they were never intended to be traded away for dollars. Sadly, neither of the major parties seems to understand this, as they both equate time with money.

Family First’s concern is family values and, as I have said, family values are about time, not money. Unlike the antibusiness Greens, Family First does not want to turn back the clock and rip up workplace laws, but Family First does want changes. Family First will seek guarantees on penalty rates, public holidays, working hours and redundancy entitlements for all workers. As we said on day one: no Australian worker should be forced to bargain for extra pay for working at 2 am or on Christmas Day.

Workplace relations—which is the way our workplaces operate, the hours we work and the way we are paid and protected—is a work and family issue. That is why Family First has played such a key role in the workplace debate, because Family First is the only party that stands for family values. Others talk about it; Family First does it. Our passion is families. Family life in Australia is under real threat today, yet it is the most precious thing we have, which is why we have to work so hard to rescue it and to rescue family life.

Sometimes, in the frantic pace of modern life, I think we can too easily forget how fragile our families are. We forget how much time and energy we need to devote to our families and to their welfare. Look at the pressures on families today. Working hours in Australia are high compared to those in other industrialised nations, and more and more Australians are working antifamily hours, often in casual jobs not of their preference. Increasingly, Australians are concerned about job security. Job security is so important because it provides peace of mind and allows families to plan for their future—perhaps to plan to buy a house, a new car, a dreamed-of holiday or even to start a family.

The combination of increasing work pressures and financial pressures due to the rising costs of petrol and groceries coupled with growing household debt creates a melting pot of bubbling tension at home that puts huge stress on relationships, marriages and
families. Antifamily work hours on weekends or evenings mean we have less time to spend with our families and children, which means everyone suffers. As much as possible, weekends and evenings should be precious family time. When our jobs interfere with that, children suffer, as mum and dad are not around. The simple fact is that children need to spend time with both their parents, and Family First strongly believes that the welfare of our children must always be our top priority.

Our No. 1 consideration when focusing on important issues like the workplace debate is: how will families and children be affected? We must do everything we can to protect and guard family time jealously and with no apologies. Every parent wants to spend more time with their kids, and that is natural. I am a big believer in having lots of time with your kids, because you cannot predict when the good and the bad moments will happen. Those moments are irreplaceable. No amount of money can compensate for them. Nothing can—just ask your kids.

Our culture should be one where we celebrate leaving the office to head home to our families and where we can celebrate our children’s achievements and take pride in being parents and putting our families first. We cannot afford to tamper with something as fragile as our families. Yet, sadly, too often our focus on families is not as strong as it should be. Instead, we become preoccupied with other things such as climbing the corporate ladder, securing that promotion and making more money. We need to constantly remind ourselves that we work to live; we do not live to work. Parents in the paid workforce should be parents first and workers second. There has to be a balance between parents’ obligations to the community to bring up their children well and the community’s obligations to help give parents time to do that important job. Governments and employers share a large part of that community responsibility.

As I have said, achieving a good balance between paid work and family life is a real and constant challenge for all of us, and too often family time is sacrificed for work demands. Family First believes the issue of balancing work and family is not about getting more people into the paid workforce or increasing their working hours; it is about finding a way for parents to do the best for their kids and to make ends meet without having to sacrifice so much precious family time.

Family First voted against the Work Choices legislation. That is because it removed guaranteed conditions, including overtime, penalty rates, meal breaks and compensation for working on public holidays. Family First introduced legislation to give back those conditions, to reduce the pressure on family life and workers and their families. Family First will continue to champion the real needs of workers and their families and the real need for workers to spend precious time with their families. As a nation we should be doing everything we can to strengthen our families, to encourage family formation and to support parents, who have the most important job of all—that is, raising kids.

**Budget 2007-08**

**Senator BARNETT** (Tasmania) (10.45 pm)—The federal budget, handed down by the Treasurer, the Hon. Peter Costello, on 8 May this year, provided $291.3 million over the next four years for the inclusion of two new attendance items in the Medicare Benefits Schedule. These are to commence from 1 November 2007. They will provide for lengthier consultations between patients with chronic and complex health conditions and the consultant physicians or paediatricians to
whom they are referred than has previously been the case.

Patients with chronic and complex conditions have two or more serious medical conditions simultaneously and with combined effect—for example, they have cardiovascular disease and diabetes, they have osteoarthritis and chronic respiratory disease, or they are children who are not thriving for any number of reasons. People with chronic and complex conditions are among the sickest people in our community. The number of Australians with chronic and complex conditions is steadily increasing as our population ages, but it is also due to the growing incidence of serious diseases among young Australians.

Consultant physicians and paediatricians are the specialist medical consultants to whom patients with chronic and complex conditions are referred for specialist attention. They advise the referring general practitioner, surgeon or other specialist on the patient’s diagnosis and management. Consultant physicians and paediatricians undertake many years of postgraduate training and have specialised knowledge, understanding and skill plus broad holistic understanding. They are particularly qualified to treat the diseases which have been identified by the Council of Australian Governments as national health priorities, which often feature in chronic and complex conditions.

Compared with the needs of other patients, the needs of patients with chronic and complex health conditions typically take longer for consultant physicians and paediatricians to investigate, consider and address. Until now, this difference has not been reflected in the Medicare Benefits Schedule. The new items 132 and 133 will go a long way towards remedying this longstanding and anomalous situation. These two new attendance items will provide Australians with chronic and complex conditions unprecedented access to the highly specialised medical care they need for optimum health outcomes. The implications are positive and wide ranging for patients with chronic and complex conditions, for the patients’ families and carers, and, not least, for consultant physicians and paediatricians.

In recent years the growth of Australia’s consultant physician and paediatrician workforce has not kept pace with the demand for its services. The supply and distribution of consultant physicians practising general medicine is a matter of growing concern, while many specialist appointments and training positions for consultative subspecialties are empty. Considering the duration and intensity of training followed by the skill, responsibility and complexity required to practise as a consultant physician or paediatrician, these subspecialties—including geriatrics, general medicine, renal medicine, rheumatology, haematology, endocrinology and diabetes, respiratory medicine, rehabilitation and cancer medicine—have become financially unattractive, particularly to potential trainees. For example, in my home state of Tasmania, the Launceston General Hospital has been underfunded by the state Labor government to the tune of $22 million a year. In terms of consultant medical staff, the Launceston General Hospital, I am advised by the relevant staff, needs one interventional cardiologist, one endocrinologist, two medical oncologists, one neurologist, one haematologist and an emergency medicine consultant. It is a great relief that our local federal member, Michael Ferguson, is standing up for the local community.

Senator Ronaldson—Hear, hear!

Senator Barnett—Thank you, Senator Ronaldson; I agree. He is a very fine member. Five thousand plus people rallied to support the Launceston General Hospital
only 10 days or so ago. I want to thank Alderman Rosemary Armitage and the organisers for making it happen. The state Labor Minister for Health and Human Services, Lara Giddings, said at the rally that she would use all the money saved from the federal takeover of the Mersey hospital for north and north-west Tasmania. However, today, in public—on radio—Minister Lara Giddings confirmed that she had misled those 5,000 people. She said that $8 million of the total saved would be expended at the Royal Hobart Hospital in southern Tasmania. She said one thing and has done another. Why didn’t she come clean and say this at the Launceston rally? This is appalling behaviour when the Launceston General Hospital is in such dire need. She should apologise for breaking her promise to northern Tasmanians. Likewise, I want to say that, on the north-west coast, federal member Mark Baker has been listening and working for his local community to ensure ongoing health services. Well done, and thank you, Mark Baker, for what you are doing.

Minister Giddings said that the federal government has cut funding to Tasmanian hospitals. The opposite is true; federal funding has increased from $700-odd million over the five years to 2003 to $920 million over the five years to 2008—yes, a $220 million increase over five years, or a 17 per cent increase in real terms. On top of that the state of course is swimming in GST dollars, with a $117 million windfall gain this financial year.

The impact of the shortage of consultant physicians and paediatricians has been increasing progressively across the health system but particularly affects the availability of medical care for our ageing population and in outer metropolitan and rural areas. Medical graduates have been increasingly choosing to train in other specialties rather than as consultant physicians and paediatricians, with a significant potential impact on the delivery and efficiency of our healthcare system over the next decade and on the Australian government’s capacity to provide a medical workforce that can treat the diseases identified by the Council of Australian Governments as national health priorities.

I would like to acknowledge the work of the Australian Association of Consultant Physicians. It represents approximately 8,000 Australian consultant physicians and paediatricians in economic and workforce matters. In its submission to the health minister, Mr Abbott, on 28 September 2006 and at subsequent representations to senators and members of this parliament, its leadership demonstrated a profound commitment to creating a better healthcare system for the entire community by presenting a compelling case for the inclusion of these new attendance items in the Medicare Benefits Schedule as part of a holistic strategy for improving health outcomes.

I would like to pay particular tribute to the efforts of the following individuals, who took substantial time out of their busy careers to pursue the AACP’s case: AACP President Dr Leslie Bolitho, an internal medicine physician from Wangaratta in country Victoria and senior lecturer in the University of Melbourne Rural Clinical School; the AACP Vice President, Dr Lewis McGuigan, a rheumatologist in private practice in Sydney’s south; and the AACP Secretary-Treasurer, Dr John Best, AO, who has long been involved in developing and reviewing healthcare services in rural and remote Australia. I was delighted to support their case and to contribute to my government’s decision to expand the Medicare Benefits Schedule to include the two new attendance items.

I also note the support of the Tasmanian Liberal Senate team for this initiative and,
indeed, the many other health and community organisations, like Diabetes Australia. I must also take this opportunity to publicly note the strong support given over many months on this issue by the health minister, Mr Tony Abbott. Tony Abbott is an outstanding minister for health. He quickly realised the need for prompt action to maintain equality of access for specialist services in rural and regional Australia and was able to bring this to the attention of his cabinet colleagues and support the measures in the budget. Thank you to the leadership in the Howard government.

The case presented by the AACP has particular personal relevance to me in several ways. Having been diagnosed with type 1 diabetes in 1997, I am acutely aware that diabetes frequently figures in chronic and complex conditions. I am a member of the Australian government’s Health and Ageing Policy Committee and have many elderly friends residing in aged-care facilities in my home state of Tasmania. Importantly, as a Launceston resident, I am aware of the pressures on the Launceston General Hospital and the very fine people who work there. Thank you for what you do and for the services offered, including those at the Diabetes Centre at the hospital. I especially commend all those at the Holman Clinic and understand the pressures that you are under. Thank you for the services that you provide.

While I am justifiably proud that this government has decided to introduce these new items, thereby achieving better health care for the Australian community, it is not a partisan issue. Each senator here represents substantial and growing numbers of Australians who have chronic and complex conditions and/or Australians who are older. This is an issue that rightly touches our hearts as well as our minds and simultaneously helps create improved access to specialist health care for all Australians, more available beds in emergency ward hospitals, incentives for our best and brightest medical graduates, and a revitalised consultant physician and paediatrician workforce. I applaud the inclusion from 1 November 2007 of the two new attendance items in the Medicare Benefits Schedule.

Housing Affordability

Senator BARTLETT (Queensland) (10.55 pm)—I would like to speak once again in this place about the continuing and, I believe, growing crisis in housing affordability in many parts of Australia. I will focus my remarks particularly on my own state of Queensland, but it is certainly a serious problem in many other parts of Australia as well. I have been meeting with a lot of people who are active in housing issues—for example, people who work out in the community in a range of different ways as housing providers in the housing market, those who work with those in emergency shelters and others that have to deal with the consequences of the lack of available stable or affordable housing.

A few points need to be emphasised when we debate housing affordability. I hope we debate it frequently and often but also rationally and comprehensively from now right through until election day. Firstly, there is a lot of variation from one region to another as to the nature of the housing markets and the way housing availability, affordability and adequacy manifest themselves. But, despite those differences, there is a lot of similarity. A key bit of similarity is the significant growing problem with regard to affordability—the ability of people to access housing that will not cost them a massive proportion of their total household income. Secondly, it is important that housing is accessible in a place that is suitable in terms of access to services such as transport, employment, health and education. Thirdly, it is important that that accommodation is secure.
I have been on record for many years in this place and in the wider community calling for a national affordable housing strategy. I think that it has been one of the major failings of the Howard coalition government over a long period of time to simply refuse to take responsibility in any way for an overarching affordable housing policy. Breaking down housing issues into discrete, disconnected policy areas like interest rates, rent assistance, funding through the Commonwealth-State Housing Agreement for public housing or the first home buyers grant is not a housing strategy. They are a range of disconnected, individual policy initiatives and measures that do not necessarily knit together terribly well and have lots of gaps in between them. Certainly there is clear responsibility at state level and, to a lesser extent, at local government level in terms of issues like land release, local planning laws, costs with regard to stamp duty and the like. I am not in any way dismissing or ignoring the responsibility of state and, to some extent, local governments with regard to those costs, but the simple fact is: we have a national problem, a national crisis, with housing affordability. One person I met amongst a group of people in Toowoomba, west of Brisbane, last week quite accurately described it as a ‘catastrophe’ rather than just a crisis, and that is what we are really moving towards. Huge numbers of Queenslanders and other Australians are now being massively hurt by skyrocketing housing costs, whether a high purchase price for people trying to buy their own home or high and increasing rents.

One area where it is still definitely a responsibility of state governments is residential tenancy law. There was a Senate committee inquiry many years ago, I would suggest probably last century—although I have not checked that; it certainly feels a long time ago—that examined housing issues. It looked at the aspects of tenancy law and tenancy issues. Recommendations were made by that committee about moving towards a more consistent national standard. It did not suggest that we should have a national takeover, as it is quite fashionable to suggest these days, and have a single set of laws that apply everywhere. There are arguments for variations in different regions but it is important to have some baseline standards that apply across the board.

I argue that this is more important than ever, given the growing proportion of Australians who have their homes provided through the private rental market and the fact that the cost of private rental is increasing significantly. The 2006 census showed that the proportion of Australians renting their homes was over 27 per cent—more than one in four Australians have their homes provided through the rental market. A demographer has estimated that within a decade 50 per cent of people on the Gold Coast, just south of Brisbane, will be renting. There is nothing wrong with renting. Many people rent, and more and more people are renting for prolonged periods of time. Some of them do it through choice; some of them have no choice because they are incapable, for financial reasons, of accessing homeownership. The simple fact is that more and more people are renting, and one of the big problems is the impact of the housing affordability crisis on people in the private rental market.

I draw the Senate’s attention to the story in the Rockhampton Morning Bulletin—today, I think—which mentioned a pensioner renter, Jo Tynan, who has had three rent rises in the past year. The simple fact is that, under the Residential Tenancies Act in Queensland, people’s rent can go up at the end of each lease, and leases can be for quite short periods of time. There is no limit on the amount that a rent can increase. I am not suggesting that we implement a system of rigid rental
controls but I believe that having some degree of limits on the frequency of rent increases and the total amount of the rent increases is something that should be considered. The Queensland state government is currently reviewing the Residential Tenancies Act, and I think this is a key area that needs greater focus, particularly because more and more people are living in private rental accommodation and because they are having to pay rapidly rising rents.

We need to have some limits on the number of times rents can be put up for private accommodation. We need to consider having controls on extortionate rent increases and controls against people being evicted for no reason. Currently, if people are on a periodic tenancy—that is, they do not have a fixed term lease—they can be evicted for no reason at all with a certain number of weeks notice. I think it is four weeks notice under Queensland law at the moment, but I might be wrong about that. There does not need to be any reason given. That leaves people in an extremely vulnerable position. It makes it harder for them to enforce their own rights in relation to the repair of the property or other sorts of things. A very tight private rental market in many parts of Queensland leaves people doubly vulnerable. Having to find a new home in a very tight rental market in the space of three or four weeks is something that I imagine most of us would not want to have to do. To suddenly have to pull up roots and move, find new accommodation and do all the sorts of things that need to be done—including shifting everything—in the space of four weeks would be hard enough for any of us let alone for those in financially stressed situations.

We see reports of property price hikes in the double digits each year. When looking at the Gladstone paper today I saw that even in the last quarter there have been 16.8 per cent, 12.7 per cent and even 44 per cent rises in different parts of Gladstone and surrounding areas. These are huge increases. They are continuing time after time. It might be great if you are a property investor from down south, overseas or within Queensland, but it is not good if you are trying to afford somewhere to live. This crisis has continued too long. It is rampant throughout most parts of Queensland—including many parts of regional Queensland—and the rest of Australia, and it is essential that all political parties focus on ensuring that a comprehensive national affordable housing strategy is developed and implemented as a matter of urgency.

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**Health: Eye Care**

Senator WORTLEY (South Australia) (11.05 pm)—I have some words that I would like to read that many Australians—in fact, many people around the world—would be in a position to say they understand. The words read:

> When the sun shines on my white wall I feel intense pain. When the sky is overcast my world turns dark. To be legally blind is to feel isolation, loss of independence and grief. I wake in fear—fear of falling, of being sent to a nursing home, of mortality.

Dramatic words they are, but these are the words of an elderly citizen in my constituency of South Australia. Until two years ago this woman led an active, independent and culturally rich life. She is one of 9.7 million Australians—or 51 per cent of the population—who, according to the 2001 National Health Survey, have a sight problem ranging in severity from short-sightedness to cataract, glaucoma and age-related macular degeneration.

Eye disease costs our country $9.58 billion a year. That is money that could be more productively spent on research, on early detection of eye-care problems and on promoting public awareness of the issue. Poor eye...
Health is predominantly an age-related problem, with costs likely to accelerate as the population grows older. Almost 87 per cent of the population will have some form of vision problem by the age of 45 to 54 years. By the age of 75, if the problem is left unattended, it will have blown out to 96 per cent.

Care costs are tough to accept, but the hidden costs are of titanic proportions—care costs are the tip of the iceberg. At the inaugural Parliamentary Friends Group for Eye Health and Vision Care this year, many of these hidden costs were discussed. It was stated that research by the Centre for Eye Research Australia, in Melbourne, concluded that people with a vision impairment are three times more likely to suffer depression, two times more likely to experience falls and four to eight times more likely to experience hip fractures; that on average those with severe eye problems like age-related macular degeneration were more likely to be admitted to nursing homes three years earlier; and that poor eye health also resulted in a great degree of social interdependence, a rising cost in doctors visits and early death.

It is estimated that two out of three Australians who live until 90 will lose their sight before they die. These statistics are alarming. Vision disorders are now the seventh highest health cost in Australia. Labor endorses the global initiative of Vision 2020, the right to sight and the work of Vision 2020 Australia. Labor supports early intervention as a solution to many of these costly eye care problems. It is estimated that 75 per cent of vision loss can be avoided or treated if diagnosed early. One of the most simple and effective methods of reducing eye disease is to encourage people to have regular eye tests.

Labor is committed to improving the eye health of all Australians. It is committed to reducing the weighty costs. Labor is committed to the National Framework for Action to Promote Eye Health and Prevent Avoidable Blindness and Vision Loss. Endorsed in November 2005 by the Australian Health Ministers Conference, the national framework outlines five key action areas that have the potential to lead to the prevention of avoidable blindness and low vision. They are: reducing the risk of eye disease and injury, increasing early detection, improving access to eye healthcare services, improving the systems and quality of care and improving the underlying evidence base. Vision 2020 Australia is a national body working in partnership to prevent avoidable blindness and improve vision care. Through advocacy and public awareness, Vision 2020 Australia brings together 54 organisations from around Australia. As members of Vision 2020 Australia, these organisations work together to support the national framework, prevent blindness and improve vision care.

More than half a million Australians have vision impairment. As the population ages, that number is set to increase. It is significant that three-quarters of vision impairment and blindness is caused by just five conditions. Age-related macular degeneration affects the area of the eye responsible for central vision. Two out of three cases lead to loss of vision and one in four to blindness, but early intervention and treatment can help some people retain remaining vision. Cataracts affect more than 150,000 Australians a year. Most can be corrected by surgery, but in some parts of Australia, such as the Northern Territory, patients can wait for more than a year for this surgery. With diabetic eye disease, early intervention can prevent up to 98 per cent of vision loss. One million Australians suffer from diabetes, and, unfortunately, many sufferers are unaware of the risk it poses to their vision. Glaucoma affects 200,000 Australians, and early detection can prevent or delay vision loss. Finally, uncorrected refractive error is the most common
form of eye problem but one that can be easily corrected with prescription glasses. Other factors affecting eye health are accidental eye injuries and sports injuries. The severity of these injuries is usually very high.

Aboriginal and Torres Strait Islander people have a higher level of eye disease and are 10 times more likely to go blind than other Australians. Diabetic retinopathy, cataract and refractive error are common causes of vision loss among Indigenous Australians. Trachoma also remains endemic in remote communities of Australia. In fact, Australia is the only developed country in the world where trachoma still exists—shameful but true. Research figures indicate that those on the margin of our society, namely the poor, the mentally ill and the socially disadvantaged, have a higher proportion of eye disease.

There are many simple things that can be done to reduce the staggering costs of eye care in this country—simple things that would improve the wellbeing of Australians with poor eye health, promote confidence and save on the exorbitant costs of care. Market research undertaken by Vision Australia in 2007 revealed that 69 per cent of people of working age who are blind or have low vision are not in paid employment. A phone survey of nearly 2,000 people showed that 63 per cent of the potential labour force in this situation are unemployed, compared to 14 per cent of the country as a whole. Evidence now suggests that the actual proportion is much higher.

Prevention is better than cure. The good news is that 75 per cent of cases of vision loss are avoidable or treatable if eyes are given the proper care and attention they deserve. Vision 2020 Australia has some simple tips to help all Australians to save their sight:

- Have an eye test without delay if you are experiencing any changes in your vision, the appearance of your eyes are changing or your eyes feel uncomfortable
- Have an eye test at least once every two years if you have diabetes
- Check your family history for eye disease, particularly glaucoma and age-related macular degeneration, as you are at higher risk
- Protect your eyes by wearing sunglasses and sunhats when in the sun
- Quit smoking, as tobacco damages your eyes

Vision disorders and blindness are unacceptable in a rich country like Australia, which has the power to do something about it. Developing countries with far fewer resources have much larger problems. Within the next decade the number of blind people is set to double. Approximately 90 per cent of the world’s blind live in developing countries. Australian organisations like the Fred Hollows Foundation and Christian Blind Mission International work with AusAID in the countries of Asia and the Pacific to bring sight and hope to people gripped by poverty. Vision 2020 Australia is far sighted and innovative in its approach to eye disease both nationally and internationally. It has put this important issue under the arc lights, and it is our responsibility to ensure that those lights continue to burn brightly.

Bendigo Electorate

Senator RONALDSON (Victoria) (11.14 pm)—I appreciate that it is now a quarter past eleven, but I need to finish off some comments that I made about an hour and a quarter ago in relation to my political sweep through regional and rural Victoria. I dealt with Corio, Corangamite and Ballarat but I did not have time to get to Bendigo. As I told the chamber earlier, Mr Peter Kennedy is the Liberal Party candidate in Bendigo. Peter Kennedy is a small business man who, with his wife, Jen, is bringing up school-age children and is a local man who knows what is needed to represent families in Bendigo,
Maryborough, Castlemaine, Kyneton and surrounding districts. The current ALP member for Bendigo has unfortunately forgotten what is required of a member of parliament in regional and rural Victoria. Hard work, commitment and being a strong voice for your constituents are the three essential ingredients. Regrettably, all three have been missing for some time.

**Senate adjourned at 11.16 pm**

**DOCUMENTS**

**Tabling**

The following document was tabled by the Clerk:

**Return to Order**

Indexed lists of departmental and agency files for the period 1 January to 30 June 2007—Statements of compliance—

Australian Research Council.

Australian Taxation Office.

**Tabling**

The following documents were tabled by the Clerk:

Product Rulings—


**Tabling**

The following government documents were tabled:

Aboriginal Land Commissioner—Report and recommendation to the Minister for Families, Community Services and Indigenous Affairs and to the Administrator of the Northern Territory—No. 69—The Alcoota land claim no. 146.

ASC Pty Ltd—Statement of corporate intent 2007-10.

Australian Communications and Media Authority—National relay service provider performance—Report for 2005-06.


International Labour Organisation—

Submission report on ILO instrument—


Members of Parliament (Staff) Act 1984—

Report for 2006-07 on consultants engaged.

Northern Territory Fisheries Joint Authority—Report for 2005-06.

Treaties—

**Bilateral**—


Text, together with national interest analysis and annexures—Agreement between the Government of Australia and the Government of the Kingdom of Tonga relating to Air Services, done at Neiafu, Tonga on 23 August 2003.

**Multilateral**—

Attachments to explanatory statements—


Text, together with national interest analysis and annexures—


The following answers to questions were circulated:

**Transport and Regional Services: Appropriations**

_Question No. 3280_

**Senator Sherry** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 15 June 2007:

1. (a) For each financial year from 2000-01 to 2005-06, what is the total amount of actual depreciation expense funded through price of outputs appropriations or other appropriations, including additional estimates; and (b) what are these amounts, by each class of asset.

2. (a) For the 2006-07 financial year, what is the total amount of estimated actual depreciation expense funded through price of outputs appropriations or other appropriations, including additional estimates; and (b) what are these amounts, analysed by each class of asset.

3. (a) For the 2007-08 financial year, what is the total amount of budgeted depreciation expense and the estimated depreciation expense for each of the forward estimates years planned to be funded through price of outputs appropriations or other appropriations; and (b) what are these amounts, analysed by each class of asset.

4. (a) For each financial year from 2000-01 to 2005-06, what is the total amount of actual expenditure on asset replacement; and (b) what are these amounts, analysed by each class of asset.

5. (a) For each financial year from 2000-01 to 2005-06, what is the difference between the actual expenditure on asset replacement and the original budgeted amount; and (b) what are these amounts, analysed by each class of asset.

6. (a) For the 2006-07 financial year, what is the total amount of estimated actual expenditure on asset replacement; and (b) what are these amounts, analysed by each class of asset.

7. (a) For the 2006-07 financial year, what is the difference between the estimated actual expenditure on asset replacement and the original budgeted amount; and (b) what are these amounts, analysed by each class of asset.

8. (a) For the 2007-08 financial year and for each financial year across the forward estimates period, what is the total amount of budgeted expenditure on asset replacement; and (b) what are these amounts, analysed by each class of asset.

9. What is the difference between depreciation expense and expenditure on asset replacement for: (a) each financial year since 2000-01; (b) the financial years 2006-07 and 2007-08, as an estimate; and (c) each financial year across the forward estimates period.

10. What additional appropriations have been necessary to fund asset replacements.

11. With reference to the estimated actual results and financial position for the 2006-07 financial year, what amount of the appropriation receivable, if any, is funding for depreciation that is earmarked, for the 2007-08 financial year and for future years, for asset replacements.

12. What is the asset replacement strategy for the department.

13. Is the annual depreciation expense funded by appropriations sufficient to meet the Minister’s portfolio asset replacement requirements or the Minister’s asset replacement strategy.

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**QUESTIONS ON NOTICE**
Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

**Department of Transport and Regional Services**

(1) (a) This information is available in the Department’s annual reports.

(b) The information requested would involve an inappropriate diversion of Departmental resources.

(2) (a) This information is available in the 2007-08 Portfolio Budget Statements.

(b) The information requested would involve an inappropriate diversion of Departmental resources.

(3) (a) This information is available in the 2007-08 Portfolio Budget Statements.

(b) The information requested would involve an inappropriate diversion of Departmental resources.

(4) (a) and (b) The information requested would involve an inappropriate diversion of Departmental resources.

(5) (a) and (b) The information requested would involve an inappropriate diversion of Departmental resources.

(6) (a) and (b) The information requested would involve an inappropriate diversion of Departmental resources.

(7) (a) and (b) The information requested would involve an inappropriate diversion of Departmental resources.

(8) (a) and (b) The information requested would involve an inappropriate diversion of Departmental resources.

(9) (a) (b) and (c) The information requested would involve an inappropriate diversion of Departmental resources.

(10) The Department has not sought additional appropriations for asset replacements.

(11) The information requested would involve an inappropriate diversion of Departmental resources.

(12) All capital asset replacement is subject to approval by the Department’s Executive.

(13) Yes.

**Civil Aviation Safety Authority**

(1) (a) This information is available in the CASA’s annual reports.

(b) The information requested would involve an inappropriate diversion of Departmental resources.

(2) (a) This information is available in the 2007-08 Portfolio Budget Statements.

(b) The information requested would involve an inappropriate diversion of Departmental resources.

(3) (a) This information is available in the 2007-08 Portfolio Budget Statements.

(b) The information requested would involve an inappropriate diversion of Departmental resources.

(4) (a) and (b) The information requested would involve an inappropriate diversion of Departmental resources.

(5) (a) and (b) The information requested would involve an inappropriate diversion of Departmental resources.
(6) (a) and (b) The information requested would involve an inappropriate diversion of Departmental resources.

(7) (a) and (b) The information requested would involve an inappropriate diversion of Departmental resources.

(8) (a) and (b) The information requested would involve an inappropriate diversion of Departmental resources.

(9) (a) (b) and (c) The information requested would involve an inappropriate diversion of Departmental resources.

(10) CASA has not sought additional appropriations for asset replacements.

(11) The information requested would involve an inappropriate diversion of Departmental resources.

(12) CASA manages its cash reserves to enable capital asset replacement.

(13) Yes.

**Australian Maritime Safety Authority**

(1) (a) This information is available in the AMSA’s annual reports.

(b) The information requested would involve an inappropriate diversion of Departmental resources.

(2) (a) This information is available in the 2007-08 Portfolio Budget Statements.

(b) The information requested would involve an inappropriate diversion of Departmental resources.

(3) (a) This information is available in the 2007-08 Portfolio Budget Statements.

(b) The information requested would involve an inappropriate diversion of Departmental resources.

(4) (a) and (b) The information requested would involve an inappropriate diversion of Departmental resources.

(5) (a) and (b) The information requested would involve an inappropriate diversion of Departmental resources.

(6) (a) and (b) The information requested would involve an inappropriate diversion of Departmental resources.

(7) (a) and (b) The information requested would involve an inappropriate diversion of Departmental resources.

(8) (a) and (b) The information requested would involve an inappropriate diversion of Departmental resources.

(9) (a) (b) and (c) The information requested would involve an inappropriate diversion of Departmental resources.

(10) AMSA has not sought additional appropriations for asset replacements.

(11) The information requested would involve an inappropriate diversion of Departmental resources.

(12) AMSA manages its cash reserves to enable capital asset replacement.

(13) Yes.

**National Capital Authority**

(1) (a) This information is available in the NCA’s annual reports.

(b) The information requested would involve an inappropriate diversion of Departmental resources.
(2) (a) This information is available in the 2007-08 Portfolio Budget Statements.
(b) The information requested would involve an inappropriate diversion of Departmental resources.

(3) (a) This information is available in the 2007-08 Portfolio Budget Statements.
(b) The information requested would involve an inappropriate diversion of Departmental resources.

(4) (a) and (b) The information requested would involve an inappropriate diversion of Departmental resources.

(5) (a) and (b) The information requested would involve an inappropriate diversion of Departmental resources.

(6) (a) and (b) The information requested would involve an inappropriate diversion of Departmental resources.

(7) (a) and (b) The information requested would involve an inappropriate diversion of Departmental resources.

(8) (a) and (b) The information requested would involve an inappropriate diversion of Departmental resources.

(9) (a) (b) and (c) The information requested would involve an inappropriate diversion of Departmental resources.

(10) The NCA has not sought additional appropriations for asset replacements.

(11) The information requested would involve an inappropriate diversion of Departmental resources.

(12) Asset replacement is guided by the NCA’s Asset Management Plan and Capital Management Plan.

(13) Yes.

**Transport and Regional Services: Appropriations**  
(Question No. 3300)

Senator Sherry asked the Minister representing the Minister for Local Government, Territories and Roads, upon notice, on 15 June 2007:

(1) (a) For each financial year from 2000-01 to 2005-06, what is the total amount of actual depreciation expense funded through price of outputs appropriations or other appropriations, including additional estimates; and (b) what are these amounts, by each class of asset.

(2) (a) For the 2006-07 financial year, what is the total amount of estimated actual depreciation expense funded through price of outputs appropriations or other appropriations, including additional estimates; and (b) what are these amounts, analysed by each class of asset.

(3) (a) For the 2007-08 financial year, what is the total amount of budgeted depreciation expense and the estimated depreciation expense for each of the forward estimates years planned to be funded through price of outputs appropriations or other appropriations; and (b) what are these amounts, analysed by each class of asset.

(4) (a) For each financial year from 2000-01 to 2005-06, what is the total amount of actual expenditure on asset replacement; and (b) what are these amounts, analysed by each class of asset.

(5) (a) For each financial year from 2000-01 to 2005-06, what is the difference between the actual expenditure on asset replacement and the original budgeted amount; and (b) what are these amounts, analysed by each class of asset.

(6) (a) For the 2006-07 financial year, what is the total amount of estimated actual expenditure on asset replacement; and (b) what are these amounts, analysed by each class of asset.
(7) (a) For the 2006-07 financial year, what is the difference between the estimated actual expenditure on asset replacement and the original budgeted amount; and (b) what are these amounts, analysed by each class of asset.

(8) (a) For the 2007-08 financial year and for each financial year across the forward estimates period, what is the total amount of budgeted expenditure on asset replacement; and (b) what are these amounts, analysed by each class of asset.

(9) What is the difference between depreciation expense and expenditure on asset replacement for: (a) each financial year since 2000-01; (b) the financial years 2006-07 and 2007-08, as an estimate; and (c) each financial year across the forward estimates period.

(10) What additional appropriations have been necessary to fund asset replacements.

(11) With reference to the estimated actual results and financial position for the 2006-07 financial year, what amount of the appropriation receivable, if any, is funding for depreciation that is earmarked, for the 2007-08 financial year and for future years, for asset replacements.

(12) What is the asset replacement strategy for the department.

(13) Is the annual depreciation expense funded by appropriations sufficient to meet the Minister's portfolio asset replacement requirements or the Minister's asset replacement strategy.

Senator Johnston—The Minister for Local Government, Territories and Roads has provided the following answer to the honourable senator's question:

Please refer to the response to Senate Question on Notice No. 3280.

**Transport and Regional Services: Employee Entitlements**

(Question No. 3310)

Senator Sherry asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 15 June 2007:

(1) (a) For each financial year from 2000-01 to 2005-06, what was the total amount of actual employee expense funded through price of outputs appropriations or other appropriations, including additional estimates; and (b) similarly: (i) for the 2006-07 financial year, what is the estimated employee expense; and (ii) for the 2007-08 financial year, what is the total amount budgeted for employee expenses.

(2) For each financial year from 2000-01 to 2005-06: (a) what was the total amount of actual expenditure on employee entitlements; and (b) what was the difference between the actual expenditure on employee entitlements and the original amount budgeted.

(3) For the 2006-07 financial year: (a) what is the total amount of estimated actual expenditure on employee entitlements; and (b) what is the difference between the estimated actual expenditure on employee entitlements and the original amount budgeted.

(4) For the 2007-08 financial year and for each of the financial years across the forward estimates period, what is the total amount of budgeted expenditure on employee entitlements.

(5) What is the difference between employee expense and expenditure on employee entitlements for: (a) each financial year since 2000-01; (b) the financial years 2006-07 and 2007-08, as an estimate; and (c) each financial year across the forward estimates period.

(6) What additional appropriations have been necessary to fund expenditure on employee entitlements.

(7) With reference to the estimated actual results and financial position for the 2006-07 financial year, is any of the appropriation receivable funding for employee expenses earmarked for expenditure on employee entitlements for the 2007-08 financial year and future years.
(8) Has the Australian National Audit Office reported any concerns about the accuracy of the employee entitlements liability of the Minister’s portfolio.

(9) Does the Minister’s portfolio have a strategy for managing its employee entitlements liability; if so, what is it.

(10) Is the annual employee expense funded by appropriations sufficient to meet the liability for employee entitlements of the Minister’s portfolio or its strategy for managing its liability.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

Department of Transport and Regional Services

(1) (a) This information is available in the Department’s annual reports.
(b) This information is available in the 2007-08 Portfolio Budget Statements.

(2) (a) This information is available in the Department’s annual reports.
(b) This information is available in annual Portfolio Budget and Portfolio Additional Estimates Statements.

(3) (a) and (b) This information is available in the 2007-08 Portfolio Budget Statements.

(4) This information is available in the 2007-08 Portfolio Budget Statements.

(5) (a) to (c) The information requested would involve an inappropriate diversion of Departmental resources.

(6) None.

(7) Yes.

(8) No.

(9) Yes. The Department monitors its employee entitlements liability closely and reports balances to the Department’s Executive monthly.

(10) Yes.

Civil Aviation Safety Authority

(1) (a) This information is available in the CASA’s annual reports.
(b) This information is available in the 2007-08 Portfolio Budget Statements.

(2) (a) This information is available in the CASA’s annual reports.
(b) This information is available in annual Portfolio Budget and Portfolio Additional Estimates Statements.

(3) (a) and (b) This information is available in the 2007-08 Portfolio Budget Statements.

(4) This information is available in the 2007-08 Portfolio Budget Statements.

(5) (a) to (c) The information requested would involve an inappropriate diversion of Departmental resources.

(6) Nil.

(7) Yes.

(8) No.

(9) Yes. CASA has a broad strategy to manage employee entitlements through both its individual and collective workplace agreements. Within the applicable legislation and government guidance, the agreements are planned, negotiated and managed to deliver specific outcomes including the management of employee entitlements. Employee entitlements are principally managed through either
defined limitations expressed in workplace agreements or through corporate policies that are referred to in the workplace agreements.

(10) Appropriation is sufficient to meet the increase in employee provisions occurring in a financial year. CASA has cash reserves to meet accumulated entitlements.

**Australian Maritime Safety Authority**

(1) (a) This information is available in the AMSA's annual reports.

(b) This information is available in the 2007-08 Portfolio Budget Statements.

(2) (a) This information is available in the AMSA's annual reports.

(b) This information is available in annual Portfolio Budget and Portfolio Additional Estimates Statements.

(3) (a) and (b) This information is available in the 2007-08 Portfolio Budget Statements.

(4) This information is available in the 2007-08 Portfolio Budget Statements.

(5) (a) to (c) The information requested would involve an inappropriate diversion of Departmental resources.

(6) None.

(7) Yes.

(8) No.

(9) Yes. AMSA monitors employee entitlements liability accruing from recreational leave and encourages employees to take their leave entitlement each year, particularly employees with a balance in excess of 45 days recreational leave.

(10) Yes.

**National Capital Authority**

(1) (a) This information is available in the NCA's annual reports.

(b) This information is available in the 2007-08 Portfolio Budget Statements.

(2) (a) This information is available in the NCA's annual reports.

(b) This information is available in annual Portfolio Budget and Portfolio Additional Estimates Statements.

(3) (a) and (b) This information is available in the 2007-08 Portfolio Budget Statements.

(4) This information is available in the 2007-08 Portfolio Budget Statements.

(5) (a) to (c) The information requested would involve an inappropriate diversion of Departmental resources.

(6) None.

(7) Yes.

(8) No.

(9) Yes. Staff are encouraged to take leave entitlements as they fall due and systems are in place to address the accumulation of large balances.

(10) Yes.
Transport and Regional Services: Employee Entitlements
(Question No. 3330)

Senator Sherry asked the Minister representing the Minister for Local Government, Territories and Roads, upon notice, on 15 June 2007:

(1) (a) For each financial year from 2000-01 to 2005-06, what was the total amount of actual employee expense funded through price of outputs appropriations or other appropriations, including additional estimates; and (b) similarly: (i) for the 2006-07 financial year, what is the estimated employee expense, and (ii) for the 2007-08 financial year, what is the total amount budgeted for employee expenses.

(2) For each financial year from 2000-01 to 2005-06: (a) what was the total amount of actual expenditure on employee entitlements; and (b) what was the difference between the actual expenditure on employee entitlements and the original amount budgeted.

(3) For the 2006-07 financial year: (a) what is the total amount of estimated actual expenditure on employee entitlements; and (b) what is the difference between the estimated actual expenditure on employee entitlements and the original amount budgeted.

(4) For the 2007-08 financial year and for each of the financial years across the forward estimates period, what is the total amount of budgeted expenditure on employee entitlements.

(5) What is the difference between employee expense and expenditure on employee entitlements for: (a) each financial year since 2000-01; (b) the financial years 2006-07 and 2007-08, as an estimate; and (c) each financial year across the forward estimates period.

(6) What additional appropriations have been necessary to fund expenditure on employee entitlements.

(7) With reference to the estimated actual results and financial position for the 2006-07 financial year, is any of the appropriation receivable funding for employee expenses earmarked for expenditure on employee entitlements for the 2007-08 financial year and future years.

(8) Has the Australian National Audit Office reported any concerns about the accuracy of the employee entitlements liability of the Minister’s portfolio.

(9) Does the Minister’s portfolio have a strategy for managing its employee entitlements liability; if so, what is it.

(10) Is the annual employee expense funded by appropriations sufficient to meet the liability for employee entitlements of the Minister’s portfolio or its strategy for managing its liability.

Senator Johnston—The Minister for Local Government, Territories and Roads has provided the following answer to the honourable senator’s question:

Please refer to the response to Senate QON 3310.

Industry, Tourism and Resources: Appropriations
(Question No. 3359)

Senator Sherry asked the Minister representing the Minister for Small Business and Tourism, 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 Small Business and Tourism 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.

Senator Faulkner asked the Minister representing the Minister for Defence, upon notice, on 20 June 2007:

(1) Can the Minister confirm if complaints were made in 1997 to the department by Bailey’s Diesel Services concerning poor and dangerous maintenance of Navy ships, in particular the Oberon class submarines, HMAS Success and HMAS Toorak, prior to similar allegations about HMAS Westralia and the use of non standard parts in the fuel systems, and prior to the subsequent complaint investigated by the joint Australian Federal Police and Inspector-General of Defence (AFP/IG) team which interviewed Bailey’s Diesel Services on 6 February 1998; if so, can the Minister advise whether any records of the earlier allegations exist within the department or the Navy.

(2) Is the Minister aware of the allegation that it was the failure to respond to complaints made in 1997 that prompted Bailey’s Diesel Services to refer matters to the Independent Commission Against Corruption (ICAC) in New South Wales, and can the Minister confirm that ICAC in turn referred the matter to the Inspector-General of Defence; if so, is there any record of any communication between the department and ICAC at that time; if not, will the Minister direct the department to make such an inquiry of ICAC to check this assertion.
QUESTIONS ON NOTICE

(3) Was a formal response ever made to ICAC concerning the outcomes of the investigation conducted by the AFP/IG team; if so, on what date was that provided, and what was the substance of the report.

(4) Were separate investigations of Bailey's Diesel Services’ 1997 allegations made by Defence in the period prior to the interview by the AFP/IG team on 6 February 1998; if so, what records exist of those investigations and what were the findings and outcomes.

(5) (a) When was the investigation of Bailey’s Diesel Services’ complaints by the AFP/IG team terminated; (b) for what reason; and (c) was it made with the approval or direction of Ministers; if not, who made the decision.

(6) Was a decision made in late February or early March 1998 to close the AFP/IG investigation and to upgrade it to become Operation Majorca under the primary control of the AFP.

(7) In the period leading up to the decision to initiate Operation Majorca, had any complaints been made about the operation of the Inspector-General’s office, and in particular about the manner in which the investigation of the Bailey’s Diesel Services complaint had been managed; if so: (a) was a review conducted; (b) by whom; (c) with what outcomes; (d) was the agreement of Ministers obtained; and (e) what changes were subsequently made to that organisation.

(8) (a) How many departmental officials or Australian Defence Force (ADF) personnel were appointed to join Operation Majorca; and (b) what were their Australian Public Service levels or ranks.

(9) Does the department retain all records of Operation Majorca, including reports made to Ministers; if so, what scrutiny have those records received in recent times to establish the circumstances of the investigation into the allegations by Bailey’s Diesel Services.

Senator Ellison—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) Some 18,000 files are held in relation to the former HMAS Westralia, and similar numbers are held in respect to HMA Ships Success, Tobra, and each of the Oberon Class submarines. An extensive search was conducted in early 2007, and again in July 2007, of the files suspected to contain documents related to possible written or verbal complaints by Baileys Diesel Services that would have been received by Defence before February 1998. No such documents were located.

Senator Faulkner should note that his reference to a “joint Australian Federal Police and Inspector-General of Defence (AFP/IG) team which interviewed Bailey’s [sic] Diesel Services on 6 February 1998” is incorrect. Mr Smythe was in fact seconded by the AFP to the IG to assist with a Defence investigation. This investigation preceded Operation Majorca, which began on 13 May 1998.

(2) On 23 January 1998, a member of the Defence investigation team received a phone call from a security officer at the Defence National Storage and Distribution Centre (DNSDC) to advise that he had received a phone call in late November 1997 from an ICAC officer regarding a complaint by Baileys to ICAC of corrupt conduct by a DNSDC employee. As the Baileys complaint to ICAC pertained to corruption at DNSDC and potentially came within the investigation team’s terms of reference, the DNSDC security officer suggested that the team might make contact with ICAC. On 3 February 1998, a member of the team contacted the relevant ICAC officer. A follow-up phone call took place on 5 February 1998. The team member made notes of the conversations he had with the DNSDC security officer and the ICAC officer and Defence holds these records. There is no reference in the ICAC referral to maintenance of diesel pumps.

(3) No record has been located on Defence files to indicate that ICAC was advised in writing of the outcome of the matter it referred to Defence.

(4) Yes. Following ICAC’s contact with the DNSDC security officer in late November 1997, the Commander of DNSDC appointed an officer to investigate the allegation. The investigating offi-
cer’s report was completed on 18 December 1997 and, on 22 January 1998, the Commander of DNSDC forwarded the report to Support Command headquarters for further direction. Support Command headquarters referred the case for advice to the IG on 3 February 1998 and, due to the DNSDC connection, the case was then referred to the IG investigation team. Defence holds a copy of the DNSDC investigation report, which includes statements from Baileys representatives provided to the DNSDC investigating officer. The report of the investigation found that the DNSDC employee concerned, while not acting corruptly, had failed to perform his duties satisfactorily and recommended that disciplinary action be taken against him. The employee was removed from his position for a period of time as a consequence. There is no mention of an allegation by Baileys with respect to the maintenance of diesel fuel pumps or injectors in any of the documentation surrounding the investigation by DNSDC.

(5) (a) 2 September 1999. (b) The investigation was finalised. (c) The decision to close the case was made by a senior officer of the Inspector General’s Division without reference to the Minister. In regard to Baileys allegations, the IG investigation team and Operation Majorca focused specifically on the allegations in relation to an alleged corrupt individual at DNSDC.

(6) No. See response to part (1).

(7) (a) to (e) Baileys representatives expressed dissatisfaction to Federal Agent Killmier during his visit on 28 April 1998 about delays in resolving their allegation about an individual at DNSDC and the fact that they had been required to repeat their allegations to Defence investigators on several occasions. After being replaced on the ADF-led investigation team, and returning to the AFP, Mr Smythe wrote to his AFP manager on 23 March 1998 to provide his perspective on the circumstances surrounding his departure from the investigation. In that document, faxed to Mr Leishman for information on 6 April 1998, Mr Smythe is critical of some aspects of the investigation, notably in relation to priority being given to the Navy policing issue. He makes no mention of Baileys allegations and interview, ship maintenance or safety matters.

(8) (a) Records indicate that twelve Defence personnel worked on Operation Majorca at one time or another. (b) One Acting Executive Level 2, four Executive Level 1s, one APS Level 3, one Captain and two Sergeants (Army), one Flying Officer, one Flight Sergeant and one Sergeant (Air Force).

(9) Yes, apart from records created in the AFP’s electronic case management system and retained by the AFP. These records were carefully scrutinised following the estimates hearings in February 2007 and, more recently, have been made available to the Commonwealth Ombudsman.

**Baileys Diesel Services**

(Question No. 3383)

Senator Faulkner asked the Minister representing the Minister for Defence, upon notice, on 20 June 2007:

(1) In addition to the tape recording of the 6 February 1998 interview with Bailey’s Diesel Services, have other records of the investigation been recovered, including the running sheets and any other reports which may have been made, such as briefs to the Minister; if so, could a list of those files and documents be provided.

(2) After 6 February 1998, was the investigation of the Bailey’s Diesel Service allegations resumed; if so: (a) who conducted the investigation; (b) when did it cease; (c) what were the conclusions; (d) who was interviewed; and (e) was there a complete transfer of all previous records including the tape recordings and running notes, discs and any other records to the new investigation team; if so, where are those records and the records of the subsequent investigation currently located.

(3) Were reports made to the Ministers at the time, on the progress of the joint Australian Federal Police and Inspector-General of Defence investigation into stolen weapons at Moorebank and the Bai-
ley’s Diesel Services allegations; if so: (a) who signed those reports; (b) how many were submitted; (c) did those reports make reference to the investigation of the Baileys allegations; and (d) what reports were provided to the Minister throughout the subsequent period of Operation Majorca.

Senator Ellison—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) Defence holds the following records of the investigation by the Inspector-General of Defence and from Operation Majorca (led by the Australian Federal Police) relating to complaints made by Baileys Diesel Services in February 1998:

- File FIG 98-9748 – Special Investigation No 42;
- File FIG 97-33277 Parts 1 to 6 – Commercial Investigation Number 424 (this is the overarching administrative file for the Special Investigation and Operation Majorca);
- Defence National Storage and Distribution Centre (DNSDC) investigating officer’s report into discrepancy of funds involving Baileys Diesel Service dated 18 December 1997;
- Minute from Commander DNSDC to Support Command Australia regarding suspected fraud at DNSDC dated 22 January 1998;
- Facsimile from Support Command Australia to the Inspector General of Defence (IG) regarding suspected fraud at DNSDC dated 3 February 1998;
- Record of Conversation between IG Investigator and NSW Independent Commission Against Corruption (ICAC) officer dated 3 February 1998;
- Record of Conversation between IG Investigator and NSW ICAC officer dated 5 February 1998;
- Exhibit Register entry dated 10 February 1998 for the audio tape of the 6 February 1998 interview with Baileys Diesel Services;
- List of tapes for transcription dated 2 March 1998;
- Report of Occurrence prepared by Mr David Ryan dated 15 April 1998;
- Tasking Sheet dated 28 April 1998;
- Statement by Mr Rick Erwin dated 28 April 1998;
- Report of Occurrence prepared by Federal Agent (F/A) Des Killmier dated 28 April 1998;
- Report of Occurrence prepared by F/A Killmier dated 6 May 1998;
- Tasking Sheet dated 11 May 98;
- Team Structures and File Allocation document dated 2 June 1998;
- Operation Majorca Situation Report by F/A Ed Tyrie dated 12 June 1998;
- Document titled ‘Allegations of Improprieties Within the Trade Repair Section DNSDC’ dated 11 November 1998; and
- Document titled ‘Allegations of Impropriety Within the Trade Repair Section DNSDC’ dated 23 December 1998.

QUESTIONS ON NOTICE
(2) (a) to (d) Yes. F/A Killmier interviewed Mr Rick Erwin and Mr Steve Bailey on 28 April 1998. Mr Terry Riley interviewed Mr Steve Bailey in late 1998. At the meeting with F/A Killmier in April 1998, Baileys chose to disclose only its allegation of corrupt behaviour by a DNSDC employee, which Baileys had separately reported to DNSDC management in December 1997. DNSDC management fully investigated the matter in early 1998 but confusion arose about control of the investigation when the case was referred to the IG’s investigation team and Baileys was seemingly not informed of progress with the DNSDC investigation. F/A Killmier conveyed this information to Mr Erwin on 11 May 1998. Later, under Operation Majorca, the case was allocated to Mr Riley to follow up with Baileys. It is understood that Mr Riley confirmed with Mr Bailey in late 1998 that the matter was fully investigated by DNSDC management in late 1997 and that, while the DNSDC employee about whom Baileys had complained was not found to have acted corruptly, action had been taken against the individual. Following a general audit in July 1999 of procurement practices in the area where the DNSDC employee had worked, the Baileys case file was formally closed on 22 September 1999.

(e) Records from the investigation team pertaining to Baileys allegations were transferred to the Operation Majorca team and these records, including the original tape recording, are now held by Defence. However, Defence does not retain copies of Operation Majorca records that were created in the AFP’s electronic case management system.

(3) Yes. Records indicate that there were periodic oral briefings, but no records are held of the details of these. There were also written submissions to Ministers providing progress reports.

(a) The Inspector-General.

(b) Three.

(c) No.

(d) A high-level review team comprising the Secretary of Defence, the Vice Chief of the Defence Force and the Commissioner of the AFP was required to report monthly to Ministers, who were also advised of the findings of Operation Majorca following its conclusion.