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RADIO BROADCASTS

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

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- **NEWCASTLE**: 1458 AM
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- **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-SECOND PARLIAMENT
FIRST SESSION—FIRST 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 Hon. Alan Baird Ferguson
Deputy President and Chair of Committees—Senator John Joseph Hogg

Leader of the Government in the Senate—Senator Hon. Christopher Vaughan Evans
Deputy Leader of the Government in the Senate—Senator Hon. Stephen Michael Conroy
Leader of the Opposition in the Senate—Senator Hon. Nicholas Hugh Minchin
Deputy Leader of the Opposition in the Senate—Senator Hon. Eric Abetz
Manager of Government Business in the Senate—Senator Hon. Joseph William Ludwig
Manager of Opposition Business in the Senate—Senator Hon. Christopher Martin Ellison

Senate Party Leaders and Whips

Leader of the Australian Labor Party—Senator Hon. Christopher Vaughan Evans
Deputy Leader of the Australian Labor Party—Senator Hon. Stephen Michael Conroy
Leader of the Liberal Party of Australia—Senator Hon. Nicholas Hugh Minchin
Deputy Leader of the Liberal Party of Australia—Senator Hon. Eric Abetz
Leader of the Nationals—Senator Hon. Nigel Gregory Scullion
Deputy Leader of the Nationals—Senator Hon. Ronald Leslie Doyle Boswell
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

Government Whips—Senators Kerry O’Brien, Ruth Stephanie Webber and Dana Wortley
Liberal Party of Australia Whips—Senators Stephen Parry and Judith Adams
The Nationals Whip—Senator Fiona Joy Nash
Australian Democrats Whip—Senator Andrew John Julian Bartlett
Australian Greens Whip—Senator Rachel Siewert
Family First Party Whip—Senator Steve Fielding

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

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(1) Chosen by the Parliament of Queensland to fill a casual vacancy vice Hon. Santo Santoro, resigned.
(2) Chosen by the Parliament of Victoria to fill a casual vacancy vice Hon. Richard Kenneth Robert Alston, resigned.
(3) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.
(4) Chosen by the Parliament of Tasmania to fill a casual vacancy vice Susan Mary Mackay, resigned.
(5) Chosen by the Parliament of South Australia to fill a casual vacancy vice Hon. Robert Murray Hill, resigned.
(6) Chosen by the Parliament of South Australia to fill a casual vacancy vice Jeannie Margaret Ferris, died in office.
(7) Chosen by the Parliament of South Australia to fill a casual vacancy vice Hon. Amanda Eloise Vanstone, resigned.
(8) Chosen by the Parliament of Western Australia to fill a casual vacancy vice Hon. Ian Gordon Campbell, resigned.
(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 Liberal Party; FF—Family First Party; LP—Liberal Party of Australia; NATS—The Nationals

Heads of Parliamentary Departments
Clerk of the Senate—H Evans
Clerk of the House of Representatives—I C Harris
Secretary, Department of Parliamentary Services—D Kenny (Acting)
RUDD MINISTRY

Prime Minister
Deputy Prime Minister,
Minister for Education,
Minister for Employment and Workplace Relations and
Minister for Social Inclusion
Treasurer
Minister for Immigration and Citizenship and
Leader of the Government in the Senate
Special Minister of State,
Cabinet Secretary and
Vice President of the Executive Council
Minister for Trade
Minister for Foreign Affairs
Minister for Defence
Minister for Health and Ageing
Minister for Families, Housing, Community Services and
Indigenous Affairs
Minister for Finance and Deregulation
Minister for Infrastructure, Transport, Regional Development and Local Government and
Leader of the House
Minister for Broadband, Communications and the
Digital Economy and
Deputy Leader of the Government in the Senate
Minister for Innovation, Industry, Science and Research
Minister for Climate Change and Water
Minister for the Environment, Heritage and the Arts
Attorney-General
Minister for Human Services and
Manager of Government Business in the Senate
Minister for Agriculture, Fisheries and Forestry
Minister for Resources and Energy and
Minister for Tourism

Hon. Kevin Rudd MP
Hon. Julia Gillard MP
Hon. Wayne Swan MP
Senator Hon. Chris Evans
Senator Hon. John Faulkner
Hon. Simon Crean MP
Hon. Stephen Smith MP
Hon. Joel Fitzgibbon MP
Hon. Nicola Roxon MP
Hon. Jenny Macklin MP
Hon. Lindsay Tanner MP
Hon. Anthony Albanese MP
Senator Hon. Stephen Conroy
Senator Hon. Kim Carr
Senator Hon. Penny Wong
Hon. Peter Garrett MP
Hon. Robert McClelland MP
Senator Hon. Joe Ludwig
Hon. Tony Burke MP
Hon. Martin Ferguson MP
RUDMINISTRY—continued

Minister for Home Affairs Hon. Bob Debus MP
Assistant Treasurer and Minister for Competition Policy and Consumer Affairs Hon. Chris Bowen MP
Minister for Veterans’ Affairs Hon. Alan Griffin MP
Minister for Housing and
Minister for the Status of Women Hon. Tanya Plibersek MP
Minister for Employment Participation Hon. Brendan O’Connor MP
Minister for Defence Science and Personnel Hon. Warren Snowdon MP
Minister for Small Business, Independent Contractors and the Service Economy and
Minister Assisting the Finance Minister on Deregulation Hon. Craig Emerson MP
Minister for Superannuation and Corporate Law Senator Hon. Nick Sherry
Minister for Ageing Hon. Justine Elliot MP
Minister for Youth and
Minister for Sport Hon. Kate Ellis MP
Parliamentary Secretary for Early Childhood Education and Childcare Hon. Maxine McKew MP
Parliamentary Secretary for Defence Procurement Hon. Greg Combet MP
Parliamentary Secretary for Defence Support Hon. Mike Kelly MP
Parliamentary Secretary for Regional Development and Northern Australia Hon. Gary Gray MP
Parliamentary Secretary for Disabilities and Children’s Services Hon. Bill Shorten MP
Parliamentary Secretary for International Development Assistance Hon. Bob McMullan MP
Parliamentary Secretary for Pacific Island Affairs Hon. Duncan Kerr MP
Parliamentary Secretary to the Prime Minister Hon. Anthony Byrne MP
Parliamentary Secretary for Social Inclusion and the Voluntary Sector and
Parliamentary Secretary Assisting the Prime Minister for Social Inclusion Senator Hon. Ursula Stephens
Parliamentary Secretary to the Minister for Trade Hon. John Murphy MP
Parliamentary Secretary to the Minister for Health and Ageing Senator Hon. Jan McLucas
Parliamentary Secretary for Multicultural Affairs and Settlement Services Hon. Laurie Ferguson MP
SHADOW MINISTRY

Leader of the Opposition
Deputy Leader of the Opposition and
Shadow Minister for Employment, Business and
    Workplace Relations
Leader of the Nationals and
Shadow Minister for Infrastructure and Transport and
    Local Government
Leader of the Opposition in the Senate and
Shadow Minister for Defence
Deputy Leader of the Opposition in the Senate and
Shadow Minister for Innovation, Industry, Science and
    Research
Shadow Treasurer
Shadow Minister for Health and Ageing and
    Leader of Opposition Business in the House
Shadow Minister for Foreign Affairs
Shadow Minister for Trade
Shadow Minister for Families, Community Services,
    Indigenous Affairs and the Voluntary Sector
Shadow Minister for Agriculture, Fisheries and Forestry
Shadow Minister for Human Services
Shadow Minister for Education, Apprenticeships and
    Training
Shadow Minister for Climate Change, Environment and
    Urban Water
Shadow Minister for Finance, Competition Policy and
    Deregulation
Shadow Minister for Immigration and Citizenship and
    Manager of Opposition Business in the Senate
Shadow Minister for Broadband, Communications and
    the Digital Economy
Shadow Attorney-General
Shadow Minister for Resources and Energy and
Shadow Minister for Tourism
Shadow Minister for Regional Development and
Shadow Minister for Water Security
Shadow Minister for Justice
Shadow Minister for Border Protection and
Assisting Shadow Minister for Immigration and Citizenship
Shadow Special Minister of State
Shadow Minister for Small Business, the Service Economy
    and Tourism
Shadow Minister for Environment, Heritage, the Arts and
    Indigenous Affairs
Shadow Assistant Treasurer and
Shadow Minister for Superannuation and Corporate
    Governance
Shadow Minister for Ageing

Hon. Brendan Nelson MP
Hon. Julie Bishop MP
Hon. Warren Truss MP
Senator Hon. Nick Minchin
Senator Hon. Eric Abetz
Hon. Malcolm Turnbull MP
Hon. Joe Hockey MP
Hon. Andrew Robb MP
Hon. Ian MacFarlane MP
Hon. Tony Abbott MP
Senator Hon. Nigel Scullion
Senator Hon. Helen Coonan
Hon. Tony Smith MP
Hon. Greg Hunt MP
Hon. Peter Dutton MP
Senator Hon. Chris Ellison
Hon. Bruce Billson MP
Senator Hon. George Brandis
Senator Hon. David Johnston
Hon. John Cobb MP
Hon. Chris Pyne MP
Senator Hon. Michael Ronaldson
Steven Ciobo MP
Hon. Sharman Stone MP
Michael Keenan MP
Margaret May MP
SHADOW MINISTRY—continued

- Shadow Minister for Defence Science and Personnel and
  Assistant Shadow Minister for Defence
  Shadow Minister for Business Development, Independent
    Contractors and Consumer Affairs and
    Deputy Leader of Opposition Business in the House
  Shadow Minister for Veterans’ Affairs
  Shadow Minister for Employment Participation and
    Apprenticeships and Training
  Shadow Minister for Housing and
  Shadow Minister for the Status of Women
  Shadow Minister for Youth and
  Shadow Minister for Sport
  Shadow Parliamentary Secretary Assisting the Leader of
    the Opposition and
  Shadow Cabinet Secretary
  Shadow Parliamentary Secretary Assisting the Leader of
    the Opposition and
  Shadow Parliamentary Secretary for Northern Australia
  Shadow Parliamentary Secretary for Health
  Shadow Parliamentary Secretary for Education
  Shadow Parliamentary Secretary for Defence
  Shadow Parliamentary Secretary for Infrastructure, Roads
    and Transport
  Shadow Parliamentary Secretary for Trade
  Shadow Parliamentary Secretary for Immigration and
    Citizenship
  Shadow Parliamentary Secretary for Local Government
  Shadow Parliamentary Secretary for Tourism
  Shadow Parliamentary Secretary for Ageing and the
    Voluntary Sector
  Shadow Parliamentary Secretary for Foreign Affairs
  Shadow Parliamentary Secretary for Families and
    Community Services

- Hon. Bob Baldwin MP
- Luke Hartsuyker MP
- Hon. Bronwyn Bishop MP
- Andrew Southcott MP
- Hon. Sussan Ley MP
- Hon. Pat Farmer MP
- Don Randall MP
- Senator Hon. Ian Macdonald
- Senator Hon. Richard Colbeck
- Senator Hon. Brett Mason
- Hon. Peter Lindsay MP
- Barry Haase MP
- John Forrest MP
- Louise Markus MP
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The PRESIDENT (Senator the Hon. Alan Ferguson) took the chair at 12.30 pm and read prayers.

PARLIAMENTARY LANGUAGE

The PRESIDENT (12.30 pm)—Last evening during debate on the Workplace Relations Amendment (Transition to Forward with Fairness) Bill 2008, Acting Deputy President Bishop undertook to check the transcript of remarks made by Senator Abetz after a point of order was raised by Senator Wong. On looking at the transcript, it appears that Senator Abetz did make an imputation against government senators that they had been involved in the violent action in which the doors of Parliament House were broken down. That kind of imputation is prohibited by standing order 193 and I ask Senator Abetz to withdraw.

Senator Abetz—I withdraw, but I do note that Mr Beazley and the Labor Party did address the rally prior to the rally attending Parliament House.

WORKPLACE RELATIONS AMENDMENT (TRANSITION TO FORWARD WITH FAIRNESS) BILL 2008

Second Reading

Debate resumed from 17 March, on motion by Senator Faulkner:

That this bill be now read a second time.

upon which Senator Fielding moved by way of amendment:

At the end of the motion, add “but the Senate notes the Government’s proposal for a strong safety net of 10 legislated National Employment Standards for all employees is inadequate because it does not provide for:

(a) meal breaks; and
(b) penalty rates,
for all workers and their families”.

The PRESIDENT—I understand that the debate has concluded, so I will put the question that the amendment moved by Senator Fielding be agreed to.

Question negatived.

Original question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

The CHAIRMAN—I understand that there is a running sheet on the way, so we may as well deal with any general questions that need to be dispensed with first.

Senator Wong interjecting—

Senator ABETZ (Tasmania) (12.33 pm)—The question that I have for the quite arrogant minister, who is already interjecting, in relation to this legislation is for and on behalf of all the workers in Australia who might be impacted by this legislation. Can the Australian Labor Party give the guarantee that no individual worker will be worse off as a result of this legislation?

Senator Crossin interjecting—

Senator ABETZ—Senator Crossin foolishly interjects. Having come from her absolute debacle about the Northern Territory intervention, I would have thought she might have thought twice before opening her mouth, especially when she is not in her proper seat. That aside, the point is a very valid one. We as a government did not give that guarantee. That is quite right. But we were castigated from the Torres Strait to Tasmania, from Sydney to the Swan, for not being able to give that guarantee. The Labor Party went around the countryside saying, ‘You cannot vote for a government that is unable to give that guarantee.’

Senator Wong interjecting—

Senator ABETZ—The minister is still very rudely interjecting. Today they are still
unable to give that same guarantee that they demanded of the former government. I say to the Labor Party and to the minister: those good sound bites from the election campaign are a lot more difficult to turn into good, sound policy. The demands you made of the former government you now accept and realise you cannot live up to yourselves. Ms Gillard, in the other place, has been unable to give that guarantee. The minister at the table was unable to give that guarantee at Senate estimates. She was not willing to make the guarantee, which of course means that the Labor Party itself acknowledges that there will be workers worse off as a result of this legislation.

I am giving the minister at the table the opportunity today to once and for all rule out that any worker will be worse off. If, as I suspect, she is unable to give that guarantee, she must have within her mind the category of workers that in fact will be worse off. She must have in her mind how many workers will be worse off and in what states she anticipates those workers will be in. Will they be mainly in the tourism industry or the resources sector? If she is unable to give that guarantee, she must realise that there will be some who will be worse off. So I ask the minister: can she give that guarantee and, if not, will she identify for us those who will be worse off?

Senator WONG (South Australia—Minister for Climate Change and Water) (12.37 pm)—I can guarantee the chamber that we have legislation before us which will ensure far more protections for workers in this country than were ever put in place by the previous government. Protections were ripped away by Mr Howard's cabinet apparently on the basis—as the member for North Sydney says—of a lack of knowledge about what it was in fact doing. I do not know which is worse, a government that consciously removes conditions and wages from workers or a government that is not even aware it is doing so.

Frankly, that was the usual churlish contribution from Senator Abetz, a churlishness which was demonstrated by his withdrawal and comments in the debate which just preceded this. The way in which he chooses to behave at times really does belittle the chamber. It would have been appropriate, Senator Abetz, for you to have taken it on the chin and withdrawn when the President asked you to instead of making the sorts of comments that you did. But I will leave that to one side for now. If Senator Abetz chooses to behave like that, that is entirely a matter for him and his conscience.

This government will deliver on our election commitments. We will do what we told the Australian people we would do. That is the substance of the bill before the chamber and I can guarantee, Senator Abetz, that the legislation this government will bring forward—unlike the legislation your government brought forward—will, firstly, be consistent and deliver upon our election commitments and, secondly, will restore the protections that your government either consciously or unwittingly stripped away from Australian workers and their families.

I just want to remind the chamber—that perhaps Senator Abetz does not realise this or perhaps he just got rolled in his party room—that the opposition is actually, as I understand it, not opposing this bill. They certainly did not oppose the second reading. Did any senators see the opposition oppose the second reading? I do not think so. After a number of weeks of toing and froing, with the Deputy Leader of the Opposition putting forward a range of different views about what was going to happen, the opposition has finally agreed not to oppose this bill.

But there are those on the other side who cling to Work Choices like someone drown-
ing, clinging to what they see as a life raft. I am afraid Senator Abetz is one of those, because he cannot bear to see this piece of legislation that he fought so hard for through this place now being ripped up by this government in accordance with our election policies. That is what is happening here. We on this side of the chamber are absolutely clear that we will deliver on our election commitments. The bill before the chamber does that. I hope that what we see now is opposition senators delivering on the commitment of their leadership group to not oppose this bill.

Senator MURRAY (Western Australia) (12.40 pm)—Before I get to the same point, because I think it is an important area to be debated, I want to comment briefly, which I had not done, on Senator Fielding’s second reading amendment. I must say in passing I am glad he did not turn up dressed as a pizza to put his amendment about meal breaks! I did note with interest the minister’s commentary in the second reading debate, on his second reading amendment. My opinion is that Senator Fielding is on the right track. What he has exposed and what the minister has identified is that there are gaps in this area which need to be explored. I think in due course the minister might do well to make some kind of announcement as to how that area will be dealt with in the future because meal breaks and so on are actually a very fundamental issue.

Turning to the debate at hand—stripping away the rhetoric and aggression with which this particular debate has started—it is a very difficult area to work through. Whilst most people are sympathetic with the ideal of workers not losing wages and conditions, the fact is that when you reform, modernise or rationalise awards and agreements you have to change wages and conditions—usually conditions more than wages. It is one of the reasons that in 1996 the Democrats introduced the global no disadvantage test—because they recognised that, if you were creating an agreement, you could not match or meet up to the expectations of individual or specific wages and conditions and therefore you needed to assess the matter on balance overall.

I do note that this is an area covered in the Greens’ additional remarks to the bill and I do note that Senator Siewert will be dealing with the specific issues of balance—how you balance out wages and conditions—later on in her amendments. My specific question, and it follows on from the specifics of Senator Abetz’s question, is this. At paragraph 1.109 of the majority report, it said: It was also noted that the process—this is, the process of award modernisation—is not intended to ‘disadvantage employees’ or ‘increase costs for employers’. Yet it was pointed out that it is not possible to standardise conditions without disadvantaging someone. Witnesses urged the government to consider the language used and clarify its intent.

These were remarks made by academics, by Professor Stewart and—I think my memory is correct—by Dr Buchanan, but it is a serious issue because this bill does initiate award modernisation and the request draft as outlined has these contradictory elements in it. It is a matter which I think does need to be resolved.

What I would like is for the minister to answer, not in the sense of a general exposition but in the sense of process, as to what could be done to address this practical issue. Perhaps the draft request could be changed or the wording altered in the manner the academics have suggested to cater for two conflicting and irreconcilable objectives. Their proposition was that you cannot do both, and personally I think they had a valid point and I suspect the majority of the committee members also thought so.
Senator WONG (South Australia—Minister for Climate Change and Water) (12.45 pm)—Senator Murray, you are aware that the award modernisation request is in the explanatory memorandum—and the government has been transparent about that. I understand the point you are making. It seems to me that what the government is doing is requesting the commission to undertake a process. What you are asking is really one of the issues that the commission would grapple with and consider in terms of implementing the award modernisation process. I am sure you are aware that we had a very clear commitment to the modernisation of awards in our pre-election policies. The bill effects that commitment. I am advised that this would logically be one of the matters that the commission would consider in the context of the award modernisation process.

Senator MURRAY (Western Australia) (12.46 pm)—Perhaps I can assist with clarification. Minister, the problem that the academics in particular outlined—and which the committee took on board—is that the draft request to the commission for award modernisation seems to have two irreconcilable objectives, which I have outlined in picking up that particular paragraph in the report. It is their proposition that you cannot do both—you actually cannot do both of those things. Their view is that somebody, somewhere is going to have to suffer. I think that is a practical understanding. The academics suggested—and the chair of the committee is here and can assist us if necessary—a mechanism by which this could be resolved. My question really boils down to this: has the government understood that that is the problem—because of the evidence raised? Will you have a look at it and try to find a means of dealing with what are regarded as irreconcilable, competing objectives? Those objectives are that the process should not disadvantage employees or increase costs for employers. The academics made a clear case as to why it is impossible, in many cases, to do both.

Senator WONG (South Australia—Minister for Climate Change and Water) (12.48 pm)—Senator Murray, I appreciate the point you are making. I am not sure there is a simple answer, because this is a large task. I do not think the government has shied away from the fact that modernising awards is a significant task—hence the inclusion of this draft request in the EM which enables some of these issues to be discussed. If Senator Murray has a suggestion about how he would indicate a resolution of that at the outset of the process, I would certainly be interested in hearing it. It does seem to the government—as I indicated—that this is an issue that the commission will need to consider in this process, and will need to balance the various objects that are proposed in the request. Chair, I understand that government amendments have been circulated, so I table a supplementary explanatory memorandum relating to the government amendments to be moved to this bill. I understand that the memorandum was circulated in the chamber today.

Senator MURRAY (Western Australia) (12.49 pm)—In summary, I will conclude my remarks in this way. The proposition put by the academics is that the commission will operate to the instructions provided in the legislation and its accompanying directions. The academics are indicating that you need to give the commission greater flexibility than is apparent in the way the directions are expressed at present. I would simply ask whether the minister would commit to examining the evidence provided to the inquiry on this issue, so that you can consider whether the directions to the tribunal need to be adjusted in any way.
Senator WONG (South Australia—Minister for Climate Change and Water) (12.50 pm)—Senator Murray, I will certainly pass on your views on this issue to the Deputy Prime Minister.

Senator ABETZ (Tasmania) (12.50 pm)—I have a very simple question for the minister: will any workers be worse off as a result of this legislation?

Senator WONG (South Australia—Minister for Climate Change and Water) (12.50 pm)—As I have previously outlined to Senator Abetz and to the chamber, the proposition before the chamber is a set of legislation which restores the no disadvantage test for Australian workers as against the entirety of the award. It represents a much more beneficial industrial relations system than currently exists, and it provides for significantly more protection for workers and their families than under the previous government.

Senator ABETZ (Tasmania) (12.51 pm)—I ask again: will any worker be worse off as a result of this legislation? It is a very simple question.

Senator WONG (South Australia—Minister for Climate Change and Water) (12.51 pm)—I repeat the answer, Senator Abetz. My recollection was that during the passage of the Work Choices legislation you championed that legislation very strongly. I wonder now, in light of the evidence to date, whether you will concede that a great many Australians, particularly those with little bargaining power, were worse off as a result of the legislative framework you put in place. We on this side of the chamber are committed to restoring fairness to the workplace. That is what this legislation does, and it assures that the sort of stripping of pay and conditions in Australian workplace agreements that you saw under the previous government’s legislation cannot continue.

Senator ABETZ (Tasmania) (12.54 pm)—I think the record now shows quite clearly that the government are not able to give a guarantee that some Australian workers will not be worse off as a result of their legislation, a guarantee that they demanded from the former government. And, when it
honestly said it was unable to give such a guarantee, the former government was pilloried from the Torres Strait to Tasmania and from Sydney to the Swan for its inability to do so. Yet, a few months later, we have this new Rudd Labor government, with all the gloss coming off and with all the cliches that they used during the campaign that no worker should be worse off, now admitting that their legislation will see some workers worse off.

I ask the minister: why has it taken the government so long to bring in this legislation, keeping in mind that the Prime Minister, on 18 November, six days before the election, promised that the parliament would resume before Christmas? We know that that is already a broken election promise, because he did not resume the parliament before Christmas. Indeed, the parliament resumed on 12 February, the latest day that the parliament has resumed this century and this millennium. I ask: given that delay, given that huge amount of time that the Labor government had to get its house in order, why, some 10 minutes ago, did they drop on us 10 pages comprising 24 separate amendments to their proposed legislation, with an explanatory memorandum that goes for 15 pages? I recall Senator Wong was highly critical when the former government behaved in such a manner.

We were told that that was the sign of a government in decay, a government that was arrogant and a government that was doing legislation on the run. I would be interested in whether, after less than 120 days in office, this is indicative of the Rudd government now being a government in decay and displaying signs of arrogance. Also, why has it taken so long for this legislation to come into the chamber and why has there been the delay in presenting us with these very detailed and lengthy amendments?

Senator Wong (South Australia—Minister for Climate Change and Water) (12.57 pm)—The government has circulated some amendments, which I am advised are technical amendments arising in part out of the Senate committee process. I would remind Senator Abetz—and he and I were on opposite sides of the chamber but in the same situation in the debate on the Work Choices bill, during which he introduced, I think, 337 amendments—

Senator Abetz—Like you’re doing now!

Senator Wong—Well, Senator Abetz, I was there and I can tell you there were significantly more amendments in volume and certainly in scope than the government has moved now. These are primarily technical amendments. We are very happy to take the Senate through them.

Regarding the comments Senator Abetz makes about timelines, I would suggest to him that there might be just a touch of overreach in his contribution to the chamber at the moment. To suggest that we have delayed the legislation when this was the first bill introduced into this parliament by the new Rudd Labor government is really going a bridge too far. As I said, we are very happy to go through the technical amendments we have introduced, and I am sure senators would rightly request that of the government if they were unclear as to the scope of the amendments.

Senator Abetz—Can I inquire of the minister whether this legislation will allow Australian workplace agreements that are currently in existence to exist indefinitely?

Senator Wong (South Australia—Minister for Climate Change and Water) (1.00 pm)—As you may recall, Senator Abetz, AWAs continue until their nominal expiry date unless replaced by another agree—
ment. This is consistent with a policy we provided prior to the election.

Senator ABETZ (Tasmania) (1.00 pm)—They exist ‘until their nominal expiry date’ means that there will not be any AWAs around within a period of five years. Is that what I am led to believe by the minister’s contribution?

Senator WONG (South Australia—Minister for Climate Change and Water) (1.00 pm)—Was it just a repeat of the last one?

Senator ABETZ (Tasmania) (1.00 pm)—You have to take advice from time to time. I accept that; I was in the same boat when I was on that side of the chamber. I repeat the question and ask: given the minister’s answer, are we to assume, therefore, that, if all AWAs stop on their nominal expiry date, we will not have any AWAs in existence and operative in five years time?

Senator WONG (South Australia—Minister for Climate Change and Water) (1.01 pm)—Senator Abetz, I may not have been as clear in my first answer as I ought to have been. The advice I have been given is that the bill states and the government’s policy is that AWAs will continue up to and past their nominal expiry date until terminated or replaced. I made two points about that. Firstly, this is a transitional provision and, secondly, the government, when in opposition, did lay out this in detail in our election policy. Both of our policies, as you will recall, were released well prior to the election and were substantively litigated.

Senator ABETZ (Tasmania) (1.01 pm)—I therefore inquire: if this is only transitional legislation, does the government intend to bring in further legislation to abolish for all time AWAs continuing on into the future?

Senator WONG (South Australia—Minister for Climate Change and Water) (1.01 pm)—Senator Abetz knows what our policy is. Our policy is as was published. We will provide certainty for employers and employees and the senator knows that there is planned substantive legislation, but the position in relation to AWAs is as I have outlined.

Senator ABETZ (Tasmania) (1.02 pm)—Either deliberately or unwittingly, the senator has not answered the specifics of my question. Therefore, I ask: could it be possible that an AWA could remain in existence, let us say, in the year 2016?

Senator WONG (South Australia—Minister for Climate Change and Water) (1.01 pm)—That is why I deliberately asked the question. I think we are getting closer to the point now where the minister might concede to the Senate, and stop playing the charade, that AWAs that are in existence today, if they retain the support of both the employer and the employee, can continue indefinitely into the future.

I would have thought this is a vital area. For the minister not to respond is a matter of great regret. She may be now handed some information. If the delay was simply to get that information, that is fine.

Senator WONG (South Australia—Minister for Climate Change and Water) (1.04 pm)—I will read the Forward with Fairness policy implementation plan issued by the then Labor leader, Kevin Rudd, and the then shadow minister for employment and industrial relations in August 2007: Because AWAs will not be a feature of Labor’s new industrial relations system, transitional ar-
rangements are required. The transition arrangements for Australian Workplace Agreements will be:

- AWAs made prior to the implementation date of Labor's Transition Bill will remain in force and may only be terminated in accordance with current rules which allow termination by agreement between the parties during the term of the AWA or by one party providing 90 days' notice to the other after the nominal expiry date of the agreement.

That is on page 7 of the policy issued in August 2007. This bill delivers on our election commitment.

Senator ABETZ (Tasmania) (1.05 pm)—I thank the minister for that clarification. The difficulty that we have on this side, Minister, is that the Prime Minister promised to recall the parliament before Christmas and did not. So just because there is an election policy does not mean that it necessarily translates into the legislation that is before us. What this now highlights is that AWAs—those obscene, nasty agreements that were a blot on the industrial landscape!—are now, under Labor's own legislation, going to be allowed to continue indefinitely. I would have thought social justice and all those other terms that the Labor Party bandied about during the election campaign would have demanded that AWAs be abolished, got rid of holus-bolus because of all these terrible sins that they committed—how they ripped workers off. Labor is now saying that all those AWAs, even the AWAs being made today, I assume, can continue indefinitely, irrespective of what Labor may have said about AWAs in the past.

Senator MURRAY (Western Australia) (1.07 pm)—On the same point, it is a standard, indeed basic, legal principle of courts and governments not to seek to overturn contracts between parties by fiat. They will do so by agreement. Sometimes that is unfortunate, but that has always been, as I understand it, a basic legal principle. An important part of what you read out earlier, Minister, the policy which this government holds to, is providing that the continuation of those contracts is with the agreement of both the employee and the employer. My question is: how will you know whether an employee, for instance, might have been placed under duress in signing on to the original agreement and might in fact want out of it but cannot? Is there any mechanism for someone with a genuine grievance, who felt pushed into it originally, if you like, and wants out of it in the future? Will there be any mechanism for them to take that matter up in some tribunal or some dispute mechanism?

Senator WONG (South Australia—Minister for Climate Change and Water) (1.09 pm)—I think this issue of duress has been the subject of some discussion and there are, I am advised, existing provisions in the act which enable remedies to be sought for alleged duress. I would also point out the second part of what I read out, which does enable, post the nominal expiry date, one party—that is, in the example you are raising, an employee—to provide 90 days notice to the other party after the nominal expiry date in order for the agreement to be terminated. So there are two termination routes which are envisaged by our policy and, I am advised, are picked up in the various provisions in the legislation.

Senator SIEWERT (Western Australia) (1.09 pm)—This is the point, and I will come to it later during the debate. This is why we the Greens have in fact put an amendment up that says that AWAs should cease on the nominal expiry date. I am sorry, but I do not think the mechanisms that are in place sufficiently deal with the issue of duress in a workplace if an employee wants to get out of their AWA but feels sufficient duress. I think the degree of that is debatable, but I also
ask—and to a certain extent, for once, I agree with the opposition—

Senator Abetz—I’d better reconsider!

Senator SIEWERT—Yes, exactly! You are worried now, aren’t you? I repeat the question: if the policy is to get rid of AWAs, why don’t AWAs cease on the nominal expiry date? It seems to me that, if we want to get rid of these instruments, that would be the simplest, best and fairest way to deal with it.

Senator WONG (South Australia—Minister for Climate Change and Water) (1.11 pm)—Can I say first, Senator Abetz, if you are agreeing with the Greens—not that I have a problem with that per se—it probably indicates, if you are a coalition senator, that you might be being a little bit opportunistic. There are two points I would make, Senator Siewert. The first is a technical point, and I will make sure I get this right. If by legislative fiat you simply mandated the termination of agreements as at a nominal expiry date, you could in fact have a reduction in conditions for employees, and the point is that we wanted an appropriate transition arrangement. Hence the transition arrangements that I have read out.

The second point I make is really a mandate issue. I appreciate the position that you are putting, but what we are putting now is absolutely consistent with the election commitment that was made.

Senator ABETZ (Tasmania) (1.12 pm)—I was delighted to hear about the mandate issue and to cast my mind back to such things as budget surpluses, GST and other things. But of course it appears that those things were not important on that occasion. The question I now have is: does the OECD publish tables or a reference guide in relation to the degree of regulation that exists in OECD countries’ workplace relations systems? If so, where does Australia fit on that table?

Senator WONG (South Australia—Minister for Climate Change and Water) (1.13 pm)—I do not have advice on those issues.

Senator ABETZ (Tasmania) (1.13 pm)—Could you just confirm for us whether you do not have advice or whether the department is not aware of such a table. That would be helpful to us.

Senator WONG (South Australia—Minister for Climate Change and Water) (1.13 pm)—We are happy to try and assist you, Senator Abetz, if you can perhaps be a little bit more precise about which OECD dataset you are talking about. At some point, unless Senator Abetz plans on making sure we are all here next week, it would be useful if we could actually get to some amendments. I assume that there is a point to this question that is relevant to the debate on the bill.

Senator ABETZ (Tasmania) (1.13 pm)—We would move along a lot quicker if the honourable minister would desist from trying to question motives. It was her own Labor Senate colleagues, on page 2 of their report—so it seems the minister did not even get to page 2 of the Senate committee report that her own colleagues wrote—who told us that the current regime of workplace relations ‘resulted in the most complex and highly regulated industrial system of any OECD country’. Very tellingly, there was no footnote in the report, and that is why I wanted to see what the veracity of that comment by Labor senators was, because it is a general issue relating to this bill. It clearly is relevant because, if it were not relevant, I am sure Labor senators would not have included it in their report.
The TEMPORARY CHAIRMAN (Senator Hutchins)—Is there any further general discussion?

Senator ABETZ (Tasmania) (1.15 pm)—Yes, there is. It is quite clear that the Labor minister at the table is not willing to defend the Labor majority report in this regard. I note that and accept that. Moving on to another topic, I ask the minister: how do the proposed changes enhance employment growth?

Senator WONG (South Australia—Minister for Climate Change and Water) (1.15 pm)—I think your point about complexity is probably demonstrated by what we are talking about. There are three volumes of legislation, as you know—two of the substantive bill and one of the regulations—which currently comprise what your government did to industrial relations. So if you want to talk about complexity, it can be weighed in terms of what your government actually did. Your question related to employment impacts; is that right, Senator Abetz?

Senator ABETZ (Tasmania) (1.16 pm)—Rather than worrying about stunts, if you had listened to the question you would have heard that it was: how do these changes enhance employment growth?

Senator WONG (South Australia—Minister for Climate Change and Water) (1.16 pm)—As I have previously indicated in this chamber, we have very clearly in mind an industrial relations system where productivity is the incentive for wage increases. We have in mind a system predicated on collective bargaining over the safety net. We have made very clear our views about the importance of driving productivity, of productivity being the incentive for wage increases. As the senator would know, today’s productivity is tomorrow’s prosperity, and that is very much the approach the government is taking.

Senator ABETZ (Tasmania) (1.17 pm)—Once again I am not provided with an answer. But I am quite thrilled that the minister pulled the stunt of pulling out all the legislation. I recall coming into this place when on the other side with a ream of paper that represented one single industrial award. So, when we talk about a complicated system, if we were to stack the awards on top of each other we would undoubtedly exceed the height of the flagpole on top of this place. Three meagre volumes disappear into insignificance by comparison. But I have a question, seeing we are not getting any answers, which highlights the fact that the glib one-liners run during the election campaign are not able to be delivered on for the Australian people. I recall when doing Work Choices, the Labor Party—and I thought to a certain extent they may have had a good point here—asked whether any economic modelling had been done to support such wild assertions as, if I recall, if the legislation was passed we might in fact get an increase in employment of 70,000-plus people and we might be able to break the psychological figure of a five per cent unemployment rate! Today we celebrate an unemployment rate of 3.97 per cent, which is a great outcome for those thousands of Australian workers who are in fact now able to be described as working families; previously they would have been welfare families. Having mentioned that, I ask: has the government done any economic modelling in relation to its proposed changes and, if not, why did it demand economic modelling of the previous government when it itself is not undertaking economic modelling for its changes? Is it that one rule applies to the Liberal Party and the National Party and another one to the Labor Party?

Senator WONG (South Australia—Minister for Climate Change and Water) (1.19 pm)—The position of the opposition is
quite extraordinary. I want to clarify this so people understand what is occurring here. The opposition put in place the most unfair laws this country has ever seen—laws which removed wages and conditions from a great many working families in this country, laws which stripped away conditions in the sorts of percentages that I read out earlier. They are now coming in here—I am not actually sure what their line is because the opposition, as it is wont to do, is all over the place. On the one hand we are being criticised from the right; on the other hand, bizarrely for Senator Abetz, we appear to be being criticised from the left, which is an interesting experience. This is an opposition which, when in government, put in place a set of laws for which it did not have a mandate. Senator Abetz, I do not recall you going around Tasmania telling families in Tasmania that you were going to champion laws that were going to enable their penalty rates and their overtime rates to be removed. I do not recall you putting out a press release prior to the 2004 election telling them. Perhaps you would like to disabuse me if I am incorrect on that.

The government have made it clear that we predicate the approach we have taken on the experience of the productivity increases during the period this country did move to enterprise bargaining. We have proposed a new fair and flexible workplace system which is firmly focused on lifting productivity. If productivity improves in an enterprise then there are gains to be shared. That is the approach we will be taking. The workplace relations system the Rudd government will introduce is a decentralised system where employers and employees bargain at the individual enterprise level. We have been very clear about our focus on productivity. We have also been clear about what we regard as an important priority, and that is modernising awards. We are implementing our election policy commitments on this front.

In terms of the effect of our policy, which the shadow minister seems to care about so much, I would like to emphasise to the chamber that these issues being discussed now were discussed quite a lot, you would have to say, in the period leading up to the election. I do not think anyone in this country—unless you really did not read any newspapers or watch any television or talk to very many people—could possibly have thought that industrial relations was not an issue. It was a significant topic at the last election. A great many of the assertions that Senator Abetz is putting forward are the very same arguments that the previous government sought to put against the Labor Party in the previous election and he is continuing to do so in this chamber on a bill that he is charged with handling that, as I understand, his deputy leader and leader have instructed him to support. Senator Abetz—No, not oppose.

Senator WONG—I am so sorry, Senator Abetz: to not oppose! I have not quite understood—this is clearly coalition party speak—what the difference between ‘not oppose’ and ‘support’ is in a chamber where you actually have to vote at some point, unless perhaps they are just going to keep silent for the entirety of the voting period and only make contributions during the debate. Senator Abetz, we have a bill before the chamber which delivers on this government’s election commitments in a policy area that was, absolutely, a significant focus of the last election. From this side of the chamber we would like to proceed with debating the various amendments, including those from the cross-benches as well as government amendments, which I am happy to provide detail of.

Senator ABETZ (Tasmania) (1.23 pm)—We would be delighted to get on with the
debate as well. I asked a very simple question: had any economic modelling been done? Instead of the torrent of abuse, the minister could have said either yes or no to that question. But of course she could not and did not because she did not want to tell the Australian people that that which she had demanded from the previous government they themselves are not doing.

Allow me now to move onto another topic. This minister does not answer questions, but it is important to get on the record what the responses are. Given that she was able to advise us how many Australian workplace agreements removed overtime pay, penalty rates, annual leave loading and rest breaks, is she able to advise us how many awards and collective agreements have removed overtime pay, penalty rates, annual leave loading and rest breaks? And let her deny that awards have not removed those conditions.

Senator WONG (South Australia—Minister for Climate Change and Water) (1.25 pm)—Senator Abetz, as you know, certified agreements are public documents so, unlike AWAs, which your government chose to try and hide from the Australian people by not releasing the data because it was embarrassing to you, certified agreements are on the public record and people are free to analyse them in the manner that they see fit.

Senator ABETZ (Tasmania) (1.25 pm)—Once again, no answer. The minister is, on the one hand, willing to condemn but, on the other hand, not willing to admit or acknowledge that these very items she believes are so vital have in fact been removed from a number of union negotiated awards. I think one of the first ones to do that was in her home state of South Australia with the shop distributive alliance. I ask the minister: in the event that the original bill was clearly economic policy and all clear, why is it that she had to come in here half an hour ago, tail between her legs, with 24 government amendments and 15 pages of explanatory memorandum if it was all so simple? If it was all so simple, why is it that she has now had to come in with all these amendments?

Senator WONG (South Australia—Minister for Climate Change and Water) (1.26 pm)—Senator Abetz, I know what you probably think of me, but contrary to what you might think I do not have a tail.

Senator Murray—Or horns.

Senator WONG—Or horns. Thank you, Senator Murray, I am very glad you pointed that out. Can I just come back to a couple of questions. One point is that the department has reminded me, Senator Abetz and others in the chamber, that the department’s submission to the Senate committee did include economic analyses in relation to the issues that are raised. The second point I wanted to make to Senator Abetz in his attempt—and this is not a new game by the senator—to suggest that there was somehow some equivalence between collective agreements and Australian workplace agreements that were imposed by and put in place by his government, is that if he is concerned about wages and conditions such as penalty rates being traded off, as he appears to be suggesting, one wonders why he supported Work Choices and championed it in the first place. I think one of the first ones to do that was in her home state of South Australia with the shop distributive alliance. I ask the minister: in the event that the original bill was clearly economic information was provided, the specific
question was: did you have any economic modelling undertaken by the department? That was the question. Do not try to squib out of it by saying that some economic information was provided. The specific question was: was economic modelling undertaken? And I trust that it was not the department that provided you with that previous answer.

Senator WONG (South Australia—Minister for Climate Change and Water) (1.29 pm)—Senator Abetz, I am not sure which answer you are referring to. If it is about me not having a tail, I can probably work that out myself. In terms of economic information, there is a substantial amount contained in the department’s submission and I draw the senator’s attention to it. I am not sure I can assist him any further on this.

Senator ABETZ (Tasmania) (1.29 pm)—Allow me to assist the minister. On page 27 of the Hansard of the hearings on this bill conducted on Tuesday, 11 March 2008 by the Senate Standing Committee on Education, Employment and Workplace Relations, my good friend and colleague Senator Fisher asked:

Has the department provided to the government any economic modelling on the wages impact of this bill?

The answer was:

As Mr Pratt indicated before, the department has not, at this stage, undertaken any economic modelling on the issue.

Senator Fisher asked:
At all on the bill?
Mr Kovacic’s answer:
On the bill.
So it is quite clear the department said before the Senate standing committee on 11 March 2008 that no economic modelling had been done. I trust, or can I assume, that that answer remains the same, or was economic modelling undertaken between 11 March and Tuesday, 18 March—in the last seven days?

Senator WONG (South Australia—Minister for Climate Change and Water) (1.30 pm)—Senator Abetz, I have recalled the third issue that I had not addressed that you asked about, which was a criticism of the government’s 24 amendments. As I indicated at the outset, these are—

Senator Abetz—That was not a question.

Senator WONG—Yes, Senator Abetz; as I recall, you said something to the effect of: ‘If this was so simple, was your election policy, why do you have 24 amendments?’ That might be a bit of a summary of the position that you put to the chamber, but that is my recollection of it. As I said in the second reading speech, we are a government that is prepared to consult and consider issues put to us. I am advised these are primarily technical amendments and, as I said at the outset, we are very happy to provide advice to the chamber as to their effect so senators can consider them. I again make the point that they pale into insignificance when you consider the 334 amendments that Senator Abetz introduced during the debate on Work Choices.

Senator ABETZ (Tasmania) (1.32 pm)—I think that answer was a good alibi, but of course it does not deal with the issue of whether any economic modelling was done, and I think we now know, like with so many of the other questions that I have asked, that the minister is unable to answer them because the glib lines of the election campaign are becoming very difficult to actually implement in law. I ask the minister: does the federal Labor government now accept the use of the corporations power for workplace relations law?

Senator WONG (South Australia—Minister for Climate Change and Water) (1.32 pm)—As Senator Abetz will probably
recall, our policy—and I think it was the first—as opposed to the implementation plan, indicated that our objective was a single national system and we indicated that we would use all available powers to achieve that.

Senator Abetz, I am very happy to stay here today and tomorrow and into next week, if that is what you want, to debate this issue. I would remind the chamber and opposition senators that, as I understand the opposition’s position, you are not opposing this bill; you are supporting this legislation. I understand why Senator Abetz feels a proprietary interest in defending Work Choices, in defending the legacy of the legislation he put through the chamber which was so resoundingly rejected at the last election. I understand that is troublesome for Senator Abetz, but the reality is that he is now part of a party which has put up the white flag on this issue. Senator Abetz, you can make any point you wish in this chamber, but your party has put up the white flag on this issue. You have recognised—

Senator Abetz interjecting—

Senator WONG—And I applaud that, because the opposition should take heed of what the Australian people voted for at the last election. They did vote to restore fairness to the workplace. They were presented with two clear policies from the federal Labor Party prior to the election, in our Forward with Fairness policy and implementation plan, and that is what we are delivering on. The only thing at the moment which is holding this Labor government back from delivering on its promise to the Australian people is Senator Abetz and the people behind him. You are the only things that are holding us back. So my suggestion, Senator Abetz, is perhaps you should get out of the way.

Senator SIEWERT (Western Australia) (1.34 pm)—I wanted to go back to the issue of economic modelling. At that same inquiry hearing, I actually asked—and it should be on the record—the department whether they had done any modelling on Work Choices and, as I understood it, they had not done any modelling on Work Choices either. So here the opposition are trying to have a go about the modelling on a new IR bill when there was no modelling done on the previous system, Work Choices. I also point out that the evidence presented to the committee by DEEWR showed that collective bargaining was in fact better for productivity. That is what DEEWR were saying in the evidence they presented to the committee on 11 March. I was there and I have read the submission. That is the evidence that we were presented with.

Senator FISHER (South Australia) (1.35 pm)—Minister, are you aware of comments made by the Deputy Prime Minister referring to the 138,000 Australian workplace agreements awaiting processing and finalisation? Are you aware of comments by the Deputy Prime Minister that processing that backlog could take 8½ months? She said:

“That is eight and a half months where employers and working Australians would have no idea whether or not … the agreement they were working under was lawful.”

The Deputy Prime Minister went on to say:

“It is conceivable that after five, six, seven, eight months of delay in processing, a small business in this country is going to be told that its agreement has failed,” she said.

“If you are told it’s failed eight months after it’s been made then that quantum of back pay could break a small business …”

Minister, what amendments will the government be making to this bill to reduce that time delay and to ensure that employees in Australia know their rights and small businesses know their rights and obligations?
Senator Wong (South Australia—Minister for Climate Change and Water) (1.37 pm)—It is interesting that Senator Fisher reads off a question asking about backlogs. I am advised, and I will confirm that this is correct, that—

Senator Fisher interjecting—

Senator Wong—Are you waving something around there, Senator Fisher?


Senator Wong—I am pleased that you can show me a press clipping. That is a good contribution to this debate! I remind Senator Fisher that, as I am advised—and I will check these figures—around 57,000 agreements entered the backlog between your government’s announcement of your so-called fairness test and the legislation being passed through the parliament. If anyone on that side of the chamber wants to talk about backlogs, they ought to be very careful. I will get advice on this issue, if you wish. I am not aware of the comments to which you have referred, but if I am able to provide you with any further information I will.

Senator Fisher (South Australia) (1.38 pm)—Do you agree, Minister Wong, with this comment of the Deputy Prime Minister:

“... It is conceivable that after five, six, seven, eight months of delay in processing, a small business in this country is going to be told that its agreement has failed,” ...

“If you are told it’s failed eight months after it’s been made then that quantum of back pay could break a small business ...”

Do you agree with those comments from the Deputy Prime Minister?

Senator WONG (South Australia—Minister for Climate Change and Water) (1.38 pm)—I always agree with the Deputy Prime Minister, Senator Fisher. I am sure that that does not surprise you. I will get some further information when I read that. Please give me a minute. Was the question in relation to this legislation? Otherwise, I am sure that Senator Fisher can ask this question in question time, which is rapidly approaching. I am advised that most agreements start on approval under this bill, so no back pay issue arises. Agreements have to be signed when lodged. We make the point that the no disadvantage test that is introduced with this legislation is significantly simpler than the so-called fairness test.

Senator Fisher (South Australia) (1.39 pm)—Thank you, Minister. Will the government be amending this bill to reduce the backlog of workplace agreements more quickly than the time frame contemplated by the Deputy Prime Minister?

Senator WONG (South Australia—Minister for Climate Change and Water) (1.39 pm)—I have dealt with the provisions in the bill which deal with these issues. I again remind her that she is pressing the point in relation to a backlog of the coalition’s creation.

Senator Fisher (South Australia) (1.40 pm)—Will the government amend the bill to help employees in Australian workplaces and
businesses across Australia who would otherwise be detrimentally affected by the backlog of workplace agreement processing?

Senator WONG (South Australia—Minister for Climate Change and Water) (1.41 pm)—If there are workers and employees in Australia who are detrimentally affected by a backlog, I am sure that they will be aware that this backlog arose as a result of the Howard government’s workplace relations agenda and the introduction of the so-called fairness test, which created this backlog. I have already given the senator, in an effort to assist her, an indication of what aspects of this bill attempt to deal with the appropriate processing of agreements. I am not sure that I can assist her any further.

Senator FISHER (South Australia) (1.41 pm)—Thank you, Minister. The Prime Minister has indicated that the buck stops with the government. Minister, will the government be amending this bill to arrest the closure of Workplace Authority offices which I understand are planned to have effect from June this year?

Senator WONG (South Australia—Minister for Climate Change and Water) (1.42 pm)—Senator Fisher, preceding every question with ‘will the government amend the bill’ does not make the question relevant to the bill. You could at least try and disguise it a little better, if I may suggest. The government has made its position in relation to Fair Work Australia and the consequences associated with establishing that clear. That is in our policy commitments. We are keen to proceed in relation to this bill, implementing as it does a promise to the Australian people prior to the last election.

Senator FISHER (South Australia) (1.42 pm)—I note that the minister has refused to indicate that the government will amend the bill to assist businesses and workers across Australia. Minister, in respect of the dual award modernisation goals of not disadvantaging employees and not increasing costs for employers, do you agree with the comments made by your colleague Senator Marshall that these goals appear contradictory and are—in his words—an ‘impossible task’?

Senator Murray—We covered this earlier when the senator was not here.

Senator FISHER—My question stands.

Senator WONG (South Australia—Minister for Climate Change and Water) (1.43 pm)—We covered this issue in quite a bit of detail earlier on. I am not sure if you were in the chamber.

Senator FISHER (South Australia) (1.44 pm)—I ask the question again: does the minister—

Senator Murray—I rise on a point of order, Temporary Chairman Watson. I am one of those who do not like the ‘get out of the way’ kind of rhetoric which says that the opposition should not pursue matters of accountability. But it is an irritant, frankly, when we have a tight timetable and senators who were not present when matters were fully explored in general questions ask about those same matters. My point of order is that it is tedious repetition. From my memory, about 10 to 15 minutes were devoted to that exact question prior to this.

The TEMPORARY CHAIRMAN (Senator Watson)—Senator Murray, it is not a point of order. It is a debating issue, but I suggest we try and proceed expeditiously with the committee stage of the bill.

Senator ABETZ (Tasmania) (1.45 pm)—I note that my questioning in relation to this legislation has, at most, taken one hour and the minister at the table has taken objection to us as an opposition asking what—if I might say—have been relatively concise, short questions which she then goes into a
long tirade in giving a nonresponse to. I will give her one last question in the general question area: given her repeated statement that this legislation implements Labor’s election promises, pure and simple, can she remind the Senate—and, indeed, the Australian people—when, during that election campaign and long debate about the proposed changes, she or anybody else from the Australian Labor Party said to the Australian people ‘but, of course, some workers will be worse off’?

**Senator Wong** (South Australia—Minister for Climate Change and Water) (1.46 pm)—With all due respect—and I appreciate that Senator Abetz wants to continue to make a range of political points—I have responded on a number of occasions to this general issue. I have said on a number of occasions that we are delivering on our election commitments. I have said on a number of occasions that under Labor’s legislation we will ensure that there is a real no disadvantage test—not the so-called fairness test that existed under the previous government. We will remove from this system going forward the ability to enter into AWAs in which penalty rates, overtime and a range of other conditions are stripped away.

I have gone through some of the statistics which the previous government sought to hide from the Australian people that demonstrate the full extent of the unfairness of some of the AWAs which were put in place under the system that Senator Abetz championed. The bill before the chamber delivers on the government’s election commitments and we would like to proceed to vote on it. Senator Murray, I accept your point: I think oppositions and crossbenchers are absolutely entitled to probe legislation. The point we have made is we have an opposition which says it does not oppose this legislation and which, to my reading—and I was just checking again the Senate report—has not, in fact, proposed any amendments. That is the context of this: it is not a constructive discussion about accountability in this chamber; the opposition are seeking to play out a political process on a bill that they said they are not going to oppose. I was simply making that point, but I take the point you are making.

**Senator Abetz** (Tasmania) (1.48 pm)—This will be my last question in the general question bracket, to give the minister the opportunity to tell us in this chamber, and the Australian people, when she, or any of her colleagues, admitted to the Australian people prior to 24 November—election day, that is, Minister Wong—that some workers would be worse off as a result of Labor’s proposed changes.

**Senator Wong** (South Australia—Minister for Climate Change and Water) (1.49 pm)—I have answered this question and I will say again: what we did do before the election was to listen to the Australian people, to listen to working families about the effect that the then coalition government’s laws was having on their take-home pay and their conditions. What we did was listen to the Australian people; we listened to the fact that there was clear evidence—despite the then government’s best efforts to hide it—of Australian workplace agreements removing substantive rights such as penalty rates. This argument really is rich from an opposition that, when in government, promised conditions such as penalty rates and overtime would be protected by law but then allowed these conditions to be stripped away without any compensation. This line of argument is rich coming from a party that said workers would be protected by a so-called fairness test but then designed a test which did not provide full compensation for loss of important award conditions like overtime and had no protection for key award conditions such as redundancy.
Let's be clear about the position from that side of the chamber, which was about removing those protections, and let's be clear about the bill that is before the chamber which is about restoring a no-disadvantage test against the awards.

Senator Murray (Western Australia) (1.51 pm)—My only other topic for the general question section concerns the federal minimum wage. Minister, the minimum wage is not just a current topic in the media; it was raised as an issue during the committee inquiry by a number of witnesses, including the very longstanding senior union official Joe de Bruyn of the shoppies union. He essentially raised—and other witnesses commented on this—the concern that a minimum wage might not cover all Australian employees. So I had a look at subdivision (g) of the relevant section of the act, which covers federal minimum wages. Minister, I will not be asking you to respond to a specific question—I am going to be asking you to take a question on notice—but I need to describe the issue to you so that you understand what concerns Joe de Bruyn and others have and that they need a response from the government.

The minimum wage in popular understanding covers every Australian, but it is actually described in our federal law under the federal minimum wage provision as an FMW, not as an NMW or national minimum wage. The minimum wage does not apply to a number of people, such as junior employees, employees with a disability, employees to whom a training arrangement applies or APCS piece rate employees unless the Fair Pay Commission grants them. It may also not apply to some employees who fall under state provisions.

So my obvious question was: should there be a default provision in the law—and the minister would understand what that means—so that, to the extent that any employee is not covered under either state or federal law with respect to a minimum wage, a minimum wage would apply? Minister, can you take these questions on notice. Could you get departmental advice as to whether there are any Australian employees to whom a minimum wage does not apply? If that is the case, does the government propose to review that matter when it is looking at the substantive bill later this year?

Senator Wong (South Australia—Minister for Climate Change and Water) (1.54 pm)—Thank you, Senator Murray. I appreciate the opportunity to take that on notice. I will ask the department if they are able to provide that by the time we come back in committee on this issue. We will do our best, Senator Murray.

Senator Murray—Thank you.

Senator Abetz (Tasmania) (1.54 pm)—If I may, given the government's anxiety to get on with the bill, I invite them to start moving their amendments. Let us deal with the specific amendments.

Senator Wong (South Australia—Minister for Climate Change and Water) (1.55 pm)—I move government amendment (1) on sheet PA412:

(1) Schedule 1, item 1, page 3 (after line 19), after subparagraph 326(2)(b)(i), insert:

(ia) did not commence that employment more than 14 days before the day on which the ITEA was made, and had previously been employed by the employer (not being employment that had ceased for the reason that, or for reasons that included the reason that, the employer would re-employ the person under an ITEA); or

This amendment will amend section 326 to enable an employer to make an ITEA with a former employee, provided that the em-
ployee’s previous employment with that employer was not terminated in order to re-engage the employee on an ITEA. Proposed section 326 currently prevents an employer making an ITEA with a former employee. I am advised that the bill was originally drafted in this way because the government was concerned that employers would arrange for the employment of employees to be terminated in order for them to sign up to ITEAs.

In short, this amendment responds to concerns raised during the Senate inquiry about the difficulties that the current drafting could cause for workplaces and industries with high turnover and with a limited pool of employees on which to draw for the transition to the government’s new workplace relations system. This is a particular feature of the building, construction and mining industries in Western Australia. The amendment is based on a suggestion put forward by the Australian Industry Group in its submission to the Senate inquiry into the bill. The government considers that the amendment gives employers and industries with high turnover and a limited pool of employees the flexibility that they need during the transition period whilst ensuring ITEAs are confined to limited use.

Senator ABETZ (Tasmania) (1.56 pm)—The opposition supports this amendment because it seeks to in fact broaden the coverage of ITEAs. It is very interesting to observe that in circumstances where Senator Wong has been saying, ‘This legislation puts down our election commitments, pure and simple,’ the very first amendment that the Rudd Labor government has to move an ITEA with a former employee. I am advised that the bill was originally drafted in this way because the government was concerned that employers would arrange for the employment of employees to be terminated in order for them to sign up to ITEAs.

It is very interesting to see this minister, who was so vitriolic during general questioning on this legislation, come in here and move the very first amendment to in fact broaden the coverage and accept more and more of that which she sought to deny the Australian people. We hope—and this is why we as an opposition are supporting it—this will reduce the negative impact on Australian workers. The minister refused, time and again during general questioning, to give a guarantee that no worker would be worse off as a result of this legislation. It is now quite clear that many workers will be worse off as a result of Labor’s proposed legislation, but its very first amendment will ensure that that negative impact is in fact lessened. It is on that basis that we as the opposition support the amendment.

Senator MURRAY (Western Australia) (1.59 pm)—This is an excellent amendment. It allows for the re-engagement of former employees on ITEAs. I think the government has done well with it.

Senator SIEWERT (Western Australia) (1.59 pm)—I understand the government says there are provisions that will prevent people from being effectively sacked in order to be put on ITEAs. I ask the government to outline how that is built into this amendment, given that this amendment has been given with relatively short notice. It is hard to work it out.

Progress reported.

QUESTIONS WITHOUT NOTICE

Fuel Prices

Senator JOYCE (2.00 pm)—My question is to the Minister for Climate Change
and Water, Senator the Hon. Penny Wong. Will the minister guarantee that petrol prices will not rise as a result of the government’s emissions-trading policies?

Senator WONG—I thank Senator Joyce for the question. I can guarantee that this government will do what we said we would do before the election, which is to take decisive action to tackle climate change. I also remind Senator Joyce that the former government in fact committed to an ETS. The former Prime Minister, John Howard, did commit to an emissions-trading scheme. But the thing that I want to emphasise to the chamber is that we know absolutely from the Stern report and from a range of other advisers, including Professor Garnaut, that the cost to the Australian economy and to households of neglecting to act will be significantly greater than the cost of responsible action now. We absolutely know that the cost of inaction and of neglecting to act will be significantly greater than the cost of responsible action now. Australians recognise that tackling climate change will not be painless, but I think the Australian people have a very clear understanding that, as I said, the cost of inaction would be greater than the cost of responsible action now.

Senator Joyce would be aware, as I have said, that the previous government did commit to an emissions-trading scheme. As I recall, we have also heard some comments by the member for Flinders—and I know that Senator Joyce disagrees with him on a range of issues—on the importance of tackling climate change. I want to emphasise, and we emphasised this yesterday, that the government is absolutely aware that the introduction of an emissions-trading scheme is a significant economic policy. It is a significant reform. We will be methodical and careful in our approach to emissions trading. We will undertake modelling, as I have said, within Treasury to assess the best design approach that should be undertaken. I have said very clearly that measures will be developed to assist households, particularly low-income households, to adjust to the impact of carbon prices.

Senator JOYCE—Mr President, I ask a supplementary question. I thank the minister for her answer, but it appears that once more she has failed to rule out that petrol prices will rise. That being the case, can the minister indicate how much extra consumers should expect to pay at the bowser? How can the government claim to be working to drive the price of petrol down when they do not even know what effect their own emissions-trading policy will have?

Senator WONG—The government has laid out a very clear timetable which involves a significant amount of consultation and careful consideration of the economic impact. As Senator Joyce will probably know, there are a range of design decisions which the government needs to make, which include trajectory and a range of other assistance measures. It is not possible ahead of that consultation and consideration for this detail to be gone into. This is a significant reform, which is why the government is taking a careful and measured approach. We have announced a period of consultation with stakeholders such as industry to be followed by a green paper and then further consultation on the green paper before draft legislation is instituted. We know that the cost of inaction and of neglecting to act will be far greater than the cost of responsible action now. (Time expired)

Economy

Senator HURLEY (2.04 pm)—My question is to Senator Conroy, the Minister representing the Treasurer. Can the minister update the Senate on the Reserve Bank of Australia’s outlook for inflation and the role fis-
cal policy will play in tackling that inflation challenge?

Senator CONROY—I thank Senator Hurley for the question. The Rudd government acknowledge that we face an important challenge in curbing inflationary pressures which have been building in our economy for some time. Today the Reserve Bank released the minutes of its last board meeting. These minutes serve as a stark reminder of the inflation challenge the Australian economy currently faces. The Reserve Bank’s minutes reinforce the fact that the Australian economy continues to face significant inflationary pressures and that these pressures will take a long time to turn around. CPI inflation is expected to be above four per cent in the short term. This is the legacy of those opposite to the Australian public. Both underlying and headline inflation are not expected to return to below three per cent until mid-2010.

Despite recent interest rate increases, the Australian economy could still face a period where inflation pressures are uncomfortably high. The Reserve Bank’s minutes show just how serious the inflation challenge is for the Australian economy. High inflation is the result of past policy failures of the previous government, who spent recklessly and failed to address skills shortages and infrastructure bottlenecks. They simply left the job of containing inflation to the Reserve Bank via interest rates.

The opposition apparently still fail to grasp the fact that Australia faces an inflation problem. It is a problem that was created by their complacency and failure to heed warnings from the government’s key economic advisers. The Reserve Bank governor, Mr Stevens, made a timely contribution to the debate on inflation in a speech he gave to Treasury officials last week. The governor set out to dispel a number of recent myths on inflation. First, the governor noted that the argument that there was not much inflation was just plain wrong. He stated:

When we get the March 2008 figures … we will most likely find that the rise over the four quarters is more like 4 per cent.

Second, the governor rejected the argument that inflationary pressure was the product of a couple of specific factors. On the contrary, the governor stated that inflationary pressures are broad based across a wide range of items. Third, the governor warned that ignoring the inflation problem will not make it go away. He observed:

… the surest way to higher average interest rates is to accept higher inflation.

So what is the opposition’s response to having their past policy failures exposed by the Reserve Bank? They decided to shoot the messenger. Today’s Australian Financial Review reports that the opposition are ready to ‘squeeze the RBA’. The shadow Treasurer is on the record as suggesting that the Reserve Bank may have raised interest rates once too often. The opposition needs to sort out—(Time expired)

Work for the Dole

Senator CORMANN (2.09 pm)—My question is to Senator Wong, the Minister representing the Minister for Employment Participation. Will the minister fully guarantee the continuation of the highly successful Work for the Dole program?

Senator WONG—In relation to the Work for the Dole program, can I say at the outset that the Rudd Labor government supports the concept of mutual obligation. In fact, if you go through history—and Senator Abetz and I have a long history on this issue—you will recall that, in fact, it was a Labor government that first introduced the principle of mutual obligation.

Whilst the government believe that Work for the Dole is a reasonable part of the cur-
rent employment services, we do believe the program’s benefits are patchy. Employers have complained about unnecessarily stigmatising job seekers. For example, one of the facts which have been provided to me is that 59.8 per cent of participants were still not employed and/or in education or training three months after completing Work for the Dole.

Senator, I will come back to you if I can provide further information. My recollection is that the government is currently undertaking a review of employment services where these and other employment services will be considered. As I have said, the Rudd government are committed to the principle of mutual obligation, but we do need to ensure that we maximise the benefit and maximise the use of taxpayers’ money to ensure that we get the best outcome for those people who participate in programs and the best outcome for taxpayers.

Obviously, one of the issues that the former government failed to address was sufficiently investing in training those outside the labour market. As you will recall, Senator, this government did go to the election with a very significant commitment to increasing training places. That is the subject of a bill that is currently if not before this chamber then certainly in the other place. I will come back to you, Senator, if I have any further information on that specific program, but as I have outlined my recollection is that Minister O’Connor has indicated that there will be or there is currently a review of employment services, of which Work for the Dole is one. Nevertheless, the government is committed, and I emphasise this, to the principle of mutual obligation.

Senator CORMANN—Mr President, I ask a supplementary question. Given that the minister has all but told us that the government will scrap the successful Work for the Dole program, will the minister shed some light on the future of the Green Corps program or will that be a victim of the razor gang too?

Senator WONG—Again, I remind the senator that I have indicated that Minister O’Connor has outlined a review of various employment services. I do not appear to have a specific brief on Green Corps. I will undertake to obtain advice on that issue and respond if I am able to, but again I emphasise that the government are absolutely clear: we are supportive of the principle of mutual obligation. We want to ensure that the taxpayers’ money is well spent.

Housing Affordability

Senator WEBBER (2.13 pm)—My question is to Senator Evans, the Minister representing the Minister for Housing. Can the minister advise the Senate of the government’s reaction to the data released today by AMP and NATSEM on housing affordability and the government’s plans to assist those most affected by housing stress?

Senator CHRIS EVANS—I thank Senator Webber for her question. The Rudd Labor government is acutely aware of the cost of living pressures being applied to working families, and this is never more so than with housing affordability. The new report released today by the AMP and the National Centre for Economic and Social Modelling, NATSEM, highlights the seriousness of the affordability challenge in housing that Australian families now face. According to the report, which is entitled Wherever I lay my debt, that’s my home, Australia has one of the least affordable housing markets in the developed world. International statistics quoted by the report show that only a handful of American cities, including San Francisco and LA, are more unaffordable than markets in Australia.
The report details the sharp deterioration in housing affordability over time, and describes the 1995-96 to 2005-06 period as a ‘decade of dwindling hope’. In 1995-96, purchasing a house cost less than five times annual income. In 2005-06, that had increased to 7.5 times annual income. It had increased by 50 per cent. More households are in housing stress, defined in this report as spending more than 30 per cent of disposable income, after tax, on housing costs. Twenty-three per cent of households spent more than 30 per cent of their income on housing in 2005-06. That is up from 19 per cent a decade earlier—a huge increase in housing stress for ordinary families. Over a quarter of families with children are in housing stress. Around one-third of people under the age of 45 are in housing stress. Thirty-eight per cent of the total of those with mortgages are in housing stress, and over 60 per cent of those who bought their first home in the last three years are in housing stress—huge numbers and huge pressures on ordinary working Australians. In the decade up to 2005-06, there was a sharp decline in the proportion of households owning their own home outright: down from 43 per cent in 1995-96 to 34 per cent in 2005-06—almost a 10 per cent drop in the number of households owning their home outright. It was a huge decrease in the decade under the former Liberal government, described by this report as the ‘decade of dwindling hope’. This is part of the legacy of the previous Howard government.

Not only do we have very strong underlying inflation that is out of control but we have an affordability crisis in housing which has seen opportunities for young Australians greatly restricted. There are no simple answers, but what we do know is that the Rudd Labor government is absolutely committed to trying to assist young Australians to own their own home. It is a key aspiration of Australian society. It is something that the Labor Party are very committed to, and we are doing what we can to take the pressure off families in order to allow them to access the dream of owning their own home. The Labor government has set out a number of measures in the housing area to try to increase housing affordability and opportunity. The key one will happen after 1 July 2008, when we open up our new First Home Saver Accounts. These will allow young people to boost their savings and will support them so that couples on average incomes can get an extra $12,000 towards a deposit on their first home. (Time expired)

Housing

Senator PAYNE (2.17 pm)—My question is to Senator Evans, the Minister representing the Minister for Housing. I have noted Senator Evans’s answer to Senator Webber. How then will the government’s so-called housing strategy deal with the New South Wales Labor government’s abandonment of the people of Western Sydney by its failure to invest in public transport and infrastructure, thereby concentrating demand for housing in inner-city areas?

Senator CHRIS EVANS—Thank you for the question, Senator Payne. It is a good question. One of the things that the Labor government made clear during the election campaign—and have made a priority since coming to office—is trying to deal with those infrastructure and transport bottlenecks in society. Under the previous Howard government, we failed to invest in skills, we failed to invest in infrastructure and we failed to invest in our education system. As a result, the economic opportunities in Australia are limited by that failure to invest over the 11 years of the Howard government. What we have got now is a five-point plan to tackle inflation. It includes building our infrastructure, building our skills base and building the capacity of the economy. I know
from talking with business around Australia that their frustration with the previous Howard government was that there was none of that investment occurring—none of that nation building which would allow them to take advantage of those opportunities. You only have to look at the ports around Australia, where there were ships banked up. There was no investment in rail infrastructure, no investment in roads and no investment in skills. As a result of that lack of investment, we are missing out on opportunities, and that is why we have got the inflationary pressures that we have got now.

The Labor Party will be investing in infrastructure. We have announced our plans for that infrastructure investment. We have made enormous efforts already to try to build Australian investment in infrastructure. That will allow us to expand the economy to provide greater economic opportunities for Australians and for Australian companies, and to continue to build the economic future of Australia. It is infrastructure and it is skills. As part of that, there will need to be more housing available as the population grows and as we use more overseas workers to help build the Australian economy. That does put pressure on housing. That is why I made the point earlier. The Labor Party and the Labor government have appointed a Minister for Housing—a position not used in the previous Liberal government. Ms Plibersek has set about a concerted plan to address the housing needs of this country. They include the First Home Saver Accounts, and the new Housing Affordability Fund, which will streamline local government development assessments, as part of our plan to cut infrastructure costs and reduce planning delays. There is a National Rental Affordability Scheme, encouraging private sector investment in affordable rental properties. There are issues to do with land release: our plans to release surplus Commonwealth land, and the establishment of a National Housing Supply Research Council to forecast future housing needs.

All of those policies are directed at overcoming the failures of the previous government to invest in the economic potential of this country—be it in infrastructure, be it in skills or be it in housing—that allow us to grow the economy, to tackle the bottlenecks in this economy and to provide opportunities for young Australians to own their own homes. Infrastructure is at the front of the Labor government’s agenda because it is obvious to us that the failure to invest in infrastructure under the previous government has reduced the capacity of this economy to grow. We are getting a great deal of support from business for that investment in infrastructure, to allow us to grow the Australian economy.

Senator PAYNE—Mr President, I ask a supplementary question. I thank the minister for his answer. In New South Wales the only thing you have to look at is the broken promises of New South Wales Labor on announced and re-announced rail lines, and the only investment in roads infrastructure in Western Sydney is the largely Commonwealth funded Western Sydney orbital. Is the minister’s answer, then, really a concession that the government’s bail-out package of infrastructure—and transport, which he also mentioned—is evidence that the New South Wales Labor government has comprehensively failed in its core responsibilities?

Senator CHRIS EVANS—I thank Senator Payne for what I think was a question—it was more of a speech. I do not know whether she too is seeking to enter state politics as the morale in the federal Liberal Party plummets to an all-time low, but I actually have responsibility for the federal government’s promises. What the Liberal Party cannot stand is that the Labor government is implementing its policies one by one. We honour
our promises. Unlike the Liberal Party, who failed to deliver and who were so cynical that they had ‘core’ and ‘non-core’ promises, we are delivering on our election commitments. The Australian people recognise we are keeping our word to them and delivering on every promise we made.

Visas

Senator NETTLE (2.23 pm)—My question is to Senator Evans, the Minister for Immigration and Citizenship, and relates to the article in the Age today about the bridging visa review and the suggestion that work rights and Medicare access should be made available to asylum seekers on bridging visas on a case-by-case basis. Minister, isn’t that already the way in which it operates? I am aware of the case of a man who is on a bridging visa, has a master’s degree in social work and applied just two weeks ago to the department to work in a voluntary capacity in a community organisation. That application was rejected. I ask the minister: how would the government, implementing the suggestions in the Age article about the changes, change anything that currently operates in terms of the ability of the department to grant individual exemptions for access to Medicare and to work rights?

Senator CHRIS EVANS—I thank the senator for her question and her ongoing interest in these issues. I am not sure I can actually answer the specifics of her question; I will do my best. The article in the Age was a report on what I think was claimed to be a leaked report on the review of bridging visas undertaken by the previous government. I think it was actually completed in 2006, so it is not all that recent.

As I understand it, the previous government received that review and there was no formal response to it—as I understand, nothing occurred. It was filed and no action was taken to address what I think are very serious concerns about the failures of the bridging visa system and how, under the current system, people who may be seeking asylum end up on bridging visas—that is, out in the community—but without work rights and without access to Medicare.

I think there has been concern around the parliament that a number of these people are reliant on charities to live. They receive allowances to buy staples to allow them to live, because they are out in the community but they are not allowed to work, so they have no means of supporting themselves. I think everyone around the chamber would accept that is a very unsatisfactory state of affairs.

The review canvassed those issues and, as I say, the previous government failed to respond to that. As a result, that situation remains. Protection visa applicants who hold a bridging visa may be eligible to work and access Medicare if they applied for a protection visa within 45 days of arriving in Australia—the 45-day rule. As I understand it, about 34 per cent of protection visa applicants in the community hold a bridging visa without work rights. So there are a substantial number out in the community who do not have those work rights and are reliant on charity. I know a lot of the charitable institutions are basically saying, ‘While we’re happy to help, we ought not be forced into a position of having to care for people who are there by virtue of the government failing to deal properly with its responsibilities.’

As I think I indicated to you at the estimates hearing, Senator Nettle, it is one of the issues that I am grappling with. I do think it is an unsatisfactory state of affairs. I am trying to find a solution to this issue. It is not that easy. The changes introduced in terms of the 45-day rule were justified to try and prevent some gaming of the system that was alleged at the time. I understand the rationale
that was advanced for that, but it is the case
that there are large numbers of people who
are out in the community on bridging visas
while their applications to be treated as asy-
lum seekers are being processed and it is a
very unsatisfactory state of affairs. I am
committed to trying to fix this. We are work-
ing very hard on the options and I hope to be
able to do something fairly soon.

If I can provide any further information as
to your specific question, Senator Nettle, I
will do so, but I am not sure I quite got the
nub of what you were seeking from me to-
day. I might get that from the supplementary
question or, if not, I will come back with
further information.

Senator NETTLE—Mr President, I ask a
supplementary question. Perhaps the minister
could indicate whether the government is
intending to respond to the previous gov-
ernment’s report into how it would deal with
bridging visas. The report of the Senate in-
quiry into the Migration Act that was chaired
by the Labor Party said:

A policy which renders a person destitute is mor-
ally indefensible and an abrogation of responsibil-
ity by the Commonwealth.

Is the government considering committing to
a more substantial review of the bridging
visa E system so that work rights and access
to Medicare are automatically granted to al-
low people to support themselves whilst they
wait for their visa status to be resolved?

Senator CHRIS EVANS—I thank Sena-
tor Nettle. I think the current system is inde-
fensible—to say it is morally indefensible is
probably very strong, but I think it is indef-
fensible. We do need to have a situation that
is much more coherent and caring—rather
than one which does plan for people to be
destitute out in the community without the
capacity to work and earn a living or be in
receipt of benefits. The solution to this issue
is very much, I think, focused around peo-
ple’s work rights and access to benefits. I do
not know about a broader review. I am very
focused on trying to fix this issue. It is some-
thing that I regard as a priority and hope to
have resolved, at least in part, fairly quickly.

Donations to Political Parties

Senator RONALDSON (2.30 pm)—My
question is addressed to Senator Evans repre-
senting the Prime Minister. It follows on
from his discussion before about indefensible
actions. I refer the minister to media reports
today that the TWU has apparently filed an
amended donation return for the last New
South Wales election, which shows even
greater undisclosed payments than those al-
leged last year and on the recent Sunday pro-
gram. Minister, will the Rudd Labor gov-
ernment now finally acknowledge that an
independent judicial inquiry is needed to
determine the truth about this grubby ALP-
TWU election funding deal?

Senator CHRIS EVANS—I thank the
senator for his question, although obviously
it is fairly loaded. As I indicated yesterday in
the chamber, the attitude I take to this matter
is that if there are issues of concern that the
senator or others hold, they ought to report
those to appropriate authorities. If there are
issues about criminal activity, they ought to
take those to the AFP or other police authori-
ties. If there are issues about concerns about
electoral returns, clearly that is a matter for
the AEC. And if, as you say—and I do not
know whether or not this is right, but you
claim it and I take it on face value—
amended returns have been filed with the
AEC, clearly the matter is before the AEC—
because they now have an amended return
with which they have to deal. If there is any
other information you wish to raise, you
ought to make it available to the AEC.
Clearly, it is not for me in this parliament to
arbitrate on these matters. There are appro-
 priate authorities—be they the electoral
commissions at state or federal levels, the Australian Federal Police or state police—that can investigate any concerns. If any of the senators are concerned, they ought to take those complaints to the appropriate authorities.

Senator RONALDSON—Mr President, I ask a supplementary question. Given your attempts yesterday and again today to downplay the seriousness of these matters and in light of today’s revelations, why would the Australian community have any confidence that you are serious about your claims of openness and transparency?

Senator CHRIS EVANS—I thank the senator for his supplementary question. I would remind him of responses that ministers of the previous government used to give on some of these issues, which were to say that it would be inappropriate for us to intervene in a process where there are appropriate authorities. You would rightly criticise me if I were seen to be interfering in the AEC’s role in investigating these things. It is clearly a role for the AEC. If there are amended returns, they will be actively considering those issues. If there are issues of criminality, they ought to go to the appropriate authorities. There is no way I should be involved; there is no way I am involved; and if you have concerns, you ought to take them to the appropriate authorities.

Square Kilometre Array Radio Telescope

Senator MARSHALL (2.33 pm)—My question is to Senator Carr, the Minister for Innovation, Industry, Science and Research. Can the minister explain what the government is doing to support Australia’s bid to host the square kilometre array radio telescope?

Senator CARR—I thank Senator Marshall for the question. The square kilometre array is precisely the sort of thing that we should be thinking about in Science Meets Parliament week. The SKA is a $2 billion radio telescope that will have 50 times the sensitivity and 10,000 times the survey speed of present radio telescopes. It will generate huge spin-offs in supercomputing, fibre optics, non-grid and renewable energy, construction and manufacturing over its 50-year life. The ICT requirements will be huge. The array will generate 200 gigabytes of data a second. That is the equivalent of all the words ever spoken by human beings in its first month of operation. The computer needed to process this data has not yet been invented. The SKA will make it happen. It will drive innovation across Australia and build a capacity that will benefit the entire research community as well as industry. This is a massive infrastructure project—

Opposition senators interjecting—

The PRESIDENT—Order! The Senate will come to order.

Senator CARR—It is a pity that the opposition has so little regard for our scientists and the research community. It is a pity that the opposition has so little foresight as to understand the importance of ensuring that Australia takes its place in the world research community. This is a massive infrastructure project that will create highly skilled, high-wage jobs for half a century. Its development is being backed by a consortium of some 19 countries. The two countries that have been shortlisted to host the array are Australia and South Africa. With South Africa being a sentimental favourite, it is critical that Australia put our best case forward so that we ensure this important piece of infrastructure is developed within this country.

Earlier this month I visited Europe to champion Australia’s bid in meetings with the European Union Research Commissioner, the Max Planck Institute for Radio Astronomy, the German Minister for Education and Research, and scientists in Berlin...
and Brussels. Next month, we will have the international SKA forum in Perth. The forum is jointly hosted by the Australian and Western Australian governments. It will be a watershed gathering of international policymakers, business people, scientists and engineers with an interest in the SKA. It will be the perfect opportunity to showcase what Australia can do. The proposed core site is in Western Australia. It has many technical advantages, but we have a lot more going for us than just that. We have an exceptional community of radio astronomers, with a proud history of scientific discovery and technological innovation.

I call our astronomers world-class, and they are actually better than that. We have published over four per cent of the world’s papers on space science, and those papers have had a huge impact. We also have CSIRO. We have shown fantastic leadership in the SKA. It is making good progress on a prototype telescope called the Australian SKA Pathfinder, which will demonstrate our capacities and be a significant achievement in its own right. It will deliver the equivalent of all the data that currently exists in the world’s astronomical archives in the first six hours of its operation. This government is absolutely committed to winning the SKA for Australia. We are structuring our bid to maximise the benefits for all members of the international community. (Time expired)

Community Sports Facilities

Senator BERNARDI (2.38 pm)—My question is to Senator Evans, the Minister representing the Minister for Sport. I refer to a statement made by the Minister for Sport on the Offsiders program on Sunday that:

... this Government’s made over 100 election commitments to upgrade local community club facilities ...

My question is: what is the total cost of these commitments, and will the minister table a full list of these commitments, broken down by electorate, and any press releases relating to each of these ALP election commitments?

Senator CHRIS EVANS—I thank Senator Bernardi for the question. I do not get up to watch the TV on Sunday mornings. I am usually out at kids’ sport, actually.

Senator Coonan—You sleep in!

Senator CHRIS EVANS—I wish I did, Senator Coonan! I am usually at cricket by about quarter past seven. But I think it is the Insiders, not the Offsiders.

Opposition senators interjecting—

Senator CHRIS EVANS—It is Offsiders, is it? It is a different one. I confirm my earlier advice. Senator Bernardi, I know you approached me in the chamber the other day, indicating you would like some details on these programs. I actually got my office to ring your office just before question time, because I had only just found the email. I asked you to ring my office, but you sent an email. I did not find it until this morning, because it is on the public email system.

An opposition senator—So you don’t look at your public emails?

Senator CHRIS EVANS—I am just explaining I do not have the information he requested. But, to be frank, that would be a question that should be put on notice in any event. It requires a great deal of detail. He has asked for details on about 100 different projects to be tabled. It is clearly a question that is designed more as a question on notice than as one for question time, but I am happy to try and get the information as quickly as possible for Senator Bernardi. But, as I say, it is normally one that would be put on notice and responded to, given the sort of research and information required. It is not normal for ministers to be asked to table large numbers of documents. It is a question on notice. But I will try and be helpful. I apologise that we
miscommunicated, because Senator Bernardi did make the attempt to ensure I had some warning so I could respond to him on this question. So I apologise for the mix-up in that regard but, as I say, I think it is probably best dealt with by the question being put on notice. But I will take it on notice now in that sense and as soon as I get the information together I will get it to Senator Bernardi.

Senator BERNARDI—Mr President, I ask a supplementary question. Will the minister confirm whether the additional funding commitments announced by the Minister for Sport will require cuts from any other programs? Specifically, will the minister guarantee that funding for the Active After-School Communities program will not be affected to make way for what I would regard as blatant pork-barrelling?

Senator CHRIS EVANS—I was overwhelmed by the gall in that supplementary. To be lectured by the Liberal Party about rorts, given the history of the regional rorts program and the Auditor-General’s findings on the corruption of that program to further political ends, is just amazing. Senator Bernardi, I will take your question on notice, but decisions about funding of programs will be made in the budget in the normal way and they will be announced in the normal way. But for the Liberal Party to talk about rorting of programs is quite breathtaking, given your record in government.

Housing Affordability

Senator BARTLETT (2.41 pm)—My question is to Senator Evans, the Minister representing the Minister for Housing. The minister earlier in question time clearly demonstrated he is aware of the enormous housing affordability crisis in Australia, as well as the serious neglect of this key issue by the previous government. The minister also outlined the policy announcements his government has made to date to try to alleviate the problem. Does the minister believe that the government’s policy announcements to date are sufficient to deal with the housing affordability crisis, or does the minister agree with Ann Harding, the author of the NATSEM report, that much more needs to be done? What further plans, if any, does the government have to tackle this serious problem? In particular, will the government agree to consider the recommendations put forward by the Productivity Commission in 2004, long ignored by the previous government, to examine the impact on housing affordability of the taxation system, including the various deductions, discounts, incentives and grants that impact on housing and rental prices?

Senator CHRIS EVANS—I thank Senator Bartlett for the question. I thought I made it clear earlier. Certainly the government does not believe there is not a lot more that needs to be done—there clearly is. The pressure on housing affordability, as revealed in the NATSEM report today, is at record levels. People are finding it very difficult to get into their first home and finding it very difficult to meet their mortgage repayments, and that is putting enormous stress on families. It is not only economic stress but also stress in terms of home life, as people try and work extra time, juggle commitments and make savings in their budgets. The long run of interest rate increases has put enormous pressure on families and their capacity to enter and maintain a home.

I think it is a situation that requires a range of policy measures. The first among them, of course, is the fight against inflation. That is why the government has made its priority trying to bring inflation down. The current underlying rate of inflation we inherited from the Howard government will put enormous pressure on interest rates and the ability of Australians to own their own homes. So we have made fighting inflation the priority. The five-point plan the Prime
Minister has enunciated is about trying to tackle that inflation problem head-on, and that should ease the pressure in the housing market.

But as I indicated before, Senator Bartlett, we have announced the first homeowner savers accounts, which are designed to assist young people saving for their own home. It is, if you like, an ability to reward their savings and add to their deposit. That does not start till 1 July but hopefully it will have an impact in terms of allowing young Australians to save and build their deposit so they can get into home ownership. That is going to be a commitment of $850 million over four years and it is a very important initiative. As you know, we have also got the new Housing Affordability Fund, which will invest $30 million to streamline local government development assessments as part of a broader $500 million plan to cut infrastructure costs and reduce planning delays. That is designed to get more land and more homes available on the market.

We are establishing a National Rental Affordability Scheme, which is encouraging private sector investment in affordable rental properties. As Senator Bartlett and senators would be well aware, housing pressure is impacting not only on those seeking to buy a home but also on those in the rental market as rents have increased enormously. A lot of people are finding it difficult to maintain their current premises because of the increase in rents. I know that in my own area in Perth a number of elderly people in my suburb have been forced to leave the suburb because they can no longer afford the rents as the pressure goes on, so they are actually having to move away from community and family because of the pressure. So we are very interested in lending help in terms of affordability for rental properties. We think by harnessing some of that private sector investment in the rental affordability scheme we can make a contribution there.

As I mentioned earlier, there are policies to ensure land release of surplus Commonwealth land to assist with making more land available, and we are also in the process of establishing a national housing supply council to forecast future need—to try and analyse what housing demand will be and how we manage that demand so that we are not as caught by peaks and troughs as we seem to be in the housing market.

All of these things are measures the government has introduced. We have got a full-time housing minister in Ms Plibersek working on housing because we realise how central it is and how important the housing affordability crisis is to families and their way of life in Australia. (Time expired)

Senator BARTLETT—Mr President, I ask a supplementary question. I refer the minister back to the key part of the initial question. Accepting all that he said, does the minister agree and acknowledge that the many distortions built into our taxation system do have an impact on housing affordability, as was suggested by the Productivity Commission in their inquiry more than three years ago? Is the government at least going to consider the recommendations of the Productivity Commission, which were ignored by the previous government, and examine the impact of our taxation system and the role it plays in exacerbating the housing affordability crisis?

Senator CHRIS EVANS—I was going to get there but I did not quite get there, Senator Bartlett. I am not aware that there is any active consideration of the taxation arrangements canvassed in the Productivity Commission report, so I think the answer is no, but I will seek further advice and if anything is happening in terms of reviewing those recommendations I will get back to you. But
my sense of it is that that is not part of any active policy consideration and we are focused on the measures I have outlined. If more measures are required, more action is required from the federal government, we will be tackling it to try and ensure that Australians have an opportunity to own their own home.

Queensland Minister for Health

Senator BOSWELL (2.48 pm)—My question is to the Minister representing the Minister of Health and Ageing, Senator Ludwig. Has the minister for health spoken to her state Labor counterpart in Queensland, Stephen Robertson, about his failure to take any action for a whole month after he was informed of the violent rape of a nurse in the Torres Strait?

Senator LUDWIG—I thank Senator Boswell for his question. The matter is one that I will have to take on notice. I do not have a brief in respect of that action, though I do dispute the claims that Senator Boswell has made in respect of that. What I have said, though, is that I will take the matter on notice and will seek to obtain an answer from the health minister, Ms Roxon, and provide an answer to the Senate.

Senator BOSWELL—I am very disappointed that the government has not got a brief on this matter. It is a very important matter and I am sure the nurses union would be very disappointed about the minister not having a brief on it. My supplementary question is: given that the government has appointed a rural area health nurse to the National Health and Hospital Reform Commission, can the minister guarantee that adequate levels of protection will be afforded to nurses in the Torres Strait and other remote areas?

Senator LUDWIG—On the supplementary question, I will seek to see whether or not the minister for health can provide any additional information. It does appear, though, that the questions go to state health matters. However, I will see if the minister can provide any additional information within her area of responsibility; that is, as the federal health minister.

Central Queensland Floods

Senator WORTLEY (2.50 pm)—My question is to the Minister for Human Services, Senator Ludwig. Can the minister please update the Senate on the flooding which occurred in Central Queensland earlier this year and in particular on the payment of Australian government disaster recovery payments being administered by Centrelink to people in declared areas surrounding Emerald, Charleville and Mackay in Central Queensland?

Senator LUDWIG—In the lead-up to Easter it is important to remember those Australians who are doing it tough. In my home state of Queensland, January and February 2008 will be remembered for rain. Welcome as it was after such an extensive drought, it fell too fast and in great quantities. This resulted in serious flooding across Central Queensland and thousands of Queenslanders had their homes affected and their possessions—and in some cases decades of personal effects such as photos, letters and mementos—damaged and/or destroyed.

The Rudd Labor government unfortunately cannot replace those things, but we did act decisively to extend a helping hand to those Australians doing it tough. Mr President and senators in the chamber will recall that storms and associated flooding commenced in the Mackay and Whitsunday regions of Queensland on or about 13 January 2008. This soon spread to other areas as well. I had the opportunity of seeing with my own eyes the levels of damage and destruction caused by the rising waters.
The government, led by Mr Kevin Rudd, responded quickly and decisively, announcing that the Australian Government Disaster Recovery Payment would be made available to people affected by the Queensland flooding. The AGDRP, or the Australian Government Disaster Recovery Payment, provides $1,000 per adult and $400 per child to eligible people who have as a result of storms or associated flooding been seriously injured and hospitalised for at least 48 hours or whose principal home was destroyed and/or damaged in the flood. So far Centrelink has paid more than $800,000 to over 900 claimants in need.

The flooding, of course, did not stop in January. It occurred in the Mackay region, and the disaster recovery payment was made available to people in the Mackay region affected by flooding from 14 February 2008. So far Centrelink has paid out more than $7 million to more than 6,000 people. I visited the area on 16 February, and it was obvious how much damage had been done. I visited the suburb of Glenella, which was hit badly by the floods. I had the opportunity of talking to local residents, who told me that the floodwaters had come up very quickly and suddenly during the night, with about 600 millimetres of rain an hour falling.

It is important for me to recognise the tireless efforts of the member for Dawson, Mr James Bidgood. He worked extremely hard to ensure that the effects of the flooding on local communities were understood in Canberra. And that is true: his own office was inundated with water. I understand eyebrows may be raised at the mention of the drought bus in answer to a question from Senator Wortley in respect of this, but anyone who knows about the volatile weather in Central Queensland will agree that it is fitting. The drought bus is in fact a mobile communications centre which has specialist staff on board. This made it an ideal resource to be deployed during an emergency such as the Queensland floods.

The drought bus made a number of trips around the flooded areas, including visits to Charleville, Emerald, the gemfields, Mackay and surrounding districts. The staff of the drought bus were able to coordinate and conduct doorknocking throughout the communities they visited to ensure that information about assistance was spread through the community. Centrelink, of course, is responsible for the delivery of the Australian Government Disaster Recovery Payment, along with playing a significant role in the recovery and relief efforts in all the communities. (Time expired)

Australian Federal Police

Senator BRANDIS (2.55 pm)—My question is directed to Senator Ludwig, the Minister representing the Minister for Home Affairs. Has the minister seen a report in this morning’s Australian newspaper that the Australian Federal Police faces a funding squeeze of 15 per cent over the next two years? Is the report accurate? Will the government guarantee that funding of the Australian Federal Police will not be cut?

Senator LUDWIG—I thank the senator for the question. The report in today’s Australian refers to a strategic review. It was initially requested by the commissioner over two years ago. The report indicated that the Australian Federal Police needed additional assistance to fund its core capabilities. Savings measures were also suggested. The new government has committed to additional police for the Australian Federal Police. The 500 new police over five years will assist the Australian Federal Police to meet these core commitments.

Every agency that spends public money has been called to account by this government. The Australian Federal Police has been asked to examine where it may make savings
or improve its financial performance. Of course, the government will consider any savings measures in the context of its commitment to increase the Australian Federal Police capacity and our ongoing commitment to police assistance in our region.

I also had the opportunity of looking at the press release that was issued by Senator Brandis with Mr Christopher Pyne. Within there are a range of allegations which are clearly incorrect. It makes a number of wide claims. What I can say is that the government has enjoyed good relations with the Australian Federal Police. We are pleased to be able to work with Commissioner Keelty in respect of the operations that the Federal Police commit to and we are also pleased to be able to provide the 500 new police to be able to work effectively within our community.

Community safety is one of the concerns the Australian Labor government have in this area, and we are concerned to work with the Australian Federal Police to ensure that the community is safe across all areas. As I indicated, the Len Early review occurred some two years ago, but it is the Rudd Labor government that is responding to it today.

Senator BRANDIS—Mr President, I ask a supplementary question. Given the minister’s inability to provide the assurance sought by my question and following hard on the heels of the government’s announcement last week of a mickey mouse sub judicial inquiry into the Haneef affair, what steps will the government take to arrest its rapidly collapsing relationship with the Australian Federal Police?

Senator LUDWIG—Again we hear the slur that is made against Mr Keelty and the Australian Federal Police. The Rudd Labor government supports the Australian Federal Police in its endeavours across the wide range of work that it does, both internationally and domestically and in working with interagencies such as ASIO and local and state police right across the board. The Rudd Labor government is supportive of that.

The real issue is that we have announced an inquiry into the Haneef matter. What the opposition did not do prior to the election, during the matter, was to have an inquiry. What is now clear is that the opposition does support an inquiry into the Haneef matter, and that, quite frankly, is welcome. It is necessary to have a look into that matter. Unlike the opposition, the Rudd government believes playing politics with national security is irresponsible and completely counterproductive. (Time expired)

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

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Donations to Political Parties

Senator RONALDSON (Victoria) (3.00 pm)—I move:

That the Senate take note of the answer given by the Minister for Immigration and Citizenship (Senator Evans) to a question without notice asked by Senator Ronaldson today relating to the Transport Workers Union.

We saw again today the refusal of Senator Evans, the Minister representing the Prime Minister, to acknowledge that the wrongdoings of the TWU and the ALP in New South Wales are worthy of comment by him. This goes to the heart of the now tarnished claims of openness and transparency by the Rudd Labor government.

We have a failed amended return by the TWU late on Friday afternoon and then, on Sunday night, Mr Tony Sheldon, the man responsible for this, still had his name in a cabinet submission to go onto the National Transport Commission. The Australian Labor Party and the Rudd government must have
known full well on Friday night of this amended form. This was the same set of circumstances that was denied by Mr Sheldon last year and denied again by him on the Sunday program. Why wasn’t he prepared to tell the Sunday program that this amended return had been filed?

Tony Sheldon, the man who on Sunday night was going to be the representative on the National Transport Commission, was the same man who authorised one of his lackeys on Friday to file this amended return. This amended return took the number of ALP state members who had been supported by the TWU from seven to 15. And Senator Evans tells us today that this is not a matter of concern at all to the Rudd Labor government—so much for openness and transparency.

Why would the Rudd Labor government, which is still going through ‘Wollongong-gate’, as it has been called, not acknowledge that it has problems with its union donations? Why do you continue to oppose the motion supported by the coalition, the Greens, Family First and the Democrats in relation to the Joint Standing Committee on Electoral Matters, which would put all these issues on the table—not just union donations but donations from the corporate sector? What are you afraid of? Why are you not prepared to accept this full inquiry? Why do you continue to deny the illegal activities of the TWU, which is supporting your very own? Is that why you will not do it? Or is it the $30 million that the unions gave to you before the last election? Thirty million favours in return for the shackles. That is why on Sunday night Tony Sheldon was still in that cabinet submission. That is why the bottle of white-out came out only on Monday morning to take his name off. Yet you knew on Friday night of this amended return, which had taken it from seven ALP members to 15. That is a disgrace. It is almost as disgraceful as the amount of money that has been given to them.

Why would you not support an independent judicial inquiry into this matter? We know why not. Because you are not going to do anything to the TWU, the ACTU or any of the other union affiliates which have funded your election campaign. They are owed by you and that is why the likes of Tony Sheldon can get away with what he did.

There was an article by Mark Aarons, a former senior adviser to NSW Premier, Morris Iemma, in the *Australian* this morning. I know that one of my colleagues will refer to the article and I will do so briefly too. He talks about the influence that ordinary union members have and what they cannot do. He said:

Such matters are simply the playthings of union secretaries. This system is wrong in principle, giving immense power to a small group of unrepresentative ALP members. This can prevent even the best governments from taking the wisest decisions for the widest good.

Absolutely! By refusing to acknowledge these TWU illegal donations, what you have done— *(Time expired)*

**Senator GEORGE CAMPBELL** (New South Wales) (3.05 pm)—Another fine performance by Senator Ronaldson. He gets on his feet, yells and screams for five minutes and does not make one point of relevance in the debate. He asked the question of Senator Evans and he got a reasoned, considered response.

**Senator Parry**—He did not.

**Senator GEORGE CAMPBELL**—He did not get an answer that you wanted, but he got a reasoned, considered response, Senator Parry. The answer was that the matter is currently before the Australian Electoral Commission. The very fact that the TWU has put in an amended return means that the matter
is currently before the commission. Senator Ronaldson is screaming for a judicial inquiry into a matter in which there has been no finding of anything illegal. No-one has yet found that the TWU has done anything that contravenes the Electoral Act. There is an allegation, but there is certainly no finding.

But did we hear Senator Ronaldson get on his feet, screaming for a judicial inquiry when Greenfields was operating in the Liberal Party—when the Liberal Party got $4.6 million out of Greenfields, which was contrary to the spirit of the Electoral Act? Of course not; nor did anybody else on the other side get up and scream about a judicial inquiry into Greenfields. That was a rort set up specifically to disguise where electoral funding to the Liberal Party was coming from. Of course they would not get on their feet and scream for a judicial inquiry into those circumstances.

As I understand it, some advice we have is that in fact the former Minister for Employment and Workplace Relations announced that the former government would refer these so-called allegations about the TWU to a range of specialist bodies for investigation. As I understand it, the matters were referred to the Australian Electoral Commission, the Australian Taxation Office, the Australian Securities and Investment Commission and the New South Wales government. I also understand that the Workplace Authority, an Australian industrial registry, also undertook inquiries into these matters. Referring matters to specialised areas of government at both a state and federal level ensures the body with the appropriate legislative responsibilities and investigative powers can undertake a thorough examination of the issues. Obviously what Senator Evans was saying is that the appropriate course to follow here is to allow those investigations, if they are on foot, or any further investigations that come out of the amended return that has been put in, to take place and to proceed with those appropriate bodies.

But that is not what those on the other side want. They do not want a proper investigation of these matters. They do not want to establish whether or not there has been a breach of the Electoral Act. They want a political point that they can get up and pointscore off. They think they have something that will generate some sympathy out there in the community. That is why we have seen again today the spectacle of Senator Ronaldson on his feet, screaming and yelling for another five minutes and making no relevant point of substance in the debate—that is because he does not have one. He has what he thinks is a political hot potato and, as my colleague Senator Hutchins said, he got all hot and bothered. Maybe the potato was burning his fingers; I do not know.

*Senator Abetz interjecting—*

**Senator GEORGE CAMPBELL**—But certainly it is no substitute getting up here and screaming for five minutes, Senator Abetz—*(Time expired)*

**Senator ABETZ** (Tasmania) (3.10 pm)—The simple fact is that these latest allegations highlight a very deep culture of corruption within the broad Labor movement. Mr Sheldon, the architect of this dishonest scam that Senator Ronaldson so eloquently highlighted and brought to the attention of this chamber, is the one and the same Mr Sheldon who I understand was caught and convicted of ballot rigging in the Liquor Trade Union in Queensland about a decade earlier. What does the Labor movement do with these people who get caught ballot rigging? They warehouse them for a while, slip them across a border somewhere and then put them back in a place somewhere. Having done their apprenticeship in ballot rigging, they then get promoted where they can scam literally mil-
lions of dollars from employers and channel it into the Labor Party coffers.

This seems to be a rite of passage within the Australian Labor movement. Indeed, Mr Sheldon’s case shows how all this is done. But do you remember what Mr Rudd, a Queenslander who undoubtedly would have known Mr Sheldon’s background in the Queensland Liquor Trade Union, said before the election? He said, in relation to the trade union rorts, that they would take ‘an absolutely hard line on this stuff’. Yes, that was before the election. Straight after the election it was, ‘Oh, I know nothing about this; we as a Labor Party don’t need to know about this; sure, my party has benefited to the tune of a couple of million dollars or more and over 15 candidates have benefited,’ and, ‘Yes, it wasn’t a proper scheme,’ and, ‘Yes, he was convicted of ballot rigging a decade earlier, but so what?’

Does all this sound familiar, especially to you, Mr Deputy President, as a Queenslander? Remember Mr Mike Kaiser MP who was caught electoral roll rigging. The then Premier Peter Beattie said, ‘We will drum this man out of the state and out of the party.’ Yes, they drummed him straight out of Queensland and into the position of chief of staff to the Labor Premier of New South Wales. This is the way the Labor Party rewards these people. They do an apprenticeship, be it on ballot rigging in Mr Sheldon’s case, be it in electoral roll rigging in Mr Kaiser’s case, and then they get the big promotion for the Labor cause. There is this culture within the Australian Labor Party and, what is more, it exists within the Prime Minister’s office itself. I recall when we were in opposition and Labor were in government pursuing somebody who rejoiced in the name of Mr David Epstein, a person who was brought before the Senate estimates committee deliberately because of misleading information that he provided in relation to the National Media Liaison Service—so-called aNiMaLS, for short. The media knew what sort of a dirt unit it was. It was written up accordingly and Mr Epstein left this place with his tail between his legs. But of course now he is rewarded as chief of staff to Mr Rudd. What we have here are three classic examples of how the Australian Labor Party rewards those people who misbehave. That is unfortunately part of the culture. I have no doubt that one of the former Transport Workers Union officials will get up and try to defend the indefensible in relation to Mr Sheldon.

Senator Hutchins shakes his head and says he will not. Every now and then I think there is a glimmer of hope for Senator Hutchins. Every now and then decency does cut through with him. On this occasion it has cut through again, and I welcome that. But the simple fact is this. The Australian Labor Party has embedded within it this culture: you do a bit of ballot rigging in Queensland and then you get promoted to a much bigger, more powerful union in New South Wales. In Mike Kaiser’s case, you do a bit of electoral roll rigging in Queensland and you then get promoted to be chief of staff to the Labor Premier of New South Wales. In Mr Epstein’s case, you undertake activities with a dirt unit known as aNiMaLs, and then, sure you get sprung, but you just have to leave for a little while and then you will be reincarnated as the chief of staff to the Labor Prime Minister.

What this shows all Australians is: do not listen to what Labor says; look at what it actually does. The fact is that they are willing to have these powerbrokers, like Mr Sheldon, not content with ballot rigging, then rigging millions of dollars, being a powerbroker within the Australian Labor Party and determining who comes into this place representing the Labor Party. He is still in place there, he is still pulling the strings, and Mr Rudd sees no problem with him there; it is
not a problem for him. It is a problem for him—(Time expired)

Senator KIRK (South Australia) (3.16 pm)—I rise to speak to the motion to take note of answers moved by Senator Ronaldson in response to answers given today in the Senate by Senator Evans. This is a matter that was raised yesterday, and here we have it again, raised by Senator Ronaldson. His concern seems to be that there ought to be some form of judicial inquiry set up in order to investigate certain allegations that the TWU bullied transport companies into paying money into a union training fund and donated funds going this way to the members of the ALP in New South Wales. This is the allegation that has been raised. In fact, these allegations go back some time. This is not a new issue. However, we still see Senator Ronaldson going on and on about it.

As I mentioned, this matter was actually raised in September of last year, when the Howard government was still in office. At the time, the former minister for employment and workplace relations, Mr Hockey, announced that the government would refer the allegations that had been made to a range of specialist bodies for them to investigate. In fact, at the time, there were some eight inquiries established into these allegations. Inquiries were set up by the Taxation Office, through the Australian Securities and Investments Commission and through the New South Wales Police. All of these were established in order to see whether or not there had been any breaches of Australian law. A whole gamut of authorities were established to have a look at this matter. The Workplace Authority and the Australian Industrial Registry also undertook inquiries. Today, of course, we hear concerns raised by Senator Ronaldson in relation to additional information that has been provided now by the TWU to the Australian Electoral Commission.

As I said, there have been numerous inquiries that have been established to look at these allegations and so far, to date, there have not been any conclusions drawn by these authorities. None of these inquiries to date have found anything at all that would warrant prosecution. There have been no findings whatsoever of illegal conduct. Most importantly, these inquiries are ongoing; they are not yet exhausted. Surely it is the case that, when you refer a matter such as this to specialised areas of government, both at a state and a federal level, the body with the appropriate legislative responsibility and the investigative powers, ought to be able to conduct a thorough examination of the issues, and they should be able to complete their inquiries—take them right through to the end—before any other sort of judicial inquiry, such as Senator Ronaldson has suggested, is established. The appropriate course of action, clearly, in this instance, is to allow these investigations, which are on foot, particularly that of the Australian Electoral Commission, to proceed.

As Senator Evans said in response to the questions asked by Senator Ronaldson, if Senator Ronaldson or any other senator—or any other person, for that matter—has any information on these matters that they think is relevant then they ought to provide it to these authorities. If they have any information that they believe relates to criminal activity on the part of any person then they ought to refer that information to either the state police, if necessary, or to the Australian Federal Police, whichever body happens to have the jurisdiction over the matter.

So, really, this is a pretty clear-cut case. The AEC has an ongoing investigation, as do a number of other bodies, and we should allow these processes to be completed. They should be able to go right through to the very end and draw the kinds of conclusions that they find, on the basis of evidence. Why
would we spend taxpayers money establishing a judicial inquiry at this point in time? Why would we not wait until the authorities who do have the jurisdiction to look at these matters have completed their inquiries? Here we have Senator Ronaldson making allegations, suggesting that people are guilty and finding people guilty when there has not been a proper process in place. There has been no procedural fairness or natural justice provided to these people. As I said, if there are allegations that Senator Ronaldson has to make or if there is any information that he or any other person has then he ought to refer this information to the relevant authorities, whether it be the AEC, the state police or the Australian Federal Police. That is the proper process to follow, and I encourage Senator Ronaldson to be patient and wait for the outcome. (Time expired)

Senator McGAURAN (Victoria) (3.21 pm)—This is the second day of questioning of the new government on this particular issue and it really is starting to stink. It is a scandal that is engulfing the new government and the Transport Workers Union in allegations of extortion, of misappropriation, of avoidance to declare, and secret commissions and secret donations to ALP members’ campaign funds. That is the extent of the allegations, and the other side just bat it off—for good reasons, as previous speakers have said—because they owe so much to the union.

This gets more suspicious as each day goes on and demands an inquiry, particularly with the revelations in today’s paper that there are in fact more Labor members of parliament who were beneficiaries of the TWU’s secret donations than first suspected. It raises a whole lot of questions. If that is the case, if there are in fact more members that have received these secret, undeclared donations than first suspected by the Sunday show, by the media, it raises a whole lot of questions. First of all, how long has this been going on for? For how many elections can this be backdated? How many declarations have they missed? How many more have not been declared? How can we trust them that 15 is indeed the definitive number? It raises a whole lot of questions that ought to be looked at by a proper judicial inquiry.

We cannot trust Mr Sheldon; he has form, as my colleague Senator Abetz said. He has form from Queensland, brought down to practise his art in New South Wales. His glib remark was that the Sunday show was simply carrying old electoral news. The fact is he rushed the declarations on the Friday to meet the accusations of the Sunday show. That is not old electoral news; that it is a desperate rush for damage control before it all became public. There is no doubt that the new government received phone calls yesterday. We have got their riding instructions today. We have seen the new set of speakers stand up and repeat exactly what was said yesterday, to defend the union and the union officials at any cost at all. As Senator Conroy succinctly put it yesterday, ‘We won’t rat on our mates.’ That basically sums it up.

There is no doubt an inquiry is required. This is a very serious matter. Last month the auditing firm Deloitte’s found serious irregularities in the union’s training funds—misappropriation is basically the bottom line allegation—and claims of extortion against their business associates; that is, extorting money, which, of course, all went to ALP campaign funds. I think some of the union members would be happy for a proper audit of this union. Of course there is the cover-up in relation to declarations. As I said before, Mr Sheldon rushed the declarations in on the Friday before they were all revealed on the Sunday program. We cannot even trust the declarations that have been put in.
And what of the New South Wales ALP officers? You cannot tell me—and I will not accept—that they did not know that at least 15 of their members of parliament were receiving donations for campaign funds. You cannot tell me that a head office is unaware of that. Of course it is not! It does not work that way. They were fully aware of it. And what of their declarations and their obligations? That ought to be looked at too. There is a link between the TWU and the New South Wales head office in relation to these secret campaign funds. Fifteen members have received them and they have only just been declared. What is the responsibility of the ALP officers who were once down there in Macquarie Street? I do not know if they still reside in Macquarie Street, but you cannot tell me that they are not a part of this cover-up. Of course they are. As Senator Ronaldson said, this goes to the heart of the integrity of the new government, which trumpeted their accountability and transparency. Of course it goes to the heart of the integrity of their relationship and the debt they owe the unions. It seems to me they are going to pay that debt back to the tune of $50 million. They are intertwined with the union. We have TWU union members across there, we have TWU members on the administrative committee—(Time expired)

Question agreed to.

Housing Affordability

Senator BARTLETT (Queensland) (3.26 pm)—I move:

That the Senate take note of the answer given by the Minister for Immigration and Citizenship (Senator Evans) to a question without notice asked by Senator Bartlett today relating to housing affordability.

It is disappointing, but perhaps not surprising, that on a day when the latest report showing just how severe the housing affordability crisis is for millions of Australians, the coalition in the Senate, as we have just heard, choose to focus on some opportunity for some minor political point-scoring. This is not to say that the issue of proper declaration of donations to the Electoral Commission is not important, but put it alongside the fact that millions of Australians are struggling enormously with a housing affordability crisis that has been spiralling out of control for years and I can tell you which one the Australian public is more interested in—and it sure as hell is not electoral disclosures.

Disappointingly, the response from the minister in the new Labor government did not give me a great deal of hope that we are going to see the sort of strong and, dare I say it, courageous action that is needed to genuinely tackle and reverse the spiralling housing affordability crisis. Sure the new government has a minister responsible for housing to focus on it, and that is enormously welcome. Sure they have implemented some measures such as proposing a national rental affordability scheme, opening up further release of surplus Commonwealth land, and setting up a First Home Savers Account and their Housing Affordability Fund to provide incentives for developers to invest in lower cost rental housing. Those measures are all welcome, but, as a minister himself said, more needs to be done. While we are at least seeing some focus on the issue, unfortunately they are laying out little programs here and there to try to deal with the consequences of massive market failure in the housing area—both for purchases and private rentals—rather than dealing with the causes, because it is too hard. We saw that with the minister’s clear response to my supplementary question about whether any work is being done, even whether or not consideration has been given, to examine and modify potentially all of the aspects of our taxation system that may impact on the housing affordability crisis. The
simple response from the minister—the Leader of the Government in the Senate—was ‘no’. Perhaps that is not surprising, but it is extremely disappointing.

The impact of measures within the taxation system on aspects of the housing affordability crisis has been identified time and time again. It was identified in a report by the Productivity Commission back in 2004. The then government and the then Treasurer, Mr Costello, simply dismissed those recommendations and said, ‘We are just not going to do that,’ and then set about blaming the states. The response from the then minister, Senator Minchin, in the then government was one I remember him saying a number of times. I asked him this question a few times over the years. He would say, ‘Let’s blame the states, and we’ll work on keeping interest rates low.’ Now we have the new minister saying, ‘We’ll work on keeping inflation low.’ Keeping inflation low is good, keeping interest rates low is good and getting the states to do better is good—but it is not good enough. We are simply not going to break the back of this incredibly serious crisis unless we have a recognition of that. We need a recognition of that not just from the government but from the entire political spectrum and the broader commentariat.

There is a total aversion to even mentioning the term ‘negative gearing’ for fear of a scare campaign saying, ‘You’re going to scrap it.’ I am not advocating scrapping it. I am saying, ‘Let’s look at it. Let’s look at the impact it is having and see if we can modify it. Let’s look at the impact of the capital gains tax discounts. Let’s look at the impact of the capital gains tax exemption on the family home.’ This is not about blaming people for failing in the past; this is about trying to alleviate the Australian people from the incredible burden of the housing affordability crisis they are now experiencing.

The Democrats were responsible for putting in place the capital gains tax exemption on the family home back in the 1980s. I am quite willing to say that that was a mistake if that is what the evidence shows when examined. But let us at least look at it. Let us stop ignoring the elephant in the middle of the room and tinkering around the edges and saying that that is going to be enough. I am glad there is at least some tinkering starting, which is more than we had under the previous government. But unless we do more than that then this latest report today from NATSEM will be just one more in a long line in a continually worsening situation. Let us not kid ourselves. If we look at this report we will see that the statistics are appalling and the reality of what millions of Australians are experiencing is even more appalling. The affordability crisis cannot be allowed to continue. (Time expired)

Question agreed to.

NOTICES

Presentation

Senator Allison to move on the next day of sitting:

That the Senate—

(a) notes the comments by the Minister for Education (Ms Gillard) that she is considering extending the Federal Government’s method of funding private schools on a socioeconomic basis to the public school system;

(b) recognises the limitations of this model, as evidenced by the fact that 51 per cent of non-government schools receive more money than they are entitled to on the basis of their socioeconomic status (SES) score and that many issues affect the sourcing needs of schools, aside from socioeconomic status; and

(c) urges the Government to commit to ensuring that any changes to funding models for public schools:
(i) guarantee that no school will lose money, as was promised when the SES model was introduced for private schools funding,
(ii) takes into account the proportion of students who have special learning needs as a result of:
   (A) intellectual or physical disabilities,
   (B) learning difficulties or disabilities,
   (C) a language background other than English,
   (D) Aboriginal or Torres Strait Islander background,
   (E) geographic isolation, and
   (F) disruptive behaviour, and
(iii) raise the level of per capita funding for primary schools to that of secondary schools in recognition of the importance of early learning.

Senator Bernardi to move on the next day of sitting:
That the Senate—
(a) notes with deep regret the passing of Mr William Alfred (Bill) Brown, OAM on 16 March 2008;
(b) acknowledges the significant contribution Mr Brown made to:
   (i) Australia as a member of the Royal Australian Air Force during World War II, seeing action in the Pacific, and
   (ii) Australian cricket through his career as a batsman, Australian captain and as a mentor to other cricketers;
(c) notes that at the time of his passing Mr Brown was Australia’s oldest surviving test cricketer, and was the last survivor of one of the defining moments in Australian cricket history, the 1934 Test defeat to England at Lords; and
(d) offers its condolences to his family and friends.

Senator Ludwig to move on the next day of sitting:
That the following bill be introduced: A Bill for an Act to make various amendments of the statute law of the Commonwealth, to repeal certain obsolete Acts, and for related purposes. Statute Law Revision Bill 2008.

Senator Conroy to move on the next day of sitting:
That the following bill be introduced: A Bill for an Act to amend legislation relating to telecommunications, and for other purposes. Telecommunications Legislation Amendment (National Broadband Network) Bill 2008.

Senator Heffernan to move on the next day of sitting:
That the following matter be referred to the Rural and Regional Affairs and Transport Committee for inquiry and report by 4 September 2008:
Concerns in relation to meat marketing, with particular reference to the need for effective supervision of national standards and controls and the national harmonisation of regulations applying to the branding and marketing of meat.

Senator LUDWIG (Queensland—Minister for Human Services) (3.32 pm)—I give notice that, on the next day of sitting, I shall move:
That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:
Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Emergency Response Consolidation) Bill 2008
Interstate Road Transport Charge Amendment Bill 2008
Road Transport Charges (Australian Capital Territory) Repeal Bill 2008
Telecommunications Legislation Amendment (Communications Fund) Bill 2008
Tradex Scheme Amendment Bill 2008.
I table statements of reasons justifying the need for these bills to be considered during
these sittings and seek leave to have the statements incorporated in Hansard.

Leave granted.

The statements read as follows—

FAMILIES, HOUSING, COMMUNITY SERVICES AND INDIGENOUS AFFAIRS AND OTHER LEGISLATION AMENDMENT (EMERGENCY RESPONSE CONSOLIDATION) BILL 2008

Purpose of the Bill
The bill makes necessary amendments to consolidate the special measures to benefit Aboriginal children in the Northern Territory, including:

• prohibit R 18+ television programs in prescribed areas
• permit certain prohibited material (that is, pornographic material such as videos and DVDs) to be transported through a prescribed area
• provide for certain roadhouses in remote areas to meet the licensing standards for community stores
• revoke changes to the permit system which will commence on 17 February 2008.

Reasons for Urgency
The amendments are required urgently so that comprehensive implementation of the special measures in the Northern Territory may continue. Notably, the amendments relating to the permit system are required as soon as possible after 17 February 2008, when the framework for major changes to the permit system, as introduced by the previous government, commences.

While part of the previous government’s changes providing public access to communities can be limited by not making a Ministerial determination required to make most roads to communities permit free, the public will be able to access communities by air or sea from 17 February 2008. Passage of the permit measures in this bill is required as soon as possible after 17 February 2008 to repeal the previous government’s changes, thereby removing the ability of the public to access communities by air or sea without a permit.

There has been little communication of the detail and nature of the previous government’s changes to Aboriginal and the general community in the Northern Territory and there are reports of considerable confusion in this regard. Any delay in implementing the repeal of the previous government’s changes will increase this confusion, especially as communities will be accessible without a permit by air or sea but not by road.

INTERSTATE ROAD TRANSPORT CHARGE AMENDMENT BILL 2008
ROAD TRANSPORT CHARGES (AUSTRALIAN CAPITAL TERRITORY) REPEAL BILL 2008

Purpose of the Bills
The Interstate Road Transport Charge Amendment Bill amends the Interstate Road Transport Charge Act 1985 to apply the 2007 Heavy Vehicle Charges Determination to vehicles and trailers registered under the Federal Interstate Registration Scheme (FIRS), from 1 July 2008. Implementation of the new 2007 Heavy Vehicle Charges Determination for a number of jurisdictions is dependent on the RTC Act being repealed. In relation to the Australian Capital Territory, this is because it is the host jurisdiction for the template legislation. Several jurisdictions reference the Act for the purposes of national heavy vehicle registration charges or automatic annual adjustments to charges.

Reasons for Urgency
The new draft 2007 Heavy Vehicle Charges Determination is a high priority COAG road transport reform and is scheduled for implementation by all States and Territories and the Australian Government from 1 July 2008. It is essential that the Australian Government has the legislative authority to apply this determination to vehicles and trailers registered under the FIRS at the same time as all other jurisdictions. This will achieve nationally consistent heavy vehicle registration charges.
While most States and Territories currently provide for heavy vehicle registration charges in their own legislation, others are linked to Australian Government legislation. To enable jurisdictions such as the Australian Capital Territory to implement the new determination, the RTC Act must be repealed to enable their State legislation to prevail. The new national heavy vehicle (registration) charges model legislation will effectively replace the repealed RTC Act. If approved, the model legislation will be scheduled in regulations, under the National Transport Commission Act 2003. Under the terms of the Intergovernmental Agreement for Regulatory and Operational Reform in Road, Rail and Inter-modal Transport the Commonwealth has agreed to "repeal any road transport legislation that has been enacted by the Commonwealth for the ACT as soon as practicable".

TELECOMMUNICATIONS LEGISLATION AMENDMENT (COMMUNICATIONS FUND) BILL 2008

Purpose of the Bill
The bill amends the Telecommunications (Consumer Protection and Service Standards) Act 1999 to provide access to money in the Communications Fund to fund the deployment of broadband telecommunications networks.

Reasons for Urgency
A key Government election commitment was to invest up to $4.7 billion (including $2 billion from the Communications Fund) to establish a fibre to the node National Broadband Network, in partnership with the private sector, rolled out over a five-year period. The Government envisaged an expedited development and assessment process.

The Government has decided to amend the provisions of the Telecommunications (Consumer Protection and Service Standards) Act 1999 which establish the Communications Fund to enable money in the Communications Fund to be used to fund the National Broadband Network. It is important that these funds are made accessible early in the competitive assessment process to facilitate the rollout of the National Broadband Network in 2008.

TRADEX SCHEME AMENDMENT BILL 2008

Purpose of the Bill
The bill:
- clarifies the eligibility requirements for Tradex by de-linking it from the Drawback Regulations;
- reaffirms the policy intent of the scheme; and
- codifies some administrative details not provided for in the initial legislation.

Reasons for Urgency
Plans to streamline the Tradex Scheme, including through the de-linking of the scheme from duty Drawback regulations, have been in place since January 2006. Those plans became more urgent on 19 October 2006, when amendments were made to the Customs Regulations to modify administrative aspects of duty Drawback. Those modifications included changes to the eligibility criteria for duty drawback that raised doubts about the eligibility of many importers for the Tradex Scheme. Since that time, the Department of Innovation, Industry, Science and Research, and many of its clients, have had to follow additional procedures required only because of the current legislative framework.

The introduction and passage of the bill in the 2008 Autumn sittings would ensure that unnecessary regulatory burden and uncertainty for industry would be removed without further delay.

Senator Bob Brown to move on the next day of sitting:
That the Senate urges the Government to initiate or support moves to have a fact-finding delegation from the United Nations, or its Human Rights Council, visit Tibet as a matter of urgency.

Postponement
The following items of business were postponed:

Business of the Senate notice of motion no. 1 standing in the name of Senator Milne for today, proposing a reference to the Economics Committee, postponed till 19 March 2008.
General business notice of motion no. 49 standing in the name of the Leader of The Nationals in the Senate (Senator Scullion) for today, proposing the establishment of a select committee on remote Indigenous communities, postponed till 19 March 2008.

COMMITTEES

Community Affairs Committee

Extension of Time

Senator O’BRIEN (Tasmania) (3.34 pm)—At the request of Senator Moore, I move:

That the time for the presentation of the report of the Community Affairs Committee on the Poker Machine Harm Reduction Tax (Administration) Bill 2008 be extended to 12 August 2008.

Question agreed to.

Legal and Constitutional Affairs Committee

Extension of Time

Senator O’BRIEN (Tasmania) (3.34 pm)—At the request of Senator Crossin, I move:

That the time for the presentation of the report of the Legal and Constitutional Affairs Committee on the Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008 be extended to 23 June 2008.

Question agreed to.

Migration Committee

Meeting

Senator O’BRIEN (Tasmania) (3.34 pm)—At the request of Senator McEwen, I move:

That the Joint Standing Committee on Migration be authorised to hold private meetings otherwise than in accordance with standing order 33(1) during the sittings of the Senate.

Question agreed to.

HMAS SYDNEY II

Senator ELLISON (Western Australia) (3.35 pm)—At the request of Senator Minchin, I move:

That the Senate—

(a) welcomes the discovery of the missing wreck HMAS Sydney II, 66 years since the tragic battle that lost the ship in 1941 off the coast of Western Australia;
(b) notes the importance of finding the missing wreck for families and friends of the 645 crew members on board HMAS Sydney when she was lost in fierce engagement with the German raider Kormoran;
(c) congratulates the search team for the discovery of HMAS Sydney’s resting place;
(d) notes the Coalition’s strong support for efforts to find the wreck, including $4.2 million in funding under the Howard Government;
(e) calls on the Government to move quickly to proclaim HMAS Sydney an official war grave to ensure that she and her crew are protected; and
(f) further calls on the Government to recognise the needs of the families and friends of the victims by ensuring a memorial service is held as soon as possible.

Question agreed to.

Senator O’BRIEN (Tasmania) (3.35 pm)—by leave—I ask that it be recorded that the government opposed that motion.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.35 am)—by leave—I ask that the support of the Greens for that motion be recorded.

The DEPUTY PRESIDENT—That will be noted.
BUSINESS

Consideration of Legislation

Senator MURRAY (Western Australia) (3.36 pm)—At the request of Senator Bartlett, I move:

(1) That so much of standing orders be suspended as would prevent this resolution having effect.


Question agreed to.

NATIONAL COMMISSIONER FOR CHILDREN BILL 2008

First Reading

Senator MURRAY (Western Australia) (3.37 pm)—At the request of Senator Bartlett, I move:

That the following bill be introduced: A Bill for an Act to establish an Office of National Commissioner for Children and Young People, and for related purposes.

Question agreed to.

Senator MURRAY (Western Australia) (3.37 pm)—I present the bill and move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator MURRAY (Western Australia) (3.37 pm)—I move:

That this bill be now read a second time.

I seek leave to table the explanatory memorandum and to have the second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—

This National Commissioner for Children Bill 2008 is similar to the A Better Future for our Kids Bill 2003 introduced into the House of Representatives by Labor Party MP Nicola Roxon in 2003. That Bill was not debated and subsequently lapsed. I am introducing a simplified version of the Bill in an effort to build community support for the new Labor government to act on this much needed reform, which is in accordance with the Labor Party’s National Platform, adopted in 2007.

On 19th September, 2007, the Senate unanimously supported my motion calling for the reduction of levels of child abuse to be an urgent national priority. This was welcome, but words and gestures mean little if they are not followed by concrete action and a firm determination to truly make changes for the better.

With no political voice of their own, the rights of children and young people are often ignored or marginalised. Throughout history we have seen the horrible results that come from any group being denied a channel for their grievances, and some of the most shocking examples have been cases of young people.

Community organisations, child abuse advocates and politicians have been calling for a National Commission for Children for many years. In 1998, Defence for Children International (DCI) produced a discussion paper entitled “Taking Australia’s Children Seriously – A Commissioner for Children and Young People”, which brought together a range of proposals by children’s advocacy groups as well as HREOC.

The introduction of a National Children’s Commissioner was also a unanimous recommendation in the Senate Committee report The Forgotten Australians, to ensure there was an office at a national level to specifically consider the interests of children and advocate for them when necessary. However, the previous government continually rejected such calls.

Many states have Children Commissioners or something similar, although currently they are working with a confusing mess of state and territory legislation and departments dealing with children’s issues and their losing battle to protect the most vulnerable. New South Wales, Queensland, Tasmania and Western Australia all have Commissioners for Children and Young People. South Australia has the Children’s Interest Bureau, which is a statutory body concerned with...
children’s rights. Victoria has a Child Safety Commissioner who provides advice to the Minister for Children on issues impacting on the lives of children, in particular vulnerable children. The Northern Territory does not currently have a Children’s Commissioner, but a Commissioner is included in the draft Care and Protection of Children Bill 2007. The Australian Capital Territory’s Disability Commission is expected to be expanded in the near future to encompass a Children’s Commissioner.

These bodies would be much more effective if there was a national office co-coordinating and unifying their individual efforts at a national level. A national Children’s Commissioner would also play a key role in the Asia Pacific Association of Children’s Commissioners (APACC), which consists of New Zealand and Australian Commissioners and Child Guardians.

Australia is currently lagging behind other Western countries in child protection. The United Kingdom introduced their first Commissioner for Children three years ago, which is an independent voice for children and young people to represent the views, opinion, interest and rights to departments that make decisions which effect children.

The Labor government needs to step up to international standards and recommendations from Australian reports, groups and politicians and implement its election promises on protecting the rights of children. It is time for this government to put children’s rights back onto the national agenda as it promised in Chapter 13 of the Labor Party’s National Platform and Constitution which was agreed to at the National Labor Conference in April 2007. Chapter 13, section 30 states that “Labor will also establish a National Commissioner for Children and Young People in order to promote their interests as participants in our community and to promote investing in children and young people.”

Section 31 of the Platform states that “the National Commissioner for Children and Young People will establish a national code to protect children and young people from abuse. The national code will be developed in consultation with the States and Territories and will ensure that all organisations have adequate procedures to prevent abuse and handle any complaints. The code will include a national working with children check.”

This Bill gives effect to those commitments of the new Labor government.

The National Commission for Children and Young people is a body independent of government and other established organisations to promote and protect the rights, interests and well-being of Australian Children at a Federal Level. Child protection should be a national priority and the new government should seize this opportunity to take leadership in developing and implementing appropriate child protection services.

The aim of the National Commission for Children and Young People will be to monitor and review laws, policies and practices which impact on service provision for children and young people. The NCCYP will strive to increase public awareness on issues relating to child welfare, promote and support the role of families in the development and wellbeing of children and promote the participation of children in relevant decision making forums. The NCCYP will develop best practice models and protocols for the provision of services for children and for addressing child abuse complaints.

The National Commissioner will receive and investigate complaints on service provision to children and young people across all jurisdictions and research issues impacting on the safety and well being of children and young people as well as promote laws, policies and practices that uphold the rights, interests and well being of children and young people.

Importantly one of the central roles of the National Commission for Children and Young People will be to develop a National code for the protection of children and undertake research into issues relating to child welfare.

According to the 2006 Australian Institute of Health and Welfare Child Protection Australia 2004-2005 report there were 252,831 child protection notifications and 45,728 substantiations in Australia, however past governments have done either very little to address these issues or come up with bandaid solutions (like the Northern Territory Intervention).
It is time for the Australian Government to acknowledge that child protection must be made a national priority and to implement sufficient services to appropriately deal with this national crisis child rights abuse.

It should be emphasised that a Commission for Children is not just about dealing with the abuse and neglect of children and young people. It is also about ensuring that all Australian children have the opportunity to fulfil their potential through monitoring legislation and public policy to ensure the impact for children is a positive one.

A Commissioner for Children would also seek to ensure services for children are coordinated and accessible. For example, making sure children with disabilities have access to services through all departments such as education and health, on both national and state levels, without their parents having to spend years working through all the various levels of bureaucracy.

Finally, a Commissioner for Children will also ensure the voices and needs of children and young people are heard and listened to as we make decisions about the Australia they will inherit, and the life they will have because of those decisions.

I commend this Bill to the Senate and the government, and encourage support for this long overdue action on the many years of well considered, evidence based calls for reform.

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

Leave granted; debate adjourned.

QUEENSLAND LOCAL GOVERNMENT

Senator BOYCE (Queensland) (3.37 pm)—I move:

That the Senate congratulates the Lord Mayor of Brisbane, Campbell Newman, and the Liberal Council team on their victory in the local government elections in Queensland on Saturday, 15 March 2008.

Question agreed to.

TIBET

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.38 pm)—I seek leave to amend general business notice of motion No. 35 standing in my name.

The DEPUTY PRESIDENT—Senator Brown, I do not think some people are aware of the amendment. Is it lengthy?

Senator BOB BROWN—No, it is not. It is a simple amendment which at paragraph (a)(i) would omit the word ‘Partnership’ and substitute the word ‘Dialogue’. Secondly, in paragraph (c) it adds the words ‘calls on the parties to make every effort to continue the dialogue and’.

Leave granted.

Senator BOB BROWN—I move the motion as amended:

That the Senate:

(a) having regard to:

(i) the 11th Australia-China Human Rights Dialogue held in Beijing on 30 July 2007,

(ii) the United Nations (UN) Olympics Truce, as passed by the UN General Assembly on 31 October 2007 (A/RES/62/4),

(iii) the 49th anniversary of the Tibetan Uprising of 10 March 1959,

(iv) the 60th anniversary of the Universal Declaration of Human Rights, with particular attention to Article 9, concerning arbitrary arrest and detention, Article 13 on the right to freedom of movement and Article 18 on the rights to freedom of thought, conscience and religion,

(v) the establishment of diplomatic relations between Australia and the People’s Republic of China on 21 December 1972 resulting in Australia-China relations developing strongly, politically and economically, and
(vi) the Australia-China Strategic Dialogue, established on 7 September 2007, which is of great importance for the relationship between Australia and China;

(b) regrets that there have been no further rounds of the Sino-Tibetan dialogue since February 2006 and that the five rounds of talks between Chinese officials and representatives of the Dalai Lama from 2002 to 2006, led by his Special Envoy Lodi Gyari, brought no substantive results;

(c) calls on the parties to make every effort to continue the dialogue; and

(d) reiterates its concern over the reports of continuing human rights violations in Tibet, including torture, arbitrary arrest and detention, repression of religious freedom, ‘patriotic re-education’ including forcing Tibetans to denounce the Dalai Lama, arbitrary restrictions on free movement, rehabilitation through labour camps and coercive resettlement.

Question agreed to.

DONATIONS TO POLITICAL PARTIES

Senator MURRAY (Western Australia)

(3.40 pm)—I move:

That, in view of:

(a) the instances of developers being identified in investigations into corrupt influence in local government, and other levels of government;

(b) public and media perceptions of improper conduct and influence by developers; and

(c) calls for donations, loans, gifts and favours from developers to be prohibited,

the Senate calls on the Prime Minister (Mr Rudd) to put this matter before the Council of Australian Governments, with a view to designing amendments to all federal, state and territory electoral laws no later than 1 December 2008 either:

(a) prohibiting donations, loans, or gifts by developers, either directly or indirectly, to candidates or political parties at any level of government; or

(b) significantly improving and harmonising law, regulation and governance in this area.

Question put.

The Senate divided. [3.44 pm]

(The President—Senator the Hon. Alan Ferguson)

Ayes………………… 7

Noes………………… 55

Majority………. 48

AYES

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

NOES

Adams, J. Barnett, G.
Bernardi, C. Birmingham, S.
Bishop, T.M. Boswell, R.L.D.
Boyce, S. Brandis, G.H.
Brown, C.L. Bushby, D.C.
Campbell, G. Chapman, H.G.P.
Colbeck, R. Coonan, H.L.
Cormann, M.H.P. Crossin, P.M.
Ellison, C.M. Ferguson, A.B.
Ferravanti-Wells, C. Fifield, M.P.
Fisher, M.J. Forshaw, M.G.
Hogg, J.J. Humphries, G.
Hurley, A. Hutchins, S.P.
Johnston, D. Kemp, C.R.
Kirk, L. Ludwig, J.W.
Lundy, K.A. Macdonald, I.
Macdonald, I.A.L. Marshall, G.
McEwen, A. McGauran, J.J.J.
McLucas, J.E. Moore, C.
Nash, F. O’Brien, K.W.K.
Parry, S. * Patterson, K.C.
Payne, M.A. Polley, H.
Ray, R.F. Ronaldson, M.
Scullion, N.G. Sherry, N.J.
Stephens, U. Troeth, J.M.
Troad, R.B. Watson, J.O.W.
Webber, R. Wong, P.
Wortley, D. *

* denotes teller

Question negatived.
TARKINE WILDERNESS

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

That the Senate—

(a) notes:

(i) a bushfire in the magnificent Tarkine wilderness area in north west Tasmania had burnt 1800 hectares by 17 March 2008,

(ii) that the fire was started in conjunction with a car accident on the ‘Road to Nowhere’ known as the Western Explorer Road, and

(iii) the high risk of fire from opening the inaccessible area to vehicle access was identified by conservationists as a major threat and reason for objection when the road was proposed and approved by the Tasmanian Liberal Government in 1994; and

(b) calls on the Government to:

(i) urge the Tasmanian Government to close the road and convert it to a world-class cycling and walking track, and

(ii) advance the world heritage nomination of the area to secure its permanent protection.

Question put.

The Senate divided. [3.50 pm]

(The President—Senator the Hon. Alan Ferguson)

Ayes………….. 5
Noes………….. 57

Majority……… 52

AYES

Allison, L.F. Brown, B.J.
Milne, C. Nettle, K.
Siewert, R. *

NOES

Adams, J. Barnett, G.
Bernardi, C. Birmingham, S.
Bishop, T.M. Boswell, R.L.D.
Boyce, S. Brandis, G.H.
Brown, C.L. Bushby, D.C.
Campbell, G. Chapman, H.G.P.
Colbeck, R. Cooman, H.L.
Cormann, M.H.P. Crossin, P.M.
Eggleston, A. Ellison, C.M.
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.
Johnston, D. Kemp, C.R.
Kirk, L. Ludwig, J.W.
Lundy, K.A. Macdonald, I.
Macdonald, J.A.L. Marshall, G.
McEwen, A. McGauran, J.J.J.
McLucas, J.E. Moore, C.
Parry, S. O’Brien, K.W.K.
Payne, M.A. Patterson, K.C.
Ray, R.F. Polley, H.
Scullion, N.G. Ronaldson, M.
Stephens, U. Sherry, N.J.
Troid, R.B. Troeth, J.M.
Webber, R. Watson, J.O.W.
Wortley, D. Wong, P.

* denotes teller

Question negatived.

CONDOLENCES

Professor Peter Cullen AO

Senator SIEWERT (Western Australia) (3.53 pm)—I move:

That the Senate—

(a) notes with deep regret the passing of Professor Peter Cullen on 13 March 2008;

(b) acknowledges the significant contribution Professor Cullen made:

(i) to the environment, natural resource policy, freshwater ecology, and the management of Australia’s water resources, particularly within the Murray Darling Basin, and

(ii) to the knowledge and understanding of these complex and vital issues, including his significant role in the development of sustainable water policy in
Australia, and that his insightful analysis will be sorely missed;

(c) acknowledges that Professor Cullen was particularly skilled at bridging the gap between science and the policy and practice of water management, and had a flair for using language that made complex issues accessible and got the point across; for example, some ‘Cullen-isms’ include:

(i) on the importance of water accounting, ‘Flying blind hasn’t worked and we must know how much water we have, where it is and how it is being used. We need to know the health of our waterways’,

(ii) on managing water scarcity, ‘Believing we could meet the water needs of these communities by fixing a few leaking taps and having shorter showers was always a fantasy’,

(iii) on the Murray Darling, ‘We don’t have all the answers—nobody does—but before we start laying bricks and mortar, we have got to get the foundations right, otherwise the cathedral will tumble with the smallest of tremors’, and

(iv) on climate change, ‘We’re doing a wonderful experiment in global warming at the moment but by the time it gets through peer review there might not be many humans left on the planet’;

(d) offers its condolences to his family and friends.

Question agreed to.

MINISTERIAL STATEMENTS

Global Market Turbulence and the Australian Economy

Senator LUDWIG (Queensland—Minister for Human Services) (3.54 pm)—On behalf of the Treasurer, Mr Swan, I table a statement on global market turbulence and the Australian economy. I seek leave to incorporate the statement in Hansard.

Leave granted.

The statement read as follows—

The world has witnessed substantial financial market turbulence since it began in August last year, making its presence felt across markets, across nations, and across continents.

It is of course most evident in the United States, but it affects all of us to a greater or lesser degree, including the hard working families of Australia.

As global financial market turbulence has become more prolonged, Australians have become more concerned about the dimensions and possible consequences of this uncertainty.

Later this week the House will rise, and when we next meet it will be to consider the first Budget of the Rudd Government.

Accordingly I seek the indulgence of this House at this time to review the character, magnitude and status of recent global financial turbulence.

I will inform the House how the Commonwealth Government and the relevant regulatory authorities and agencies within my portfolio are assessing the risks and monitoring these developments.

And I will offer this assessment, Mr Speaker, in the wider context of where the Australian economy has come from, where it is now, and where we hope to go.

When these developments began to unfold eight months ago the central concern was around the size of the write-downs that major global banks would have to accept from the rapidly rising default rates in US sub prime mortgages.

Within a very short time, however, it became an issue of uncertainty about the credit risks embedded in packages of mortgages bundled together by financial institutions and sold into global financial markets.

Sources of funding dried up and the market in sub prime mortgages virtually closed.

Shortly thereafter the entire residential mortgage backed securities market ceased to function with the depth and liquidity that had made these securities among the most widely held financial assets over the last decade.

With financial institutions here and elsewhere unable to raise as much funds through securitisation, and uncertainty as to the extent of exposures
to losses on these assets, they began to hold on to the cash they had. Banks here and elsewhere became more reluctant to lend to each other, except in the very short term.

Central banks in all major advanced economies, including our own, responded by offering to lend cash to banks on a much larger scale than usual, accepting as security a wider range of financial assets.

Toward the end of last year it appeared the crisis was beginning to ease as the US Federal Reserve responded by cutting the cash rate and supporting the liquidity of financial institutions.

However, as financial institutions sought to finalise positions prior to Christmas, spreads began to widen once more.

As we entered the new year, renewed concerns in financial markets were coupled with increasingly convincing signs that economic activity in the US was sharply slowing.

Equity prices across the world declined, as did the US dollar, and banks once again became reluctant to part with cash.

The US Federal Reserve responded with a large cut in the cash rate in January, and more recently has taken action to provide further liquidity to the market.

The prolonged uncertainty took its toll as exposed financial institutions, those with illiquid assets and short term liabilities, came under increasing pressure.

In Australia we experienced a fresh episode of funding dislocation this year, which we’ve seen in a wider premium of wholesale market rates over the cash rate.

In the US market, concern moved on from household mortgages, to the risks of dealing with investment banks which might have difficulty accessing liquidity.

Just this week the US’s fifth largest investment bank was absorbed into a larger competitor after it encountered mounting liquidity problems.

Nor do I wish to say that they have no impact on us.

On the contrary there is no doubt Australia’s financial system has been affected by the global financial circumstances.

The residential mortgage backed securities market is no longer functioning in an effective way. This is true more generally for most asset-backed paper markets, here and elsewhere.

Where Australian financial institutions had been very successful in bundling streams of mortgage income to sell as securities offshore, they now have been obliged to seek other sources of funding.

In recent weeks there has been renewed stress in global short-term bank funding markets.

This is in addition to the continued difficulties in term and securitisation markets, which have functioned under considerable strains for some months.

Funding costs have continued to increase.

Though markedly narrower than it was a week ago, the spread between the Australian 90-day bank bill rate and the cash rate is still around 60 basis points – somewhat wider than the usual spread.

Australian banks have continued to issue in offshore markets, though at higher spreads than were previously the case.

This has led to higher costs of borrowing for businesses and higher mortgage rates for households.

The Australian Prudential Regulatory Authority is closely monitoring the impact of developments in our banking sector.

Its focus is on ensuring that all institutions have adequate plans in place if the market turbulence continues.

Despite increased issuance in domestic and international bond markets in the early months of this year by major Australian banks, further instances of market turbulence cannot be ruled out.

Problem loans are still very low by historical and international standards, however, and Australia’s corporate debt to equity ratio remains at historically low levels.

Nor do I wish to say that they have no impact on us.
The turmoil in global financial markets has not unduly restricted the total supply of finance to our economy, with strong growth in bank lending more than offsetting the reductions in corporate bond issuance, and in lending to households by mortgage originators.

As the House will be well aware the Commonwealth Government and its regulatory agencies are charged by this Parliament with the responsibility to protect the stability of the financial system on which this economy depends.

My department, the agencies within my portfolio and the Government have been following the global market developments with an eagle eye. We are in close and continuous contact with financial markets here and offshore.

I have been in almost-daily discussion on this topic: with our central bank, with the regulatory authorities and the leadership of the financial community.

I have consulted with my counterparts in Europe and North America.

Only last Thursday the Secretary of my Department met with his colleagues in the Australian Council of Financial Regulators to discuss developments.

While we are alert to the impacts on our economy, I would point out to the House that the circumstances of our financial institutions are different from those in the US.

While the twelve consecutive rate rises since 2002 have undoubtedly taken a toll on household budgets, we are not experiencing the same levels of mortgage defaults that are now occurring in the US.

While it is important that we recognise the severity, duration and possible consequences of the global financial turbulence, we should also recognise that Australia’s circumstances are more favourable than those elsewhere.

We are not in the least complacent about the circumstances of the Australian economy, but we do recognise that we have strengths on which we need to build.

The very clear differences between Australia’s circumstances and those of some other economies brings me to my second theme.

This is the issue of what economic policy strategy is appropriate in Australia’s current circumstances.

One of those circumstances is the financial turbulence which I have already described.

But that is by no means the only circumstance which I am taking into account in shaping policy in the run up to the Budget over the next two months.

I want now to offer the House my assessment of some other important aspects of our economy.

Our economy’s strength in recent times has been supported by large rises in the prices of our commodity exports.

Australian output growth through last year was just under 4 per cent.

But while we have high prices for our commodities, over the last few years our export performance has been weak.

It is a surprising but undeniable fact that Australian exports have been growing only slowly over most of this decade, at least in terms of volumes.

Our export volumes have grown at an average annual rate of just 1.9 per cent in the seven years since 2000, compared to an average annual rate of 6.9 per cent over the preceding seven years.

This slowdown in export volumes growth has occurred despite strong world growth over this period and against a backdrop of a once in a generation terms of trade boom.

It is clear this performance is more a reflection of supply side constraints rather than a lack of demand for our exports.

The slow down in export growth also goes hand in hand with the slow down in productivity growth.

Driven by strong global demand for our metals, minerals and energy exports our terms of trade have risen to 50 year highs.

While the resource-rich states of Western Australia and Queensland have experienced the largest direct benefits from the terms of trade, the impact has been felt across the whole of our economy.

The rising terms of trade have provided a significant external stimulus to the economy — adding around 1½ percentage points each year to the
growth of Australia’s gross domestic income over the last four years.

Demand created by this strong growth in income has outpaced increases in our economy’s supply capacity. This has contributed to inflationary pressures.

While there is considerable uncertainty around the medium-term outlook for non-rural commodity prices, recently settled contracts and market expectations for iron ore and coal prices suggest further support for the terms of trade in the period ahead.

While further gains in our terms of trade could be expected to continue to support domestic activity, it also presents further challenges for an economy already pushing up against its capacity.

It is sometimes said, including in this place, that an upswing in mining output from Western Australian and Queensland must be at the expense of Victoria and NSW.

It was quite evident in conversation with my state colleagues last week, however, that this will not necessarily be so.

While Queensland and Western Australia are expecting remarkable increases in the production and transport of iron ore and coal in particular, NSW and Victoria aren’t despondent about the outlook.

Some talk loosely about a two track economy, but NSW final demand increased by over 4.5 per cent last year, and overseas exports from NSW increased over 4 per cent.

Exports increased more in NSW over that same period than in Victoria, or Queensland or Western Australia and of course well above the national average.

Over the same period Victorian final demand increased over 5 per cent.

Unemployment in NSW is 4.2 per cent and Victoria 4.1 per cent, in both cases the lowest outcomes in 30 years of data.

These are not numbers which suggest considerable gloom in either state.

Mr Speaker, with the right policies, growth in the resource rich states of WA and Queensland does not have to be incompatible with growth in NSW and Victoria.

A good deal of the increased income from mining will be distributed locally, as higher employment and consequently higher local spending.

But some of it will be distributed through the rest of the country as higher government revenue or as returns to shareholders.

It is our task to think through these challenges, as we are doing in the run up to the Budget, and get the balance of policy right.

Given the challenges we confront, Mr Speaker, the Rudd Government has twin objectives in economic policy, which it is pursuing with equal vigour.

One is primarily about the next year or two, and the other is primarily about the next decade.

It would be quite wrong to suggest to the House that our first May Budget will accomplish both objectives immediately.

On the contrary, we are now planning architecture of at least three budgets, each closely related to its predecessor, and each taking us a bit further down the road towards our twin objectives.

The first objective is of course the gradual moderation of inflation from the rate of 4 per cent or so which the Reserve Bank expects to see in the year to March, to within the target band.

And we will be doing what we can through Budget policy and through other measures to make the Reserve Bank’s job less difficult.

That’s why we have a Five Point Plan to fight inflation, which includes a surplus target of at least 1.5 percent of GDP in 2008-09.

The second objective is to modernise our economy.

This includes the removal of constraints in our physical infrastructure of roads, bridges, ports, water and energy.

It includes a big improvement in Australian education, from pre-school to our centres of higher education, to compete with the best in the world.

It includes more and better training in skills to improve the quality and size of our workforce.

And it includes taxation and child care reforms to lift labour force participation to reward hard working families for their efforts.
These are big jobs Mr Speaker but we are clear about what we want to do and we will deliver on all our election commitments to Australians. We have already laid foundations with the establishment of Infrastructure Australia, the provision of an additional 450,000 high quality training places, the decision to better resource technical training in schools, and the plans we have in hand with our counterparts in COAG, of which I will have more to say on a later occasion.

The Government seeks an effective balance between our two objectives.

We can’t rebuild the nation’s economic infrastructure in one Budget. Building world class education systems, modernising our infrastructure and tackling skills shortages will take time.

And our new policies will need to be carefully implemented, so that we do not further complicate demand pressures in the economy.

But we also recognise that tackling inflation in the longer run is largely an issue of the capacity and flexibility of the Australian economy.

The underlying trend increase in inflation has been apparent now for some time and it represents a failure of past government to foresee and prepare for the inevitable consequences of the long expansion we have enjoyed.

To control inflation we need a more responsive and flexible economy, and we won’t get it without addressing our infrastructure constraints now and into the future, without world class education at every level, without upgrading the skills and quality of our workforce.

So in that sense Mr Speaker our two objectives are mutually reinforcing.

Once a lower rate of inflation is achieved we will have more room to remedy the structural shortcomings which have contributed to its acceleration over recent years.

The deteriorating global outlook does present a significant risk to the Australian economy.

Businesses and households are already feeling the effects of higher interest rates which, in part, reflect global financial turmoil.

The outlook for the global economy and uncertainty in global financial markets is beyond our control, but we are vigilant. And we remain confident that Australia’s financial institutions and our regulatory agencies are coping reasonably well with a global challenge of considerable severity.

Developments in global financial markets, combined with significant inflationary pressures in the domestic economy, reinforce our determination to build long-term productivity and growth in our economy.

We are putting all our efforts into modernising our economy, so it’s strong enough and flexible enough to meet future challenges —to create the right environment for business to flourish and to deliver for the working families of our nation.

Senator COONAN (New South Wales) (3.54 pm)—by leave—I move:

That the Senate take note of the document.

My colleague the shadow Treasurer, the Hon. Malcolm Turnbull, has replied in some detail in the House of Representatives and I will draw briefly on his speech for my remarks.

Firstly, I should say that the opposition welcomes the statement by the Treasurer on the crisis in international credit markets. There has, of course, been some considerable concern and we do welcome the statement.

However, we do wish to take this opportunity, because the Treasurer has recapitulated his economic policy, to say where the opposition differ in important respects. Firstly, we recognise, as indeed we all do in this chamber and elsewhere, the importance of ensuring that inflation remains within moderate levels, by which we mean between two and three per cent on average over the cycle. The fact is that, despite the very considerable positive shock to our economy from the improvement in our terms of trade, we have over recent years—and you can take that as being either the entire 47 quarters of the Howard government or the last two years—been able to contain inflation within the target band, and that is so whether you are measuring inflation as the headline CPI.
or as the RBA’s preferred measure of underlying inflation.

The RBA governor, Glenn Stevens, last week compared the nature of inflationary pressures in today’s economy with those of the early 1950s or mid-1970s. He said:

The reason we are doing better this time around is not hard to fathom ... As work in the Treasury has argued persuasively, a flexible exchange rate, a reformed and flexible industrial environment, better private-sector management and much stronger fiscal and monetary policy frameworks have made a lot of difference. The fruits of those decades of effort in reform are an economy that, for all its strains, is doing well under the circumstances. The officers of the Treasury, past and present, have played a key role in achieving that. That legacy has been handed to you, and to all of us. Our challenge is to keep those improved structures in place and to develop them further, in the period in which we have the privilege of having some influence.

In economics, as the shadow Treasurer and others have pointed out, confidence and expectations are crucial to the performance of the economy. As Alan Greenspan said on 12 February 1998 in testimony to the US congress:

The state of confidence so necessary to the functioning of any economy has been torn asunder. Vicious cycles of ever rising and reinforcing fears have become contagious. Some exchange rates have fallen to levels that are understandable only in the context of a veritable collapse of confidence in the functioning of an economy.

Once the web of confidence, which supports the financial system, is breached, it is difficult to restore quickly.

That is why prime ministers and treasurers successively have consistently used moderate language when speaking about the economy, for confidence can turn very quickly, as I think we have seen and as recent consumer and business confidence surveys show. We have now seen three surveys of confidence, with business confidence falling dramatically in the National Australia Bank business survey for January 2008 and record falls in consumer sentiment in the Westpac Melbourne Institute survey, showing confidence at its lowest level since 1993, and a record fall in the Sensis survey.

In the space of 106 days of the Rudd government, business and consumer confidence have tumbled. Yet, for 11½ years under the coalition government, these indicators held fast despite many ructions and shocks on the international political and economic stage.

This economy is enjoying its 17th year of continuous economic expansion, the longest since Federation. It has been described by the Economist as ‘the wonder down under’. It has unemployment at 35-year lows—that is, now four per cent—while the participation rate is at record highs. This economy has enjoyed average growth over those 11½ years of 3.6 per cent a year, higher than most other developed economies, including the United States and Europe. This economy was 50 per cent larger in real terms when the coalition left government compared with when it commenced government. Real wages grew 21.5 per cent over those 11½ years, when they had fallen 1.8 per cent under the Hawke and Keating governments. This is an economy that has no net debt and has run consistent strong fiscal surpluses; an economy which was strong enough to provide tax cuts each year since 2003 while providing bonuses to carers; an economy where the government was praised in September last year for its exemplary macroeconomic management; and an economy where every year Australian taxpayers are saving over $9 billion in debt interest, allowing greater investment in health, education, roads, the environment and defence.

That was the state of the economy handed to the Rudd government on 3 December

CHAMBER
2007 and here we are now 106 days into the Rudd government’s term and business and consumer confidence has been trashed. It does not have to be this way. The economy, as evidenced by the remarkable unemployment figures and the recent national accounts, is strong. The economy is flexible and it is resilient. But the point I want to make is that it is confidence that underpins it all.

Disappointingly, the Treasurer has chosen to misrepresent the economic history of the last decade. He is a Treasurer who continues to try to trash the reputation of the previous government without consideration of the consequences to the Australian economy and the Australian people. He is a Treasurer who repeats ad nauseam gross misrepresentation of the RBA with the so-called 20 warnings; he is one who, unfortunately, talks up inflation with irresponsible comments such as ‘The inflation genie is out of the bottle,’ and pushes the Reserve Bank to increase interest rates. He is a Treasurer who cannot help but talk of chronic crises whenever he opens his mouth and one who continues to exaggerate inflationary pressures, unfortunately to score political points.

It does affect the economy, because the Treasurer speaks with the authority and advice of Treasury. It is a lesson of good economic government that great leaders in history have known how to inspire and build confidence and to build credibility. Sadly, it appears the Treasurer has not yet learned his lesson. Of course, we also have a Prime Minister who claims that inflation is the No. 1 short-term problem, yet proposes to absent himself for almost three weeks overseas in the middle of the budget process.

What is disturbing about the reckless comments of the Treasurer and the PM on inflation is that the RBA have now issued warnings about inflationary expectations.

The Reserve Bank today released the minutes on monetary policy, which contain two separate warnings. They said:

A concern was that higher inflationary expectations might influence future wage outcomes.

They also noted:

Members were mindful as well of the risk that further increases in inflationary expectations could influence ... wage and price outcomes, which could complicate the task of reducing inflation. Hence, the question remained whether the current stance of monetary policy was sufficiently restrictive to bring inflation back towards 2–3 per cent over a reasonable period.

These minutes today highlight that the Treasurer’s immoderate language has made this task even harder and, of course, the Treasurer should be the last person fuelling inflationary expectations. The Treasurer likes to talk endlessly about Reserve Bank warnings, yet does not seem to have considered the effect of his own comments. The warnings about fuelling inflationary expectations keep mounting. Two more warnings were released just today. When will the Treasurer start heeding these warnings?

Question agreed to.

BUDGET

Consideration by Estimates Committees

Reports

Senator CAROL BROWN (Tasmania) (4.04 pm)—Pursuant to order and at the request of the chairs of the respective committees, I present eight reports in respect of the 2007-08 additional estimates, together with the Hansard record of the committee’s proceedings and documents received by the committees.

Ordered that the reports be printed.
INFRASCTURE AUSTRALIA BILL 2008

First Reading

Bill received from the House of Representatives.

Senator WONG (South Australia—Minister for Climate Change and Water) (4.05 pm)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator WONG (South Australia—Minister for Climate Change and Water) (4.05 pm)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

Introduction—the case for national action

Lifting investment in new physical infrastructure while at the same time making better use of the nation’s existing infrastructure is a key element of the Rudd Labor Government’s plan to raise productivity, fight inflation and maintain economic growth.

Well-planned infrastructure is the arteries of a successful, modern economy and essential to:

- making our cities liveable and improving public health;
- bringing economic opportunities to regional and rural communities, generators of 65 percent of the nation’s export income;
- delivering products to markets;
- reducing business costs;
- connecting local companies to the global knowledge economy; and
- reducing pollution and greenhouse gas emissions.

And in the case of a country like Australia with its vast distances and highly urbanised population, the delivery of good, reliable infrastructure takes on even greater economic and social importance.

By contrast, a failure to fix infrastructure shortfalls, supply chain bottlenecks and urban congestion puts a brake on economic and productivity growth, creates inflationary pressures, and over the longer term, will leave us ill-equipped to respond to the challenges of climate change, an ageing population and globalisation.

What’s more, in modern, industrialised countries such as Australia, the various infrastructure systems are interacting ever more closely, creating interdependencies that heighten the risk of problems in one flowing onto another.

For example, capacity constraints on railways can affect the functioning of ports; water shortages can impede industrial production; and improvements to an arterial road can simply distribute the traffic snarls elsewhere.

In 2004, the Australian Council for Infrastructure Development estimated that the lack of investment in the nation’s infrastructure over many years cost the economy around $6.4 billion a year in lost production.

In addition to slowing economic growth, poor and inadequate infrastructure has a direct impact on family budgets and the bottom line of businesses.

The cost of urban congestion in our major cities alone was estimated by the Bureau of Infrastructure, Transport and Regional Economics at $9.4 billion in 2005, and in the absence of reform, will climb to more than $20 billion by 2020, with the total length of congested roads likely to treble.

But the costs cannot simply be measured in economic terms. For many families urban congestion means parents spending more time commuting in their cars than at home with their children.

When it comes to ‘keeping the lights on’ here too we have much work to do, with an estimated 30 to 35 billion dollars worth of investment required in the nation’s energy sector by 2020.

Australia’s international gateways—our ports and airports—will also need to modernise and expand in response to growing and changing demand. For example, international container trade will
almost triple by 2020 and air travel is set to jump by 160 per cent over the first quarter of this century.

And with many of our infrastructure challenges I am not just talking about the need for ‘big things’.

In this regard, I would like to quote Sir Rod Eddington, a director of News Corporation, Rio Tinto and China Light and Power—among others—and author of the Eddington Transport Study for the British Government:

“This does not always have to entail large-scale projects. Some of the best projects are small scale—tackling bottlenecks in the existing network—such as rail platform lengthening and roads linking to ports....”

A clear vision for action

The infrastructure challenges inherited by this Government—some of which I’ve just outlined—are the result of decades of poor planning and underinvestment. In fact, the OECD ranks Australia 20th out of 25 countries when it comes to investment in public infrastructure as a proportion of national income.

This Government is determined to bring a fresh approach to developing and modernising the nation’s physical infrastructure: replacing neglect, ‘buck passing’ and ‘pork-barrelling’ with long term planning where governments predict and anticipate infrastructure needs and demands, not merely react to them.

In short, the Commonwealth Government is back in the business of nation-building.

The need for cooperation between governments and with the private sector

Nation-building requires the cooperation of all Australian government—particularly in a federal political system like ours with its divided responsibilities—as well as the involvement of all sectors of the economy, both public and private.

Put simply, nation-building requires coordinated solutions.

Unfortunately up until now, the provision of nationally important infrastructure has been considered separately, within different levels of government and in isolation from each other.

Access to ports, for example, can involve the three levels of government, the rail and road transport industry, the port owners and stevedores.

And as the recent capacity constraints in the Queensland and Hunter Valley coal chains have shown, a lack of coordination between governments and the private sector inevitably results in a loss of national income and reduced opportunities for our export industries.

At the same time governments, industry and the investment community need the certainty in planning and evaluation that guarantees good returns—both in profits and the benefits delivered to the community.

Infrastructure investment needs to be determined objectively and according to long term need, not short term political interests—thereby creating an environment conducive to greater private investment in public infrastructure.

So nation building requires not only foresight, but a more nationally-coordinated approach to infrastructure reform and investment—something the business community has long championed.

The Business Council of Australia in its Infrastructure Action Plan for Future Prosperity report called for “…an integrated long-term planning framework across jurisdictions for the coordinated provision of infrastructure ... to underpin sustained strong economic growth.”

We need a mechanism that will achieve both these ends—and in so doing, lock in Australia’s future prosperity and higher productivity.

Today we don’t have one.

Infrastructure Australia

Since coming to office last November, the Rudd Labor Government has moved quickly to respond to the nation’s growing infrastructure challenges, restoring infrastructure planning to the heart of national economic management.

For the first time since Federation the Commonwealth Government now has an infrastructure minister and an infrastructure department.

And today I am tabling legislation which once approved by the Parliament will establish Infrastructure Australia—fulfilling our pledge to create this new national body within our first 100 days.
This legislation marks a new approach to the provision of public infrastructure, creating a new body charged with developing a truly national, long term approach to this task.

Mr Peter Taylor, the Chief Executive of Engineers Australia, has said:

“For more than a decade, Engineers Australia has maintained that infrastructure throughout Australia needed better coordination and long-term integrated planning. The Federal Government’s inclusive approach, through Infrastructure Australia and its close ties to CoAG, is the long needed link for Australia’s future.”

Infrastructure Australia is all about lifting investment in the nation’s physical infrastructure while at the same time getting the most our existing assets.

An Action Plan

The legislation I’m tabling today establishes Infrastructure Australia as a statutory advisory council to develop a strategic blueprint for the nation’s future infrastructure needs. In partnership with the states and territories and in consultation with the private sector and local government, we will oversight the blueprint’s implementation.

Infrastructure Australia will provide advice about infrastructure gaps and bottlenecks that hinder economic growth and prosperity.

The Infrastructure Australia Council will have 12 experienced members drawn from industry and all levels of government.

The new office of Infrastructure Coordinator will be a statutory office within the Infrastructure, Transport, Regional Development and Local Government portfolio, supported by a small team of professionals.

Infrastructure Australia’s immediate task will be to undertake a National Infrastructure Audit to determine the capacity and condition of nationally significant infrastructure including in the areas of water, energy, transport and communications, and in so doing it will consult widely—including with the owners and operators of existing infrastructure assets.

The Audit will identify gaps, deficiencies, impediments and bottlenecks across these important sectors of the national economy as well as take into account expected future demand. This information will inform the development of the Infrastructure Priority List to guide future investment decisions.

Infrastructure Australia’s first priority list will be completed within 12 months and presented to the Council of Australian Governments.

This work will allow us to better match investment dollars with the nation’s infrastructure priorities.

In addition, Infrastructure Australia will be expected to provide advice on regulatory reforms that can improve the utilisation of existing infrastructure and streamline new proposals. It will propose ways to harmonise legislation and regulation across jurisdictions.

For instance, it will have the capacity to examine the potential for standardising tender processes and contract documentation between Commonwealth and state jurisdictions, improve procurement processes and expedite decision making.

It will make recommendations to achieve consistent guidelines of public private partnerships.

Conclusion

As I have indicated, Australia’s physical infrastructure—including strategic energy, transport, communication and water assets—provides an essential input to virtually all economic activities and contributes directly to community well-being.

The Infrastructure Australia legislation is a continuation of a century long Labor tradition.

Labor has always been the party of nation building—it is in our DNA and when it comes to delivering major infrastructure projects we have the historic runs on the broad.

Let’s not forget it was Ben Chifley that courageously started the Snowy Scheme and initiated post-war Reconstruction; it was Gough Whitlam that fixed the sewerage systems of our major cities; and it was the Hawke/Keating governments that invested in urban renewal and built social infrastructure such as Medicare and compulsory superannuation.

Each of these governments demonstrated what is possible with national leadership. And I can assure the House the Rudd Labor Government will
be a government which adapts the strong Labor tradition to the needs of the new century. *Infrastructure Australia* is the right innovation for today’s infrastructure challenges.

Or to take the words used by Ben Chifley when announcing work would start on one of this country’s greatest infrastructure projects, the Snowy Scheme:

“It is a plan for the whole nation, belonging to no one State nor to any group or section. This is a plan for the nation and it needs the nation to back it.”

Debate (on motion by Senator Wong) adjourned.

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

**WORKPLACE RELATIONS AMENDMENT (TRANSITION TO FORWARD WITH FAIRNESS) BILL 2008**

In Committee

Consideration resumed.

The TEMPORARY CHAIRMAN (Senator Hutchins)—The committee is considering government amendment (1) on sheet PA412 moved by Senator Wong. The question is that the amendment be agreed to.

Senator WONG (South Australia—Minister for Climate Change and Water) (4.07 pm)—Senator Siewert, I think you had a question on this. If it is not a question that is going to alter your position on it then I wonder if we can deal with this amendment first and I can undertake to come back to you when I have officials in here on the issue you raised.

Question agreed to.

Senator WONG (South Australia—Minister for Climate Change and Water) (4.07 pm)—by leave—I move government amendments (2) to (4) on sheet PA412 together:

1. Schedule 1, item 2, page 5 (line 24), after “workplace agreement is”, insert “, so far as the context permits,”.
2. Schedule 1, item 2, page 5 (lines 31 and 32), omit “employee’s overall terms and conditions of employment”, substitute “overall terms and conditions of employment of the employee whose employment is subject to the agreement”.
3. Schedule 1, item 2, page 6 (line 4), after “employment of the employees” , insert “whose employment is subject to the agreement”.

These amendments are minor corrections to ensure technical consistency of reference. They will clarify that for the purposes of the no disadvantage test a reference to an employee means a reference to employees whose employment is subject to an agreement and includes a future employee but only insofar as the context permits—for example, in the context of an ITEA for a person not yet employed or a greenfields agreement covering persons not yet employed.

Question agreed to.

The TEMPORARY CHAIRMAN—We now move to item 3, the Australian Greens amendments.

Senator WONG (South Australia—Minister for Climate Change and Water) (4.09 pm)—Senator Siewert, I do have some notes here. Perhaps I can read them and then you can indicate if this addresses sufficiently the issues you raise. I think you asked how this amendment would prevent employers from terminating an employee’s employment for the purpose of re-engaging them on an ITEA. The government has now passed an amendment that will enable eligible employees from terminating an employee’s employment for the purpose of re-engaging them on an ITEA. The government has now passed an amendment that will enable eligible employees to make ITEAs with previous employees following concerns expressed to the Senate committee. ITEAs would not be available in circumstances where the employee’s employment was brought to an end for the purpose of re-engagement on an ITEA. If this
occurred, a fundamental requirement for the ITEA would not have been met; and, if lodged, the document could not operate as a workplace agreement. This is a result of other changes the government is making in the bill—in particular the new section 347A—to ensure that only genuine workplace agreements operate. An employee whose employment was terminated because the employer wanted to re-engage the employee on an ITEA could have remedies under the freedom of association provisions of the act. I will pause here to see if Senator Siewert needs any further information on this issue.

Senator SIEWERT (Western Australia) (4.10 pm)—Could you just outline very quickly the new section—I think you said it was section 3.5.

Senator WONG (South Australia—Minister for Climate Change and Water) (4.10 pm)—The only section I referred to in the answer I just read was the new section 347A.

The TEMPORARY CHAIRMAN—Senator Siewert, is this explanation dealing with the third amendment listed on the sheet? If it is not, are you moving the third amendment down on this sheet?

Senator SIEWERT (Western Australia) (4.11 pm)—Yes, just for clarification, I asked a question prior to question time relating to the first government amendment. It is not related to the amendment I am about to move. I seek leave to move Greens amendments (1) and (2) on sheet 5449 together.

Leave granted.

Senator SIEWERT—I move:

(1) Schedule 1, item 2, page 5 (lines 29 to 33), omit subsection 346D(1), substitute:

(a) the ITEA does not result, or would not result, on balance, in a reduction in the employee’s overall terms and conditions of employment under any reference instrument relating to the employee; and

(b) the ITEA would not result, on balance, in a reduction in the employee’s overall terms and conditions of employment under any law of a State or Territory that was in existence immediately before the reform commencement that the Workplace Authority Director considers relevant; and

(c) the ITEA complies with the Australian Fair Pay and Conditions Standard.

(2) Schedule 1, item 2, page 6 (lines 1 to 6), omit subsection 346D(2), substitute:

(a) the agreement does not result, or would not result, on balance, in a reduction in the overall terms and conditions of employment of the employees under any reference instrument relating to one or more of the employees; and

(b) the agreement would not result, on balance, in a reduction in the overall terms and conditions of employment of the employees under any law of a State or Territory that was in existence immediately before the reform commencement that the Workplace Authority Director considers relevant; and

(c) the agreement complies with the Australian Fair Pay and Conditions Standard.

These amendments relate to compliance with standards and certain laws. Part of our concern is addressed by the government’s next amendment, which relates to long service leave. We did articulate in our additional
comments to the Senate committee report that we had some concerns about long service leave which came up during the inquiry. However, the government’s amendments do not address all of our concerns—specifically around the fact that the NDT does not take into account the Australian fair pay and conditions standards. We believe it is illogical for an agreement to be passed by the Workplace Authority which breaches the act in any way. While the Workplace Ombudsman deals with compliance with the AFPCS, the Workplace Authority could easily ensure that the agreement is at least lawful. We believe that it does not make any sense for it not to be actually stated in the act that they are required to consider and comply with the standards. We believe the most appropriate thing, if they need to be in the agreement, is that they should actually be in the act. If they are not in the act, how does an employee know if they have actually been complied with? The onus is then on the employee to know that the standards have been complied with. But if it is in the act then they know that their agreement has to comply with those standards. So it would be a much simpler process for them to actually be in the act.

Senator WONG (South Australia—Minister for Climate Change and Water) (4.13 pm)—I am not sure if the opposition is speaking on this but I would like to indicate that the government is not supporting this amendment. I just want to be clear with Senator Siewert what the effect of the government’s bill is. An ITEA must not leave an employee worse off over all when compared with the underlying instrument in the workplace—and this may be, for example, a collective agreement or an award. I am advised that the fair pay and conditions standard applies by force of law where the standard provides a more favourable outcome than that provided in their workplace agreement. So an agreement cannot purport to exclude the standard. In our view this amendment is unnecessary. We already have a situation where the standard applies by force of law and where ITEAs must be compared against the underlying instruments for the purposes of considering whether or not an employee is worse off. For those reasons the government is not supporting this amendment.

Question negatived.

Senator WONG (South Australia—Minister for Climate Change and Water) (4.15 pm)—I move government amendment (5) on sheet PA412:

(5) Schedule 1, item 2, page 6 (after line 6), after subsection 346D(2), insert:

(2A) For the purposes of subsection (1) or (2):

(a) a law of a State or Territory that:

(i) relates to long service leave; and

(ii) immediately before the agreement was lodged, applied to an employee referred to in that subsection, or would have applied to such an employee if he or she had been employed by the employer at that time;

is taken, to the extent that it provides for long service leave, to be a reference instrument relating to the employee; and

(b) if, apart from this subsection, the only reference instrument relating to the employee is a designated award for the employee—the designated award is to be disregarded to the extent (if any) that it provides for long service leave.

This inserts a new subsection. The amendment would further strengthen the agreement-making safety net by making state and territory long service leave laws part of the no disadvantage test where they are not already part of a relevant collective agreement or general instrument. Such laws would not necessarily form part of the no disadvantage
test for employees to whom they did not actually apply before a workplace agreement was launched. Where, for example, an applicable award or collective agreement is the basis for the no disadvantage test and excludes a state or territory long service leave law, the Workplace Authority Director would be required to have regard to the agreement or award. If an award is designated for an employee, for example because there is no actually applicable award, and it contains long service leave provisions, the Workplace Authority Director would only have regard to the state or territory law that applied in fact and not the designated award in respect of long service leave. This is consistent with the approach that designated awards are used for the purpose of the no disadvantage test where there is no otherwise applicable instrument.

In short, the amendment ensures that state and territory long service leave laws are part of the no disadvantage test where there is no other federal award or agreement for the purposes of that test which excludes state or territory long service leave law.

Senator Murray (Western Australia) (4.15 pm)—I think this is a very good amendment which actually improves protections for wages and conditions, so I support it.

Senator Siewert (Western Australia) (4.16 pm)—As I indicated earlier, this goes part way to addressing the issues I had in my previous amendments, and the Greens will be supporting it.

Question agreed to.

Senator Wong (South Australia—Minister for Climate Change and Water) (4.16 pm)—I move government amendment (6) on sheet PA412:

(6) Schedule 1, item 2, page 6 (after line 27), at the end of section 346D, add:

(8) To avoid doubt, if there is a reference instrument in relation to one or more, but not all, of the employees whose employment is subject to a collective agreement:

(a) in a case where the agreement passes the no disadvantage test under subsection (2)—it passes the test in relation to all employees whose employment is subject to the agreement; or

(b) in a case where the agreement does not pass the no disadvantage test under subsection (2)—it does not pass the test in relation to any employees whose employment is subject to the agreement.

This amendment clarifies the operation of the no disadvantage test where there is a reference instrument in relation to some but not all employees. Currently under that test a collective agreement must be tested if there is a reference instrument in relation to one or more employees and, where there is no reference instrument in relation to any employees, a collective agreement is taken to pass the test. This amendment clarifies that, where there is a reference instrument for one or more employees but not every employee, two things apply. First, a collective agreement that passes the no disadvantage test will pass in relation to all employees, including those for whom there is no reference instrument. Second, a collective agreement that does not pass the no disadvantage test will not pass in relation to any employee, including those for whom there is no reference instrument.

Question agreed to.

Senator Siewert (Western Australia) (4.18 pm)—I moved Greens amendment (3) on sheet 5449:

(3) Schedule 1, item 2, page 9 (after line 25), at the end of subsection 346G(1), insert:
(1A) An employer who makes an application under subsection (1) must provide a copy of the application to the relevant employee or employees, as the case may be, within seven days of making the application.

This relates to employees being informed. We believe employees should be informed of the designated award that is being applied. Under new section 346G employers can apply to the Workplace Authority for a particular award to be the designated award. The designated award becomes the award an agreement is tested against and therefore has a direct effect on whether the wages and conditions in an agreement are fair. The designated award could affect the level of take-home pay for an employee depending on what conditions have been bargained with—that is, if an award contains a particularly penalty rate or not. It seems fair that, given the importance of the designated agreement to employees, they be informed which award the employer is proposing. We believe this is a question of natural justice and that employees have a right to be actually properly informed of decisions that directly affect them. We do not actually see why this should not be in the act.

Senator WONG (South Australia—Minister for Climate Change and Water) (4.19 pm)—I indicate that the government is not supporting this amendment. The government’s bill does ensure that the Workplace Authority is able to consult more widely than previously when designating the award and we think that is the appropriate way in which to deal with this issue.

In answer to Senator Murray’s question—which I believe was: is there any restriction or impediment on employees asking for it?—I am advised that that is not the case.

Question negatived.

Senator WONG (South Australia—Minister for Climate Change and Water) (4.22 pm)—by leave—I move government amendments (7), (9) and (11) on sheet PA412:

(7) Schedule 1, item 2, page 10 (lines 6 to 25), omit subsection 346G(3).
(9) Schedule 1, item 2, page 12 (lines 14 to 18), omit subsection 346H(2), substitute:

(2) The Workplace Authority Director must determine that an award is a designated award for the employee or employees referred to in subsection (1), if the Workplace Authority Director is satisfied that:

(a) on the date of lodgment of the agreement or variation (as the case requires), the employee or employees are or would be employed in an industry or occupation in which the terms and conditions of the kind of work performed or to be performed by the employee or employees:

(i) are usually regulated by an award; or
(ii) would, but for a workplace agreement or another industrial instrument having come into operation, usually be regulated by an award; and

(b) there is an award that satisfies the requirements specified in subsection (3).

(11) Schedule 1, item 2, page 12 (after line 37), after section 346H, insert:

346HA Effect of State awards etc.

For the purposes of paragraphs 346G(2)(a) and 346H(2)(a), an industry or occupation in which the terms and conditions of the kind of work performed or to be performed by an employee are usually regulated by an award is taken to include an industry or occupation in which the terms and conditions of the kind of work performed or to be performed by the employee:

(a) were, immediately before the reform commencement, usually regulated by a State award, or would, but for an industrial instrument or a State employment agreement having come into operation, usually have been so regulated immediately before the reform commencement; or

(b) are usually regulated by any of the following instruments:

(i) a transitional Victorian reference award (within the meaning of Part 7 of Schedule 6);
(ii) a common rule in operation under Schedule 6;
(iii) a transitional award (within the meaning of Schedule 6) other than a Victorian reference award (within the meaning of that Schedule), to the extent that the award regulates excluded employers in respect of the employment of employees in Victoria;

or would, but for a workplace agreement or an industrial instrument having come into operation, usually be so regulated.

These amendments go to sections 346G(3), 346H(2) and 346HA, a new section. They are technical amendments to ensure that the ‘usually award regulated’ requirement applies to all designations before and after lodgement of a workplace agreement and to ensure that the references to relevant instruments are correct. Amendment (11) would insert a new provision, section 346HA, which would ensure that the references to each instrument listed above reflect their correct time of operation and deal with the concept of ‘usually regulated by an award both before and after lodgement’. Subsection 346G(3) of the act would no longer be required because it only applies to pre-lodgement designation and would be deleted by amendment (7).

Proposed sections 346G and 346H of the bill relate to the designation of awards for the purpose of the no disadvantage test where there is no other reference instrument against which to test a workplace agreement. Under proposed section 346G—that is, the section dealing with award designation before a workplace agreement is lodged—an
award can be designated if the employee or employees in question are employed in an industry or occupation in which the terms and conditions of the kind of work are or would usually be regulated by an award. Amendment (9) would amend section 346H to correct a technical oversight to ensure that this requirement—that is, the ‘usually award regulated’ requirement—also applies in relation to award designation after a workplace agreement has been lodged.

Under proposed section 346G(3) of the bill a reference to an award regulated industry or occupation includes an industry or occupation in which the terms and conditions of employment were usually regulated immediately before the commencement of the Work Choices act by a state award, a transitional Victorian reference award or a common-law or transitional award other than a Victorian reference award to the extent that the award regulates excluded employers in respect of employment of employees in Victoria. Of these instruments, only state awards operated before the commencement of the Work Choices act. The rest were created as federal instruments on 27 March 2006. It is a very lengthy explanation and, as I said at the outset, they are really quite technical amendments.

Question agreed to.

Senator SIEWERT (Western Australia) (4.25 pm)—by leave—I move Australian Greens amendments (4), (5), (6), (7), (8) and (11) on sheet 5449 together:

(4) Schedule 1, item 2, page 13 (line 31), omit "that", substitute "to".

(5) Schedule 1, item 2, page 13 (line 34) to page 14 (line 5), omit subsection 346K(1), substitute:

(1) This Subdivision applies to all workplace agreements.

(6) Schedule 1, item 2, page 14 (line 9), omit “to which this Subdivision applies”.

(7) Schedule 1, item 2, page 14 (after line 28), at the end of paragraph 346M(1)(a), add:

(iv) if the agreement is a union greenfields agreement or a multiple-business agreement that would be a union greenfields agreement but for subsection 331(1)—the organisation or organisations bound by the agreement;

(8) Schedule 1, item 2, page 15 (after line 9), at the end of paragraph 346M(2)(a), add:

(iv) if the agreement is a union greenfields agreement or a multiple-business agreement that would be a union greenfields agreement but for subsection 331(1)—the organisation or organisations bound by the agreement;

(11) Schedule 1, item 2, page 17 (line 4), at the end of subsection 346Q(2), add:

; (d) if the agreement is a union greenfields agreement or a multiple-business agreement that would be a union greenfields agreement but for subsection 331(1)—the organisation or organisations bound by the agreement.

These amendments relate to the issues around agreements operating from approval. Under the current arrangements in the bill, certain of the agreements operate from approval—that is, once they are approved by the Workplace Authority then the agreement passes the NDT—and other agreements come into operation on lodgement, which is quite confusing. We received a number of submissions about this during the committee inquiry.

Those agreements that come into operation on lodgement—that is, new employer ITEAs and greenfields agreements—have the potential to require the compensation provisions to be accessed if the agreement does fail the NDT. For employees on ITEAs,
we believe this is a particular problem. The compensation provisions are quite complicated and they are not easy for individuals to access. We believe it is much more logical for all agreements to come into operation on approval and bypass the need for a complicated compensation process.

There is an issue around backlog and timeliness of approvals which we believe is a matter of administration and should be dealt with in that way, not through two different types of agreement regimes. As I said, we believe that makes the act much more complicated, and the present system actually replicates the process it goes through now, the fairness test, which we believe is unfair and is generally acknowledged to be unfair.

Senator WONG (South Australia—Minister for Climate Change and Water) (4.27 pm)—I indicate that the government is opposing amendments (4) to (8) and (11). The principal amendments moved by Senator Siewert are really amendments (4), (5) and (6), which, in effect, require that all workplace agreements operate from approval. The government’s position is that workplace agreements for new employees—that is, new employee ITEAs or greenfields agreements—should apply on lodgement to provide certainty for these parties. Other agreements, such as ITEAs for existing employees and union or employee collective agreements, will only operate from approval. These are transitional measures which reflect the move from the lodgement-only system under Work Choices to the Labor government’s new workplace relations system from 2010. As Senator Siewert is no doubt aware, under that new system all workplace agreements will be assessed and approved by Fair Work Australia. In effect, amendments (7), (8) and (11) are, in great part, dependent on the primary set of amendments being passed and therefore we would oppose those as well.

Senator MURRAY (Western Australia) (4.28 pm)—As the minister and participants in the committee would know, this is an important issue, and has always been an important issue in workplace agreements. If an agreement only has provisions to operate from approval and there is a long time gap between lodgement and approval, workers and employees can be at legal risk. You actually need a legal instrument which applies from the moment of employment under a particular agreement. If you have a very slick approval system, of course, the problem falls away because lodgement and approval can occur within a short or almost simultaneous time span. But that is not possible or guaranteed in any administrative situation.

So, on balance, I have tended to favour those who think lodgement is the better time for provisions to come into play, although that can raise great difficulties if they are subsequently not approved. I recognise that you can end up with the worst of all worlds, whichever system you go for.

I have sympathy for the intention of the Greens, but my instinct is that the government’s choice is right given where we are at with the various regulators and authorities, and the distance, as I understand it, between when lodgement occurs and when approval is likely to occur. I cannot see that improving vastly in the near future, so I am inclined to support the government’s direction here.

Senator SIEWERT (Western Australia) (4.30 pm)—Under the process in the Workplace Relations Amendment (Transition to Forward with Fairness) Bill 2008, it is highly likely that some employees will in fact be on unfair ITEAs and unfair individual agreements. We do not believe that that is appropriate.

The government came into office saying that it would bring in a new, fairer system and there are certainly elements of that here.
The way to make this system even fairer is to accept this amendment and see that all agreements operate from approval. We do appreciate that there are some time lags and significant backlogs with the existing process. I found it ironic that the opposition questioned the government earlier about that, when it was the very system that they had set up. A number of us had said all along that the system was doomed to failure and it would end exactly the way that it has ended—although I should use the word ‘result’ because it has not ended yet. We believe that it is much fairer to employees if agreements operate from approval. We also believe that having two different systems, lodgement and approval, makes the system even more complicated.

Question negatived.

Senator SIEWERT (Western Australia) (4.32 pm)—The Australian Greens oppose schedule 1 in the following terms:

(12) Schedule 1, item 2, page 17 (line 30) to page 30 (line 20), Subdivisions D and E TO BE OPPOSED.

The TEMPORARY CHAIRMAN (Senator Hutchins)—The question is that subdivisions D and E stand as printed.

Question agreed to.

Senator SIEWERT (Western Australia) (4.32 pm)—by leave—I move Australian Greens amendments (9) and (10) on sheet 5449 together:

(9) Schedule 1, item 2, page 15 (after line 25), after section 346M, insert:

\[346MA\] Workplace Authority Director must provide written reasons

(1) If the Workplace Authority Director makes a decision under section 346D that an agreement:

(a) passes the no-disadvantage test; or
(b) does not pass the no-disadvantage test;

then, in response to a request by any of the following parties:

(c) the employer in relation to the agreement;
(d) an employee whose employment is subject to the agreement;
(e) if the agreement is a union collective agreement or a multiple-business agreement that would be a union collective agreement but for subsection 331(1)—the organisation or organisations bound by the agreement;
(f) if the agreement is a union greenfields agreement or a multiple-business agreement that would be a union greenfields agreement but for subsection 331(1)—the organisation or organisations bound by the agreement;

the Workplace Authority Director must provide written reasons for the decision.

(10) Schedule 1, item 2, page 15 (after line 25), after section 346M, insert:

**346MB** Review of decisions of Workplace Authority Director

If the Workplace Authority Director makes a decision under section 346D in relation to an agreement, any of the parties to the agreement in paragraphs 346MA(c) to (f) may appeal to the Federal Magistrates Court for a review of the decision in accordance with the Administrative Decisions (Judicial Review) Act 1977.

This again relates to the issue of natural justice and people being informed of decisions. It relates to the amendment that I moved before, which concerned employees having the right to know what designated awards are being used. This one has a similar essence in there being a requirement for workers to be able to access information and to be told about decisions that are affecting them. This came up during the inquiry and I would rec-
ommend that people look in particular at Professor Stewart’s comments and submission. We believe it is important for workers and employees to get written reasons and the right of appeal and to be able to look at the decisions on the NDT. It is not just a matter of natural justice but also a matter of basic accountability measures for the NDT. We have raised this previously. We raised it last year in respect of the fairness test and we will continue to raise it.

We believe that decisions on the no disadvantage test do materially affect people. The test goes to people’s wages and conditions and they have a right to know about those wages and conditions because these are of fundamental concern to them. Given the potential seriousness of the decisions made by the Workplace Authority and the requirement for basic accountability measures, we believe that it is a question of natural justice that people be allowed to know this information.

Also, the bill is light on details on consistency of application of the NDT, so how will we know about the basic consistency of application if written reasons are prevented from being given? When a similar no disadvantage test operated prior to Work Choices, there were real issues with consistency of decisions and also with fairness. The application of the test by the then Office of the Employment Advocate resulted in employees losing conditions and receiving inadequate compensation. I remember very vividly talking to workers who were coming to us with concerns around how the Office of the Employment Advocate was working at the time. We should be learning from the past. People should have access to written reasons for decisions. I would therefore like to ask the government why this was not taken into account when the bill was drafted in the first place.

**Senator WONG** (South Australia—Minister for Climate Change and Water) (4.36 pm)—As senators will know, no written reasons were required under the previous government’s fairness test or under the system pre-Work Choices. The government will ensure that the authority provides information to parties to agreements about the approach they will apply to the assessment of workplace agreements. The government will also ensure that the Workplace Authority informs parties to agreements when they have determined whether an agreement passes or fails the no disadvantage test. However, the government has inherited a backlog of around about 150,000 agreements that require assessment by the Workplace Authority. We are working with the authority to clear this backlog, which arose as a result of the previous government’s decisions.

The reality is that it would take additional time to check compliance with the standard in every agreement, particularly given that the standard, which is 140 pages in length, is complex and convoluted and would require a separate assessment to the global no disadvantage test the government has put in place for agreements during the transition period. For these reasons, the government is not supporting the Greens amendment.

In relation to amendment (10), the government reiterates that we believe our no disadvantage test is a fairer test with simpler rules. The government reiterates its desire for a system which provides certainty to employees and employers, including certainty that agreements will be processed and assessed and the parties notified within a reasonable time frame. As senators will be aware, the powers and functions of Fair Work Australia, which the government promised prior to the election, will be developed as part of our substantive workplace reforms later this year.
Senator SIEWERT (Western Australia) (4.37 pm)—I can understand that the government is dealing with a big backlog of agreements through the failed processes of the past. However, I do not think past unfairnesses justify future unfairnesses. There is an absolute failure in natural justice here if people cannot find out why their agreement failed or passed, particularly what the reasons were for a decision under the NDT. Also, it is a failure of natural justice to be unable to appeal those decisions. As I said, I totally understand that the government is dealing with a large issue here. They need to find an efficient way to deal with it, but that does not mean that workers should continue to be subject to unfair procedures. This bill is about improving the system—the title of the overall package is Forward with Fairness. It is not fair if people do not have access to natural justice and to the reasons for, and the inability to appeal, decisions that directly affect their lives. We have past examples. You need only to have gone to estimates in the past to listen to issue after issue that came up with regard to the Office of Employment Advocate. Cases in relation to the work of that office were continually brought up and asked about at estimates. Therefore we very strongly believe that these two amendments afford a bit of extra fairness in this process.

Senator MURRAY (Western Australia) (4.39 pm)—Without going to the actual wording of the Greens amendment, I want to deal with the issue of principle that is before us. I think that Senator Siewert is right about the issues of due process. As a legal practitioner herself, the minister would know that a basic in law is that a decision of any authority making a judgement on an agreement should be capable of review. The normal process would be to go to a tribunal such as the industrial relations tribunal or the Administrative Appeals Tribunal. I have a question of the minister. I can understand your attitude in the transitional period. I think it is difficult. There are many messy aspects and nothing is to everyone’s satisfaction, but the government is of course constructing a new regime. My question to the minister is this: is it the intention of the government to take up the principle that Senator Siewert has outlined in its new regime that industrial instruments, whether they be collective or individual agreements, be capable of review and due process if they are subject to a decision by an authority other than the parties to the agreement? Of course, in law, if no third party is involved and there is a dispute, the parties to the agreement can take it to the courts. But in these cases a third party is involved in deciding whether or not an agreement stands, and that agreement process should, under the normal principles of natural justice, be capable of review. So, Minister, are you going to deal with it in your substantive bill?

Senator WONG (South Australia—Minister for Climate Change and Water) (4.41 pm)—Can I deal with this sequentially. First, Senator Siewert, you raise the issue of fairness, and I appreciate the position you are putting. The point I also make is that there are two other aspects of fairness I would ask you to consider. One is the framework—that is, the test against which an agreement is assessed. Obviously there is a no disadvantage test that is much more substantive and real here. Second, I also make the point that, potentially, delay can be an issue of fairness as well, and the government is cognisant of that. Senator Murray raises the point that I was going to respond to in relation to this. I can indicate that we will consider this issue in the context of the substantive bill. I can put it no higher than that, but certainly there are some arguments that have been raised that the government will take into account when considering our substantive bill.
Senator SIEWERT (Western Australia) (4.42 pm)—I thank the minister for her answer. One of the issues that I did just touch on, and I would like to go back to, is the issue around consistency and how it is envisaged that consistency of application of the NDT is ensured.

Senator WONG (South Australia—Minister for Climate Change and Water) (4.43 pm)—I am advised that the Workplace Authority will have a policy guide which will set out how this test should be approached, and that will be publicly available. I make the point that, in any situation where you have a statutory test, you have to try to ensure administrative arrangements are in place to ensure consistency insofar as humanly possible.

Question negatived.

Senator WONG (South Australia—Minister for Climate Change and Water) (4.44 pm)—by leave—I move government amendments (12) and (13) on sheet PA412:

(12) Schedule 1, item 2, page 15 (lines 31 to 34), omit subsection 346N(2), substitute:

(2) For the purposes of subsection (1), Division 8 does not apply to the variation of an agreement, except for sections 367, 368, 368A, 372, 373 and 374, paragraph 377(1)(b) and section 380A.

(13) Schedule 1, item 2, page 20 (lines 27 to 30), omit subsection 346W(5), substitute:

(5) For the purposes of paragraph (2)(a), Division 8 does not apply to the variation of an agreement, except for sections 367, 368, 368A, 372, 373 and 374, paragraph 377(1)(b) and section 380A.

These amendments ensure that all relevant provisions apply in relation to variations made when workplace agreements fail the no disadvantage test, the usual procedural requirements in division 8 of the act do not apply. The only requirements are those set out in subsection 373(1) and section 374.

Other provisions are also required, including those that the bill introduces to ensure that agreement variations are properly approved. The new provisions to be inserted in section 346N(2) and section 346W(5) would, first, apply sections 367 and 368 of the act, which set out who may make a variation and when a variation is made; second, apply proposed new section 368A of the bill to ensure that only genuinely approved variations are capable of operating; and, third, apply section 372 of the act, which requires an employer to seek approval for variation of a union collective or greenfields agreement within a reasonable time. In addition, these amendments substitute the reference to section 373(1) with a reference to section 373 of the act, so that the approval of variations of ITEAs and collective agreements apply, apply proposed new section 377(1)(b) so copies of signed variations would have to be lodged and apply proposed new section 380A to ensure that, where an unapproved variation is lodged, civil remedy provisions apply.

Question agreed to.

Senator WONG (South Australia—Minister for Climate Change and Water) (4.46 pm)—I move amendment (14) on sheet PA412:

(14) Schedule 1, item 2, page 30 (line 23), after “section 346M,”, insert “346Q.”

This is a minor technical amendment. The amendment would insert a reference to section 346Q in subsection 346ZH(1). As I said, it is a minor technical amendment and would ensure that an employer who has received a notice under 346Q is required to give a copy of the notice to its existing employees, consistent with similar provisions elsewhere in the bill.

These amendments ensure that all relevant provisions apply in relation to variations made when workplace agreements fail the no disadvantage test, the usual procedural requirements in division 8 of the act do not apply. The only requirements are those set out in subsection 373(1) and section 374.

Other provisions are also required, including those that the bill introduces to ensure that agreement variations are properly approved. The new provisions to be inserted in section 346N(2) and section 346W(5) would, first, apply sections 367 and 368 of the act, which set out who may make a variation and when a variation is made; second, apply proposed new section 368A of the bill to ensure that only genuinely approved variations are capable of operating; and, third, apply section 372 of the act, which requires an employer to seek approval for variation of a union collective or greenfields agreement within a reasonable time. In addition, these amendments substitute the reference to section 373(1) with a reference to section 373 of the act, so that the approval of variations of ITEAs and collective agreements apply, apply proposed new section 377(1)(b) so copies of signed variations would have to be lodged and apply proposed new section 380A to ensure that, where an unapproved variation is lodged, civil remedy provisions apply.

Question agreed to.

Senator WONG (South Australia—Minister for Climate Change and Water) (4.46 pm)—I move amendment (14) on sheet PA412:

(14) Schedule 1, item 2, page 30 (line 23), after “section 346M,”, insert “346Q.”

This is a minor technical amendment. The amendment would insert a reference to section 346Q in subsection 346ZH(1). As I said, it is a minor technical amendment and would ensure that an employer who has received a notice under 346Q is required to give a copy of the notice to its existing employees, consistent with similar provisions elsewhere in the bill.
the bill. As the chamber would be aware, 346Q provides that the Workplace Authority director is required to notify an employer about the outcome of the application of the no disadvantage test in relation to variations of collective agreements that commence operational approval. Proposed section 346ZH requires an employer who has received a notification from the Workplace Authority in relation to a collective agreement to take reasonable steps to ensure that the employees are given a copy of the notice as soon as is practicable.

Question agreed to.

Senator SIEWERT (Western Australia) (4.48 pm)—by leave—I move amendments (13) and (14) on sheet 5449 together:

(13) Schedule 1, item 2, page 31 (line 1), after paragraph 346ZJ(1)(b), add:

or (c) fail to employ an employee; or

(d) treat an employee any less favourably;

(14) Schedule 1, item 2, page 31 (lines 2 and 3), omit “the sole or dominant reason for the employer dismissing, or threatening to dismiss,”, substitute “one of the reasons for the employer dismissing, threatening to dismiss, failing to employ or treating less favourably,”.

These amendments relate to dismissal and unfair treatment as it relates to whether agreements fail the NDT. Again, this issue was brought up during the hearings, particularly by Professor Stewart and in the ACTU submission. This is another issue that was raised during the last debate over the fairness test. Basically, the provisions in the bill replicate what was in the fairness test and the fairness test provisions. New section 346ZJ attempts to provide protection for employees from dismissal in circumstances where the agreement fails the NDT. There are a couple of issues with the provision. As I said, these are not new issues; they were identified last time we had this debate.

One of the issues is that limiting the protection against dismissal leaves employees open to other forms of adverse treatment, such as demotion and receiving fewer shifts, for example. So dismissal is not the only thing that an employer might do in a potentially discriminatory manner. We believe employees should be protected from this behaviour as part of this bill. The second issue is that there is only protection when the NDT is the sole or determining reason for the dismissal. We believe a stronger protection would be if failure of the NDT is one of the reasons for the adverse consequences or dismissal. So the crux of the matter here is dealing with adverse consequences beyond just dismissal. The other issue we are seeking to deal with is to ensure that failure of the test is only one of the reasons for the adverse consequences. This issue is not new; it was brought up before. I do not see why the government did not pick this up when it drafted the bill, because it seems to me it is blatantly unfair and is, in fact, inconsistent with the government’s approach to fairness to employees.

Senator WONG (South Australia—Minister for Climate Change and Water) (4.50 pm)—The government’s view is that the protection in this section is focused on protection against dismissal. We note that prejudicial variation to working conditions could prima facie breach freedom of association protections and there are significant penalties for such breaches in those circumstances. We do not support this amendment. In respect of amendment (14), we believe the position the government has put in relation to the bill reflects an appropriate balance. I again indicate that these were provisions discussed with both employer and employee parties to the NWRCC—the National Workplace Relations Consultative Council—and the Committee on Industrial Legislation.
Senator SIEWERT (Western Australia) (4.51 pm)—I appreciate that many of the answers I will be receiving today are that these issues were discussed by the reference group. Be that as it may; they were still substantive issues that were brought up during the committee inquiry. I believe that these amendments are a much simpler and easier way of dealing with these issues rather than leaving it up to the other mechanisms that the minister outlined.

As I articulated earlier, we believe this makes this bill fairer and it goes beyond just the dismissal issue. It acknowledges that there are other things that can happen to employees beyond dismissal that are adverse to not only their working conditions but also their work. For example, if they are receiving fewer shifts then it is a similar form of dismissal—if they are doing less shift work and, therefore, less work. I do not understand why the government does not seek to close these loopholes seeing as this issue has been raised a number of times in relation to either the fairness test or the no disadvantage test.

Question negatived.

Senator WONG (South Australia—Minister for Climate Change and Water) (4.53 pm)—Can I indicate to the chamber that government amendment (15) on sheet PA412 is a technical amendment in relation to outworkers. I am advised that there are further substantive amendments with regard to outworkers which have already been circulated in the chamber. We will deal with the amendments in the order that they appear on the running sheet.

Senator MURRAY (Western Australia) (4.54 pm)—I seek clarification: it would seem to me that if one amendment takes away conditions and others are going to restore them or improve them, then we would be better off dealing with all of the outworker amendments together. We do not have to stick to the running sheet, if it is all right for the minister not to do so. I would rather have the package of outworker amendments dealt with in one package. If other members of the Senate like that approach, I suggest we do that.

Senator WONG (South Australia—Minister for Climate Change and Water) (4.54 pm)—If the chamber would prefer, we do not have an objection to dealing with item (15) together with items (32) and (35) on sheet PA412, which are listed on page 4 of the running sheet. If that is the chamber’s preference then it is the government’s preference to postpone amendment (15) to when we get to items (32) and (35).

Senator SIEWERT (Western Australia) (4.57 pm)—I move Australian Green amendment (15) on sheet 5449:

(15) Schedule 1, page 34 (after line 9), after item 7, insert:

7A At the end of section 352
Add:
AWAs and ITEAs to expire on nominal expiry date

(3) Notwithstanding any other provision of this Act, a pre-reform AWA, an AWA or an ITEA expires on its nominal expiry date and ceases to have effect on that date.

As we have already touched on in the chamber during an earlier debate, this bill does not end AWAs. It brings in ITEAs, but AWAs continue until their nominal expiry date and then they only terminate if one of the two parties gives the 90-day notice that they want the agreement to expire. We believe the more appropriate approach would be for the AWAs to expire on the nominal expiry date. There are two ways forward from there: either they can then go on to an ITEA or they can go on to any other subsequent collective agreement. We want to see an end to AWAs and ITEAs, and the amendment proposes that
AWAs and ITEAs cease to operate on their nominal expiry dates. We believe that does genuinely get rid of AWAs and it would encourage employers and employees to reach new agreements before the end of the nominal expire dates. It is in that way that we can ensure that AWAs are finished and that gives extra encouragement to employers to reach agreements before the end of the expiry date. We believe this is very important. We believe this is a much better approach and sends a much stronger signal about the government’s intent to genuinely get rid of AWAs.

Senator MURRAY (Western Australia) (4.58 pm)—I support this amendment for entirely different reasons to those put forward by Senator Siewert. As readers of the inquiry report would know, my recommendation 2 said:

That Labor design an individual statutory employment agreement system as an alternative to individual common-law contracts, that has the following characteristics:

• the statutory provisions are fair;
• fairness provisions are oversighted and enforced by an active regulator;
• the individual statutory agreements are underpinned by a credible safety net of wages and conditions;
• individual statutory agreements are subject to a global no-disadvantage test referenced back to the applicable award; and
• fast low-cost disputation processes are available.

That being so I wanted to see a continuation of the individual statutory agreement stream, albeit much fairer than the one we have had in the past. So I was particularly pleased with government amendment (1) and I said before question time, rather selfishly, I think, from the perspective of Western Australia, that it is an excellent amendment. I know it is one much desired by employers and employees in my state. I think Senator Siewert has a point because now we have the protection of that amendment (1), which means an ITEA can be made with a previous employee provided the former employee’s employment was not brought to an end in order to reengage the former employee on the ITEA. So if it expires at the nominal date and the employee genuinely wants to strike an agreement for an ITEA with the employer, I think that is a good thing. It reinforces the proper negotiation and agreements and allows the conditions of employment to be updated. I am sure my motivation is different from yours but I do like the symmetry of what you have done. I think it is better legally, better ethically and better from the point of view of modernising and updating employment arrangements between individuals and their employers. Of course, it would not be as attractive without government amendment (1), which again I compliment the government on for introducing. So we certainly support this amendment.

Senator WONG (South Australia—Minister for Climate Change and Water) (5.01 pm)—Senator Siewert, I think you are already aware—let me put my glasses on so I can see whether you are nodding—that in my answers to general questions I did indicate the government’s position on this. I appreciate your views in relation to this but we have taken the view that, in developing the policy implementation plan under Forward with Fairness, we had to provide certainty for employers and employees in their terms and conditions without preventing them from agreeing to terminate the agreements if they desired. I read out, I think, in response to earlier questions, the aspect of our policy implementation plan which dealt with this issue. Therefore it comes as no surprise, I am sure, that the government is not supporting this amendment.

Question negatived.
The TEMPORARY CHAIRMAN (Senator Bartlett)—Before we move to government amendment (16), I will clarify the situation with regard to the running sheet. Government amendment (15) has been postponed until later and will be dealt with jointly with government amendments (32) and (35)—in another 15 minutes or so.

Senator WONG (South Australia—Minister for Climate Change and Water) (5.03 pm)—I move government amendment (16) on sheet PA412:

(16) Schedule 1, item 15, page 39 (line 10), omit paragraph 2(2)(b).

This amendment deals with the operation of AWAs. The amendment removes subclause 2(2)(b) from proposed schedule 7A. This means that an AWA made prior to commencement and lodged within the 14-day time frame from commencement would be able to replace an earlier AWA consistent with the current rules. This amendment would omit subclause 2(2)(b) from proposed schedule 7A. Subclause 2(2)(b) of schedule 7A will currently have the effect that paragraph 347(4)(b) of the pre-transition act would not apply to an AWA. Under the bill an AWA made before commencement can be lodged with the Workplace Authority director up to 14 days after commencement. After commencement no new AWAs could be made and after four days no new AWAs could be lodged.

Question agreed to.

Senator SIEWERT (Western Australia) (5.05 pm)—I move Greens amendment (16) on sheet 5449:

(16) Schedule 1, item 15, page 39 (after line 28), after clause 2, insert:

2A Application of no-disadvantage test to AWAs

(1) An employee employed under an AWA or the bargaining agent of an employee employed under an AWA may apply to the Workplace Authority Director for a review of the employee’s AWA to determine whether it passes the no-disadvantage test in Division 5A.

(2) If the Workplace Authority Director determines that the AWA fails the no-disadvantage test, the employee may terminate the AWA by lodging with the Workplace Authority Director a declaration of termination which meets the requirements set out in subsection 395(3).

(3) The employee must take reasonable steps to ensure that written notice of the termination is given to the employer in relation to the AWA.

(4) An employer must not:

(a) dismiss an employee; or
(b) threaten to dismiss an employee; or
(c) treat an employee any less favourably;

if one of the reasons for the employer dismissing, threatening to dismiss or treating less favourably, the employee is that the employee sought a review of his or her AWA or that the employee terminated his or her AWA.

(5) Subsection (4) is a civil remedy provision.

Note 1: A contravention of subsection (4) is enforceable by a workplace inspector—see Division 11 for provisions on enforcement.

Note 2: Division 3 of Part 14 contains other provisions relevant to civil remedies.

This amendment is about AWAs being able to be terminated prior to the expiry date of the NDT. This amendment we believe goes to the heart of fairness and what is wrong with the AWA system and Work Choices. We had very clear evidence to the Senate committee that demonstrated that employees had been forced onto unfair AWAs. In fact, that
had happened since the election. The Qantas Valet Parking example was provided to the committee. There was some fairly distressing evidence. We had one of the workers who had been offered an AWA since the election of the government—a government that came into government with a clear policy on these issues. We are also deeply concerned that many people will continue to stay on AWAs until at least their nominal expiry date. We do not support in principle retrospective application of new laws, and we understand that to merely cancel all AWAs now would create many difficulties. However, we do remain convinced that the Work Choices system was unfair. We know that the government believes that the Work Choices system was unfair and we believe very strongly that there are a number of AWAs out there that are unfair.

We believe that this mechanism allows employees to choose to get off unfair AWAs where they do not meet the no disadvantage test. We believe the opportunity should be open to employees to test whether their AWAs are unfair and to get them out of what are unfair work situations. It would also deal with issues where people had been forced, within the few short months between the election and now, onto AWAs which would not meet the no disadvantage test once this bill is passed. We strongly believe that this amendment goes to the heart of the unfairness of the past system. We are trying to reduce the unfairness that workers have been suffering due to the Work Choices system and regime.

Senator Wong (South Australia—Minister for Climate Change and Water) (5.08 pm)—I again indicate what we said prior to the election. Obviously the government did have to consider in opposition, when putting forward our policy commitments and our implementation plan, the need to deal with transition arrangements and the need for some certainty in the workplace as we moved to a new system. The government’s policy as set out prior to the election is that AWAs made prior to the implementation date of this bill, Labor’s transition bill, will remain in force and may only be terminated in accordance with current rules. These rules allow termination by agreement between the parties during the term of the AWA or termination by one party when providing 90-days notice to the other after the nominal expiry date. Under our policy, if an AWA is terminated in such circumstances, then the employee will revert to an existing collective agreement in the workplace or, where there is no collective agreement, will revert to the award, and obviously the Fair Pay and Conditions Standard will also continue to apply.

Senator Siewert (Western Australia) (5.09 pm)—What does the government intend to do? Let me be clear: this amendment gives employees the ability to test their AWA against the no disadvantage test. What does the government intend to do in circumstances where there is clear evidence of people being forced onto AWAs in that period between the election and when this bill comes into effect? I do not know how many people there are out there in this situation but I know there are some. I am sure the government has been presented with stories and other senators in this place have heard similar stories. Does the government intend to address that inherent unfairness? It is even more unfair when people have been forced onto these instruments since the election. This is not just about those employees but is a way of picking up those employees without making the act specifically retrospective.

Senator Wong (South Australia—Minister for Climate Change and Water) (5.10 pm)—First, in relation to people being forced onto any agreement, obviously as I have indicated there are remedies for duress under the legislation. Second—
Senator Abetz interjecting—

Senator WONG—Senator Abetz makes a point which I am sure he can make if he wants to get up. Second—

Senator Abetz interjecting—

Senator WONG—Perhaps you would like to speak, Senator Abetz, if you want to keep talking.

Senator ABETZ (Tasmania) (5.11 pm)—I will make a contribution because I would have thought the minister would have found it within herself to say that under the existing legislation, prior to the amendments that we are discussing today, it is illegal to force anybody onto an AWA, and the remedies that the minister is referring to are in fact remedies that already exist in the legislation, prior to this raft of amendments.

Senator MURRAY (Western Australia) (5.11 pm)—That is correct. If I may add to the debate: the great weakness of the regime pre Work Choices was the lack of a regulator to ensure that duress was properly policed. That was the greatest problem. One of the very significant advances made by Work Choices and reinforced by Labor policy is the decision to have a much stronger regulatory regime for workplace relations nationally. If any good has come out of all those events, it is an understanding that, without strong regulations and a strong regulator who can enforce the law, you actually cannot ensure fairness, particularly when it is a question of an individual employer and an individual employee with no other witness at their negotiation. So I would confirm the law on duress was there and was improved subsequently with the provision of a decent regulator. Through the chair: Minister, I hope that, under your substantive bill and in your policy to come, your regulator will be even stronger and even more capable of ensuring as much fairness and fair play in industrial relations as possible.

Question negatived.

Senator WONG (South Australia—Minister for Climate Change and Water) (5.13 pm)—I move government amendment (17) on sheet PA412:

(17) Schedule 1, item 15, page 40 (after line 3), after subclause 3(1), insert:

(1A) However, paragraph 405(1)(e) of the pre-transition Act continues to apply in relation to a person whose appointment has ceased to have effect under subclause (1), as if the person continues to be a bargaining agent.

This amendment would ensure that a bargaining agent appointed in relation to an AWA would continue to have standing to apply for civil remedies in relation to AWAs under the act on behalf of an employee.

Question agreed to.

Senator SIEWERT (Western Australia) (5.14 pm)—I move Australian Greens amendment (17) on sheet 5449:

(17) Schedule 1, item 15, page 40 (line 34) to page 41 (line 6), omit subclause 5(3).

This relates to no variation of AWAs. This bill provides in general for no variation of AWAs, and we support this. However, the bill does provide for AWAs to be varied if they fail the fairness test, if they contain provisions which are discriminatory or if they contain prohibited content. We believe that, for the protection of employees, AWAs that fail the fairness test should not be able to be amended to pass it. This bill introduces a new test for agreements—as we all know, that is the no disadvantage test—and we should ensure that as many agreements as possible are required to pass the new test. There is a significant difference between the fairness test and the NDT, which the minister has pointed out to the chamber, and if an AWA fails the fairness test we think it should be void and the employer required to enter
into a new agreement. The bill provides for ITEAs, which are subject to the NDT.

I remind the chamber—but I think the minister pointed this out, and earlier in question time so did Senator Fisher—that there are a lot of agreements currently being processed, around 150,000. That is, there are 150,000 agreements currently being processed that could potentially be unfair. Going on the average statistics for agreements currently failing the test, I would say a good portion of those would fail the test. We believe that if an AWA fails the fairness test, which is not as effective as the NDT, it should not then be allowed to be varied and should in fact have to go through the whole new process that comes into effect with this bill.

Senator WONG (South Australia—Minister for Climate Change and Water) (5.16 pm)—I suspect, Senator Siewert—through you, Mr Temporary Chairman—this is another manifestation of a fundamental disagreement about how we manage the transition process and our view that some certainty needs to attach to agreements, notwithstanding that we disagreed with those laws when they were passed. The government clearly have to deal with the reality that there are people who made agreements and therefore we have to have a transition process. A lot of the disagreement between us and the crossbenches, particularly the Greens, is due to different views about how to handle that—and I respect that that is a different view. In our view, the bill enables some limited variation of AWAs to deal with specified issues. Having made the decision we have made to allow existing AWAs to continue under the provisions that I previously alluded to, we do need to continue to be able to vary AWAs for specified matters only. I do make the point that the government’s bill does not allow ongoing substantive variations to AWAs. If parties wish to do that, the government’s view is that they can bargain under the transitional legislation and/or do so later on pursuant to the new substantive legislation that the government will put before the chamber.

Senator SIEWERT (Western Australia) (5.17 pm)—I take your point; I think it is a substantial, fundamental disagreement about what should and should not be included in the transitional bill. But, if previous AWAs are failing the previous government’s fairness test, I do not see why we should guarantee those employers certainty. I think they should be required to start again. I accept that we have a fundamental disagreement, but this is about fairness. We keep talking about fairness, but I do not think it is fair that an employee should have to keep going through that process if the AWA has already failed the fairness test. It should not be allowed to be varied. They should start again.

Question negatived.

Senator WONG (South Australia—Minister for Climate Change and Water) (5.19 pm)—by leave—I move government amendments (18) and (19) on sheet PA412 together:

(18) Schedule 1, item 15, page 41 (line 24), omit “the 14 day period referred to in section 342”, substitute “a period of 14 days after the commencement of this Schedule”.

(19) Schedule 1, item 15, page 41 (lines 33 and 34), omit “the 14 day period referred to in section 375”, substitute “a period of 14 days after the commencement of this Schedule”.

These amendments seek to amend subsections 7(1)(b) and 7(2)(b). These amendments would enable lodgement of an AWA or a variation of an AWA to be made before the commencement of the bill and lodged after 14 days from the day it was made—which would otherwise be in breach of section 342 or section 375—to be accepted by the Workplace Authority in accordance with current
rules. These amendments would require the Workplace Authority director to notify the parties, where an AWA or variation made to an AWA has been lodged at the end of 14 days after the commencement of the schedule, rather than 14 days after the AWA or variation was made, if lodgement has not been effective and the AWA or variation is not in operation. The penalty provisions for breach of sections 342 and 375 would continue to apply. In short, the purpose of the amendments is to make clear, in accordance with current arrangements for AWAs, that agreements made before commencement and lodged after the end of the approval period can be accepted, provided they have been lodged by the end of 14 days from commencement of the bill.

Question agreed to.

Senator WONG (South Australia—Minister for Climate Change and Water) (5.21 pm)—I move government amendment (20) on sheet PA412:

(20) Schedule 1, item 15, page 42 (after line 13), after paragraph 8(1)(a), insert:

(aa) paragraph 336(b);

This is an amendment to insert a paragraph 8(1)(aa) in schedule 7A. This amendment is intended to ensure that employees on AWAs which have passed their nominal expiry date will be eligible employees for the purposes of pre-lodgement procedures for a new certified agreement. This means that these employees would be entitled to be given ready access to the collective agreement and an information statement in the same way as employees on ITEAs that have passed their nominal expiry date. The government believes that this amendment is necessary to ensure that employees on Australian workplace agreements that have passed their nominal expiry date will be eligible employees for the purpose of pre-lodgement procedures for the making of a collective agreement.

Question agreed to.

Senator WONG (South Australia—Minister for Climate Change and Water) (5.23 pm)—I indicate to the chamber that some of these amendments result from the Senate inquiry and some of them result from further consultation that the government has undertaken. As the Senate will observe, the majority of them are highly technical in nature. I move government amendment (21) on sheet PA412:

(21) Schedule 1, item 15, page 43 (after line 20), after paragraph 2(1)(c), insert:

(ca) subsections 347(1) and (2);

This deals with pre-transition collective agreements and seeks to preserve section 347, subsections (1) and (2), to make clear that such agreements commence on lodgement even if the new lodgement requirements are not satisfied consistent with the current rules in relation to those agreements. The amendment is required to ensure that collective agreements made and lodged before the commencement of the bill or made before the commencement of the bill and lodged within 14 days of that commencement would not be subject to the new lodgement requirements proposed to be introduced by the bill and would continue to commence operation on lodgement, consistent with the approach that existing laws apply to that agreement.

Senator ABETZ (Tasmania) (5.24 pm)—I was going to suggest to the minister something to help expedite the process. A lot of these amendments are technical and are supported around the chamber. The explanations for the amendments are in fact in the explanatory memorandum. If the minister were satisfied with just moving the amendment rather than reading out that which is there for
all of us to read anyway in the explanatory memorandum, it could save us some time.

Senator MURRAY (Western Australia) (5.24 pm)—I do not mind what the shadow minister suggests, although I must say that I rather like the minister’s approach. While we know what is going on, it is useful for those hearing who might not read Hansard. Providing it is short, I quite like the explanation.

It is time for the minister to get a figurative pat on the back. I want to commend you, as I would commend any government, for in fact reacting to the evidence that was put to the inquiry quickly and well and producing technical and some non-technical—in fact, some quite substantive—amendments. The worst thing that can happen to a government is for them not to listen to evidence put forward by credible and reputable witnesses from all sides of the argument. I notice that your amendments include propositions put forward by employer organisations, employee organisations—unions—and by academics. I make these remarks because I want to encourage your government to continue to do this. Governments are not perfect. Governments do not know everything, and nor do their bureaucracies. It is very encouraging when there is a rapid and positive response to good evidence given in committees of review. There you are: you have had your pat on the back for today. I will leave it at that.

Senator WONG (South Australia—Minister for Climate Change and Water) (5.26 pm)—I will take any pat on the back, Senator Murray. Thank you for that. The point that I want to make—and this goes back to one of the issues that arose in one of the first parts of the discussion in relation to both this bill and the substantive bill—is that we are conscious that these are significant changes. That is why the Deputy Prime Minister has made clear that the government will take a consultative approach, both through the Senate process and also in relation to consultations with employers and employees, on these bills. I hasten to add that the government when in opposition did take a consultative approach to the development of the policy and the implementation plan.

Question agreed to.

Senator WONG (South Australia—Minister for Climate Change and Water) (5.27 pm)—I move government amendment (22) on sheet PA412:

(22) Schedule 1, Part 2, page 44 (after line 15), at the end of the Part, add:

15A Effect of repeal of section 399

(1) To avoid doubt, if, immediately before the commencement of this item, an industrial instrument had no effect because of the operation of section 399 of the pre-transition Act, the repeal of that section by this Act:

(a) does not cause the instrument to have effect after that commencement; and

(b) does not cause any protected award condition to cease to have effect.

(2) In this item:

industrial instrument means an instrument mentioned in subsection 399(3) of the pre-transition Act, and includes any of the following (except to the extent that they contain protected award conditions):

(a) a common rule within the meaning of clause 89 of Schedule 6;

(b) a transitional Victorian reference award within the meaning of Part 7 of that Schedule;

(c) a transitional award within the meaning of that Schedule, to the extent that subclause 102(1) of that Schedule applies to it.
pre-transition Act means the Workplace Relations Act 1996 as in force immediately before the commencement of this item.

protected award condition has the meaning it had for the purposes of section 354 of the pre-transition Act.

Currently, the act provides that an agreement or award ceases to operate because it is replaced by a new agreement but the award or old agreement can revive when a replacement agreement is terminated. This amendment will ensure that the agreement revives only when terminated after the commencement of the bill. I am happy to expand more on that if required.

Question agreed to.

Senator WONG (South Australia—Minister for Climate Change and Water) (5.28 pm) by leave—I move government amendments (23) and (24) from sheet PA412 together:

(23) Schedule 1, item 48, page 50 (line 22), omit “section 346W (which deals”, substitute “section 346N or 346W (which deal”.

(24) Schedule 1, item 67, page 53 (line 33) to page 54 (line 1), omit the item, substitute:

67 Paragraphs 390(2)(b) and 392(2)(ba) and (c)

Omit “AWA”, substitute “ITEA”.

Both of these deal with the correction of a typographical error.

Question agreed to.

Senator MURRAY (Western Australia) (5.28 pm) by leave—I move Democrat amendments (1) and (2) on sheet 5443:

(1) Schedule 1, page 68 (after line 1), after item 132, insert:

132A Subsection 643(10)

Repeal the subsection.

(2) Schedule 1, page 68 (after line 1), after item 132, insert:

132B Paragraph 645(5)(c)

Repeal the paragraph.

I draw the attention of the participants to sheet 5443. I intend to make my remarks to all three sets of amendments that you see on that sheet in one go. I do not intend to speak at length; I think participants in the debate know what this is about so I will deal with it on that basis. When I am discussing the unfair dismissals issue with people who are not members of parliament, they are always quite astonished when I say, ‘Actually, all parties are in furious agreement on unfair dismissals.’ Every political party does actually support unfair dismissal provisions; the quarrels have been about the threshold at which they apply and the extent to which they apply. The coalition, for instance—taking them as a starting point—began their life in government in 1996 supporting unfair dismissal provisions; the quarrels have been about the threshold at which they apply and the extent to which they apply. The coalition, for instance—taking them as a starting point—began their life in government in 1996 supporting unfair dismissal provisions for all employees but agreed with the Democrats, in our agreement on the 1996 bill, that there would be restrictions placed on probationary, casual and specified-term contract employees applying for unfair dismissal relief. The result of that agreement was that federal unfair dismissal applications fell by 50 per cent. Subsequently, in 1997, the coalition began to ratchet it back, and in the Workplace Relations Amendment Bill 1997 the coalition proposed a permanent exclusion for new employees in businesses of 15 employees or fewer from making an unfair dismissal application. That bill eventually ended up as a double dissolution trigger. The point is that having provisions for unfair dismissals was still a policy for the coalition for businesses with above 15 employees at that time. Fifteen was chosen because it was the number used in industrial instruments. Subsequently, the policy of the coalition was to set it at what was known as the small business level,
which was the Australian Bureau of Statistics level of 20 employees or more, and then they raised it even higher with Work Choices to 100 employees or more.

The Greens have always held to the view that unfair dismissal provisions should apply to all employees. Labor did hold that view but have now moved to the view of the coalition in 1997, which is that it should apply to organisations with 15 or more employees. The Democrats continue to believe that all employees should have access—provided, of course, that the surrounding environment discourages vexatious claims and that restrictions are placed on probationary, casual and specified-term contract employees.

Knowing that the coalition are still attached to the view that unfair dismissal provisions should not apply to small business, and knowing that the Labor policy is for unfair dismissal provisions to apply to organisations with 15 employees or more, I thought I would bring the issue on—just to be helpful. I have proposed what I would describe broadly as Green and Democrats policy: that unfair dismissal provisions under the Workplace Relations Act apply to all employees—items (1) and (2) on sheet 5443. Then, if that goes down—which, I must say, in my pessimistic way I have anticipated it will—I offer up Labor policy; and, if that goes down, I then offer up what was the previous coalition policy, which is for it to apply to organisations with 20 or more employees.

What I expect is that, when the substantive bill that Labor talked about is introduced later this year, they will bring forward their policy of unfair dismissal provisions applying to organisations with 15 or more employees, and they will have to get the numbers from the Greens senators and the votes of Senators Fielding and Xenophon to agree with that. I suspect they will get that approval and so it will become law. What I would like is for it to become law now. I do not raise this to be mildly provocative but because the issue of unfair dismissal provisions and it being of assistance in fairness matters was raised by a number of witnesses in the Senate inquiry, independently of my questioning or anybody else’s questioning. I do not propose to say much more unless I am obliged to.

**Senator SIEWERT** (Western Australia) (5.35 pm)—Readers of the amendments will know that the Greens have an extraordinarily similar amendment to the universal dismissal amendment that Senator Murray has moved on behalf of the Democrats. We are also moving to get rid of the concept of operational reasons for dismissal.

We will be supporting this amendment; it is extremely similar to our amendment. The declared intent of the government is to deal with the issues of unfair dismissal; we do not agree with them taking it down to 15 employees. I think the Greens have been on the record on many occasions saying we support universal unfair dismissal rights, hence our amendment. We will be supporting the Democrats amendment to take it to 15 employees and, if that is unsuccessful, then to 20. We realise that it is better than the current situation, although our preferred position is that it applies, as the Democrats amendment says here, ‘regardless of numbers of employees in a business’.

Senator Murray is right: it came up on a number of occasions during the Senate inquiry. It is clearly the government’s policy to deal with and change unfair dismissal laws. We would urge the government to do it now, rather than leave it until the substantive bill.

**Senator ABETZ** (Tasmania) (5.36 pm)—These are provocative amendments by Senator Murray. They are provocative to the government. It is a very simple amendment to delete one number and put in another num-
ber. If the Labor Party actually believed their vehement rhetoric on this, you would imagine that they would accept the amendments of the Democrats. If the unfair dismissal laws are such a matter of great social injustice, as we were led to believe, one would wonder why the Labor Party would not seek the first opportunity to overturn the unfair dismissal laws that we introduced and indeed were elected upon a number of occasions with a very firm unfair dismissals policy.

It is interesting to reflect that when we introduced certain changes we were told that Labor would oppose them lock, stock and barrel and would rip them up wholesale. We now know that the lock of the constitutional lock—namely, use of the corporations power—is accepted by Labor and the stock was having a national system, now accepted by Labor. In relation to the barrel, all they are doing is making it into a sawn-off shotgun rather than getting rid of the barrel, because they now accept the principle of an unfair dismissal law. They accept that principle.

As Senator Murray quite rightly points out, at least the Greens are consistent. They oppose it all the way down the line. That is fine—fundamental disagreement there. The only thing that stands between the Australian Labor Party and the alternative government on this is that we are unashamedly pro small business, and that is why we support as high a threshold as possible. We believe 100 is the appropriate figure. If you are anti small business, you would go to the lowest possible threshold whilst paying lip-service to small business and saying, ‘Yes, we do need unfair dismissal laws.’ Therefore, Labor have agreed to set it at 15.

The interesting thing is that, when this section was introduced by the former government, I remember receiving wholesale assaults from those opposite saying that this would lead to mass sackings and it would see unemployment skyrocket. The argument that we consistently put as the government at the time was that employers are called ‘employers’ and not ‘dismissers’ for a very simple reason: they are in the game of employing people, not dismissing people. As soon as we gave employers the confidence that if things did not work out they could dismiss, guess what? The unemployment level in this country, and the social misery caused by the unemployment level, was driven down from above five per cent to below five per cent and now, with the latest figures, to below four per cent—3.97 per cent. So, rather than seeing wholesale sackings, we saw wholesale employment and the removal of the social misery of unemployment from literally thousands of our fellow Australians.

We stand by what we stood for and remain consistent with our view that the unfair dismissal laws, which were a social experiment introduced by Prime Minister Keating, were an abysmal failure. They were a great disincentive to employment. Once they were removed, as we had sought to do, we saw a whole percentage point plus fall in our unemployment rate in this country. That meant the removal of the social misery associated with unemployment for literally tens of thousands of our fellow Australians. We believe that, in relation to unfair dismissals, we did get it right. We will be opposing the amendments, but it will be interesting to see how the government twist and turn on this one. Because of all the extravagant and extreme statements they made in relation to unfair dismissals, you would have thought they would be tripping over themselves to bring in legislation to get rid of it.

Senator WONG (South Australia—Minister for Climate Change and Water) (5.42 pm)—I thank Senator Abetz for reminding us and certainly reminding the crossbenches of what the alternative might
be just as Senator Siewert was getting grouchy at me. The government made our position on unfair dismissals absolutely clear prior to the election. We do want a new fair and balanced system for the benefit of both employers and employees. We believe the previous government’s 100-employees exemption went way too far. I might be corrected, but I do not recall former Prime Minister Howard nor Senator Abetz prior to the preceding election ever running around telling people that they considered 100 employees to be the appropriate cut-off. My recollection is that that was a late conversion.

The government’s policy is that employees employed in businesses with fewer than 15 employees will have to satisfy a 12-month qualifying period so that the employer can determine whether those employees are appropriate for their business. Unlike with these amendments, such employers will have protection once they satisfy that qualifying period. We consider that to be an appropriate balance for business, particularly small business. As the chamber may be aware, it is the government’s intention to ensure that businesses be protected by a simpler and faster system. The bill before the chamber does not, as I think Senator Murray indicated, substantively deal with the unfair dismissal regime. These are issues that will be addressed in the context of the substantive bill.

In moving these amendments, I will briefly remark that I understand the arguments put by the coalition in support of their policy, but I will indicate my own opinion is that there is absolutely no empirical evidence to indicate that there was a one per cent drop in unemployment because the size of a business to which unfair dismissal provisions applied was raised to 100 employees from zero. In fact, I recall with pride the contribution the Democrats made to the pre-Work Choices area, where I think employment increased by 1½ million or more over the years, and I would never dream of attributing that to the efforts we put in on unfair dismissals or anything else.

Senator ABETZ (Tasmania) (5.46 pm)—What we had in relation to the climate was a very high rate of unemployment from which Australia had suffered, with over one million of our fellow Australians on the unemployment scrap heap, courtesy of the Hawke-Keating government. We then drove down the unemployment rate to slightly above five per cent, and it hovered there for 20 months unabated. Then all of a sudden some changes
were made to legislation, and since then the unemployment rate has consistently decreased. You have got to ask yourself: what was that circuit-breaker about two years ago?

Senator Murray—China.

Senator ABETZ—Can I say to you China existed more than two years ago and the boom and other matters were already happening prior to that time. But for 20 months during that boom the unemployment rate hovered between 5.2 per cent and five per cent and could not break that psychological barrier. Indeed, there were many commentators saying, ‘Look, the government should be satisfied with five per cent unemployment,’ and that that really represented full employment. We who saw the social misery of unemployment said: ‘No, that’s not good enough. We will do everything we possibly can within reason to drive it down further.’

Whilst I am willing to accept that possibly not every single job can be directly related to the changes, the simple fact is that the vast bulk of those jobs were a result of the change, because nobody can point to anything other than those changes that were made some two years ago as the reason for that dramatic fall to where we are now—technically below four per cent, on 3.97 per cent. I accept it is four per cent. But to have crashed through that psychological barrier of five per cent, and now even through four per cent, is something for which I think there are many tens of thousands of Australians genuinely thankful to the previous government—albeit we accept the verdict of the Australian people, of course, on 24 November. Just as 47 per cent of people wanted us to stay in office, we accept that, in round figures, 53 per cent did not, and that is why we are not standing in the way of these changes. I remind the Senate that we do not stand in the way, unlike the way the Labor Party treated us when we won government on certain policies such as GST, balancing the budgets et cetera.

I note that I did withdraw something prior to question time, at 12.30 today. It is amazing, when you are on radio and you have to withdraw something, how the information flows into your office. I have been advised that somebody in a lumberjack type shirt was in fact spotted outside the doors of Parliament House shortly before they came down. I will not take the matter any further, but it was interesting the person that was identified to me by that information.

Question negatived.

Senator MURRAY (Western Australia) (5.50 pm)—by leave—I move Democrat amendments (5) and (6) on sheet 5443 together:

(5) Schedule 1, page 68 (after line 1), after item 132, insert:

132A Subsection 643(10)

Omit “100 employees”, substitute “20 employees”.

(6) Schedule 1, page 68 (after line 1), after item 132, insert:

132B Paragraph 645(5)(c)

Omit “100 employees”, substitute “20 employees”.

As you know, Mr Temporary Chairman Bartlett, we have lost the amendments that would allow all employees access to unfair dismissal under the Workplace Relations Act. We then had the amendments which would allow access to unfair dismissal provisions for all employees working in organisations with 15 employees or more, which is Labor policy. Those amendments have been lost. These amendments now set the level at which employees would have access to unfair dismissal at the 20 mark, which is the Australian Bureau of Statistics definition of a small business—a small business being below 20 employees and a medium business being above.
Question put.
The committee divided.  [5.55 pm]
(The Chairman—Senator JJ Hogg)
Ayes…………….  8
Noes……………. 49
Majority………. 41

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

NOES
Abetz, E. Adams, J.
Bernardi, C. Birmingham, S.
Bishop, T.M. Boswell, R.L.D.
Brandis, G.H. Brown, C.L.
Chapman, H.G.P. Crossin, P.M.
Cormann, M.H.P. Forshaw, M.G.
Eggleston, A. Forshaw, M.G.
Fierravanti-Wells, C. Fifield, M.P.
Fisher, M.J. Fischer, K.A.
Heffernan, W. Hogg, J.J.
Humphries, G. Hurley, A.
Hutcheson, S.P. Kemp, C.R.
Kirk, L. Lundy, K.A.
Macdonald, J.A.L. Marshall, G.
Mason, B.J. McEwen, A.
McGauran, J.J. Minchin, N.H.
Moore, C. Nash, F.
O’Brien, K.W.K. Parry, S.
Patterson, K.C. Payne, M.A.
Polley, H. Ray, R.F.
Ronaldson, M. Scullion, N.G.
Stephens, U. Sterle, G.
Troeth, J.M. Watson, J.O.W.
Webber, R. Wong, P.
Wortley, D.

* denotes teller

Senator WONG (South Australia—Minister for Climate Change and Water)
(5.59 pm)—by leave—I move government amendments (25) to (27) on sheet PA412:

(25) Schedule 1, item 159, page 71 (lines 1 to 3), omit the item, substitute:

159 At the end of subclause 89(1) of Schedule 6
Add:
; and (c) section 349 of the pre-transition Act as it applies because of clause 2 of Schedule 7A; and
(d) section 354 of the pre-transition Act as it applies because of clause 2 of Schedule 7A and clause 2 of Schedule 7B.

(26) Schedule 1, item 165, page 71 (lines 19 to 21), omit the item, substitute:

165 At the end of subclause 95(1) of Schedule 6
Add:
; and (c) section 349 of the pre-transition Act as it applies because of clause 2 of Schedule 7A; and
(d) section 354 of the pre-transition Act as it applies because of clause 2 of Schedule 7A and clause 2 of Schedule 7B.

(27) Schedule 1, item 171, page 72 (lines 9 to 11), omit the item, substitute:

171 At the end of subclause 102(1) of Schedule 6
Add:
; and (c) section 349 of the pre-transition Act as it applies because of clause 2 of Schedule 7A; and
(d) section 354 of the pre-transition Act as it applies because of clause 2 of Schedule 7A and clause 2 of Schedule 7B.

I indicate that these are simply technical corrections.

Question agreed to.
Senator WONG (South Australia—Minister for Climate Change and Water) (6.00 pm)—I move government amendment (28) on sheet PA412:

(28) Schedule 1, page 74 (after line 15), after item 191, insert:

191A After paragraph 20(a) of Schedule 7

Insert:

(aa) section 327;
(ab) paragraph 336(b);
(ac) paragraph 340(2)(a);
(ad) paragraph 367(1)(b);
(ae) subparagraph 369(b)(ii);
(af) subparagraph 373(2)(a)(ii);
(ag) subparagraph 467(1)(a)(iii);
(ah) subparagraph 467(1)(b)(ii);

This is intended to enable employees whose pre-reform AWA has passed its nominal expiry date to fully participate in the bargaining process.

Question agreed to.

Senator WONG (South Australia—Minister for Climate Change and Water) (6.01 pm)—by leave—I move government amendments (30) and (31) on sheet PA412:

(30) Schedule 1, page 78 (after line 23), after item 228, insert:

228A Subclause 26(1) of Schedule 8

Omit “workplace agreement” (first occurring), substitute “pre-transition workplace agreement”.

228B Subclause 26(1) of Schedule 8

After “section 355”, insert “of the pre-transition Act”.

228C At the end of subclause 26(1) of Schedule 8

Add “for the purposes of that Act”.

228D Subclause 26(2) of Schedule 8

After “subsection 355(6)”, insert “of the pre-transition Act”.


These amendments provide for the same rules for incorporating terms from state instruments in pretransition workplace agreements as have been provided for federal agreements, to preserve the operation of section 355 for pretransition instruments, despite its repeal.

Question agreed to.

Senator SIEWERT (Western Australia) (6.02 pm)—I move Greens amendment (1) on sheet 5451:

Schedule 2, item 9, page 90 (after line 17), after paragraph 576A(2)(b), insert:

(ba) must ensure award coverage to all employees, except those employees who, because of the seniority of their role, have traditionally not been covered by an award; and

I did not ask about this when we were addressing some general questions, because I thought it would be more appropriate to talk about it when we were debating the awards section of the bill. Also, I was keen for us to get going on the amendments, as we had had a rather long general discussion. I do not intend to draw out the debate too long; I would just like some specific answers to questions before we start. At this stage I am specifically interested in clause 576L. I am just trying to clear up exactly what it means. It says:

A modern award may include terms about the matters referred to in subsection 576J(1) or (2) or section 576K only to the extent that the terms provide a fair minimum safety net.

I would like to know who decides that, and how we should be interpreting that statement.

Senator WONG (South Australia—Minister for Climate Change and Water) (6.03 pm)—I do not know to what extent I can assist you, Senator Siewert. The clause is, I suppose, purposive, in a sense, in that it sets the basis on which those matters may be included—that is, to the extent that the terms provide a fair minimum safety net.

Senator SIEWERT (Western Australia) (6.04 pm)—Could you clarify who determines that?

Senator WONG (South Australia—Minister for Climate Change and Water) (6.04 pm)—Those matters would be determined by the Australian Industrial Relations Commission in the context of the statutory provisions applicable to the task they have been asked to undertake.

Senator SIEWERT (Western Australia) (6.04 pm)—Thank you for clarifying that. I wanted to make sure that that was on the record.

Some of my questions are about clarification. I would also like to know in what circumstances modern awards need a duration. I think this is in clause 576M(2)(f). If they
are under the safety net and subject to an award modernisation request, why do they need a duration?

**Senator Wong** (South Australia—Minister for Climate Change and Water) (6.05 pm)—Clause 576M, I am advised, is a provision dealing with machinery terms. The intention is that an award would continue by operation of law, as has been the case, from my recollection, under previous iterations of this legislation. Awards might have a duration provision in them but they continue by operation of law.

**Senator Siewert** (Western Australia) (6.06 pm)—Thank you for that. I understand that they are subject to the safety net and subject to the modernisation but the nature of awards is changing. Where awards were previously used for resolutions of disputes they needed a duration but they do not need that any more because the nature of them is changing. I wonder whether that is a carry-on from the old act or whether there is another specific purpose that I do not understand.

**Senator Wong** (South Australia—Minister for Climate Change and Water) (6.07 pm)—I am advised that the provision to which you refer is to enable the use of a particular constitutional power, if required.

**Senator Siewert** (Western Australia) (6.07 pm)—I would like then to ask another question, and I will try to make this as quick as possible. Concerning parties to awards, will parties to awards continue as parties to modern awards? If that is the intention, that is not in the award modernisation request, as I understand it. Obviously this issue is quite important to a number of stakeholders in relation to awards.

**Senator Wong** (South Australia—Minister for Climate Change and Water) (6.08 pm)—These may be matters which are dealt with in the context of the substantive bill. I am not able to give you a definitive answer on that issue at this point in time. They may be issues we can clarify at a slightly later date—perhaps after the dinner break, if we are still proceeding. If not, I will advise you.

**Senator Siewert** (Western Australia) (6.09 pm)—Obviously, it is quite an important issue for many of the stakeholders and I would appreciate it if you could inform the chamber as to who will be parties to the awards. I think that it is pretty important in the discussion of this bill, because it is about award modernisation and it is a key part of that. This too may need some further clarification during the dinner break, but I would also like to ask how awards get varied. Section 576H allows for variation but it is only through the award modernisation process. Can parties make applications for variations?

**Senator Wong** (South Australia—Minister for Climate Change and Water) (6.09 pm)—Again, Senator Siewert, these are issues which would be intended to be considered in the context of the development of the substantive bill. I would assume, unless I am otherwise advised, they would be the subject of consultation with relevant stakeholders.

**Senator Siewert** (Western Australia) (6.10 pm)—As I understand it, you are saying that some of the questions I am asking will be articulated more clearly and dealt with in the substantive bill. The fact is, this act deals with this issue so I would have thought that this act would also deal with how—

**Senator Murray**—It starts the process.

**Senator Siewert**—Yes, it starts the process. I would have thought that where this allows for it the government would have thought through the issue of which parties can actually make applications for variations. It goes to the heart of what all stakeholders
want to know about the future of the awards process.

Senator WONG (South Australia—Minister for Climate Change and Water) (6.11 pm)—I will make a couple of points. First, what we have in the EM is the award modernisation request. You would be aware, as you have been interested in these issues for some time, and certainly Senator Murray has, that we would envisage that this award modernisation process would take—

Senator Abetz interjecting—

Senator WONG—I am actually talking to the cross benches at the moment—I talk to Senator Marshall regularly, Senator Abetz. This is commencing the award modernisation process. I appreciate where you are coming from but you are asking me to tell you what substantive rights apply to instruments which do not yet exist in terms of variation rights. I have indicated to you that my understanding is that these are issues which will be considered and addressed in the context of the development of the substantive bill. If I have any further information, we will come back to you.

Senator SIEWERT (Western Australia) (6.12 pm)—Thank you. I do appreciate that if you have further information you will come back to us. We could stand here going backwards and forwards arguing for hours about what is appropriate to put in this bill and what is not as you start the process, but I will not indulge in that. I will go on to my first amendment which is on sheet 5451. This relates to awards coverage. These awards have fundamentally changed under Work Choices and this bill. There are no longer any opportunities for parties to create new awards. Therefore, there is no ability, except through the modernisation process, for award coverage to be extended.

Evidence before the Senate committee, as I understand it, indicated that 10 per cent of employees currently have no award coverage. Given the historical award coverage is industry and occupations based, we can assume that in the future new industries and occupations may come into existence and may not be covered by an award. We do not see why these employees should be without part of the safety net. We do not believe that it is sufficient for the award modernisation request to leave it to the discretion of the AIRC as to whether or not award coverage is extended to all employees. The changed nature of awards and their role in the safety net means that it is an imperative that award coverage is as complete as possible, and this amendment is how we seek to do that. We seek to extend award coverage to employees that may not be covered. That is what this amendment is about. I will also take this opportunity to ask—and I am anticipating that the government ain’t going to like this—whether it is something that is being considered for the substantive bill.

Senator WONG (South Australia—Minister for Climate Change and Water) (6.14 pm)—You anticipated my response in terms of your reference to the award modernisation request. I would make the point that the extension of awards to new classes of employees has, under various iterations of federal industrial law and state industrial law, traditionally been something that the industrial tribunals have done. It is not a new concept.

We have made it clear in section 2(a) of the award modernisation request that the commission is not precluded from extending coverage to new industries or occupations where work performed by those employees is similar to that conducted by employees who are traditionally covered by awards. The government’s position sufficiently addresses the issue you have raised with your amendment.
Senator Murray (Western Australia) (6.15 pm)—I doubt the minister, and maybe not even the department, would have had the opportunity to consider this. What is being raised here is an issue of very broad concern. Minister, I ask you, through the chair, to take a professional and quite deep interest in the matter as you progress towards the resolution of the substantive bill. I appreciate that it is not your portfolio, but I also appreciate that consultation is going to occur not just between the Labor government and outside parties but also internally. The issue is that apparently—and it is very difficult to get the statistics—anywhere up to 800,000 Australians may not be covered or underpinned by the safety net of an award. The issue is whether the National Employment Standards will substitute and therefore cover them or whether something needs to be done whereby a default provision exists for a common-rule award, which applies to everybody who is not otherwise covered.

I think the evidence is that this is an issue of concern. It is a material issue. I am not at all sure it can be dealt with in the shorthand version of Senator Siewert’s amendment, which is why I do not support it. I think it is a far deeper issue which needs much broader attention, although I think Senator Siewert is dead right to be raising this as an issue. At the heart of modern industrial policy—whether it is the coalition, the crossbenchers or the Labor Party—is the belief that you have got to have a comprehensive safety net, which means that every employee has to be covered by either an award, an industrial instrument or the National Employment Standards. It is a problem that has been identified in evidence. It is an uncertain problem; the statistics are rubbery. It does seem that substantial numbers of employees are not covered appropriately, and they should be.

Senator Siewert (Western Australia) (6.18 pm)—Beyond the issue of us saying this should apply to all employees is that we think it should be an object of this part, which is where the amendment goes to, and it should not be up to the discretion of the AIRC. As an Australian community, we should be extending awards and ensuring they cover all employees. We are saying that it is a fundamental tenet that should be included in the bill and not left up to the discretion of the AIRC, which is how the government’s bill stands at the moment. The point here is that it should apply to everybody and it should not be a discretionary issue.

Question negatived.

Senator Siewert (Western Australia) (6.19 pm)—Beyond the issue of us saying this should apply to all employees is that we think it should be an object of this part, which is where the amendment goes to, and it should not be up to the discretion of the AIRC. As an Australian community, we should be extending awards and ensuring they cover all employees. We are saying that it is a fundamental tenet that should be included in the bill and not left up to the discretion of the AIRC, which is how the government’s bill stands at the moment. The point here is that it should apply to everybody and it should not be a discretionary issue.

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Question negatived.
point that became clear was that gender pay equity had significantly decreased under the AWA process. It should be noted that this occurred in Western Australia under the Court era of IR reform. Research has been presented that showed there was a clear impact on pay equity then, and it has gotten worse in Western Australia under the Work Choices regime. In fact, my home state of Western Australia has the dubious record of being one of the worst states in Australia, if not the worst state, for pay equity and the different rates of pay for men and women. We all know that the average pay rates for women in Australia are well below the average pay rates for men. Research conducted in Australia over the last 10 years points to awards playing an important role in addressing gender pay inequity. For example, most states now have pay equity principles, which allow awards to be varied to ensure equal pay for work of equal value.

I outlined in our speech in the second reading debate that we would be addressing this issue through amendments. We are concerned that the award modernisation process will merely consolidate these pay inequities as they exist in awards, without the Industrial Relations Commission being required to consider pay equity when modernising awards. At the very least, we would urge the government to include an effective pay equity mechanism in the substantive bill. I am already pre-empting that that may be an issue. One of the government’s responses is that this should be dealt with in the substantive bill. I would specifically like to ask questions around this issue and how it is envisaged that the award modernisation process will consider pay equity issues in the awards. If the government does not think this is appropriate, why not? How does it intend to deal with this issue if it is not dealt with through this process?

Senator WONG (South Australia—Minister for Climate Change and Water) (6.22 pm)—I can indicate that the government considers that the award modernisation request which is included in the explanatory memorandum does address this concern, and I would refer the chamber to item 3(E), which includes promotion of the principle of equal remuneration for work of equal value. I also point out that section 576B, which sets out the commission’s award modernisation function, contains at subparagraph (2)(e) the same iteration—the promotion of the principle of equal remuneration for work of equal value.

I also understand that section 104 of the principal act requires the commission to take into account the need to apply the principle of equal pay for work of equal value in performing its functions, and that section will continue to apply to the commission in undertaking award modernisation. The government does share concerns about the erosion of women’s pay and conditions and an apparent increase in the gender pay gap under the previous government’s WorkChoices laws. We are working to redress this in a number of ways including: the abolition of AWAs, establishing a stronger no disadvantage test, establishing a new safety net including 10 National Employment Standards and through the award modernisation process.

In addition, changes to the equal remuneration provisions in the act are currently being considered in the context of the government’s substantive workplace relations legislation to be introduced into parliament this year. The award modernisation request, as I have outlined already, ensures the commission must promote the principle of equal remuneration for work of equal value, and this is a stronger requirement in the government’s view than ensuring equal pay for work of equal value.
Senator SIEWERT (Western Australia) (6.24 pm)—The minister touched on an important point there—that is, we do not consider the current pay equity provisions in the act efficient. The fact is that they are not dealing with this issue because the gender pay gap is actually getting worse. Does the government consider that the current provisions in the award modernisation request will satisfactorily start addressing the current inequity? It is all very well to provide a provision to ensure equal pay for equal work, but that is obviously going to require a series of steps to address the actual current inequity. Is it envisaged that that process will be able to be undertaken through the current instructions under the award minimisation request?

Senator WONG (South Australia—Minister for Climate Change and Water) (6.25 pm)—I think I have put on record the government’s position in relation to this issue. I have gone through the sections of both the award modernisation request and the bill that we believe deal with this issue. Of course this government want to ensure that there is a reduction in the gender pay gap. We recognise that the previous government’s laws have not been good for many working women in terms of their paid work and we believe that the provisions to which I have referred deal with this issue. Of course this government want to ensure that there is a reduction in the gender pay gap.

We recognise that the previous government’s laws have not been good for many working women in terms of their paid work and we believe that the provisions to which I have referred deal with that. I have also flagged to you that further consideration of this issue will occur in the context of the substantive legislation.

Question negatived.

Senator SIEWERT (Western Australia) (6.26 pm)—I move Greens amendment (4) on sheet 5451:

(4) Schedule 2, item 9, page 91 (after line 6), after paragraph 576B(2)(a), insert:

(aa) the need to ensure all employees are covered by modern awards, except those employees who, because of the seniority of their role, have traditionally not been covered by an award;

Although I am moving this separately to the pay equity amendment, we were specifically aiming this as another means of addressing the issues around pay equity.

Question negatived.

Senator SIEWERT (Western Australia) (6.27 pm)—I move Greens amendment (3) on sheet 5451:

(3) Schedule 2, item 9, page 90 (line 26), at the end of subsection 576A(2), add:

; and (g) must be regularly reviewed to ensure that they remain relevant to the rapidly changing structures of work and the labour market.

This is about the regular review of awards. We very strongly believe that awards must be living documents that can adapt to changes in community standards. Awards have been the main vehicle for establishing community standards in workplace conditions such as annual leave, carers leave, parental leave, restrictions on working hours et cetera. We have not reached an end point in the evolution of workplace standards. I do not believe we can imagine that we ever actually will. They will continue to be living documents. Workplaces and labour markets will continue to change and we must have a process for award safety nets to respond. This is another issue that was brought up at the committee inquiry hearings. There was a good deal of comment around this. I would like to ask: is the government considering a regular review of awards and how will the government ensure that their award system remains relevant to changing conditions?

Senator WONG (South Australia—Minister for Climate Change and Water) (6.28 pm)—The government policy commitment is to a significant process of award modernisation over a two-year period to the end of 2009 to ensure modern, simple awards which are relevant to the industries and occupations they cover. We have also
committed that awards would then be reviewed every four years to ensure they remain relevant. We do not believe the amendment really deals with the objects of award modernisation; rather, it intends to deal with—and in fact this is what Senator Siewert’s comments were directed towards—the maintenance of the awards system. That is a matter, including in terms of the commitment I have indicated, that will be dealt with in the substantive workplace relations legislation.

Question negatived.

Sitting suspended from 6.29 pm to 7.30 pm

Senator SIEWERT (Western Australia) (7.30 pm)—I move Greens amendment (6) on sheet 5451:

(6) Schedule 2, item 9, page 96 (line 8), at the end of subsection 576J(1), add:

; (k) exceptional matters where the circumstances of the industry or sector warrant such matters being included in the award.

This specifically relates to exceptional matters. We believe the matters that are listed to be considered in modern awards are too limiting. The ACTU gave examples in the committee inquiry of important industry-specific conditions that will be lost in the award modernisation process unless the AIRC is given discretion to include such matters where it is appropriate. We believe there should be more flexibility in the making of these modern awards and the government should trust the wisdom of the AIRC and their knowledge of awards in industries as well as input from stakeholders, ensuring there is an appropriate and relevant safety net. This is the issue around exceptional matters—whether the circumstances of an industry or sector warrant such matters being included in the award. There was a lot of debate and discussion around flexibility, and in fact I referred to it in my speech on the second reading. This is one area where we believe there needs to be a widening of the scope of the awards to allow for exceptional matters. There was a considerable body of evidence given during the inquiry around the need for exceptional matters to be included in the process of award modernisation.

Question negatived.

The TEMPORARY CHAIRMAN (Senator Bartlett)—We now move on to Greens amendments (1) and (2) on sheet 5452.

Senator SIEWERT (Western Australia) (7.33 pm)—Mr Temporary Chairman, I am seeking your guidance. The government’s amendments on outworkers deal with these issues, not as substantively as I would like, but I am aware of the government’s desire and the chamber’s desire that we treat this expeditiously. I am wondering whether we should go straight to the government’s amendments; we have already agreed we would do (15), (32) and (35) together, and it would then shorten the need for this debate.

The TEMPORARY CHAIRMAN—By way of the special powers I have sitting in this chair, I am sure I can detect universal desire for expeditiousness. So I call on the minister to move those amendments. I will take you, Senator Siewert, as having postponed those amendments.

Senator WONG (South Australia—Minister for Climate Change and Water) (7.34 pm)—by leave—I move government amendments (15), (32) and (35) on sheet PA412 together:

(15) Schedule 1, page 33 (after line 8), after item 4, insert:

4A Section 349

Before “An award”, insert “(1)”.

4B At the end of section 349

Add:
(2) Despite subsection (1), if:
   (a) a person’s employment is subject to
       a workplace agreement; and
   (b) but for the workplace agreement, an
       award would have effect in relation
       to the person’s employment;
   the terms of the award have effect to
   the extent that they are about out-
   worker conditions, despite any terms
   of the workplace agreement that pro-
   vide, in a particular respect, a less
   favourable outcome for that person.

(3) In this section:
\textit{outworker} means an employee who, for the purposes of the business of the employer, performs work at private residential premises or at other premises that are not business or commercial premises of the employer.

\textit{outworker conditions} means conditions (other than pay) for outworkers, but only to the extent necessary to ensure that their overall conditions of employment are fair and reasonable in comparison with the conditions of employment specified in a relevant award or awards for employees who perform the same kind of work at an employer’s business or commercial premises.

(2) A modern award may include either or both of the following:
   (a) terms relating to the conditions un-
       der which an employer may employ
       employees who are outworkers (in-
       cluding terms relating to the pay or
       conditions of the outworkers);
   (b) terms relating to the conditions un-
       der which an eligible entity (within
       the meaning of Division 4) may ar-
       range for work to be carried out for
       the entity (either directly or indi-
       rectly) by outworkers (including
       terms relating to the pay or condi-
       tions of the outworkers).

Note: In paragraph (2)(a), employee and employer have the meanings given by subsections 5(1) and 6(1).

(35) Schedule 2, page 104 (after line 22), after item 9, insert:

\textbf{9A After paragraph 2(2)(s) of Schedule 2}

Insert:

(sa) subsection 576K(1), definition of \textit{outworker};

\textbf{9B At the end of subclause 3(2) of Schedule 2}

Add:

; (j) subsection 576K(1), definition of \textit{outworker}.

I will deal with some of the technical issues. I have been asked to indicate clearly on the \textit{Hansard} the intention behind these amendments. Amendment (15) ensures the continuing operation of award terms about outworking conditions despite any less favourable terms of a workplace agreement. Given the government’s strong and longstanding sup-

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tections, this amendment would continue to ensure that the special terms and conditions of employment for outworkers in awards cannot be reduced in workplace agreements. The former government’s Work Choices laws provided that outworking conditions had effect despite any terms of a workplace agreement that provided a less favourable outcome. Accordingly this amendment was consequential upon the repeal of provisions about protected award conditions. Those provisions are no longer required because under the government’s proposal the full award is the safety net for agreement making.

Amendment (32) inserts a definition of ‘outworker’ to cover employee outworkers and contract outworkers in the clothing, textile and footwear industry so that the award modernisation process does not diminish existing protection for outworkers. The amendment is designed to make clear the government’s intention that modern awards can include provisions relating to both employee and contract outworkers in appropriate cases. This will enable protective clauses like those found in the clothing trades award to be included in modern awards.

Amendment (34) is a minor technical amendment consequential on amendment (32)—in other words, it changes a cross-reference. Similarly, amendment (35) is also a technical amendment consequential on amendment (32), which I have spoken to.

I want to place on the Hansard the government’s intentions in relation to these outworker amendments. The government understands that the clothing trades award contains important provisions in part 9 which are designed to provide specific protections for clothing trades outworkers, whether those outworkers are engaged as employees or contractors. In moving amendments (32) and (35), the government is ensuring that, in the modern, simple award system, these protections can be retained and remain enforceable. That is the government’s clear intention, and the government has been advised that the amendment has been drafted accordingly. The government will continue to monitor the question of protections for outworkers in the award modernisation process. Should it be necessary to further legislate to ensure the continuation in a modern, simple award system of the current part 9 protections of the clothing trades outworkers’ award, the government will do so in its substantive workplace relations bill.

Senator SIEWERT (Western Australia)
(7.38 pm)—Through you, Mr Temporary Chairman Bartlett, I thank the minister for outlining those amendments, and I am very pleased to see that the government has included them. The issue was raised during the inquiry and, as I think I have said in this place before, there is and has been in the past pretty strong cross-party support to ensure outworker protections. I have a specific question. I want to clarify something in amendment (15). In subclause (3) it is stated that an outworker means an employee. I have heard the minister say ‘employee’ and ‘contractor’, yet the word ‘contractor’ does not appear there. I want to ensure that this does pick up contractors. As we all know, a large part of this work is actually done by people employed on contracts and, in fact, subcontractors for some contracts.

Senator WONG (South Australia—Minister for Climate Change and Water)
(7.39 pm)—Senator Siewert, I have just been referring back to the notes I have on these amendments. My understanding is that it is amendment (32) which is designed to make clear the government’s intention that modern awards can include provisions relating to both employee and contract outworkers in appropriate cases. The intention of that is to enable protective clauses like those found in
the clothing trades award to be included in
modern awards.

Senator MURRAY (Western Australia) (7.40 pm)—The minister is quite correct. At
subclause (32)576K(1)(b) it is specific. It
refers to:

... an individual who is a party to a contract for
services, and who, for the purposes of the con-
tract.

To assist Senator Siewert, the minister was
accurate in her remarks.

May I say, whilst I am standing, that out-
worker concern in this chamber has indeed
— to the credit of all parties—a genuine
cross-party issue and cross-party concern,
and I am very glad that the Labor govern-
ment has continued that tradition and has
recognised their genuine and special needs. I
indicate that the Australian Democrats will
support these amendments.

Senator MARSHALL (Victoria) (7.40
pm)—Just before these amendments are put
to the vote, I also, as chair of the Senate
Standing Committee on Education, Em-
ployment and Workplace Relations, want to
thank all parties and senators who involved
themselves in this issue. As has been said a
couple of times now, it is an issue that has
received attention from all parties very con-
structively. I note that Senator Abetz is in the
chamber. I also want to thank him. When he
was the minister handling this portfolio, he
worked very constructively with the commit-
tee and all other senators on this issue to get
some very positive outcomes. I want to rec-
ognise that contribution from the new oppo-
sition; and, of course, the Democrats have a
particularly long history of pursuing this
matter and initiating inquiries, going back to
since the formation of the Australian Democ-
rats. More recently, the Australian Greens
have taken a very strong interest in these
areas. I commend both Senator Murray and
Senator Siewert also, and I commit the Labor
Party members of this committee to continue
that good work.

Senator WONG (South Australia—
Minister for Climate Change and Water) (7.42 pm)—Just to reiterate—as I think I
may have inserted an additional word into
what I read into the Hansard—I want to reaf-
firm the government’s intention as previ-
ously outlined. Should it be necessary to fur-
ther legislate to ensure the continuation in
the modern, simple award system of the cur-
rent part 9 protections of clothing trades out-
workers, the government will do so in its
substantive workplace relations bill.

Question agreed to.

Senator WONG (South Australia—
Minister for Climate Change and Water) (7.43 pm)—I move government amendments
(8), (10), (33) and (34) on sheet PA412 to-
gether:

(8) Schedule 1, item 2, page 11 (lines 1 to 3),
omit paragraph 346G(4)(c), substitute:

(c) must not be an award that regulates
the terms and conditions of em-
ployment in a single business only
(being the single business specified
in the award).

(10) Schedule 1, item 2, page 12 (lines 31 to 33),
omit paragraph 346H(3)(c), substitute:

(c) must not be an award that regulates
the terms and conditions of em-
ployment in a single business only
(being the single business specified
in the award).

(33) Schedule 2, item 9, page 100 (lines 17 to
19), omit the definition of enterprise award
in section 576U, substitute:

enterprise award means an award that
regulates the terms and conditions of em-
ployment in a single business only
(being the single business specified
in the award).

(34) Schedule 2, item 9, page 100 (line 21), omit
“the matter”, substitute “a matter”.

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Amendments (8) and (10) are consequential amendments to clarify the definition of an enterprise award—that is, an award binding on a single employer only. Amendment (33) is a technical change to the definition of “enterprise award” in the proposed section 576U to make it clear that it refers to awards that bind only a single business. Amendment (34) is a minor technical consequential amendment.

Question agreed to.

Senator SIEWERT (Western Australia) (7.44 pm)—I move Australian Greens amendment (7) on sheet 5451:

(7) Schedule 2, item 9, page 99 (after line 23), after subsection 576T(1), insert:

(1A) Despite subsection (1), a modern award may include terms and conditions of employment of the kind referred to in subsection (1) if the AIRC is of the opinion that such conditions are necessary to provide a fair minimum safety net.

This amendment relates to state based differences. The bill prohibits modern awards containing state based differences except for a five-year transition period. We appreciate the point the government makes—that it is creating a national system and that historical state based differences have no place in such scheme.

However, we are concerned about the rigidity of the system. We are concerned about the rigidity of the process and the lack of discretion given to the AIRC to include matters that may be relevant and important in maintaining a fair safety net. This, again, came up in the committee hearing. One of the organisations that raised this was the ACTU, but it was raised by numerous other parties who made submissions. We believe that there should be a capacity to look at state based differences to ensure that we have a rigorous awards system and that issues that are relevant to specific states—those that are not historically driven and are genuinely required for the differences between states—are able to be included in this process.

Senator WONG (South Australia—Minister for Climate Change and Water) (7.45 pm)—The government does note the concerns raised before the Senate inquiry into the bill about the requirement for the commission to ensure that modern awards do not contain state based differences and to ensure that they are removed within five years. Our view is that the section would not prevent the commission including in awards terms and conditions that are appropriate and are based on objectively ascertainable regional circumstances, based on the evidence of the parties that such a term or condition is necessary to ensure a fair minimum safety net.

It is appropriate, however, that new modern awards operating in a national system should not replicate state based differences from old awards that exist merely as a matter of historical circumstance. I note that the government has allowed for the commission to include transitional arrangements in modern awards to deal where necessary with issues such as these.

Senator SIEWERT (Western Australia) (7.46 pm)—I interpret what you said as meaning that the AIRC will have the discretion to deal with some of the regional differences beyond the transition period if they are genuine regional differences and not just historically based state differences.

Senator WONG (South Australia—Minister for Climate Change and Water) (7.47 pm)—I think the issue really arises from the way in which 576T is drafted. It refers to state or territory boundaries, and my advice is that, after the five-year period to which you have referred, we do not believe it precludes terms and conditions that are ap-
appropriate and based on objectively ascertainable regional circumstances.

Question negatived.

Senator MURRAY (Western Australia) (7.47 pm)—by leave—I move Democrats amendments (1), (3) and (7) on sheet 5457, revised, together:

(1) Schedule 3, page 108 (after line 7), after item 1, insert:

1A After paragraph 21(a)
Insert:

(aa) monitor pay equity;
(ab) hear individual complaints of pay inequity;
(ac) provide simplified proceedings for the conduct of matters arising under paragraph (ab) which comply with sections 108 and 109.

(3) Schedule 3, page 108 (after line 12), after item 2, insert:

2A Section 23
Repeal the section, substitute:

23 AFPC’s wage-setting parameters
(1) The objective of the AFPC in performing its wage-setting function is to ensure that a safety net of fair minimum wages and conditions of employment is established and maintained while promoting the economic prosperity of the people of Australia, having regard to the following:

(a) the need to provide fair minimum standards for employees in the context of living standards generally prevailing in the Australian community;
(b) the capacity of the unemployed and the low paid to obtain and remain in employment;
(c) economic factors, including levels of productivity and inflation, desirability of attaining a high level of employment, employment and competitiveness across the economy;
(d) relevant taxation and government transfer payments;
(e) the needs of the low paid.

(2) In performing its functions under this Part, the AFPC must have regard to the following:

(a) the need for any alterations to wage relativities between awards to be based on skill, responsibility and the conditions under which work is performed;
(b) the need to support training arrangements through appropriate trainee wage provisions;
(c) the need, using a case-by-case approach, to protect the competitive position of young people in the labour market, to promote youth employment, youth skills and community standards and to assist in reducing youth unemployment, through appropriate wage provisions, including where appropriate junior wage provisions, taking into account:

(i) the extent of labour market disadvantage faced by young workers; and
(ii) the work value of young workers at different ages; and
(iii) the promotion of skills development and training of young workers to reduce their labour market disadvantages; and
(iv) the desirability of minimising discrimination on the basis of age in wage rates only to the extent necessary to further these objectives; and
(v) the structural efficiency principle; and
(vi) that 18 years of age is considered an adult;
(d) the need to provide a supported wage system for people with disabilities;
(e) the need to apply the principle of equal pay for work of equal value;
(f) the need to prevent and eliminate discrimination because of, or for reasons including, race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin.

(3) For the purposes of paragraph (2)(f), trainee wage arrangements are not to be treated as constituting discrimination by reason of age if:

(a) they apply (whether directly or otherwise) the wage criteria set out in the award providing for the national training wage or wage criteria of that kind; or

(b) they contain different rates of pay for adult and non-adult employees participating in an apprenticeship, cadetship or other similar work-based training arrangement.

(7) Schedule 3, page 108 (after line 12), after item 2, insert:

2E After paragraph 150B(1)(h) Insert:

(ha) investigate, research and regularly publish pay equity outcomes for all ITEAs and collective agreements;

As one does in preparation for debates on substantive bills, you go back over the ground covered in previous substantive bills. I went back as far as Work Choices and, in looking at that, found it to be a bit depressing because, unlike this process where amendments are being dealt with as they should be—each on their merits—I recall that a lot of ours were rolled up under a guillotine. Some were not rolled up in the guillotine and they were very topical and covered issues of fairness. I did want to bring forward the amendments that were in many particular specific instances supported by the Labor Party in opposition, so hopefully they will now support them in government.

My amendments (1), (3) and (7) all cover issues of pay equity and inequity. Unless the chamber wishes, I do not intend to go through all of them in depth. Amendment (3) has a quite substantial change because, when we originally moved that amendment in 2005, we were very concerned that insufficient fairness imperatives were put upon the Australian Fair Pay Commission in its work, including in areas to do with young people, disadvantaged people and the promotion of skills development.

I doubt that senators’ memories would be exact enough but, having looked back at the debate, my memory is that the Labor Party supported this at the time. We can always go and look for the exact element. I am putting you on the spot deliberately—even if you do not want to deal with this right now because you are working on a transitional bill—in saying to the Labor Party in government that it is important that, as far as possible, fairness be wound into the directions and objectives of regulatory tribunal or commission bodies, such as the Australian Fair Pay Commission.

So essentially these are three fairness mechanisms. They have a history; they have been put before the chamber in past days. They are of course updated. For instance, amendment (7) refers to ITEAs, which certainly were not referred to in 2005. But, by and large, they are a regurgitation of previously held positions by the Australian Democrats.

Senator SIEWERT (Western Australia) (7.52 pm)—While the Greens do not object to these amendments and, obviously, issues dealing with pay—we had the earlier debate around awards and pay equity—the reason we chose to try to amend the bill in the way we did is that we thought it was an issue that
should be dealt with through the awards system as a structural issue. We thought that, while looking at individual cases is extremely important, it does not actually deal with the structural undervaluing of women’s work and the work that women are more traditionally involved in, such as child care etcetera. So, while we will be supporting these amendments, that is why we preferred to use the award system. We wanted to see if the government supported the award system to be used as a mechanism in order to ensure pay equity, because it is more of a structural issue than just an issue where individuals bring complaints about pay equity and being disadvantaged.

Senator WONG (South Australia—Minister for Climate Change and Water) (7.53 pm)—I want to make some comments in relation to the amendments moved by the Democrats. The first is in relation to the pay equity monitoring powers. I suppose I should start with a general proposition, and Senator Murray did in fact allude to this. We do take the view that this is a transition bill. The focus for the government is on delivering the transitional bill as per our implementation policy. We are not minded to change the powers of the Australian Fair Pay Commission, because our policy, as you know, is to establish a new entity, which is Fair Work Australia. A number of the comments that have been made by senators in this place are obviously matters the government will consider. We will also engage in substantive consultation with stakeholders about the powers and the scope of Fair Work Australia prior to the introduction and passage of the substantive bill. So that really is the context in which we consider your amendments, Senator Murray.

In relation to amendment (1), we have a view of a limited role for the AFPC during the two-year transition period in relation to a minimum wage-setting function only. One of the reasons for this is that we do not want that function to overlap with the award modernisation function. As I have previously discussed, the award modernisation request includes the requirement for the commission to promote pay equity principles, and that process will be open and include consultation with stakeholders so these issues can be raised with the AIRC and can be taken into account in the modern award-making function.

In relation to amendment (3), which revises quite substantively the AFPC’s wage setting-parameters, I again reiterate the position that I put at the outset: our view is that we are moving to a different system, one which involves a different body, and we perceive a limited role for the AFPC during this two-year transition period. We have made clear in our policy that Fair Work Australia will conduct annual wage reviews which will take effect on 1 July each year and that the FWA will publish updated pay rates before this date to provide certainty for employers and employees. Minimum wage-setting criteria for Fair Work Australia would be determined as part of the government’s substantive workplace relations reforms.

Finally, amendment (7) amends the list of the Workplace Authority’s functions to include a range of matters in relation to pay equity. The government’s position is that it is protecting the safety net for both women and men through our new no disadvantage test for workplace agreements. In addition, as I discussed earlier, in setting modern awards the commission is required to have regard to promoting pay equity in modern awards. From 2010, Fair Work Australia will replace the Workplace Authority and the AIRC. The functions, powers and matters to take into account for the operation of Fair Work Australia will be determined as part of our substantive workplace relations reform package.
Senator ABETZ (Tasmania) (7.57 pm)—
I have just a very quick question for the minister. Do I understand, from her comments, that there is an intention to abolish the Australian Fair Pay Commission or not?

Senator WONG (South Australia—Minister for Climate Change and Water) (7.58 pm)—The government’s position is as per our policy—that is, when the system is fully operational, which is intended to be by January 2010, then it would be envisaged that Fair Work Australia will take over the functions of the AFPC.

Question negatived.

Senator MURRAY (Western Australia) (7.58 pm)—by leave—I move Democrat amendments (2) and (4) on sheet 5457, revised, together:

(2) Schedule 3, page 108 (after line 7), after item 1, insert:
   1B Paragraph 22(1)(a)
   After “conduct”, insert “annual”.

(4) Schedule 3, page 108 (after line 12), after item 2, insert:
   2B Paragraph 24(1)(a)
   Before “the” insert, “subject to paragraph 22(1)(a),”.

Before I move to these amendments, I will make two remarks arising out of the brief, prior debate. One of the reasons we moved the fairly significant shift in amendment (3) was that the Fair Pay Commission is considering wage awards right now. Those will come into force—will be decided on—as I understand it, prior to the substantive bill, so we were trying to influence the considerations they must take into account. However, that is as it may.

The second point I want to make is with respect to the remarks of the shadow minister. I really think the issue of the future architecture, if you like, of our industrial relations system deserves far more debate and examination than it might have had to date. The Australian Democrats’ opinion is that it is very unwise to tie in a regulator and a commission as one body, which, as I understand it, is the Labor government’s policy. There are, of course, instances where that does occur. The ACCC, for instance, has a tribunal and a commission all under the same roof. But the Australian Democrats’ view is that you need something very clean and very simple to understand. We argue for a separate industrial relations commission which would absorb the functions of the state industrial relations commissions, the federal Employment Advocate and the Fair Pay Commission—either totally or you could create divisions within that.

With respect to the workplace regulator, we would see a single, national, strong, independent workplace regulator that would absorb the regulatory functions of the state departmental inspectorates and absorb the regulatory functions of the Australian Building and Construction Commissioner and other federal regulators. Again, we have no objection to those being in divisions. If it is decided that you have a specific division which is the Australian building and construction division, so it should be. But personally I think there are real dangers in the present path that the Labor government has set out on, with just one authority. I think you should consider splitting the tribunal, with its quasi-judicial function, from the regulator.

I raise these issues because I am not as convinced as many that the substantive bill that you are proposing to put up will have an easy passage. Although the coalition will not have a majority in the Senate, I am not so convinced that the Greens or Senator Fielding or Senator Xenophon will not have an independent view on these matters. These are matters of principle—for instance, whether you stick a regulator in with a tribunal or not.
So I thank the shadow minister for his interjection, because I wanted to make what I think are important policy points.

I return, after that brief digression, to items (2) and (4) on sheet 5457 revised. Item (2) in fact confirms the policy that the minister has expressed—namely, that Labor will move to an annual wage-setting system. I think that is for the good. This simply says that is to happen now. Item (4) is a consequential amendment.

Question negatived.

**Senator MURRAY** (Western Australia) (8.03 pm)—I move on to item (5) on sheet 5457 revised. That is a very simple amendment. I dislike the idea that minimum wages and those sorts of considerations should be done only with an eye towards the economy. I think when you are talking about safety nets and minimums, you have to pay attention to society and what is necessary in society. So I have simply repeated an amendment we put up in 2005, which asks that they take into account society as well as the economy. I move item (5) on sheet 5457:

(5) Schedule 3, page 108 (after line 12), after item 2, insert:

2C Paragraphs 103(1)(b) and 103(2)(b)

After “economy” (second occurring), insert “and society”.

**Senator WONG** (South Australia—Minister for Climate Change and Water) (8.04 pm)—In relation to item (5), this really is the same issue as the AFPC. The AIRC will be replaced by Fair Work Australia, and the functions, powers and matters to take into account for the operation of Fair Work Australia will be determined as part of the government’s substantive workplace relations reform.

Question negatived.

**Senator MURRAY** (Western Australia) (8.05 pm)—by leave—I move together items (6) and (8) on sheet 5457 revised:

(6) Schedule 3, page 108 (after line 12), after item 2, insert:

2D At the end of section 104

Add:

(2) In taking into account matters required by subsection (1), the Commission must conduct periodic gender pay audits and work value tests before setting the FMW.

(8) Schedule 3, page 108 (after line 12), after item 2, insert:

2F At the end of subsection 150B(2)

Add:

; and (c) the principle that men and women should receive equal remuneration for work of equal value.

We have had the debate about this issue previously, so I will not speak to the items.

Question negatived.

**Senator MURRAY** (Western Australia) (8.05 pm)—I move item (9) on sheet 5457 revised:

(9) Schedule 3, page 109 (after line 4), after item 7, insert:

7A After Subdivision A of Division 2 of Part 7

Insert:

Subdivision AA—Indexation of minimum wage

181A Indexation of minimum wage

(1) This Subdivision provides for the indexation of the minimum wage, in line with the Consumer Price Index, to start on commencement of this section.

(2) The indexation factor is to be worked out in accordance with section 1193 of the Social Security Act 1991.

(3) The rounding of indexed amounts is to be worked out in accordance with section 1194 of the Social Security Act 1991.
The chamber will note that this refers to the indexation of the minimum wage. It is the Australian Democrats’ view that an easy device for dealing with the minimum wage issue and keeping it current and up to date with the current value of money would be to index it. Like any economist, I recognise the dangers if inflation gallops away. You might get a bit concerned if you were indexing it in Zimbabwe, where right now I understand the indexation would be about 150,000 per cent, but I do not expect any such danger here. I rather like Treasurer Swan’s declaration that, in minimum wage discussions, attention needs to be paid to the tax welfare area as well and to how well people are doing with respect to government policy and cuts there.

I know that argument has previously attracted the coalition—that is, you cannot examine wage claims in isolation of tax and welfare changes which advantage lower income people. My attention was drawn to this many years ago, and I have remarked on it in this chamber before. It was first presented to me on this basis: if you give a minimum wage increase of say $17, in the hand of the recipient it might be as low as $8 and in the hand of the employer, because of on-costs, you might be talking about $23 or $24. That is not productive or efficient for either party — either the employee, who gets $8 out of $17, or the employer, who ends up with a cost of $23. It is important to pay attention to what is being offered in the tax and welfare area with respect to wage claims. Nevertheless, having said that, you do need to keep your minimum wage standard up to date and indexation would achieve that. I am well aware that the minister is going to knock this off. I certainly will not push it with a division or anything, but I really want to take the opportunity of this bill to put before you policy ideas which I would like you to consider when you come to the substantive bill. That is the purpose behind this.

**Senator WONG** (South Australia—Minister for Climate Change and Water) (8.08 pm)—I want to respond to Senator Murray. There is a substantive policy issue which is behind this amendment in relation to how you go about dealing with changes to the minimum wage. It is the government’s position that it is better for the minimum wage to be set in an open and transparent process. That is what is envisaged in the Forward with Fairness policy. Under that policy the AFPC will be replaced by Fair Work Australia, and Fair Work Australia will conduct any wage reviews which will take effect on 1 July each year. Fair Work Australia will also publish updated pay rates before this date to provide certainty for employers and employees. As I have previously indicated, the issue of minimum wage setting criteria will be determined as part of the government’s substantive workplace relations reform.

Question negatived.

**Senator MURRAY** (Western Australia) (8.09 pm)—Before I move the last of my amendments, I have just been given a sheet which is an answer to a question on notice I put to the government. I am both impressed and pleased that I got a rapid and substantial response to that question. The question really was whether there are employees who are not covered by the minimum wage. Through you, Madam Chair, I would ask the minister if she would table that document. If she has not got it before her, I can table the one I have and, therefore, it is available to the chamber as a whole. Or we could incorporate it if she thinks that is easier and, therefore, it is in Hansard.

**Senator WONG** (South Australia—Minister for Climate Change and Water) (8.10 pm)—We are happy for it to be tabled.

**Senator MURRAY** (Western Australia) (8.10 pm)—I seek leave to table the answer
to the question on notice provided by the minister regarding the minimum wage.

Leave granted.

Senator MURRAY (Western Australia) (8.11 pm)—I move Australian Democrats amendment (10) on sheet 5457:

(10) Schedule 3, page 113 (after line 20), after item 40, insert:

40B Subsection 337(4)

Repeal the subsection, substitute:

(4) The information statement mentioned in subsection (2) and paragraph (3)(a) must contain:

(a) information about the time at which and the manner in which the approval will be sought under section 340; and

(b) if the agreement is an ITEA—information about the effect of section 334 (which deals with bargaining agents); and

(c) if the agreement is an employee collective agreement—information about the effect of section 335 (which deals with bargaining agents); and

(d) must be appropriate, having regard to the person’s particular circumstances and needs, especially if the employee(s) whose employment will be covered by the agreement are women, persons from a non-English speaking background or young persons; and

(e) any other information that the Employment Advocate requires by notice published in the Gazette.

With respect to item (10), this refers to the information statement and seeks to ensure that information is provided in a manner which is better than the existing proposals. I believe it will improve genuine consent for vulnerable workers, unless the chamber needs more elucidation. I move the amendment on its merits.

Question negatived.

Senator WONG (South Australia—Minister for Climate Change and Water) (8.11 pm)—I move government amendment (36) on sheet PA412:

(36) Schedule 5, item 6, page 119 (line 18), omit “termination”, substitute “agreement”.

This is a minor amendment to correct a technical error in the sentence regarding parties to the termination; the word ‘agreement’ is inserted instead.

Question agreed to.

Senator SIEWERT (Western Australia) (8.12 pm)—by leave—I withdraw Australian Greens amendment (8) on sheet 5449, which moves to preserve state agreements, as a similar amendment has already been put by the government.

Senator WONG (South Australia—Minister for Climate Change and Water) (8.13 pm)—I move government amendment (37) on sheet PA412:

(37) Page 119 (after line 19), after Schedule 5, insert:

Schedule 5A—Transitional treatment of State employment agreements

Workplace Relations Act 1996

1 After clause 16 of Schedule 8

Insert:

16A Commission may extend or vary preserved collective State agreements

(1) The Commission may, on application by any person bound by a preserved collective State agreement, by order:

(a) extend the nominal expiry date of the agreement; or

(b) vary the terms of the agreement.

(2) However, before making the order, the Commission must be satisfied that:

(a) all parties bound by the agreement genuinely agree to the extension or variation; and
(b) none of the parties have, after the introduction day:
   (i) organised or engaged in, or threatened to organise or engage in, industrial action in relation to another party to the agreement; or
   (ii) applied for a protected action ballot under section 451 in relation to proposed industrial action; and

(c) in the case of a variation—the agreement as varied would not result, on balance, in a reduction in the overall terms and conditions of employment of the employees bound by the agreement under:
   (i) any relevant State award in relation to the employees; and
   (ii) any law of the Commonwealth, or of a State or Territory, that the Commission considers relevant.

(3) If the Commission extends the nominal expiry date of the agreement, the extended date cannot be more than 3 years after the date on which the order is made.

(4) The employees bound by the agreement are taken, for the purposes of paragraph (2)(a), genuinely to agree to the extension or variation if:
   (a) the employer gives all of the employees bound by the agreement at the time of making the extension or variation a reasonable opportunity genuinely to decide whether they agree to the extension or variation; and
   (b) either:
      (i) if the decision is made by a vote—a majority of those employees who cast a valid vote; or
      (ii) otherwise—a majority of those employees; genuinely decide that they agree to the extension or variation.

(5) To avoid doubt, the terms and conditions of employment under a relevant State award may, for the purposes of paragraph (2)(c), include terms and conditions that did not apply on the reform commencement, or that have been varied since the reform commencement.

(6) In this clause:

introduction day means the day on which the Bill that became the Workplace Relations Amendment (Transition to Forward with Fairness) Act 2008 was introduced into the House of Representatives.

relevant State award, in relation to an employee, means:

(a) if, immediately before the reform commencement, the employee was bound by, or a party to, the original collective agreement to which the preserved collective State agreement referred to in subsection (1) relates, under the terms of that agreement or a State or Territory industrial law as in force at that time—the State award that would have bound the employee at that time but for that agreement; or

(b) otherwise—the State award that would have bound, or but for the application of a State employment agreement would have bound, the employee at that time if the employee had been employed by the employer at that time.

2 After clause 21E of Schedule 8

Insert:

Division 5A—Coercion

3 After subclause 22(1) of Schedule 8

Insert:

(1A) A person must not:

(a) take or threaten to take any industrial action or other action; or

(b) refrain or threaten to refrain from taking any action;
with intent to coerce another person to agree, or not to agree, to the extension of the nominal expiry date of, or the variation of, a preserved collective State agreement under clause 16A.

Note: The heading to clause 22 of Schedule 8 is altered by adding at the end “etc.”.

4 Subclause 22(2) of Schedule 8
Omit “Subclause (1)”, substitute “This clause”.

5 Subclause 22(3) of Schedule 8
Omit “subclause (1)”, substitute “this clause”.

This amendment allows for the variation of preserved collective state agreements where all parties agree.

Question agreed to.

Senator SIEWERT (Western Australia) (8.13 pm)—by leave—I move Australian Greens amendments (1) to (5) on sheet 5453:

(1) Page 121 (after line 11), at the end of the bill, add:

Schedule 8—Repeal of provisions relating to prohibited content

Workplace Relations Act 1996

1 Section 321 (definition of prohibited content)
Repeal the definition.

2 Subdivision B of Division 7 of Part 8
Repeal the Subdivision.

3 Paragraph 367(2)(b)
Repeal the paragraph.

4 Section 436
Repeal the section.

5 Subsection 453(4)
Repeal the subsection.

6 Subsection 504(4)
Repeal the subsection.

(4) Schedule 1, item 15, page 42 (line 5), omit “(b),”.

(5) Schedule 1, item 46, page 50 (line 15), omit “Paragraphs 360(2)(b) and”, substitute “Paragraph”.

This relates to the issue of prohibited content. As I understand it, it is the government’s policy to remove restrictions on the content of agreements. Employers and employees should be free to negotiate the content of their agreements. Furthermore, the prohibited content rules are complicated and carry over into restrictions on industrial actions. Employees and employers also run the risk of breaching civil penalty provisions. We believe this is a straightforward amendment to delete prohibited content rules and, as it is government policy, we do not see why it does not do it now rather than wait until the substantive bill, because I can hear that coming down the track. We believe this would help protect workers from this point forward, rather than waiting another two years. This issue was specifically raised during the committee hearings.

We believe that it is more appropriate, as we move forward into the new industrial relations system—particularly with regard to those areas of the bill that remain that can impinge on the setting of the new system and the process of putting in place the ITEA system for the next two years—that we deal with that now rather than in the future when, I understand, it is government policy that this will be removed. I would be interested to know why the government are not moving this particular element of the Work Choices regime now rather than in the future. If they are not, is it in fact government policy that it will be removed in the substantive bill?
Senator WONG (South Australia—Minister for Climate Change and Water) (8.15 pm)—Senator Siewert anticipated what I was going to say. We set out in our Forward with Fairness policy implementation plan what the government intended to address in this bill, and we have done so. We have kept faith with those election commitments. We do have a policy to introduce a simple and balanced collective bargaining framework, and the government are currently consulting with a range of parties in relation to many issues relevant to the substantive legislation, including agreement making.

Senator SIEWERT (Western Australia) (8.16 pm)—I am seeking clarification. If areas in the new ITEAs or agreements extend into areas that perhaps are now under the prohibited content provisions, does that mean that workers will be fined if they ask for something that is in fact now government policy?

Senator WONG (South Australia—Minister for Climate Change and Water) (8.17 pm)—Obviously there are hypothetical situations which you might put to me, Senator Siewert, which I cannot comment on. If the question is ‘Will the current rules, in relation to which no amendment is moved and carried by this chamber, continue to apply?’ then the answer is yes.

Senator SIEWERT (Western Australia) (8.17 pm)—So we could potentially be in the situation where workers are fined for trying to address something that is included in the prohibited content provisions, when quite clearly it is government policy that this will be changed in the future?

Senator WONG (South Australia—Minister for Climate Change and Water) (8.17 pm)—I am not sure I can assist Senator Siewert any more on this point. I have stated that I am not going to respond to hypothetical scenarios. If the question is ‘Do those provisions continue?’ clearly, as a matter of law, they do. If amendments are not carried by the chamber and there are no amendments on these issues proposed by the government, then the provisions continue. I reiterate: this bill goes to those issues that we said it would in our implementation plan, in terms of the scope of the transition bill. These issues pertain to agreement making. The government will consult all relevant stakeholders and those issues will be addressed in the substantive legislation.

Senator MURRAY (Western Australia) (8.18 pm)—Through you, Madam Temporary Chair Moore, I would suggest to the minister that, if an unforeseen consequence is that individual workers end up in the unfortunate position of being fined in an area where the law is to change shortly, the government should consider act of grace payments—and I do not expect the minister to answer this right now—where there is merit in making such a payment.

Question negatived.

Senator SIEWERT (Western Australia) (8.19 pm)—I move Greens amendment (1)

1 Page 121 (after line 11), at the end of the bill, add:

Schedule 9—Repeal of certain provisions relating to unfair dismissal

Workplace Relations Act 1996

1 Section 578 (definition of operational reasons)

Repeal the definition.

2 Paragraph 581(2)(b)

Repeal the paragraph.

3 Subsection 643(1)

Omit “subsections (5), (6), (8) and (10)”, substitute “subsections (5) and (6)”.

4 Subsections 643(8) and (9)

Repeal the subsections.
5 Subsections 643(10) to (12)
Repeal the subsections.

6 At the end of paragraph 645(5)(b)
Omit “or”.

7 Paragraph 645(5)(c)
Repeal the paragraph.

8 Section 649
Repeal the section.

We have had a discussion about unfair dismissal—quite a substantive discussion—so I will not go back over old ground. I would like to point out, as I briefly indicated in the previous discussion, that these amendments also relate to operational reasons. We have seen a number of high-profile cases since Work Choices came in where operational reasons have been given broad meaning, which essentially through that process gave employers wide discretion to dismiss employees, even where there were, in fact, over 100 employees. Redundancy has always been an exemption under unfair dismissal legislation, but operational reasons, as we have seen, go much further than that. We also believe it is appropriate to get rid of the provisions that deal with operational reasons. We differ slightly on that issue. This amendment, we believe, goes beyond the previous amendments that we considered in the chamber not long ago.

Question negatived.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator WONG (South Australia—Minister for Climate Change and Water) (8.21 pm)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

NOTICES

Presentation

Senator Stott Despoja to move on the next day of sitting:

That the following matters be referred to the Economics Committee for inquiry and report by 23 June 2008:

(a) Australia’s capabilities in space science, industry and education;
(b) arguments for and against expanded Australian activity in space science, industry and education; and
(c) realistic policy options for any expansion of Australia’s space science, industry and education activity, particularly focused on areas of national need or existing world-class capability.

Senator Chapman to move on the next day of sitting:

That the following matter be referred to the Economics Committee for inquiry and report no later than October 2008:

The current state of Australia’s space science and industry sector, examining options to strengthen and expand Australia’s position in fields that strongly align with space science and industry, giving consideration to any national strategic coordination requirements and taking into account findings and policy options of the National Innovation System Review, with particular reference to:

(a) Australia’s capabilities in space science, industry and education, including:
   (i) existing Australian activity of world-class standard, and
   (ii) areas in which there is currently little or no activity but that are within the technical and intellectual capacity of the country;
(b) arguments for and against expanded Australian activity in space science and industry, including:
   (i) an assessment of the risks to Australia’s national interest of Australia’s depend-
ence on foreign-owned and operated satellites,

(ii) the potential benefits that could accrue to Australia through further development of our space capability,

(iii) economic, social, environmental, national security and other needs that are not being met or are in danger of not being met by Australia’s existing space resources or access to foreign resources,

(iv) impediments to strengthening and expanding space science and industry in Australia, including limiting factors relating to spatial information and global positioning systems, including but not limited to ground infrastructures, intergovernmental arrangements, legislative arrangements and government/industry coordination, and

(v) the goals of any strengthening and expansion of Australia’s space capability both in the private sector and across government; and

(c) realistic policy options that facilitate effective solutions to cross-sector technological and organisational challenges, opportunity capture and development imperatives that align with national need and in consideration of existing world-class capability.

Senator PARRY (Tasmania) (8.22 pm)—by leave—I give notice that, on the next day of sitting, I shall move:


INFRASTRUCTURE AUSTRALIA BILL 2008

Second Reading

Debate resumed.

Senator SCULLION (Northern Territory—Leader of the Nationals in the Senate) (8.23 pm)—I rise to speak to the Infrastructure Australia Bill 2008. Infrastructure Australia is the creation by the Rudd Labor government of a statutory authority within the Infrastructure, Transport, Regional Development and Local Government portfolio, with members drawn from industry and all levels of government. It will have functions that include auditing Australia’s national infrastructure and considering current and future infrastructure requirements. Allegedly, this new bureaucratic body is necessary to improve national infrastructure planning processes and to advise government and private stakeholders on infrastructure issues.

This body is created in the context of much noise and carry-on by Labor about inflationary pressures that have apparently been caused by demands on infrastructure as a consequence of the growing and healthy economy. Labor is complaining about the policy challenge of handling success—an economy that is booming and providing historically high levels of opportunity for young Australians to participate in the workforce. This economy is the result of competent economic management that occurred under the previous coalition government.

So be wary of Labor’s attempts to beat up their false claim that there was no national planning framework for infrastructure under the previous government. That is simply a falsehood. I need not remind the Labor Party that there is a thing called AusLink—that is right. AusLink was established by the former coalition government in 2004 and represents the most significant change since Federation in the way the Commonwealth tackles the national transport task. It is a comprehensive planning arrangement that covers road and rail and involves both the Commonwealth and the states. Under AusLink, both jurisdictions are now able to develop long-term strategies for major transport corridors, rating some of the projects according to merit and giving ample lead time to the private sector. There is also the Council of Austra-
lian Governments. In June 2005 COAG agreed that each state and territory should prepare an infrastructure report every five years. The first group of those reports, I understand, is in fact complete and on the minister’s desk. So there is a federal-state infrastructure planning arrangement called AusLink, and a federal-state overview mechanism of Australia’s infrastructure requirements has been completed under COAG. The planning process exists, and Infrastructure Australia runs the risk of being just another bureaucratic creation completing a task already being done.

The situation has again been misconstrued by Labor—I am very careful with my choice of words there. In relation to the assertion that the previous government did not take infrastructure seriously, we know that is not correct. Under the first AusLink program—that is, between 2004-05 and 2008-09—the coalition government provided $15.8 billion in funding for land transport infrastructure. Under AusLink 2 the Australian government will invest $22.3 billion in Australia’s land transport system—the largest investment in land transport infrastructure in the history of the Commonwealth. So I think we should dismiss the misleading assertions of Labor. The first of these assertions is that under the previous government no national infrastructure planning framework existed; of course, that is wrong. The second is that the former government did not take infrastructure challenges seriously; that is obviously false. The record funds provided by the former coalition government under AusLink demonstrate this to be the case.

I do note the irony when Labor makes such claims. For example, Labor decided to scrap the F3 to Braxton link road. I can recall comments made in parliament by the federal Minister for Infrastructure, Transport, Regional Development and Local Government that the critically important road to remove bottlenecks around Newcastle and the Hunter Valley simply did not add up. Look at the hypocrisy of the federal transport minister standing up in parliament and actually saying that an absolutely critically important bottleneck simply does not add up. Of course, we all find the statement somewhat astonishing given that the member for Hunter, Joel Fitzgibbon—now the Minister for Defence—had in fact promised before the election that a Rudd Labor government would absolutely match the coalition’s commitment of $780 million to complete the road. So we do have a bit of a mishmash of assertions, and I am quite sure the Australian people have the same challenges I do in actually working out where Labor stands on this. This broken promise is a devastating blow to the people of Hunter and, as I say, makes a mockery of Labor’s claims that it is determined to fix infrastructure bottlenecks as part of its anti-inflationary strategy.

The Rudd Labor government has also delayed funding of $65 million needed for critical rail maintenance in regional Australia. Recall the misleading statement made by the federal transport minister that pushing the funding back to 2009-10 related only to the inland rail proposal. Of course, that is, again, misleading. Treasury papers reveal that the $65 million was to be used by the Australian Rail Track Corporation for maintenance and upgrading of a number of existing rail lines which could contribute to a future inland rail corridor. So it is hardly accurate to say, ‘We’re just putting that off because it was to do with the inland corridor,’ when it was actually involved with the fundamentals of essential maintenance for our infrastructure. Rudd Labor has slashed funding for the rail lines, which were already operating and allowing farm and mine products to move up and down the eastern states.

Also there has been a failure by federal Labor to prod their Queensland counterparts
to complete the flood related improvements on the Bruce Highway in Far North Queensland. This is in spite of the fact that the Queensland government have had $368 million of Australian taxpayers’ money sitting in their bank account since 2005-06 for upgrades and flood immunity work on stretches of the highway between Cairns and Townsville. These works are not complete. I note that as you drive down there they say, ‘There’s a planning process in place and we’ve got to make sure that we don’t rush this.’ The money has been in the bank for the floods but we have had another set of floods since then. So I suppose there has been a bit of an efficiency dividend, but try telling that to the people of Queensland who put their lives on the line on those roads every day. If Labor is truly determined to remove infrastructure bottlenecks as part of their strategy of fighting inflation then I do not think they should be making these types of decisions—and the decision to not fix that infrastructure was a clear decision. I think it is always important to look at Labor’s deeds and not their words.

In terms of Infrastructure Australia, I have a number of questions. Labor is on the record as saying—and I refer to the member for Batman’s comments on 18 July last year at the Australian Rail Summit in Sydney—that federal Labor is absolutely committed to the retention of all AusLink programs. So Labor is committed to supporting the $15.8 billion in land transport infrastructure over the five years to 2008-09 under AusLink 1! I assume that means that they are also absolutely committed to the $22.3 billion worth of investment in Australia’s land transport system from 2009 to 2013-14 under AusLink 2. That is a fair sort of a commitment, and we will have to watch that space.

Given that so many funds are already committed to a broad range of infrastructure projects, what decisions of substance will Infrastructure Australia actually make? Will Labor provide more funds—in addition to the considerable funds that have already been committed to AusLink—for Infrastructure Australia to consider?

Also, the Council of Australian Governments agreed on 3 June 2005, as I have mentioned earlier, that each state and territory should prepare an infrastructure report every five years. The first reports were to be submitted to COAG on 31 January 2007. We know that these reports exist. Presumably they are on the member for Grayndler’s desk. These reports provide a broad outlook for each state and territory across a range of infrastructure sectors—from rail, roads, airports and seaports to energy and water. So the long-term cross-jurisdictional planning framework does exist. It was introduced by the last government and is a fundamental aspect of infrastructure planning in this country. Perhaps the reports from the Labor states were inadequate. We certainly had experience, when we were in government, of that circumstance.

Given the long-term planning that has already occurred under the COAG framework, the first task of Infrastructure Australia, announced with much fanfare by the Minister for Infrastructure, Transport, Regional Development and Local Government, was that there would be a national infrastructure audit. That is apparently a little less attractive than it seems. Let us just hope that this 12-month review is not an excuse by federal Labor and their state Labor counterparts to duck the hard decisions—a convenient excuse to delay the hard infrastructure decisions. These are tough decisions and those on this side of the chamber have a fine record of making grand infrastructure decisions—the largest infrastructure decisions made in history—on the back of a finely planned and finely tuned infrastructure framework.
I think it is important, when we are considering the function of Infrastructure Australia, to evaluate proposals for investment in a nationally significant infrastructure. We need to make sure this does not become another bureaucratic hurdle for the private sector to overcome when they are dealing with an already complex infrastructure approval process.

I also note that Infrastructure Australia is to develop infrastructure priority lists. Presumably, Infrastructure Australia will develop the criteria with which to rank projects. That is a fairly laudable process but it raises the question of what criteria Infrastructure Australia will employ. Will a cost-benefit analysis be used? Will Infrastructure Australia consider rates of returns? Are not these functions best provided for in the private sector, which is responsible for proposing these sorts of projects in the first place? That is where those of us on this side of the chamber believe that those responsibilities should naturally lie—in the private sector.

The relationship between Infrastructure Australia, regulatory bodies—such as the Australian Energy Regulator and the Australian Energy Market Commission—and state bodies is still unclear. Nor in fact is there a clear relationship between Infrastructure Australia and other Commonwealth agencies such as Treasury, which play a role in developing policy that affects infrastructure. It seems that there is a large potential for duplication and overlap.

I note that the bill, as it is currently drafted, stipulates that Infrastructure Australia may only evaluate infrastructure proposals on the advice of the minister. It is unable to independently consider, for example, ALP infrastructure election promises. Well, there is a set of blinkers for you! I think that it is a fairly restrictive component of this draft legislation that it significantly constrains the capacity of Infrastructure Australia to engage in infrastructure reviews of its own volition. I think it is a pretty serious lamming of any particular organisation if it does not have a free capacity to examine infrastructure and report to the Australian people in the Australian parliament about matters and priorities associated with infrastructure.

I note that the bill, as it is currently drafted, leaves aside a number of those technical issues. I will come to some amendments on that when we deal with the bill in committee. Whilst welcoming independent analysis of the rigour and appropriateness of Labor’s election promises, we are very disappointed that Infrastructure Australia will not be able to do this. I have to say that this really begs the question of how fair dinkum Labor is about this. They say: ‘Let’s have a body that looks at all the infrastructure needs across Australia and does all those things including setting priorities and ranking priorities. But, sorry, the fine print says that you are not allowed to look at anything on your own volition, particularly the infrastructure promises made by Labor before the election!’ I am not sure why that would be the case but those more cynical than I am would perhaps have suspicions that Labor is actually trying to avoid scrutiny.

I also understand—and I touched on it earlier—that the minister can also give directions to Infrastructure Australia without any reference to parliament and appoint an infrastructure coordinator without taking advice from Infrastructure Australia. In the interests of transparency—and how often we use that word—directions by the minister to Infrastructure Australia should be tabled in each house rather than just being buried, as currently proposed, in the annual report of Infrastructure Australia that we can check out at the end of the year.
I also think that the minister, when making such a significant appointment as the infrastructure coordinator, just on the basis of manners should at least be compelled, at the very least, to consult with the chair and members of Infrastructure Australia. This spares Labor the temptation of using Infrastructure Australia as a vehicle for handing out jobs to its mates. I am not a cynical individual, but we have seen this recently occur with the appointment of Steve Bracks to head a review of the Australian car industry. Accordingly, the coalition will be moving a couple of technical amendments that will rectify these clear weaknesses about temptation in the bill. I would hate to see Labor tempted to provide jobs for the boys.

In conclusion, while the opposition will not be opposing the establishment of Infrastructure Australia, we do wish however to place on the record a firm rebuttal of the re-writing of history currently engaged in by Labor regarding the former government’s commitment to meeting Australia’s infrastructure needs. I would have to point out that robust long-term planning frameworks are in place and we question, therefore, whether Infrastructure Australia may become just another bureaucratic creation that makes the rollout of national infrastructure harder, not easier.

We question whether it will really have much to do, given that funds and projects are already committed under AusLink—record infrastructure, record planning and record funding in the history of the Commonwealth. We would have reservations about its limited capacity to undertake infrastructure reviews of its own volition given the fact that you cannot have a unique thought; you have to wait until the minister provides some direction in these matters. We would also say that the ministerial directions to Infrastructure Australia should be subject to the scrutiny of both sides of parliament instead of waiting for the annual report to come out.

Senator STERLE (Western Australia) (8.39 pm)—I am very pleased to rise today as a member of the great nation-building Labor government to speak in support of the Infrastructure Australia Bill 2008. The bill will establish Infrastructure Australia as the key advisory body for investment and planning in infrastructure. The bill will establish the body that will revolutionise the way infrastructure is addressed in this country. Infrastructure Australia will be charged with the development of a strategic blueprint for our nation’s infrastructure needs. It will establish a mechanism for ongoing and cooperative infrastructure dialogue between the Commonwealth, states and industry. Infrastructure Australia will identify and coordinate key infrastructure projects which are of high national importance.

The Rudd Labor government has recognised that a national strategic plan for infrastructure is well and truly needed in this country. Notably, for the first time since Federation, Australia now has an infrastructure minister. There will be a coordinated approach to infrastructure investment, and there will be cooperation between every Australian government as well as the private sector. For the first time in over a decade, the Australian people can expect a national plan for tackling infrastructure bottlenecks. Infrastructure Australia will create the networks to enhance future economic performance and raise national productivity.

The establishment of Infrastructure Australia is more evidence of the Rudd Labor government fulfilling its election commitments. At last there is a Prime Minister and a political party in Canberra that cares about the nation’s essential infrastructure and is committed to a constructive relationship between the Commonwealth and state and ter-
ritory governments. Industry groups have been forced to accept the excuses of the former government in its negligence in addressing Australia’s infrastructure needs. Failure to address the infrastructure challenges facing our nation will threaten our economic strength and prosperity. It will endanger our industries and affect our quality of life.

Infrastructure Australia is about putting the prosperity of the whole nation on the agenda and not just sectional interests. In this regard it is relevant that my home state of Western Australia accounts for 36 per cent of Australia’s export earnings, which in large part are generated by the state’s mining and agricultural sectors. The Western Australian Premier, Mr Alan Carpenter, has noted that the last federal budget only allocated $317 per person nationally for infrastructure spending. In comparison, the WA state government allocated $2,154 per person for infrastructure spending in their last budget.

Madam Acting Deputy President Moore, you can see the problem. The Howard government set the scene for a massive crunch in WA’s capacity to continue to be the engine room of Australia’s economic growth. Without the funds to provide essential public infrastructure and services to underpin private investment, growth of the production capacity of the state’s mining sector, and therefore of economic development, will inevitably be slower. Furthermore, we have the ludicrous situation where WA is projected to receive only 10.3 per cent of AusLink National Network funding despite its 22 per cent share of roads in the network.

Let me move on to raise the issue of WA’s Kimberley region as further illustration of essential need for a body such as Infrastructure Australia. This sparsely populated and underdeveloped region of WA is poised on the brink of massive economic development in respect of energy, minerals and agricul-

tural production. The region has an export earnings potential that could rival the Pilbara. However, to make things happen it will require large private and public investment in necessary infrastructure on a scale that will only be achieved by the Commonwealth and state governments working together alongside the private sector.

We are already experiencing difficulties in keeping up with the need to expand and improve port, road, education, hospital and housing infrastructure in the region. As I mentioned earlier, for the last decade, the federal government has made a very marginal contribution to infrastructure in Western Australia, despite receiving record revenue from the resources boom in WA. Even Mr Barry Haase, the member for Kalgoorlie, admitted there was nothing for Kalgoorlie in the final federal Howard budget.

I would also like to make comment at this time on some of the disappointing and ill-informed remarks by the member for Kalgoorlie when he spoke on this bill. In his speech in the other place on 12 March 2008, he said:

I put to you that they—

being Labor—

are simply going to re-badge AusLink 1 and 2 ... He then went on to say that Labor ‘has been left a very solid heritage’ and that we should give credit where ‘credit is due’. I do not believe the government or the people of Australia will have any problems in giving credit where credit is due for the current state of infrastructure in Australia. The member for Kalgoorlie should also be aware that Infrastructure Australia is not a re-badging of AusLink. Infrastructure Australia is in fact part of a comprehensive strategy by this government to move on from the disastrous Howard years in infrastructure.

Considering that a majority of Western Australia’s mining boom occurs within his
own electorate, Mr Haase may want to consider that, whilst he was in government, unfortuneately he wasted time and opportunity by not obtaining infrastructure projects for his electorate. The member for Kalgoorlie also stated:

Is this new government seriously condemning the state Labor government transport ministers?

Through you, Madam Acting Deputy President: no, Mr Haase, we are clearly condemning the former federal government, who did not show leadership and did not plan for the future. Perhaps if the member for Kalgoorlie had been a National instead of a Liberal, he could have at least gotten infrastructure funding for the odd cheese factory in his electorate as part of the ‘regional rorts’ program. Mr Haase concludes with an interesting statement:

I wonder how the facade has been maintained for even this long.

The Howard facade on infrastructure investment and planning in this country did not last. With little or no infrastructure funding in WA to maintain the mining boom, Mr Howard was killing the nation’s golden goose and hurting those communities. The Rudd Labor government will address the void left by the Howard government in national infrastructure. By coordinating our approach to infrastructure investment, we will make sure that funding flows to the right projects and towards the right outcomes for this nation.

Senator Nash—A dead tree!

Senator STERLE—I am sure you are awake over there, but it did take you about five minutes to wake up, Senator Nash. Welcome back! I say that through you, Madam Acting Deputy President. As a former truck driver, let me tell you something about what happens when infrastructure bottlenecks prevent investment—

Senator Ronaldson—with the TWU.

Senator STERLE—Yes, proudly—especially in road networks and transport, Senator Ronaldson. It is an area of which I have had intimate knowledge over the past decade, unlike other senators in this chamber. I know what happens when there are not adequate road networks to carry freight. Without quality road infrastructure and road transport networks, trucks cannot deliver the nation’s essential goods. Without roads, how are you going to transport across state lines to mine sites and across the nation?

Senator Scullion interjecting—

Senator STERLE—Maybe, Senator Scullion, by osmosis! Maybe we can ‘will’ the freight across the Nullarbor—maybe that might work! How did the Howard government think goods would be transported? How will we service the towns and mining sites that need these resources to harvest other precious resources? It must be by trucks and it must be by road. You will not see an ocean liner sailing up the Great Northern Highway, I am sure of that. Senator Nash, for your benefit: I certainly cannot see carrier pigeons carting the freight across New South Wales. The transport must be done on bitumen.

At last we have a federal government that is able to conduct meaningful dialogue with all levels of government and has the support and involvement of all sectors of the economy, public and private. Let us seize this opportunity and rectify the problems of the past 10 years. This bill will establish Infrastructure Australia as the body that will revolutionise the way infrastructure is addressed in this country. I commend the bill to the Senate.

Senator MILNE (Tasmania) (8.48 pm)—I rise tonight to comment on the Infrastructure Australia Bill 2008. I think it is a good idea that a nation should begin to predict and anticipate its infrastructure needs and de-
mands and set out a strategic blueprint. Why I am disappointed, though, is that this whole bill is couched as if climate change and oil depletion are not real. I do acknowledge that in the second reading speech on the bill there is one mention of climate change and that in the legislation itself as proposed there is reference to climate change, but it is not one of the primary functions of Infrastructure Australia. What concerns me is that we have legislation here which is effectively a megaphone for the roads lobby. That is really the only way that you can look at what we are talking about this evening.

What we already know is that our cities are choked and that urban congestion is a huge problem. However, the solution is proposed in terms of more freeways, more flyovers, more city tunnels and so on. Where is the recognition that oil is already above $100 a barrel? Where is the recognition that, in fact, it has been $110 a barrel and it has come back marginally? The Australian Bureau of Agriculture and Resource Economics foolishly cling to the notion that oil is going to come back to $45 a barrel; I do not know of anybody else around the world who is of that view but they clearly are, and they are clearly advising government that it will not be a problem into the future. There is recognition in the government that it is an issue of the current account that Australia is increasingly lacking self-sufficiency in oil, yet there is no recognition in this legislation that, in planning the future, we should take it into account. In the strategic planning exercise, which is meant to look at the anticipation of infrastructure needs and demands, there is no anticipation that Australia will lose its self-sufficiency in oil.

There is a lot of talk about housing affordability; there is a lot of talk about equity; there is a lot of talk about energy poverty. But the reality is that the poorest people live the furthest out from the centre of the city, and they are most dependent on inefficient vehicles and have the least access to public transport. When fuel prices rise, those people do not have the discretionary income to be able to meet the fuel price rises, so they seek reductions in price. Whilst you might be able to do that with all manner of subsidies in the short term, the reality is that in the long term it is not effective.

What we have to be doing is looking at urban planning in the future which sees itself as central to a low-carbon economy—and that means a major investment in public transport and a major investment in mass transit not a major investment in more infrastructure in terms of freeways and more and more highways. It is very clear that we need to be upgrading the nation’s rail system—that we do need to get greater efficiency in those nodal points where rail meets road. Everybody understands that, and that is why I welcome the notion that we are moving to a strategic planning exercise. But I am concerned about the way this is being developed and the way this is being advocated for public consumption—it is those major private sector infrastructure organisations which are actually driving this; and the way it is going to be set up is to facilitate those people.

Already we have heard talk about the war on inflation, the need to invest in infrastructure and the infrastructure gap. But, if you have a look at who is out there telling us that there is this infrastructure gap, you see that it is Infrastructure Partnerships Australia. This is a consortium of major construction firms and banks led by former Kennett government minister Mark Birrell and endorsed by state premiers John Brumby and Morris Iemma. It has claimed that there is a $90 billion infrastructure gap and has published a state-by-state list of projects that it considers should be constructed. If they were to be constructed, the people who would construct
them would be the very people putting forward the notion. What a surprise!

My concern here is that we have a recycling exercise going on where former state government ministers and premiers leave office, find their way to Macquarie Bank and other major infrastructure providers—particularly those keen on public-private partnerships—reintroduce the wish list they had as state transport ministers and state premiers through this mechanism and then get it recycled through AusLink. You only have to look at what happened at the last federal election: both the coalition and the Labor Party went around state by state promising road projects, overwhelmingly road projects, which were cherry-picked from the lists brought forward by state governments through the AusLink program. Nobody went back and actually had a look at those projects and said: ‘Was there a socioeconomic analysis of the need for the project? Was there a look at an alternative? Did anybody say there was an alternative to the latest flyway bypass? Was it possible that we could have a mass transit lane instead of yet another road project?’ The alternatives were not considered. The way that these projects were selected and prioritised was not considered. Even the economic viability of the projects was not looked at. Essentially both the coalition and the Labor Party got the AusLink priority lists for each state, cherry-picked what they thought they wanted to promise from those lists and then promised that in the federal election context.

My concern with this body is that what we are seeing now is a formalisation of that process without the required level of public scrutiny and without the context of climate change and oil depletion. I make the point on climate change because when you look at the list of functions you see that the primary functions is taking account of climate change. That should be the absolute primary function if you are serious about a whole-of-government approach to reducing emissions; if you are serious about moving on from oil dependency and looking at the ways of moving people around that provide for a healthy environment and that actually provide for human health in terms of addressing the obesity crisis that we have. You need to actually encourage people to walk, encourage people to cycle and encourage people to take public transport. That gives you a healthier population and better air quality, and you get people moving around cities faster. It is much more cost efficient than putting more and more people in cars on more and more freeways. You build a new bridge or freeway and then there is a bottleneck, so you build a tunnel—then you build another interconnecting tunnel and on and on it goes.

Let us look at some examples from around the world. Mayor Ken Livingstone in London recognised that congestion was a major issue, so he introduced the congestion tax. He hypothecated the money to the provision of public transport. Now London is exemplary. You can stand in Piccadilly Circus in the centre of the city and you have hardly any private vehicles—you have the London taxis, the red buses and the occasional luxury vehicle. The improvement in air quality is terrific. The actual amenity in moving around London is better than it has ever been. Now he has introduced a further levy in terms of the congestion tax in order to discourage large vehicles that are fuel inefficient. That is the kind of move that you are seeing overseas when they look at strategic planning for the future. It is the same in the European Union. They now have very strict directives on vehicle fuel efficiency and on public transport. You are now seeing companies setting standards for their workforce to reduce dependence on the private vehicle.
Yet here we still have no movement to get rid of the fringe tax benefit for private motor vehicle use. There is no indication from the government that they are about to move on that—which of itself would be an excellent reform because it would actually stop encouraging people to engage in greater car use and encourage them to look at something different.

In the past you had public scrutiny of large infrastructure projects. You had the development of policy proposals and alternatives. You had the cost-benefit analysis. You had planning acts to assess the net community benefit of any infrastructure project. You had the assessment of environmental effects. You had parliamentary committee scrutiny, you had a public consultation process, you had a Treasury assessment and then you went through the cabinet approval process. Now what we have is project lists generated by private firms and consortia. It is a closed government-consortium collaboration, and we have seen what has happened with that in New South Wales in particular and also in Victoria. The traditional merit assessment is nearly invisible, if it occurs at all. Most public environmental assessment is in retreat.

This climate of dwindling public scrutiny has allowed state road construction agencies to produce extensive lists of urban and rural freeway proposals which are given standing, as I said, in their inclusion in the AusLink funding programs, and we are now into the next projected period. The construction of urban freeways has been recognised as one of the major factors behind the rapid growth of car use in Australian cities since the 1970s, and yet we are set to do it all over again. We know that emissions from transport are the second-largest source of greenhouse pollution after energy generation. The Australian Greenhouse Office predicts that transport emissions will grow by 60 per cent on 1990 levels by 2020.

As the imperatives for action on climate change intensify, it is vital that there be stringent and transparent processes for the evaluation and public scrutiny of infrastructure projects that may be given Commonwealth support. It is essential that the membership of the Infrastructure Australia Advisory Council include expertise in assessing the impacts of major transport infrastructure projects in relation to the likely impact, positive or negative, on greenhouse gas emissions, on maintaining economic and social resilience in the face of rapidly increasing oil prices and peak oil, and containment of the physical footprint of transport infrastructure in the urban environment. There is nothing in setting up this particular body, Infrastructure Australia, that suggests to me that any of that public scrutiny, public interest alternatives and proper scrutiny of the economics is actually going to happen. There is a huge potential for conflict of interest, as is recognised in the bill. There are provisions that require disclosure. But once we have these public-private consortia getting together where they have a clear interest in building more infrastructure regardless of whether it is the best infrastructure opportunity in a carbon constrained world then we have got problems.

I will be moving a series of amendments when we move into the committee stage and I foreshadow those now. One will be to make consideration of greenhouse gas emissions and oil consumption implications of any development a primary function—not just an additional function but a primary function. There should be ministerial direction for this to be by legislative instrument and also there should be reference of the advice of Infrastructure Australia to the Joint Standing Committee on Public Works, so we actually get back to parliamentary scrutiny of what is being proposed in the public interest using public funds. Surely the people need the opportunity to actually test this, to make sure
that the vested interests have not become so close to government that the best interests of the community are not taken into account. That is something that I think is absolutely critical to how we move forward on that. I will certainly be moving that amendment in the committee stage.

When I talk about parliamentary scrutiny and independent environmental and social impact assessment of the projects, we have to have an opportunity for alternative approaches, different groups and different financial or ownership structures than those that might be proposed by Infrastructure Australia. The community have to be given the chance to have their say and have the integrity of the appraisal process open for consideration. We have to have more than a rubber stamp, and what is being proposed is a rubber stamp. What we are going to see is no capacity for the parliament to actually refuse any of these projects. So you are going to have this nice little set-up between those with a vested interest in promoting and building new roads around Australia predominantly working with a few people in government and the minister rubber-stamping it without parliamentary scrutiny. I think that an effective parliamentary committee review of each major infrastructure project valued above $50 million should be mandatory. That is what I will be moving as an amendment. I think there should be reciprocal arrangements between the Commonwealth and the states so that if a project undergoes parliamentary scrutiny at one level of government there can be a joint assessment process so that it does not have to go through a double assessment. Nevertheless, where we are using public funds for major projects there needs to be parliamentary scrutiny.

The same goes for environmental and social impacts. I have said already that we have got the government talking about freeing up land around Melbourne to build cheap housing, without a commitment to make sure that that housing is energy efficient and without a commitment that that housing will be serviced by public transport. So all you are doing when you promote that kind of infrastructure development is condemning people who live in those properties to energy poverty into the future, because they are the people who will be least able to afford the increased energy bills that will come from the carbon price and they are the people who are least able to keep running their inefficient vehicles and will have no choices in terms of public transport. So I see a major flaw in this legislation. Yes, it is a good idea to have a strategic plan for Australia’s infrastructure; but it is not a good idea that the need for infrastructure or the infrastructure gap is allowed to be identified by the very people who have a vested interest in filling that gap and then that those people are actually on the board here with a view to promoting road projects. That is essentially what will occur.

There is talk in the second reading speech about water infrastructure and talk about energy infrastructure. For that you can read improvements to the shipping capacity and the port capacity to move more coal out of the Hunter Valley. Where does that take us in terms of strategic planning for Australia’s future? I would argue that if you see this country as an information and knowledge based economy, you would be using your Infrastructure Australia to start building and investing in the infrastructure that would deliver a knowledge based economy. I see the current proposal as saying we need more infrastructure to maintain our position as a resource based economy, to see if we can dig things up faster, cut things down faster and move them faster by road to the ports and get them on the ships to China to generate more emissions as quickly as possible whilst say-
ing we are taking climate change into account.

I cannot see how Infrastructure Australia is taking climate change into account when there is no requirement to look at the greenhouse gas emissions of every infrastructure project that is being recommended, no requirement to look at alternatives and no requirement to look at oil usage and long-term capacity for Australia to meet its transport needs. What we are clearly lining up for here is more road infrastructure to be supported by coal to liquids.

We have had the minister, Martin Ferguson, saying recently that we need a major investment in coal to liquids. South Africa ran its transport fleet on liquefied coal. The Nazis did it in Germany during the war. The technology is well and truly known. But the greenhouse gas ramifications are also known, and the low emissions centre has said very clearly that the emissions from the tailpipe from coal to liquids are the same as conventional oil even if you succeed with 100 per cent carbon capture and storage.

My view is that it is a good idea to have strategic planning on infrastructure, but I am concerned that this does not go to the heart of it, which is a real strategic plan in the public interest. This looks like a strategic plan for those with vested interests who want to build more road infrastructure across Australia to the detriment of the national interest in the context of the transition to a low carbon economy. That is the context in which I will be moving amendments in the committee stages.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (9.08 pm)—The introduction by the government of the Infrastructure Australia Bill 2008 marked a significant shift in the role of the Commonwealth government in the planning and coordination of infrastructure investment and planning in Australia. I have listened carefully to the various contributions made during the debate on the second reading, and I want to thank all those who have contributed, though I am sure Senator Ronaldson was not one of them.

I understand that the opposition will not be opposing the establishment of Infrastructure Australia. The coalition’s lack of understanding of the infrastructure challenges faced by Australia today is clear. Most of this debate has been spent blaming the states for the nation’s infrastructure problems or trying to mount an argument that says infrastructure is limited to AusLink alone. We know that for 11½ years priority was never given to infrastructure by the Howard-Costello government. There was no federal infrastructure minister and no leadership. It was easier to blame the states than to get on with the job. Only during the election campaign did those opposite discover infrastructure.

Senator Nash interjecting—

Senator CONROY—To be fair, I know that you, Senator Nash, did discover infrastructure. That now famous Page report recommended fibre to the home, in some cases, and fibre to the node. I know that you understood how important infrastructure was, but your colleagues, as you know—because they spurned you; they turned their backs on you—did not get it. You did, but they did not. I have always given you credit for that, Senator Nash.

The ACTING DEPUTY PRESIDENT (Senator Barnett)—Order! Senator Conroy, your remarks can be put through the chair.

Senator CONROY—I accept your admonishment, Mr Acting Deputy President. In May 2007 the former government established AusLink II, with a budget of $17 billion. Yet, in the election campaign, they promised projects worth at least $20 billion. That is right: they set up a program for
$17 billion and then they spent $20 billion. It does not add up to me either, Mr Acting Deputy President. I know you are looking puzzled because that maths just does not add up. Maybe there was an extra contribution for Tasmania tossed in there for good measure that you know about but we do not.

It is easy to spend when you are using someone else’s money, and even easier when you have nothing to lose. The real question is: why, in 11½ years, had these projects not already been built? And why did the previous government categorically exclude water, energy and communication infrastructure from the national agenda? How can one claim to be a good economic manager and then ignore nationally significant infrastructure that pays back in spades when strategic investments are made?

Infrastructure is a significant component of the Australian economy. In 2006-07, the ABS engineering construction survey indicated the value of engineering construction work performed in the major infrastructure sectors was approximately $33.6 billion, or 3.5 per cent of GDP. This is not an area that governments can ignore. We know that under the coalition the definition of infrastructure simply did not stretch as far as water, energy and—Senator Nash—communications. Aus-Link II excluded communications. How could you let that happen?

If a project did not fit within an electoral boundary, it had no place at the coalition policy table. If there was no immediate gain within a three-year electoral cycle, it had no place on the coalition policy table. If a project was planned in an urban area, it had no place on the coalition policy table. If it was an idea of the member for Higgins, it definitely had no place on the coalition policy table. And—to defend Senator Nash for that famous Page report—if it was from the National Party, from Senator Nash, on communications, it had no place on the coalition policy table.

The infrastructure debate has evolved over the last 15 years, and experts from both the private and public sectors have demanded the kinds of institutional arrangements that Infrastructure Australia will provide. So many people were singing the same tune, but the coalition had stopped listening. After 11½ years—11½ years—the coalition did not know the state of the nation’s economic infrastructure assets. If a government does not know what assets exist and where the priorities lie, how can it plan future investments or establish sound policy framework?

On 24 November 2007, the Australian people ceased giving the coalition permission to do nothing. They said no to the blame game, no to the rorting, no to a disjointed approach to infrastructure and no to a future that seemed to include only their Liberal and National Party mates. The message was loud and clear, so I am dismayed when I continue to hear resistance to important, fair and future-looking government reforms such as the creation of Infrastructure Australia and Skills Australia—immediate reforms to combat climate change and urgent action to restore fairness in the workplace.

The Rudd Labor government is firmly focused on the future. We have heard the 20 warnings from the RBA about unsustainable inflationary pressure being placed on the economy and we have felt the back-to-back interest rate rises. We know that infrastructure shortfalls are costing us 0.8 per cent of GDP and that our infrastructure backlog is conservatively estimated to be worth $25 billion. We know that working families are experiencing long-term water restrictions, slow internet speeds and are spending too much time stuck in traffic rather than being at home with their children. The opposition is correct—it is pertinent—infrastructure
investment today will take more than three years to result in new transport, water and energy solutions. But that is no reason never to commence. In fact, the government thinks Australians have waited far too long.

We have already commenced implementation of our nation-building election commitments. Just last week I announced a panel of experts to assess proposals to build a new national, high-speed fibre broadband network. We have known these projects to be priorities for years, but the nation simply lacked the political leadership needed to action them. They have become too urgent, so we are getting on with the job. But there is much more to do. Infrastructure Australia will prioritise infrastructure according to need and future forecasts and match those priorities to available investment dollars. Infrastructure Australia will look at the nation’s infrastructure networks in a coordinated way so that we can face future challenges with confidence. It will also look at how we can use our existing infrastructure more efficiently.

Boosting the productive capacity of the nation does not always require big spending and decades to get results. It requires leadership and a government prepared to search for solutions, not search for the next person to blame. To ignore infrastructure, as the coalition did for over 11½ years, is to ignore one of the best ways to boost the productive capacity of the nation. To underinvest in infrastructure is to give up the fight against inflation and say to the Australian people, ‘It is just too hard; fend for yourselves.’ The Labor government is focused on the future and on supporting working Australians. On infrastructure, skills and climate change, the Rudd Labor government is pursuing an agenda that will last well beyond the three-year cycle. Infrastructure Australia will drive investment where it is needed most.

Question agreed to.
Bill read a second time.

Ordered that consideration of this bill in Committee of the Whole be made an order of the day for the next day of sitting.

ADJOURNMENT

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (9.18 pm)—I move:

That the Senate do now adjourn.

Skilled Migration

Senator PARRY (Tasmania) (9.18 pm)—I rise to seek an apology from the Labor Party tonight, and I am sure it will be forthcoming, especially with Senator Conroy in the chamber! The Labor Party attacked our party over section 457 visas for many, many months indicating that we were bringing skilled labour into this country as cheap labour. ‘Cheap labour’ was the catchcry of the Labor Party. Today it has been reported in the media and in the media release of the shadow minister for immigration, Senator Chris Ellison, exactly what the situation has been. He said that the union bosses scare campaign has been exposed as a total fraud.

Senator Conroy—Why didn’t you ask the man a question about it today?

Senator PARRY—We did not ask any questions about this today because we knew that this would be a good matter to raise this evening in the adjournment debate. We have left the quality until the end of the day. That is why we are raising this now.

The facts have now come home to roost. The Labor Party now has to retract its comments—its attack on us—over that long period of time over section 457 visas. We brought people into this country for what purpose? To assist with the skills shortage in Australia. And what was the allegation? It was that they were being paid less than the average worker. And what has happened
now? The 2006-07 figures now prove that the skilled immigrants who came to this country were being paid more. They were not removing jobs from Australians. They were filling jobs that Australia could not fill and we have paid them more money. We have said that for a long period of time.

That is why we are seeking an apology from the Labor Party. They need to say ‘sorry’ to us for their having misrepresented the truth. We sat through this day in and day out. The Labor Party even raised a matter of public importance on this in 2006.

Senator Conroy—2006?

Senator PARRY—Absolutely! I participated in that debate. You raised it in 2006; that is how far back the fraudulent misrepresentation of what we were doing goes.

Now, 18 months later, we can stand up and say that the average 457 visa holder was paid not $50,000, not $60,000, but $71,600. That was the average wage. And the Labor Party then alleged that this was only in select vocations. But let me quote some of the figures. In the mining sector, the average income was $95,200. We agree that it is a unique industry, but let me put that to one side and go through the average earnings of visa holders employed in some other industries. In the accommodation, cafes and restaurants sector—we were told it was a terrible area because we were bringing in cheap labour—the average 457 visa holder earned $45,000, which was $3,000 above the average wage for the sector. So that is another myth that we have exposed today that the Labor Party should apologise for.

Then, in the construction sector, and what a union stronghold is the construction sector, the average visa holders earned—have a guess how much, Senator Conroy—$19,551 more than the average in 2006-07. That is 37 per cent higher, and the cry from the Labor Party was, ‘We are bringing in cheap labour.’

What a load of rubbish by the Labor Party. We sat through that. We put up with it for 18 months and finally we have been vindicated in our position.

Then we go on to the finance and insurance sector, where section 457 visa holders earned $20,000 more than the average, with salaries of up to $90,400 compared with an industry average of $70,000. This goes on and on and on. In the health and community services skilled area, overseas workers are commanding almost $12,000 more. This is very embarrassing for the Labor Party, because this was their strong point on which they attacked us, and this has all come home to prove that they were wrong, they were fraudulent and they have misrepresented us for a long period of time. It is great for us to come back at you today and be able to correct the record with facts and figures which we always promoted throughout our time in government.

In the administration and defence area, wages were an average of $22,000 per annum higher—and you can just imagine that, in some of the areas, we were accused of being exploitative; most of them are traditional union areas. I think that this has proven that the policies of the Howard government during that time worked, despite criticism and strong opposition from the Labor Party. We helped alleviate the skills crisis in this country, and we got no thanks. There was not one single word of thanks from the Labor Party.

The Labor Party have consistently knocked, knocked and knocked us. What else are they going to misrepresent to the public? That is what I am really concerned about. In the areas of factual basis, they could have used the same facts and figures as us but, no, they chose to be selective and fraudulent with their representation to the Australian public. What else are they doing that does
not reflect the truth in basic statistics, issues and areas which we promoted strongly as a coalition government and where we fixed problems in Australia? I just hope the Rudd Labor government does not go down that path again and mislead the public and put in jeopardy the livelihoods of families in this country and also the expanding of infrastructure, the industry that we need. I say to the Labor Party: look at the facts; look at what we did and never, ever misrepresent those facts again to the Australian people.

**Tuberculosis and HIV**

**Senator MOORE** (Queensland) (9.25 pm)—Wandering through the first-floor public area of this place the other day, I came across a corrugated iron and sacking shack. The shack popped up in the middle of our public area and is the creation of a young South African artist, Damien Schumann, who has been touring the world, creating knowledge about the scourge of TB in poor societies.

Several years ago Mr Schumann began creating a photographic essay of families and human beings who are affected by the double impact of TB and HIV in South Africa. We know about the horrors of this condition, because many books and many articles have been written about it. But, somehow, the gallery space that Mr Schumann has created, which he has filled with his confronting photographs of families and individuals and graffiti-like stories about the people who are living and dying with this condition in South Africa, can get the message across much more strongly than people just talking about it or reading books. In fact, this display, which we are privileged to have in our place of work, has been touring since 2006, when the original display, called The Shack and Dialogues: Understanding Tuberculosis, was opened by Archbishop Tutu. Archbishop Tutu has himself survived TB, and this is an issue I did not know about, even though we have learned so much about this man. He was able, in launching this exhibition in his home, to talk about what it meant to him and to the people in his country and to talk about how serious this condition is, how it is a growing scourge and how it can be helped by appropriate medication and lifestyle.

The exhibition has toured extensively and, after it has been taken down from our area, it is hoped that it will move on to Mexico. In talking to Mr Schumann he said that he has become a master at putting the shack up and taking it down, and he was able to tell me about the various photographs that he has displayed. He talked about the people he has met, about the hope that they have and about the particular worry that tuberculosis spreads so quickly—so quickly that many of the stories that are on the walls of the shack relate to families. There are many up there, but I just want to talk about a couple. When you stand and read the stories and look at the photographs, you cannot help thinking about the families you know and placing yourself in their positions.

There is a photo there of a young man called Floyd. He is eight years old and has, unfortunately, the double whammy of being HIV positive and having TB, but he is recovering well now with effective medication. He first went to a transit home—which is the process that is often used in South Africa; it is between a hospital and a home—when he was suffering from pure malnutrition. Through domestic violence at home he had a broken arm. No-one cared for him when he was found because none of his family would go near him as he stank so much. This is one of the side effects of tuberculosis. It is something we read about in the history books in our country, because, in the long distant past, tuberculosis was quite strong in our country. I remember reading stories about country hospitals in Queensland which told of the
enormous work that nurses did in that area. One of the things that people wrote about was the fact that there was a smell, and that was something that the hospital workers had to work with. In Flloyd’s case, it was one of the things that kept him isolated and marginalised from his community.

Flloyd also had terrible scars on his stomach from the blisters and sores that come from HIV. He has a long scar—and in the photograph you can see it—which is a reminder of when he fell into a fire. We in Australia know the dangers of open fires and that this is something that happens a lot in camping communities, but the dangers are much greater when we are talking about people living in poverty in camp towns in South Africa. The story is that both Flloyd’s parents are dead but he, by being found and given strong treatment, is healthy and attending school. There is a photograph there in the shack of him living happily with his new family at the transit home. The thing I liked particularly in the story—and he has a large smiling face—is that it says he loves to dance. So when you hear that horror story, you see that change can have an impact.

In the Millennium Development Goals, which we have talked about in this place before, one of the specific goals, goal 6, is to turn around HIV-AIDS, malaria and other major infectious diseases. Indeed, tuberculosis is one of those infectious diseases. And there can be a difference. The Stop TB Partnership, which is a network of public, private and civil society organisations, has developed six straightforward goals to eliminate TB from the world by 2050. That is a fair way away, but we have to have that length of time to ensure that all the streams of commitment can come together. We can have, under the 10-year plan of 2006-15, a global plan to stop TB which fits in with the MDGs. We can, by 2015, halve tuberculosis prevalence and death compared with that which was itemised in 1990. By 2015, with effective, sufficient global funding, 50 million people will be treated for TB across the world—14 million lives can be saved. We can introduce, through strong research—and Australia is a leader in this area of medical research—better, more effective and more responsive TB drugs. Most importantly, through the global fund, we will be able to ensure that this medication is available and accessible to countries like South Africa and, most particularly, our closest neighbours, because one of the areas where the rates of TB and the horror of HIV are growing most rapidly is PNG, in the Pacific.

We know that in Australia now the incidence of TB is relatively low. Our figures indicate that in 2005 only 1,072 cases were reported and that the annual figures in Australia have remained stable. It is particularly important for us in this country to understand how easily this disease spreads and to know, with the way that international travel is increasing and people are coming in and out of our country, that at all times we must be vigilant to ensure that the horrors of TB do not come in more easily to our own country. We also know—and this is from international medical practice—that untreated TB is one of the leading killers of people with HIV, reducing life expectancy from years to months. TB can be effectively cured in individual cases with a six-month course of antibiotics. For us in this country that is something that is easily achievable. What we must ensure is that we share the knowledge and the medication across the world.

When we see the faces of the people in the display upstairs, we can see what a difference we can make. When Mr Bob McMullan, the Parliamentary Secretary for International Development Assistance, opened the Parliament House display last week, he talked about the fact that we will continue to contribute to the international global fund
and that our contribution from Australia can make a real difference. We have no option but to be part of this international program. Displays such as the shack will make sure that we have knowledge and that we can move knowledge across our country much more quickly.

I went up a couple of times to see what impact the display was having on all the visitors to Parliament House. It is quite interesting to watch their faces as they walk through the public spaces upstairs. One of the last things you would expect—it is always very difficult to say 'the last thing you would expect'—while wandering through Parliament House is to find a South African shack, and I think that that in itself creates a message almost immediately. To see the groups of schoolchildren who are visiting here as part of the parliamentary education program, to see and to hear their excitement as they are taken through the shack and see photographs of kids their own age, is a joy. They share the experience of their own healthy and often loved lifestyle here, and they see the stories of people like Floyd. That actually shares knowledge; it also garners commitment.

What we hope to get out of this display is not just a pleasant time, having a look and saying, 'Isn’t that terrible,' but people going out into the community—particularly those young people—talking about the experiences, the impact of HIV and TB in any community, and making sure that they can be part of making a difference. That is the joy of the experience. That is why I want to particularly congratulate the President of the Senate and the Speaker of the House, who, by their efforts, gave the approval to have the shack and the display in the public area. It makes a difference. We can learn and we must continue to make our share of commitment to the global fund so we can beat this horrible disease.

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**Tasmanian Devils**

**Senator BUSHBY** (Tasmania) (9.35 pm)—I rise tonight to bring to your attention the plight of the Tasmanian devil. This unique animal’s population is under threat from an aggressive, horrific and very unusual cancer. It takes the form of fleshy tumours that grow in and around the devils’ mouths and then develop into large lumps that kill in a matter of months. The devils usually die from starvation as their teeth are either forced out of their mouths by lumps or the lumps prevent them from chewing.

The devil facial tumour disease, or DFTD, is a contagious cancer and is one of only a few cancers that actually can be transmitted from one animal to another. It is spreading across Tasmania, travelling from devil to devil, with a 100 per cent fatality rate. There are no preclinical tests to determine infection, the gestation period is unknown and, like other cancers, there is no known cure. The seriousness of a disease that we know too little about and that threatens this population cannot be overlooked or underestimated. Failure to take urgent and appropriate action could well lead to the extinction of what is a unique animal, unlike anything else alive today.

So what is it about this disease that makes it so hard to address? Research shows that DFTD acts differently to your usual human cancer because the cells in each tumour are identical. They are treated by the devils’ bodies like a transplanted organ. The lack of genetic diversity amongst the devils prevents their immune systems from rejecting the cancerous tissue as foreign and, as a result, it grows unchallenged until it is sufficiently large to hamper their ability to eat or breathe. It appears usually to be transmitted when devils fight over food, often biting each other’s faces and transmitting cancer cells in the process.
The situation is sad and extremely concerning. This makes it especially offensive when opportunists with their own agenda abuse the plight of the devils by suggesting the DFTD was caused by activities they are campaigning against, without any proof or even the tiniest bit of evidence that their claims might be true. The fact is that finding the cause of this disease, which has been around for at least 10 years, will be almost, if not completely, impossible. And wasting time specifically trying to find its cause would be entirely counterproductive when what is needed is a focus on finding a solution. Research into this disease is already a project on a global scale, with participation and support from scientists in many countries. The most promising research surrounds mapping of the devil’s genome and looking into the genetic resistance that may be present in animals from Tasmania’s west—an area to which the disease has not yet spread.

These are the sorts of projects that are vitally important if we are to find a solution to address the spread of the disease. But, of course, research of this type requires millions of dollars of funding to make it possible. Immediately prior to their election, the then federal Labor opposition promised $10 million in funding over the next five years specifically for research into a cure for this disease. Unfortunately, they will not start delivering on this promise until the next financial year, and even then it is likely to come in dribs and drabs. In the meantime, researchers need to rely on current levels of funding and support from donations. Whether this is good enough, only time will tell. Some commentators, including scientists, have made very alarmist claims that the devil will be extinct within five years, two years or even 12 months if research does not find a solution within those time frames.

Senator Bernardi—That’s if global warming doesn’t get them!

Senator BUSHBY—Yes. I am not sure what to make of these claims. What I do know is that 50 per cent of the devil population has been wiped out in the past 10 years by the DFTD and that the disease continues to kill devils at a great rate. I suspect that the nature of transmission of the disease means there will be a slowing of its spread as devil numbers become sparser and they have fewer opportunities to interact, but that it will continue to reduce the devil population and eventually threaten its existence. As such, it is vital that the research be funded up-front and quickly, to ensure that the solution is found before it is too late.

The Rudd government may be taking a relaxed approach to the issue, but it is good to see that not everyone is. There is a nine-year-old boy in Hobart whose passion for the Tasmanian devil has resulted in tens of thousands of dollars being raised for research. Nicholas Bonnitcha—or ‘Nature Nic’, as he likes to be known—last year arranged a day at his school where all the students would wear black and white clothing and donate a gold coin to help raise money for DFTD research. Out of this grew the inaugural Black and White Day, on which Nic was able to entice the involvement of 39 Tasmanian schools and businesses and raise over $10,500. At the time Nature Nic was eight years old.

Senator Barnett—A wonderful effort.

Senator BUSHBY—Fantastic. Since then, Nic has launched his own 2008 devil calendar, expected to raise about $30,000. It is a great calendar. It features pictures of a number of young Tasmanians who responded to a call from Nature Nic. To be considered, each young Tasmanian had to tell him why they thought they were a little Tassie devil. The successful applicants had their quote printed next to their picture. The responses were beautiful and I have to quote a few
here, with apologies to those that time constraints force me to omit. Madeleine Fasnacht said, ‘I am a little Tassie devil because I am cheeky and mischievous.’ Kate Tedeschi said, ‘I am a little Tassie devil because I have huge teeth.’ And Emma Langley said, ‘I am a little Tassie devil because I have freckles everywhere—they’re whiskers!’

Nature Nic is being featured in *National Geographic*, on *Totally Wild* and has the support of Australia Zoo. Nic’s hero is Steve Irwin. Nature Nic has a dream that Black and White Day can be elevated to a national day of recognition for the Tasmanian devil. As you can imagine, if this day was supported by the thousands of schools around the country, a substantial amount of money could be raised towards ensuring the devil has a future. If such a day achieved its full potential—just one nationally supported Black and White Day—raising enough money to sequence the genome of the Tasmanian devil is a very possible outcome. Many schools on the mainland are already aware of Black and White Day and plan on supporting it in 2008. More than 370 schools have created class projects that specifically focus on how this disease is affecting the Tasmanian devil. This level of support for the Tasmanian devil from interstate schools and businesses is extremely heartening. I note in particular the fundraising contributions from Qantas, Warner Bros, Hartz mineral water and the Mark Webber Challenge Foundation.

Three months ago I wrote to Prime Minister Rudd seeking support for a national Black and White Day. Neither I nor Nature Nic was looking for money or for the day to be given any official status. Rather, we were just hoping that the Prime Minister might provide the moral backing of the government to the cause and administrative or bureaucratic backing and support to the concept—such as sanctioning the observance of the day in public sector workplaces, publicly calling on people to support it or providing advice and assistance to its organisers and Nature Nic in getting the message about it out there to Australians. The response I received from his parliamentary secretary was underwhelming to say the least. It was suggested to me:

... the government considers that community initiatives, such as Black and White Day, should generally evolve without government involvement.

As noted, I am not asking the government to involve themselves to any great extent. But I still encourage them to put their stamp of approval on the concept of a national Black and White Day and acknowledge that the people of Australia want to support this cause. My belief is that the government can be proactive and work to support a national day for the Tasmanian devil, as was done with the bilby in 2005. Having Black and White Day recognised nationally is something that has been raised by Nature Nic with all state education ministers. Tasmania’s education minister is actively promoting the idea to our schools, but Nature Nic and I would like to see this level of support from other states and territories as well. A public statement of support from the Prime Minister would help significantly.

There is a lesson to be learned from the path to extinction travelled by the Tasmanian tiger. Just months after being confirmed as endangered, it was declared extinct. National Threatened Species Day was created as a tribute to the Tasmanian tiger and should help us to remember that a different approach is required if we are to protect our unique fauna. As mentioned, it is estimated that more than 50 per cent of the pre-disease population of devils have already been wiped out by DFTD. Last November they were listed as endangered. We should now do what we can to help them, or choose to sit by as their numbers dwindle down to dangerously low levels—and possibly even the
threat of extinction. Three things are crucial for the success of any proposed solution to this disease: time, money and support. All three are linked but ultimately it is money that will deliver the solution. I call this evening for public support for a national Black and White Day on 16 May.

60th Anniversary of the State of Israel

Senator Barnett (Tasmania) (9.43 pm)—Tonight I stand to show support and solidarity for the 60th anniversary of the state of Israel. Last week, the House of Representatives celebrated the 60th anniversary of the state of Israel. Indeed, it has been 60 years of good relations between Australia and modern-day Israel, as well as our prior alliance when Australian troops fought in the region against the Ottomans during World War I. I would like to express my support for the motion that was passed overwhelmingly in the House last week, on 12 March, although I note the 60-year anniversary of Israel is 14 March.

The motion supported by Prime Minister Kevin Rudd and the opposition leader, Brendan Nelson, last week reads:

That the House:

(1) celebrate and commend the achievements of the State of Israel in the 60 years since its inception;

(2) remember with pride and honour the important role which Australia played in the establishment of the State of Israel as both a member state of the United Nations and as an influential voice in the introduction of Resolution 181 which facilitated Israel’s statehood, and as the country which proudly became the first to cast a vote in support of Israel’s creation;

(3) acknowledge the unique relationship which exists between Australia and Israel; a bond highlighted by our commitment to the rights and liberty of our citizens and encouragement of cultural diversity;

(4) commend the State of Israel’s commitment to democracy, the Rule of Law and pluralism;

(5) reiterate Australia’s commitment to Israel’s right to exist and our ongoing support to the peaceful establishment of a two-state solution to the Israeli-Palestinian issue;

(6) reiterate Australia’s commitment to the pursuit of peace and stability throughout the Middle East;

(7) on this, the 60th Anniversary of Independence of the State of Israel, pledge our friendship, commitment and enduring support to the people of Israel as we celebrate this important occasion together.

I commend wholeheartedly my support for that motion. Australia does, as it should, recognise Israel’s existence, but in addition it supports the valid objectives of the Palestinian people, therefore supporting a two-state solution to the Israeli-Palestinian tensions.

Australia and Israel are both relatively young nations, with the common ideals of democracy, freedom of speech, freedom of association and freedom of religion. Australia was in fact the first country to vote in favour of the 1947 UN partition resolution, as well noted in the House of Representatives resolution. Australia and Israel have strong trade links, with major Australian exports to Israel being coal, live animals, pearls and gems. All in all, two-way trade with the state of Israel is estimated at $828 million per annum. Australia and Israel are both the countries of choice for a large number of immigrants seeking a better life. Both our countries reward hard work and acknowledge that economic development is the best defence in the fight against poverty. Both Australia and Israel understand that occasionally we are required to fight for the freedoms which we hold dear.

Senator Mason—Hear, hear!

Senator Barnett—Thank you, Senator Mason. In April this year, the Governor-General, Major General Michael Jeffrey, and
Mrs Jeffrey will travel to Israel at the invitation of the President of the State of Israel, His Excellency Mr Shimon Peres, to represent the government and people of Australia at the 60th anniversary of the state. What an honour. I am proud to be an Australian whose Governor-General is heading to Israel for this very important occasion. The Governor-General and Mrs Jeffrey will also participate in a range of World War I commemorative events, including the official opening by the Governor-General and Mr Peres of the Park of the Australian Soldier in Be’er-Sheva on 28 April. The park features a landscaped recreational area and innovative playground catering for children with disabilities. The central feature is a sculpture by renowned Australian sculptor Peter Corlett, who also undertook the sculpting work of Harry Murray VC, Australia’s most highly decorated soldier, which is stationed and positioned in the town of Evandale, just south of Launceston in Tasmania. This particular sculpture will commemorate the charge of the Australian Light Horse Division’s 4th Brigade against the Turkish positions at Beersheba, which is now called Be’er-Sheva, on 31 October 1917. The park and sculpture project are an initiative of the Pratt Foundation in partnership with the Beersheba Foundation, in recognition of those dramatic events that took place just over 90 years ago. The project received strong support from the previous Australian government. In particular, I want to acknowledge the efforts of the former Minister for Veterans’ Affairs, the Hon. Bruce Billson, and his department.

Senator Bernardi—Hear, hear!

Senator BARNETT—Thank you, Senator Bernardi. I would also like to acknowledge the special support of Retired Major General Digger James, AC MBE MC, former National President of the RSL, who has provided tremendous support and service to our great nation.

Senator Mason—A great man.

Senator BARNETT—Thank you, Senator Mason—I agree that he was a great man. We enjoyed some time together just last week at the 60-year anniversary celebrations for Israel. Retired Major General Digger James will be travelling in this delegation with the Governor-General to Be’er-Sheva next month for this special announcement.

The charge of the 4th Light Horse Brigade, or the battle of Beersheba, was a significant Australian military event, often described as ‘the last successful cavalry charge in British military history’. The battle involved 800 soldiers of the Australian 4th Light Horse Brigade under Brigadier General William Grant. They charged with only horses, rifles and bayonets into the Turkish trenches, overrunning them and capturing the wells of Beersheba. Brigadier General William Grant, originally from Stawell in Victoria, transferred to command the 4th Light Horse Brigade on the eve of the battle. The next day, the Commander-in-Chief, General Sir Edmund Allenby, personally decorated Grant with a bar to his DSO.

The daring and the action of the Australian light-horsemen was vital not only in the supply of water for the Allied forces and troops but for turning around the whole Turkish flank in Palestine. The goal of our British partners was to drive the Turks north from Gaza, and it was an inspirational victory. The events at Beersheba were an inspiration for the 1987 Australian film The Lighthorsemen, which featured the tag line: ‘They did what they were told. They didn’t know it was impossible.’ I enjoyed watching that movie with my family only a month or so ago.

My wife Kate’s great-uncle George Henry Bramich was a member of the Australian 3rd Light Horse Brigade and her great-grandfather Oscar George Bramich trained in
the Light Horse at Mona Vale in Tasmania. In fact, my wife’s Uncle George was from Mount Hicks in north-west Tasmania and trained for two years with the Light Horse before enlisting in June 1916. George Bramich was involved in the taking of Damascus and, as I said, was in the 3rd Light Horse Brigade. My wife’s great-grandfather Oscar George Bramich unfortunately became sick with a hernia and was unable to depart for the Middle East.

The success at Beersheba was the beginning of a significant chain of events in history—the capturing of Gaza and Jaffa, and the Ottoman Empire, the liberation of Jerusalem, and all of Palestine, the Balfour Declaration and, ultimately, the establishment of Israel in 1948. The battle for Beersheba is just one of many instances when Australians have served in the area that is now modern-day Israel, including the many soldiers who served during World War II. Since World War II, Australia has supported peace operations in the Middle East, and Australians continue to serve in the area to this day.

I noted an opinion piece by Israel’s ambassador to Australia, Yuval Rotem, in the Australian newspaper this past weekend, where he said that:

Since achieving independence in 1948, Israel has risen from the horror and anguish of the Holocaust to be a vibrant, democratic nation fuelled by values of justice and the rule of law.

Israel’s founding fathers transformed a desert into the source of a viable agricultural industry, underpinning the dynamic Israeli economy. Israel thrived with the influx of Jewish refugees and survivors of the Holocaust, arriving from 100 countries and speaking 82 languages.

The Australian editorial on 12 March also noted the concerns that they had. The editorial reads:

We reject the view that the Israeli conflict lies at the root of all the problems in the Middle East and is the trigger for the rise of al-Qa’ida and, by extension, terrorist acts such as the 9/11 bombings.

The editor concludes by saying:

Against remarkable odds, Israel has prospered greatly over the past 60 years because of its commitment to democracy and the rule of law, which easily qualifies it for the enduring goodwill and support of friends such as Australia.

I commend and support those comments entirely and say that Australia and Israel are good friends. We admire each other and we work together. I believe that Israel and its people should be remembered for their enormous achievements in adversity. The Jewish community in Australia, I know, will be celebrating at this time in the full knowledge that Australia stands firm as a friend.

(Time expired)

**Obscene Language on Television**

Senator BERNARDI (South Australia) (9.54 pm)—I begin my address this evening by stating for the record that I am not a wowser. I have a broad acceptance of the Australian vernacular and the colourful use of language that permeates many aspects of Australian life. But like many Australians—most Australians, I would say—I do not agree with the gratuitous use of obscene language in our society, particularly in the public discourse or the broadcasts through our public media.

Just what is obscene language, of course, may be up for some debate, and I will not debate the wider issue now. But, if we draw ourselves back to 1912, when George Bernard Shaw’s play *Pygmalion* entered the stage it caused an outrage by using the term ‘not bloody likely’. Now I use that term in this place with full respect for this place because it no longer causes a great deal of offence. In fact, a similar phrase was used in an advertising campaign promoting Australian tourism. It did not cause offence so much,
but it did spark a great deal of debate across the world.

You can imagine my surprise when, reviewing the contribution of bad language to Australian television history, I noticed that what outraged audiences when Graham Kennedy made his infamous crow call, and what saw British television ban the band the Sex Pistols in 1976 for using the c-word, is now readily available and quite apparent on the 9.30 timeslot in shows such as Gordon Ramsay’s Kitchen Nightmares. I quite like Gordon Ramsay’s Kitchen Nightmares. I know there is a warning immediately before it that we are going to be exposed to some bad language. But there is a level at which we have to say, ‘Enough is enough.’ That level was reached, I believe, when Mr Ramsay used the c-word—as I will politely describe it—a couple of times in an episode broadcast at 9.30 at night. Mr Ramsay is very popular, of course. The following week he was in the 8.30 timeslot, in an episode which featured the use of the f-word 80 times, apparently, in a 40-minute time period. To me that is a bit outrageous. I think it is unnecessary. I do not think it supports the tone or the content of the program itself. But, more importantly, I think it undermines a great deal of the integrity associated with the Australian broadcasting networks.

The Australian broadcasting networks have a code of conduct. The code of conduct is quite straightforward: it is about broadcasting material that is relevant to the program and that is not likely to cause serious offence. There are warnings regarding frequent very coarse language—language that is aggressive or can be interpreted in an aggressive manner. We have seen this sort of language used not only in Gordon Ramsay’s Kitchen Nightmares but in Sex and the City, The Sopranos and Big Brother Uncut. All of them have aroused some comment in the public domain.

But my comment is related to the actual process of complaining about such use of language where one thinks it is gratuitous or unnecessary and actually damages what I think is the social structure of Australian life. As I said at the start, I am not a wowser. I accept that bad language is going to be used. I understand that people—individuals and parents—have a responsibility to determine their own viewing habits by turning programs they find offensive off. But there are circumstances where, as I said, we have to say, ‘Enough is enough.’

The process, I have discovered, is that, when you think language is inappropriate for broadcasting in a particular timeslot, there are a number of avenues, but basically you have to write initially to the television station to complain within 30 days of it being broadcast. The television station is required to give you a response within 60 days. If you are not satisfied with the response given by the television station, you can then approach ACMA. ACMA is the body that is responsible for the standards on television outside the self-policing done by the television stations themselves. After one has written to ACMA, within 60 days, if the complaint is determined to be one that ACMA will handle then they will consider the information provided and offer the offending station the opportunity to reply. Comments from stations in this opportunity to reply can take up to three months, and in some cases a bit longer. Once ACMA has all of the information, the complaint is assessed against the code of conduct. It is not uncommon, I am advised, not to receive any advice or a report from ACMA until five or six months after the complaint has been initially lodged—and this does not include the time from the original broadcast.

I believe this dissuades a lot of people from making complaints or identifying areas of our public broadcasting system where
they have particular problems. I also believe that there is an opportunity for us in government to review the process to give ordinary Australians more of a say and more of an impact on what is acceptable for viewing on our public broadcasting system. Imagine for a moment—it is now 10 o’clock in the Senate and there are possibly two or three people listening to this broadcast outside of this house—

Senator Mason—There are thousands!

Senator BERNARDI—There may well be thousands, but I suspect it is somewhat less than that. Imagine if I littered this speech with a bunch of profanities. In 10 minutes, if I wanted to adhere to Mr Ramsay’s record, I guess I could get 20 or so Fs in and maybe a couple of Cs. Imagine the outrage that would be heard around Australia if a member of our parliamentary team used that language in a chamber like this. It would be appalling. It would be outrageous. Why should we expect anything less from our public broadcasters? I use the term ‘public’ in the sense that they are free-to-air broadcasters. They have carriage across a great percentage of our population. We need to determine whether they are going to be a licence unto themselves in what they broadcast.

I understand perfectly that there are live feeds that may result in inopportune or unfortunate language or comments being broadcast but there is no excuse for gratuitous bad language to be broadcast repeatedly if it has no real bearing on the material being shown, in a relatively early time slot, and when it can clearly be beeped out or censored. I say this not because I believe in censorship but because I believe strongly that what we broadcast on our televisions has a profound impact on how we conduct ourselves, over the course of time.

I go back to the examples of the Sex Pistols, who were banned from British TV and Graham Kennedy who was banned from television, for much lesser offences 30-odd years ago. What is the next step? If we accept that the c-word is perhaps the most offensive within the English language, and that it is now okay to broadcast it after 9.30 at night, the next step is to be able to broadcast it more frequently, and at earlier and earlier time slots. This is what concerns me. We have seen the incremental creep of bad language into our society. We have seen a change in what is acceptable in our discourse with our colleagues and sometimes with our families and our friends. I take the stand that this is unacceptable in the public domain and I believe that we should streamline the process so that ACMA has a more efficient means of dealing with complaints to ensure that the broadcast standards are maintained.

Mr John Russell

Senator FORSHAW (New South Wales) (10.03 pm)—I seek leave to speak for 20 minutes.

Leave granted.

Senator FORSHAW—I thank the Senate. On 6 March, a close friend and mentor of mine passed away suddenly. John Francis Russell was just 65 years old. He was not a man widely known in the public arena yet in his lifetime he achieved much more than most of us can ever hope to achieve. He was a significant influence on many people in the Labor Party, including former and current members of the federal and state parliaments. Next to my parents, he was the most important influence on my political career. The fact that I can stand here tonight in this great parliament is due very much to the inspiration, friendship and support, over 40 years, of John Russell. Last Wednesday night, my colleagues Senator Steve Hutchins and Senator John Faulkner spoke eloquently of John’s role, influence and friendship.
I have used the word ‘friend’ already three times in this speech. I have used that word deliberately and will continue to do so because John was not just a mate in the sense that we in the Labor Party so often use the term—he was not just a factional colleague—he was a great and true friend. At his funeral last Friday, which was attended by hundreds of his friends at his beloved St Aloysius Catholic Church in Cronulla, everyone spoke of his friendship and of his warm, inspiring, wonderful personality. When you were with John Russell he would tell you that you were one of his closest friends—and he had many.

I met John in the early 1960s. His father Frank was a local Labor councillor in the Sutherland Shire. He was a key figure in the Cronulla branch of the Australian Labor Party—the bastion at that time, and for many years after, of the right wing of the New South Wales Labor Party in the Sutherland Shire. He was a close colleague of my father and other local activists, mainly Catholics, who ran the branch. In the early fifties they had been instrumental in promoting a local resident and branch member to become the MP for Werriwa in 1955. That person was Edward Gough Whitlam.

Frank, his wife Ruby, John’s Aunt Vera and John were bastions of the Cronulla ALP and of the local right wing. They were lined up, as we were, against the Left in the area, which was led by Arthur Gietzelt—later to be Senator Arthur Gietzelt—from the Caringbah branch. There were great struggles. There was great competition to get the numbers in order to elect the delegates to the local electorate councils, and then on to the state conference.

I joined my local branch, the Cronulla branch, when I turned 15 in 1967. I have to say that I do not think I had much choice, but I wanted to join, and a lifelong friendship and association with John Francis Russell began. As I said, we were part of that ongoing struggle between the Right and the Left in the shire ALP. Then John became branch secretary and I was privileged to be his assistant secretary for a number of years.

Whilst he was a key player, an activist, he was much, much more than just a factional numbers man. Indeed, in many ways John was too good to just be a factional numbers operator, which probably in later years was to his cost if he ever had wanted to pursue a political career. He was a man with a brilliant mind, an intellect that saw politics as the constant battle of ideas rather than just numbers. After the monthly branch meetings many of us would adjourn to the Russell household where we would discuss politics, religion, literature, film, art, and always the struggle of the Right versus the Left. In those days of course communism was still a substantial force in world politics and so it was always on the agenda. It was always open house at the Russell household and many would gather. These were the years of desolation and despair after the defeat, particularly in 1966, which saw the Labor Party almost decimated federally because of the campaign at that time on the Vietnam War.

But then came the inspiration and the victory of 1972, the election of the Whitlam Labor government. My friend Steve Hutchins spoke the other night of an incident involving John’s mother and the Whitlam campaign in Cronulla at that time. Then we had the despair again in November 1975 when the Whitlam government was sacked. I remember that night of 11 November. We gathered at John’s place, drank many, many brandies, and sat around thinking about how this could have happened and whether there was any way the Whitlam government could be restored. John’s mother, who had this wonderful, ironic sense of humour, was sitting out in the kitchen making cups of tea—
she was offering us cups of tea but we were drinking something stronger. She was listening to the radio and at one stage she came into the room and said with wonderful irony and timing, ‘Well, I have just heard the good news, you know—General Franco is getting better!’ That was the feeling at the time, having had us witness and experience what Sir John Kerr had done to us.

John Russell himself inherited his mother’s great wit. On one occasion he said to me: ‘You know, there are two ways to grow old. You can grow old like Bertrand Russell or you can grow old like Charlie Oliver’—he was the head of the AWU. I understand that he repeated something like that a couple of days before he passed away to his close friend Michael Costello. Michael visited him in the hospital in Caringbah and John motioned him to lean over and he said to Michael, ‘You know, I have worked out that there are two kinds of people in the world.’ Michael said to us that there was a pregnant pause and he thought, ‘Oh yeah, here we go again.’ Michael asked, ‘Who are they, John?’ John said, ‘There are those that have had a catheter and there are those who haven’t.’

John was in those early years of the 1960s and 1970s a key figure in the New South Wales Labor Party. He worked at the ABC where he met a chap named Robert Carr. I would like to quote from Andrew West’s biography of Bob Carr, titled A Self-Made Man. I think that title is not quite accurate when I read this:

IN HIS second year at the ABC, Robert met the man who, more than anyone else at the time, would influence his life and thinking. Of course, there was already Whitlam, but he was up there in the stratosphere, too remote to have any impact on Robert’s daily life. As for Murphy, Robert could stand in awe of his talent, soak up his professionalism, marvel at his wit. But Murphy could never be a role model because he was, above any-thing else, a journalist. To him, journalism was almost a religious vocation. For Robert—that is, Robert Carr—it was a great profession in which he could use his gift with words, meet famous people and hone the skills he would need for his true calling as a Labor MP. So that day in early 1970, when John Francis Russell walked into the office, Robert discovered his soulmate. ‘He is big time,’ says Michael Boggs, who quickly heard about Russell from Robert. ‘A major personality.’

Russell was a Catholic intellectual, born in 1943, four years before Robert. He attended a De La Salle Brothers school in Cronulla before becoming a minor seminarian, at sixteen, with the Franciscans at St Anthony’s College in the hills above Wollongong. Russell wrestled with the idea of life in a Catholic holy order before deciding, instead, to go to Sydney University on a full scholarship, where he shone as a student of Politics, History and English. As an undergraduate, Russell would loll under the jacaranda tree in the quadrangle and read Gibbon on the fall of the Roman Empire or Virginia Woolf’s essays. He would dissect Henry James or George Eliot and argue heatedly about the failure of the League of Nations between the wars. He had a didactic streak, prompting him to complete a Diploma in Education. But in the end, his desire to proselytise was too great and Russell ended up in journalism, first at the Sydney Morning Herald, then in ABC current affairs.

John introduced me to John Ducker and Barry Unsworth, the leaders of the New South Wales ALP Right at that time. Indeed, John was always introducing me and others to people. He spent his entire life introducing you to people. He was a great conversationalist. He introduced me to people like Frank Knopflmacher on the Right, or Bobby Gould on the Left—and Senator Hutchins made mention of this the other night. What was important to John was ideas. That is why he had as many friends on the Left as on the Right—people like Senator John Faulkner, who is here tonight. I know they treasured the friendship that they developed with John
over the years. He was a mentor to a number of us who are in this parliament or have served here—Senator Hutchins; Michael Lee; John Della Bosca, a minister in the state government; Michael Egan, who went on to be Treasurer of the New South Wales Labor government; and me.

In his later years, he became an active officer of the New South Wales Fabian Society and, as I have already said, a great friend of John Faulkner and of Rod Cavalier, and maintained long friendships with people on the Left, such as Peter Crawford.

After leaving the ABC, John worked for the Public Service Association and the Storemen and Packers Union before he went on to finish his career over many years in the cabinet office of the New South Wales Premier’s department. He worked under both Labor and Liberal governments and was respected by both. Not only did he have friends on all sides of the political equation within the Labor Party, the Left and the Right; he had friends on all sides of politics. The local state member for Cronulla, Malcolm Kerr, who was a Liberal member for 24 years, was a great friend and spoke of John’s passing and his friendship with him in the state parliament after he died two weeks ago. John, of course, never voted for Malcolm. Indeed, he manned the polling booth for the ALP at Thornton Hall, right opposite the Cronulla Catholic church, for over 40 years. But he nevertheless always had this warm friendship with people, whatever their politics.

There is much more that I could say about John Russell. I could speak for a long time, but time does not permit me. I want to focus on two particular attributes. As I said, John had an incredible intellect and a great love of reading, of film, of literature and of history. So many of us spent many hours in his company. His home was always welcoming to us. For many years, my wife, Jan, and I would go down to Cronulla Beach on a Sunday morning, walk along the esplanade and then go back to John’s place and have a coffee with him. We would catch up on the latest news from Canberra, which he wanted to hear. The discussion ranged widely over so many subjects.

John travelled widely, particularly to Eastern Europe, both before and after the collapse of the Soviet Union. This reflected his great interest in history and religion. I am advised that, on one occasion prior to the collapse of the Soviet Union, John was in Czechoslovakia and someone had told him that he did not need to get his passport stamped. In the middle of the night, they checked John’s passport on a train and he was put off the train, in the middle of nowhere in Czechoslovakia.

John studied and understood the history of the countries of Eastern Europe, particularly places such as Bautzen, in Saxony in east Germany. In recent years, John was a great friend of, and contributor to, the Religion Report, a program on ABC Radio National, compered by his great friend Stephen Crittenden. I want to read from Stephen Crittenden’s comments after the passing of John. He said:

Well finally today, a tribute to my dear friend and mentor for more than 20 years, John Russell, who died suddenly in hospital last week. John Russell joined the ABC as a current affairs reporter in 1970 and left after several years to do other things. I met him when I went to work at the New South Wales Cabinet office in the mid-1980s. He was a man of extraordinary erudition, generosity and wit, a former Franciscan seminarian with vast circle of friends, who promoted a sympathetic, enlightened life-affirming kind of Catholicism.

In retirement, John returned to journalism and broadcasting with a string of wonderful programs for the ABC Religion department and articles that were among the best things to appear in Quadrant Magazine in recent years.
Making a radio program involves conversations and collaborations with all kinds of people, both off-mic and on-mic. Of course most of all it’s an ongoing conversation with you, dear listener. But in a very special way over these past few years, with his daily phone calls and his constant stream of books and ideas, for me, The Religion Report has often seemed like one long public conversation with him.

I think I only ever interviewed John once. He loved Germany, and in 2002 he described his last visit to the east German town of Bautzen, where he had wonderful friends.

And then he quotes John Russell:

Bautzen in the old times of the GDR—the German Democratic Republic—was a word that sent fear and loathing through the souls of all Germans, not just in the East but also in the West, because it was the place where the Stasi maintained its two prisons, and in fact one of those prisons has been closed and is now a museum, and to walk through the Stasi prison, which of course also before the Second World War a Gestapo prison, and see the way people were treated is a spiritual experience in itself.

John goes on:

Bautzen has the most incredible ‘Dom’ as they call it, that I have seen, because it dates back to 1200. It had a new roof and ceiling installed in the 1600s, but it’s divided in half between Catholics and Protestants and has been divided since the Reformation. The Lutheran half is at the back, you come in the back door, you walk up the aisle, there’s a little picket fence, there’s a Lutheran altar and a pulpit, and then you go over the picket fence and there’s the Catholic half, with an altar and pulpit, and of course it being Germany, both halves have wonderful organs.

He goes on to describe at length his experience of visiting these churches and the significance of the history going back over hundreds and hundreds of years to the people of that region.

Faith was extremely important to John. It was at the core of his life, along with his friendships and his dedication to the Labor Party. John understood the importance of religious faith to the people who lived under those regimes which I have just read to you about. Whilst he travelled the world and visited countries and regions most of us have never heard of, John always lived within half a mile of the St Aloysius Church at Cronulla—an interesting parallel to the great German philosopher Immanuel Kant, who never travelled more than 100 miles from his hometown.

His funeral last Friday was truly a celebration. I have never seen so many priests at the altar—there were 14 priests on the altar. There were also two Anglican ministers because John used to attend Anglican services as well, such was his fascination with religious history and religious service. For him it was not only faith but also an intellectual pursuit. As I said earlier, when I quoted from Andrew West’s book, John at one stage tried pursuing a vocation with the Franciscans—and I note that his middle name was Francis. It was not for him, but to my mind he really was a true Franciscan. He reflected in his life the most wonderful words that were written by St Francis of Assisi—I believe some of the greatest ever written—and I will finish with them:

Lord, make me an instrument of Thy peace; where there is hatred, let me sow love; where there is injury, pardon; where there is doubt, faith; where there is despair, hope; where there is darkness, light; and where there is sadness, joy, O Divine Master, grant that I may not so much seek to be consoled as to console; to be understood, as to understand; to be loved, as to love; or it is in giving that we receive, it is in pardoning that we are pardoned, and it is in dying that we are born to eternal life.
John will live in our memories until we depart this earth. To his much loved partner, Rune, and to his many friends we say: goodbye John and thanks for the wonderful inspiration that your life has given us.

Queensland: Local Government

Senator IAN MACDONALD (Queensland) (10.23 pm)—Tonight I want to use this adjournment debate in the Senate to congratulate a number of the new mayors that have been elected in Queensland following the local government elections on Saturday.

Senator Conroy interjecting—

Senator IAN MACDONALD—Thank you for the interjection, Senator Conroy. Perhaps you knew what I was going to say. Perhaps the most pleasing result in Queensland was that the 33-year-old Labor administration in Townsville was at last thrown out on its ear. Tony Mooney, the Labor mayor for the last 17 years, was thrashed at the polls by the former mayor of the previous adjoining council, Thuringowa City Council, Councillor Les Tyrell. He romped it in in the new combined Townsville City Council. I am particularly delighted that we have at last got rid of that last bastion of the Labor Party in local government in Queensland. My joy is extended even further by the fact that a former employee of mine, my previous media adviser David Crisafulli, has topped the poll for the councillors in the new Townsville City Council. He is obviously destined for a long career in local government in Queensland.

The result in Townsville was quite remarkable. The Labor Party there had been accused of being part of the big end of town. There were a lot of rumours circulating about a lot of the developments in Townsville over the years. The former Labor mayor—who had done so much to encourage the Chinese Aluminium Company, CHALCO, to Townsville as opposed to Bowen or Gladstone—suddenly, no doubt on the back of opinion polling by Mr Rudd’s advisers who were up in Townsville running the Labor campaign, a week before the election had an enormous about-face on the CHALCO refinery. He suddenly decided, after spending hundreds of thousands of dollars of ratepayers’ money to get CHALCO into Townsville, that CHALCO was no good. That was just the way it was. I have to say that I wish Tony Mooney well in his life hereafter. There is a suggestion that he will move to Brisbane and run for Pat Purcell’s seat of Bulimba when Mr Purcell resigns because of his admission of belting up his public servants—physically belting them. He has been forced to resign as a minister, and I suspect he will not be around for much longer.

There are suggestions that Tony Mooney will go down to Brisbane and continue his career in the Labor Party—as they do in the Labor Party; they parachute people from North Queensland into Brisbane and so forth. But I have no ill feeling towards Tony Mooney; he always, I thought, had the interests of Townsville at heart. He was always very inclusive in a lot of things he did. He was a skilful Labor politician. We have a lot of them in Queensland—for example, Peter Beattie. He of course from today has taken on a $200,000-a-year job as the Queensland trade representative in the United States. Talk about jobs for the boys—the Labor Party knows no bounds when it comes to that. But I think Tony Mooney did try hard for Townsville. He did a lot of good things. The rejuvenation of The Strand will go down as a lasting legacy to Tony Mooney. On a personal note I sympathise for him, but on a broader Townsville level I am delighted to see the end of the Labor Party administration and the advent of a community based group that will now run the council in Townsville.
Of course it did not stop there. Campbell Newman, the Liberal Lord Mayor of Brisbane, had a resounding victory in Brisbane. It was quite remarkable, particularly when you think about the fortunes of the Liberal Party in Queensland in recent years. Campbell has had a wonderful victory. Mr President, of course you know that Campbell Newman is the son of our former colleague Jocelyn Newman, a very distinguished senator and minister for many years. Campbell certainly has the political nous of both his mother and his father and it is great to see that the people of Brisbane have come to him so conclusively in the last election. I am delighted that, for the first time, Campbell will have a team that will support what he does. We have had in Brisbane for the last four years this situation where there was a Liberal Lord Mayor but his cabinet was made up of Labor Party politicians. It was just unworkable. In spite of that Campbell Newman, with his can-do approach, was still able to move Brisbane forward. We can only excitingly anticipate how he will be able to do better for Brisbane now that he has a team around him that will be able to work with him rather than against him. So it was a magnificent victory there for the team of Liberals in the Brisbane City Council.

I want to recognise the demise of Ron McCulloch, a character in Mt Isa, a nice enough sort of fellow. The fact that he was a Labor man never really made me hesitate with Ron. He was a good fellow. But again I am pleased to see another Labor Party mayor being thrown out and replaced by a community man, John Maloney, in the election in Mount Isa. In the new Cassowary Coast Council Bill Shannon has romped it in. Bill is a really good fellow, a great friend of Chris Gallus, who many of us might remember from this area. Chris now is a part-time resident of Mission Beach and Bill Shannon is a nearby neighbour. It was good to see Bill get up there. Tom Gilmore, an ex-minister in the state government, an ex-National Party minister, has won the Tablelands, the new council behind Cairns on the Atherton Tableland. Congratulations to Tom. Col Meng has swept the pool in Mackay. Another great man, he had been chairman of the area consultative committee in Mackay for many a year.

Peter Taylor is the new mayor of the enlarged Toowoomba City Council—the Downs City Council, I think it is now called. Peter is a great guy, a former mayor of Jondaryan, a very good and sound person. It is great to see Peter there as the new mayor for that very important part of Queensland. Bob Abbot was the mayor of Noosa Shire, another shire that was forcibly amalgamated by the state Labor government, the smallest of the three councils that were amalgamated on the Sunshine Coast. Bob Abbot has come through and had a resounding victory there. John Brent, former chairman of the Boonah Shire, in the new amalgamated council has won out there. Again, John is a good fellow. He used to be a vice-president of the National Party and that sometimes makes me hesitate a bit. Notwithstanding that, John was always a great man, always a great supporter of mine, and I of him, and it is great to see him now mayor of that new enlarged council. John Wharton out in the Richmond Shire has been there for a long time, easily voted back in, and congratulations to John. A number of mayors from councils out in the west have retained their mayoralties.

It is interesting to remember how the state Labor government forcibly amalgamated a lot of these councils. They put in these coordinating committees to sort of do the transition—stacked with union hacks, I have to say. They would have a couple of elected councillors from each of the amalgamated councils plus they parachuted in unionists to run the transition to the new councils. It is
interesting that in the case of most of these amalgamated councils, which the Labor Party thought they would win, they have gone to non-Labor mayors and non-Labor teams. I think there is a lesson in that for the arrogance of the Labor government in Queensland, and indeed a lesson for Labor governments around the states that seem to be very arrogant in the way they act. The people of Queensland last Saturday spoke at a local government level and have resoundingly elected across the state people who were not involved with the Labor Party—people who were there for the interests of the community rather than the interests of the Labor Party. To all of those who were elected on Saturday, I offer my sincere congratulations and wish them all the best for the future.

Senate adjourned at 10.34 pm

DOCUMENTS

Indexed Lists of Files

The following document was tabled pursuant to the order of the Senate of 30 May 1996, as amended:

Indexed lists of departmental and agency files for the period 1 July to 31 December 2007—Statement of compliance—Finance and Deregulation portfolio agencies.

Tabling

The following documents were tabled by the Clerk:

[Liquid instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]

Appropriation Act (No. 1) 2006-2007—Determination to reduce appropriation upon request—No. 4 of 2007-2008 [F2008L00742]*.


Civil Aviation Act—Civil Aviation Safety Regulations—

Airworthiness Directives—Part—

105—

AD/BEECH 23/38—Control Column Bearing Assemblies [F2008L00749]*.

AD/BEECH 33/1—Vertical Stabiliser—Trailing Edge Skin [F2008L00748]*.

AD/BEECH 33/15 Amdt 1—Second Row Seats [F2008L00747]*.

AD/BEECH 33/21 Amdt 1—Hatshelf Soundproofing Blanket [F2008L00746]*.

AD/BEECH 33/26—Front Seat Restraint Installation [F2008L00745]*.

AD/BEECH 200/31 Amdt 1—Elevator Control Horn Attachment [F2008L00753]*.

107—AD/FSM/31—Precision Airmotive Fuel Injection Servo Plugs [F2008L00795]*.

Instrument No. CASA EX20/08—Exemption—from Airworthiness Directive to permit repositioning [F2008L00817]*.


Financial Sector (Collection of Data) Act—Explanatory statement and Financial Sector (Collection of Data) (Reporting Standard) Determinations Nos—


39 of 2008—Reporting standard ARS 322.0 Statement of Financial Position (Consolidated) [F2008L00467].
41 of 2008—Reporting standard ARS 325.0 International Operations [F2008L00473].


Food Standards Australia New Zealand Act—Australia New Zealand Food Standards Code – Amendment No. 97 – 2008 [F2008L00708]*.


Remuneration Tribunal Act—Determination 2008/03: Remuneration and Allowances for Holders of Public Office [F2008L00794]*.


* Explanatory statement tabled with legislative instrument.

Tabling

The following government documents were tabled:

Australia Business Arts Foundation Ltd—Financial statements for 2006-07.


The following answers to questions were circulated:

Asylum Seekers

(Question No. 1)

Senator Allison asked the Minister for Immigration and Citizenship, upon notice, on 12 February 2008:

(1) Is the Minister aware that the Melbourne Anglican Synod recently moved the following ‘without dissent’ motion: ‘That this Synod regrets the Government’s adoption of procedures for certain people seeking political asylum in Australia which exclude them from all public income support while withholding permission to work, thereby creating a group of beggars dependent on the Churches and charities for food and the necessities of life; and calls upon the Federal Government to review such procedures immediately and remove all practices which are manifestly inhumane and in some cases in contravention of our national obligations as a signatory of the UN Covenant on Civil and Political Rights’.

(2) Is the Minister aware that, as at 23 September 2007, material aid valued at $1 608 925 has been distributed to the benefit of: (a) asylum seekers on bridging visas ($840 456); (b) refugees from Afghanistan, Egypt, Iraq, Liberia, Sierra Leone and Sudan ($743 100); and (c) tsunami victims in Sri Lanka ($25 369).

(3) (a) When will the Government change the refugee laws so that asylum seekers do not continue to be ‘beggars dependent on the Churches and charities for food and the necessities of life’; and (b) if there is no intention to change the laws, how does the Government consider the needs of such people will be met in the future.

Senator Chris Evans—The answer to the honourable senator’s question is as follows:

(1) I am aware of this motion.

(2) I am aware of this expenditure.

(3) I have asked for advice as a matter of priority from my Department on possible implementation options to provide fairer and more appropriate access to work rights for asylum seekers. I note that some 1780 asylum seekers were assisted under the publicly funded Asylum Seeker Assistance Scheme in 2006-07. This Scheme provides financial and health care to vulnerable asylum seekers.

Immigration and Citizenship: Media Staff

(Question No. 18)

Senator Minchin asked the Minister for Immigration and Citizenship, upon notice, on 12 February 2008:

As at 26 November 2007, with reference to the department and all agencies in the Minister’s portfolio:

(1) How many employees are engaged in positions responsible for public affairs, media management, liaison with the media and media monitoring.

(2) What are the responsibilities of these staff.

(3) What are the Australian Public Service classifications of these positions.

(4) For each of the financial years 2007-08, 2008-09, 2009-10 and 2010-11, what is the current operating budget for these media-related sections within the department or agency.
Senator Chris Evans—The answer to the honourable senator’s question is as follows:

The information provided below relates to the minister’s portfolio after the machinery of government changes which took place on 3 December 2007.

(1) There are currently 15 employees engaged in positions responsible for public affairs, media management, liaison with the media and media monitoring. The National Communications Manager is the department’s official spokesman.

(2) The Media Section supports the ministerial offices, departmental executive and business areas on a wide range of communication issues, including media liaison and monitoring and event management.

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(4) The operating budget for the Media Section in 2007-08 is $1.5 million. Budgets for 2008-09, 2009-10 and 2010-11 have not been allocated.

Australian International Trade Association
(Question No. 95)

Senator Stott Despoja asked the Minister representing the Minister for Trade, upon notice, on 12 February 2008:

(1) Has the Minister or the department received any complaints regarding the practices of the Australian International Trade Association (AITA), including the practice of arranging inadequate visas for Australian teachers recruited to teach in China.

(2) Does the practice of facilitating employment in China with inadequate visas breach any Commonwealth laws?

(3) Has the department ever engaged in business with AITA, Mr Michael Guo or Mr Steven Guo (also known as Steven Moon); if so, can details be provided of the nature and extent of any such dealings?

(4) Has the department or any of Australia’s consulates or embassies received any complaints in relation to the conduct of AITA, Mr Michael Guo or Mr Steven Guo; if so, can details be provided of the nature and extent of any such complaint.

(5) Will ministers be required to declare membership of AITA’s ‘honorary board’, pursuant to the Prime Minister’s ‘Standards of Ministerial Ethics’?

Senator Faulkner—The following answer has been provided by the Minister for Trade to the honourable senator’s question:

(1) See answer to question 4 below.

(2) In accordance with established practice, it is not appropriate for me to provide legal advice on the matter.

(3) I am not aware of the Department of Foreign Affairs and Trade having entered into any contractual or formal business arrangements with AITA.
(4) The department has been contacted and has received correspondence concerning AITA and its principals, including through the Australian Embassy in Beijing. These approaches have related to: work conditions of AITA employment in China and the visas under which Australians had entered China to work for AITA; AITA’s handling of visits by delegations to China; and AITA’s claims regarding support by others for AITA. The Department also responded to questions from the Commonwealth Ombudsman concerning the Department’s discharge of its consular role in a matter involving AITA.

(5) This question is best directed to the Prime Minister.

**Cluster Munitions**

*(Question No. 112)*

Senator Allison asked the Minister representing the Minister for Defence, upon notice, on 12 February 2008:

(1) If the Government has not already procured SMArt 155 munitions, does it intend to.

(2) In regard to the negotiation of a treaty to ban cluster munitions through the Oslo Process, does the Government: (a) believe that SMArt 155 munitions should be exempted from any treaty that bans cluster munitions; if so, what is the justification for this position; (b) oppose the inclusion of a transition period during which the use of cluster munitions would be permitted under the treaty; (c) support provisions that would prohibit a state party from being involved in the use of prohibited cluster munitions belonging to another country; and (d) support the view that any submunition-based weapons which might fall outside the definition of ‘cluster munition’ under the treaty should, if they are to be acquired by, or are currently in the possession of, the Government, meet certain effects-based criteria (e.g. in relation to the risk of unexploded ordnance) and cumulative technical criteria (e.g. in relation to self-destruct and self-deactivation mechanisms); if so, what specifically would these criteria be.

(3) Does the Government support the decision by the Government of Israel not to provide de-miners in Lebanon with maps indicating the locations of cluster munition drops which took place during the war in 2006; if not, is the Government willing to publicly condemn the Government of Israel for that decision.

Senator Faulkner—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) Defence has already acquired the SMArt 155 artillery round and is in the process of introducing it into service in accordance with formal processes.

(2) These specific matters were recently the subject of intense discussion between states at the Wellington Conference on Cluster Munitions. At this meeting, states put forward a number of proposals regarding these issues. The Government welcomes the attachment of the compendium of proposals, along with the current draft treaty text, to the Wellington Declaration. We will consider these, along with any other proposals put forward by states, as the basis of negotiations at the Dublin Diplomatic Conference (19-30 May 2008).

(3) The Australian Government has made representations to the Government of Israel, through our Embassy in Tel Aviv, to provide detailed and comprehensive firing maps to the United Nations Interim Force in Lebanon (UNIFIL) to assist with the clearance of unexploded ordnance in Lebanon. The Government of Israel advised that it had provided UNIFIL with information on areas suspected of containing explosive remnants of war, including cluster munitions, shortly after the end of hostilities.
Australia–United States Alliance

(Question No. 113)

Senator Allison asked the Minister representing the Minister for Defence, upon notice, on 12 February 2008:

Does the Government intend to maintain: (a) its status as a nuclear umbrella state, by providing bases, ports and other infrastructure to the United States of America (US) for its nuclear war-fighting apparatus, thereby lending support to the idea that nuclear weapons bring security; if so, what is the justification for maintaining this status; and (b) the decades-long policy of neither confirming or denying whether and when US nuclear-armed warships enter Australian harbours.

Senator Faulkner—The Minister for Defence has provided the following answer to the honourable senator’s question:

(a) The Australian Government views the US alliance as a fundamental pillar of Australian defence. It is longstanding Defence policy to rely on the extended umbrella of US nuclear forces to provide a comprehensive deterrent to nuclear attack on Australia. There are no US bases in Australia. However, as part of Australia’s close alliance with the United States and our joint commitment to maintaining global security, Australia hosts joint facilities including the Joint Defence Facility Pine Gap.

(b) The Government understands and respects the longstanding US policy to neither confirm nor deny the presence or absence of nuclear weapons at any specific or general location.

Visas

(Question No. 266)

Senator Stott Despoja asked the Minister for Immigration and Citizenship, upon notice, on 12 February 2008:

(1) (a) On what basis would persons applying for a visa to enter Australia receive a warning from the Department that their conduct and character may prevent them from being granted a visa in the future; and (b) is an individual ever given the opportunity to challenge the accuracy of the information which forms the basis of an immigration official’s decision to warn a person.

(2) For each year since 1996: (a) how many people were denied a visa; and (b) how many of these determinations were based on a person: (i) having a past criminal conviction; and (ii) having been charged but not convicted of a crime.

(3) (a) In relation to character grounds, other than criminal convictions, on what grounds will a decision be made to refuse a visa; and (b) what steps, if any, do immigration officials take to verify the information.

(4) For each year since 1996, how many times has the Minister or the previous Minister exercised his or her discretion pursuant to section 499 of the Migration Act 1958 to permit the entry of people into Australia.

(5) For each year since 1996, how many people have exercised their appeal rights to the Administrative Appeals Tribunal in relation to decisions to refuse entry on the basis of character grounds.

Senator Chris Evans—The answer to the honourable senator’s question is as follows:

(1) (a) Assessment against the character test under section 501 of the Migration Act 1958 (the Act) is a requirement for any person who applies for a visa to enter or remain in Australia. Where a visa applicant has engaged in conduct that brings them within the scope of the character test, their case will be referred for consideration as to whether their visa application should be refused under section 501 of the Act.
If a visa applicant’s conduct is not considered to be particularly serious, a decision-maker may decide that formal consideration under section 501 is not necessary. In such cases, a visa applicant will be counselled prior to the grant of their visa. This involves informing them about the application of character powers under section 501 and warning them that engaging in conduct which brings them within the scope of the character powers could lead to their case being considered for visa refusal or cancellation in the future.

Where a visa application is formally considered for refusal under section 501 and the visa applicant is found not to pass the character test, a decision-maker has the discretion not to refuse to grant the visa and to instead issue the person with a warning. In such cases, the visa applicant will be advised of the conduct which has caused them not to pass the character test, and warned that engaging in further conduct which brings them within the scope of the character powers could lead to their case being considered for visa refusal or cancellation in the future.

(1) Where a visa application is formally considered under section 501, the visa applicant will be issued with a Notice of Intention to Consider Refusal (NOICR). The NOICR sets out the grounds of the character test under which visa refusal is being considered, and provides the visa applicant with a copy of all of the information (except for information that is non-disclosable or protected under s503A of the Act) that will form the basis of the decision whether to refuse the visa application under section 501. This provides the visa applicant with an opportunity to challenge the accuracy of any information held and to provide any other comments or information which they believe to be relevant to the decision.

There is no legal requirement to provide a person with an opportunity to comment where they are counselled instead of undergoing formal consideration under section 501 because no decision is made regarding whether the visa application passes the character test. However, if a person is subsequently considered under s501, all adverse information held by the Department (except for information that is non-disclosable or protected under s503A of the Act) would be put to the applicant for comment as part of the normal notification process discussed above (including any information held by the Department prior to the visa applicant being counselled).

(2) Aggregate statistical data regarding the total number of visa applications that were refused per full calendar year is only available from 2004:

- 2004: 160,956
- 2005: 177,684
- 2006: 156,479
- 2007: 153,827

(2) Statistical information regarding the number of visa applications that have been refused on the basis of a past criminal conviction and the number that have been refused where a person has been charged but not convicted of a crime is only able to be obtained by undertaking a comprehensive manual file search, which will necessitate an inappropriate diversion of Departmental resources. Improvements to the Department’s information systems through the Systems for People program should improve the accessibility of this information in the future.

(3) The grounds of the character test are set out at section 501(6) of the Act. These are:

- they are associated with a person, group or organisation whom it is reasonably suspected is involved in criminal conduct; or
- they are found not to be of good character because of their past and present general conduct; or
• there is a significant risk that, in the event they were allowed to enter or to remain in Australia, they would engage in criminal conduct; harass, molest, intimidate or stalk another person in Australia; vilify a segment of the community; incite discord in the community; or otherwise represent a danger to the community.

(3) (b) Where a visa application is being considered for refusal under section 501 of the Act, the visa applicant will be sent a Notice of Intention to Consider Refusal (NOICR). The NOICR provides a non-citizen with a fair and reasonable opportunity to verify and respond to the information that a decision-maker will take into account when making their decision. The submission upon which the decision-maker will make their decision will include the information provided by the visa applicant in response. The decision-maker is then required to determine for themselves whether the visa applicant passes the character test.

(4) Section 499 of the Act allows the Minister to give written direction to a person or body who has functions or powers under the Act. It does not provide the Minister with the discretion to permit the entry of people into Australia.

(5) Statistical data regarding the total number of applications for a review by the Administrative Appeal Tribunal (AAT) in relation to s501 refusal decision is only available from 1 January 2006. Since this date there have been 52 applications for AAT review of a visa refusal decision under section 501.