COMMONWEALTH OF AUSTRALIA

SENATE

Hansard

WEDNESDAY, 19 SEPTEMBER 2007

CORRECTIONS

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Wednesday, 26 September 2007

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SITTING DAYS—2007

Month	Date
February	6, 7, 8, 9, 26, 27, 28
March	1, 20, 21, 22, 26, 27, 28, 29
May	8, 9, 10
June	12, 13, 14, 18, 19, 20, 21
August	7, 8, 9, 13, 14, 15, 16
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December	3, 4, 5, 6

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FORTY-FIRST PARLIAMENT
FIRST SESSION—TENTH PERIOD

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

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

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

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

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

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

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

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

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

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

Leader of the Australian Labor Party—Senator Christopher Vaughan Evans

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

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Leader of the Australian Greens—Senator Robert James Brown

Leader of the Family First Party—Senator Steve Fielding

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Nationals Whip—Senator Fiona Joy Nash

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

Australian Democrats Whip—Senator Andrew John Julian Bartlett

Australian Greens Whip—Senator Rachel Siewert

Family First Party Whip—Senator Steve Fielding

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Members of the Senate

Senator	State or Territory	Term expires	Party
Abetz, Hon. Eric	TAS	30.6.2011	LP
Adams, Judith	WA	30.6.2011	LP
Allison, Lynette Fay	VIC	30.6.2008	AD
Barnett, Guy	TAS	30.6.2011	LP
Bartlett, Andrew John Julian	QLD	30.6.2008	AD
Bernardi, Cory [5]	SA	30.6.2008	LP
Birmingham, Simon John [6]	SA	30.6.2008	LP
Bishop, Thomas Mark	WA	30.6.2008	ALP
Boswell, Hon. Ronald Leslie Doyle	QLD	30.6.2008	NATS
Boyce, Suzanne Kay [1]	QLD	30.6.2008	LP
Brandis, Hon. George Henry, SC	QLD	30.6.2011	LP
Brown, Carol Louise [4]	TAS	30.6.2008	ALP
Brown, Robert James	TAS	30.6.2008	AG
Bushby, David Christopher [9]	TAS	30.6.2008	LP
Campbell, George	NSW	30.6.2008	ALP
Carr, Kim John	VIC	30.6.2011	ALP
Chapman, Hedley Grant Pearson	SA	30.6.2008	LP
Colbeck, Hon. Richard Mansell	TAS	30.6.2008	LP
Cormann, Mathias Hubert Paul [8]	WA	30.6.2011	LP
Conroy, Stephen Michael	VIC	30.6.2011	ALP
Coonan, Hon. Helen Lloyd	NSW	30.6.2008	LP
Crossin, Patricia Margaret [3]	NT		ALP
Eggleston, Alan	WA	30.6.2008	LP
Ellison, Hon. Christopher Martin	WA	30.6.2011	LP
Evans, Christopher Vaughan	WA	30.6.2011	ALP
Faulkner, Hon. John Philip	NSW	30.6.2011	ALP
Ferguson, Hon. Alan Baird	SA	30.6.2011	LP
Fielding, Steve	VIC	30.6.2011	FF
Fierravanti-Wells, Concetta Anna	NSW	30.6.2011	LP
Fifield, Mitchell Peter [2]	VIC	30.6.2008	LP
Fisher, Mary Jo [7]	SA	30.6.2011	LP
Forshaw, Michael George	NSW	30.6.2011	ALP
Heffernan, Hon. William Daniel	NSW	30.6.2011	LP
Hogg, John Joseph	QLD	30.6.2008	ALP
Humphries, Gary John Joseph [3]	ACT		LP
Hurley, Annette	SA	30.6.2011	ALP
Hutchins, Stephen Patrick	NSW	30.6.2011	ALP
Johnston, Hon. David Albert Lloyd	WA	30.6.2008	LP
Joyce, Barnaby	QLD	30.6.2011	NATS
Kemp, Hon. Charles Roderick	VIC	30.6.2008	LP
Kirk, Linda Jean	SA	30.6.2008	ALP
Lightfoot, Philip Ross	WA	30.6.2008	LP
Ludwig, Joseph William	QLD	30.6.2011	ALP
Lundy, Kate Alexandra [3]	ACT		ALP
Macdonald, Hon. Ian Douglas	QLD	30.6.2008	LP
Macdonald, John Alexander Lindsay (Sandy)	NSW	30.6.2008	NATS
McEwen, Anne	SA	30.6.2011	ALP
McGauran, Julian John James	VIC	30.6.2011	LP

Senator	State or Territory	Term expires	Party
McLucas, Jan Elizabeth	QLD	30.6.2011	ALP
Marshall, Gavin Mark	VIC	30.6.2008	ALP
Mason, Hon. Brett John	QLD	30.6.2011	LP
Milne, Christine	TAS	30.6.2011	AG
Minchin, Hon. Nicholas Hugh	SA	30.6.2011	LP
Moore, Claire Mary	QLD	30.6.2008	ALP
Murray, Andrew James Marshall	WA	30.6.2008	AD
Nash, Fiona Joy	NSW	30.6.2011	NATS
Nettle, Kerry Michelle	NSW	30.6.2008	AG
O'Brien, Kerry Williams Kelso	TAS	30.6.2011	ALP
Parry, Stephen	TAS	30.6.2011	LP
Patterson, Hon. Kay Christine Lesley	VIC	30.6.2008	LP
Payne, Marise Ann	NSW	30.6.2008	LP
Polley, Helen	TAS	30.6.2011	ALP
Ray, Hon. Robert Francis	VIC	30.6.2008	ALP
Ronaldson, Hon. Michael	VIC	30.6.2011	LP
Scullion, Hon. Nigel Gregory (3)	NT		CLP
Sherry, Hon. Nicholas John	TAS	30.6.2008	ALP
Siewert, Rachel	WA	30.6.2011	AG
Stephens, Ursula Mary	NSW	30.6.2008	ALP
Sterle, Glenn	WA	30.6.2011	ALP
Stott Despoja, Natasha Jessica	SA	30.6.2008	AD
Troeth, Hon. Judith Mary	VIC	30.6.2011	LP
Trood, Russell	QLD	30.6.2011	LP
Watson, John Odin Wentworth	TAS	30.6.2008	LP
Webber, Ruth Stephanie	WA	30.6.2008	ALP
Wong, Penelope Ying Yen	SA	30.6.2008	ALP
Wortley, Dana	SA	30.6.2011	ALP

(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 Labor Party; FF—Family First Party; LP—Liberal Party of Australia; NATS—The Nationals

Heads of Parliamentary Departments

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Clerk of the House of Representatives—I C Harris

Secretary, Department of Parliamentary Services—H R Penfold QC

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Minister for Defence	The Hon. Dr Brendan John Nelson MP
Minister for Foreign Affairs	The Hon. Alexander John Gosse Downer MP
Minister for Health and Ageing and Leader of the House	The Hon. Anthony John Abbott MP
Attorney-General	The Hon. Philip Maxwell Ruddock MP
Minister for Finance and Administration, Leader of the Government in the Senate and Vice-President of the Executive Council	Senator the Hon. Nicholas Hugh Minchin
Minister for Agriculture, Fisheries and Forestry and Deputy Leader of the House	The Hon. Peter John McGauran MP
Minister for Immigration and Citizenship	The Hon. Kevin James Andrews MP
Minister for Education, Science and Training and Minister Assisting the Prime Minister for Women's Issues	The Hon. Julie Isabel Bishop MP
Minister for Families, Community Services and Indigenous Affairs and Minister Assisting the Prime Minister for Indigenous Affairs	The Hon. Malcolm Thomas Brough MP
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Minister for the Environment and Water Resources	The Hon. Malcolm Bligh Turnbull MP
Minister for Human Services	Senator the Hon. Christopher Martin Ellison

(The above ministers constitute the cabinet)

HOWARD MINISTRY—*continued*

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

SHADOW MINISTRY

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

Shadow Minister for Federal/State Relations, Shadow Minister for International Development Assistance and Deputy Manager of Opposition Business in the House	Robert Francis McMullan MP
Shadow Minister for Primary Industries, Fisheries and Forestry	Senator Kerry Williams Kelso O'Brien
Shadow Minister for Human Services, Shadow Minister for Housing, Shadow Minister for Youth and Shadow Minister for Women	Tanya Joan Plibersek MP
Shadow Minister for Health	Nicola Louise Roxon MP
Shadow Minister for Superannuation and Inter-generational Finance and Shadow Minister for Banking and Financial Services	Senator the Hon. Nicholas John Sherry
Shadow Minister for Education and Training	Stephen Francis Smith MP
Shadow Treasurer	Wayne Maxwell Swan MP
Shadow Minister for Finance	Lindsay James Tanner MP
Shadow Minister for Public Administration and Accountability, Shadow Minister for Corporate Governance and Responsibility and Shadow Minister for Workforce Participation	Senator Penelope Ying Yen Wong
Shadow Parliamentary Secretary for Foreign Affairs	Anthony Michael Byrne MP
Shadow Parliamentary Secretary for Defence and Veterans' Affairs	The Hon. Graham John Edwards MP
Shadow Parliamentary Secretary for Environment and Heritage	Jennie George MP
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Shadow Parliamentary Secretary for Education	Kirsten Fiona Livermore MP
Shadow Parliamentary Secretary to the Leader of the Opposition	John Paul Murphy MP
Shadow Parliamentary Secretary for Industrial Relations	Brendan Patrick John O'Connor MP
Shadow Parliamentary Secretary for Industry and Innovation	Bernard Fernando Ripoll MP
Shadow Parliamentary Secretary for Northern Australia and Indigenous Affairs	The Hon. Warren Edward Snowdon MP
Shadow Parliamentary Secretary to the Leader of the Opposition (Social and Community Affairs)	Senator Ursula Mary Stephens

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WEDNESDAY, 19 SEPTEMBER

Chamber

Wednesday, 19 September 2007

The PRESIDENT (Senator the Hon. Alan Ferguson) took the chair at 9.30 am and read prayers.

QUARANTINE AMENDMENT (COMMISSION OF INQUIRY) BILL 2007

In Committee

Consideration resumed from 18 September.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (9.31 am)—If I may, I will make just a few brief comments and put on record my apology for last night not being here to sum up on the second reading debate. At least one person dropped off the speakers list, for which we as a government in fact are thankful—albeit I think it was an oversight by that senator. Nevertheless, we are thankful. As a result, I was not able to answer some of the questions that were raised during speeches on the second reading. I thought, rather than have all those questions raised again in the committee stage, I would seek—and I thank my staff, as they have compiled a list of those questions—to answer some of those now. I will do that in a bid to truncate some of the questions that will undoubtedly have to be repeated if I do not.

Having said that, I understand that Senator O'Brien raised a question about the protections provided to people involved in the inquiry, and we had a bit of a discussion about that last night. As I mentioned yesterday, the bill ensures that witnesses appearing before the commission of inquiry will have the same protections as witnesses appearing before a royal commission. For example, the provisions under the Royal Commissions Act make it an offence to injure a witness or to prevent a witness from attending et cetera. These protections do not provide a blanket immunity against self-incrimination. Indeed, section 6A of the Royal Commissions Act specifies that the possibility of self-incrimination does not excuse witnesses from answering questions. However, section 6DD of the act does provide that specific statements made by a witness in the course of giving evidence to an inquiry are not in themselves admissible in subsequent court proceedings against them.

I understand questions were raised by Senators O'Brien and Milne in relation to the tabling of Mr Callinan's report and that the suggestion was made that the government should be required to table Mr Callinan's report once it is completed. We as a government cannot support such a requirement, as it could actually narrow the scope of what Mr Callinan can include in his report. For example, the report might contain personal information or commercially sensitive material that could not be made public without unfairly disadvantaging individuals involved in the inquiry. Tabling has never been a legal requirement for the reports of royal commissions. It could effectively limit reports to including only information that can be made public. In relation to the Royal Commission into the Building and Construction Industry, this flexibility meant that the government could act on the recommendation that one volume of the report be kept confidential, as its release might have prejudiced possible future criminal proceedings. Nevertheless, the government remains fully committed to making the findings of this report public, as Minister McGauran made clear when he announced the inquiry. There was some comment about the potential narrowness of the terms of reference, but I think we covered that off in the discussion last night. Without delaying the committee further, I look forward to further questions.

Senator O'BRIEN (Tasmania) (9.35 am)—To clarify one matter: I think the minister said that section 6DD of the Royal Commissions Act provides that specific statements are not admissible in proceedings seeking to prosecute a witness. I did take some comfort from that. To be clear: does that exclude all the evidence taken from the royal commission or just the witnesses' statements to the commission, and does that include a witness statement prepared for the commission rather than their evidence to it?

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (9.35 am)—The answer to the first question is yes. I think I have confused myself in relation to Senator O'Brien's questions. Would he mind repeating them?

Senator O'BRIEN (Tasmania) (9.36 am)—My question was about statements in relation to section 6DD of the Royal Commissions Act where you said specific statements were not admissible. I was taking it that that meant that the specific evidence of the particular witness was not admissible. But would statements taken for the purposes of the royal commission's inquiry—for example, by an investigator—be protected in the same way as the actual evidence before the royal commissioner?

The TEMPORARY CHAIRMAN (Senator Lightfoot)—I see the minister is consulting with his advisers. I call the minister, now that he is fully informed.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (9.37 am)—I was indeed, thank you, Mr Temporary Chairman, and I now have the benefit of having section 6DD in front of me. It states:

(1) The following are not admissible in evidence against a natural person in any civil or criminal proceedings in any court of the Commonwealth, of a State or of a Territory:

(a) a statement or disclosure made by the person in the course of giving evidence before a Commission;

(b) the production of a document or other thing by the person pursuant to a summons, requirement or notice under section 2 or subsection 6AA(3).

(2) Subsection (1) does not apply to the admissibility of evidence in proceedings for an offence against this Act.

So, that is, if you have offended against the Royal Commissions Act—

Senator O'Brien—What about the Quarantine Act, given that you have transported the commission into it?

Senator ABETZ—That would remain the same because, if there are offences against the Quarantine Act, that would be covered by (1)(a) and (b)—if there is a statement or disclosure made in those circumstances.

Senator O'BRIEN (Tasmania) (9.39 am)—I am not sure if that clarifies one of the points I made, and that is this: if a person were to come forward and speak to an investigator and sign a statement for the purposes of ultimately giving evidence at a hearing, is the original statement protected rather than the evidence?

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (9.39 am)—That is covered in section 6DD(1)(a), which I read before:

(a) a statement or disclosure made by the person in the course of giving evidence before a Commission;

and:

(b) the production of a document or other thing by the person pursuant to a summons, requirement or notice ...

So that is my advice.

Senator O'BRIEN (Tasmania) (9.40 am)—I am not certain that that does cover my area of concern, but let us move on. In relation to material that the minister introduced yesterday, about the post 24 August security and quarantine arrangements introduced at Eastern Creek: one matter that was raised was the requirement for persons to shower upon arrival at the horse quarantine facility and upon leaving, and to wear an AQIS supplied protective overall or some such. Isn't it the case that the AusVet plan states that personnel handling horses in a quarantine station must shower before leaving the station to minimise the risk of transmission? And was that provision in place prior to 24 August and observed?

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (9.41 am)—As I understand it, that was the procedure that should have been adopted at the time.

Senator O'BRIEN (Tasmania) (9.41 am)—So was that showering provision observed? I am not sure if you said that, so I am raising that question again. Was that provision observed? Obviously, that is a critically important question. Or is the minister unable to assure us that that was the case?

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (9.42 am)—There is always a distinction between provisions that are in place and whether those provisions are actually observed. I am not going to trample on the ground of whether the provisions that existed at the time were or were not observed because if we knew the answers to that, or thought that we were fully acquainted with all the information, there would be no need for us to be debating this legislation for an inquiry to be conducted by Mr Ian Callinan QC. They are the matters that are best left for Mr Callinan to inquire into and then advise us of what his determination is as to whether the procedures were in fact observed or not.

The TEMPORARY CHAIRMAN—The question is that the bill stand as printed.

Senator O'BRIEN (Tasmania) (9.43 am)—I move opposition amendment (1) on sheet 5388:

(1) Schedule 1, item 5, page 3 (line 28) to page 4 (line 11), omit subsection 66AY(1), substitute:

(1) The Minister must, in writing, as soon as practicable after the commencement of this section, appoint a person to:

(a) conduct a Commission of inquiry into:

(i) the 2007 outbreak and spread of equine influenza in Australia;

(ii) the causes of the outbreak and spread, and, in particular, any protocols, measures or practices that may have contributed to it;

(iii) the nature of protocols for the importation of horses and the policy settings upon which they are based, including the role of ministers in the determination of policy settings and the appropriateness of those policy settings;

(iv) quarantine requirements and practices relating to the outbreak and spread;

(v) any matters incidental to the matters referred to in subparagraphs (i) to (iv); and

(b) report to the Minister on the matters (including any recommendations relating to the matters) as soon as practicable, and, in any event, on or before a day specified in the instrument of appointment.

That amendment proposes to replace 66AY(1) with a new provision. This provision deals with what we are concerned may be inadequate terms of reference as contained in the bill.

The amendment would have three effects. Firstly, it would require the minister to appoint a person to conduct a commission of inquiry rather than being couched in permissive language, so the parliament would require the minister to conduct that inquiry or appoint a person to conduct a commission of inquiry. Secondly, it would require the terms of reference to be as stated in the legislation. And, thirdly, it would make absolutely clear the range of matters which should be investigated.

We had a discussion last night as to what might be the interpretation of the provisions in the bill, and it was suggested that the provisions would cover matters relating to the outbreak and spread of equine influenza in Australia. We believe it would be preferable if this bill required the investigation rather than left that as a matter for interpretation and a matter upon which the commissioner might have to come back to the parliament to seek further authority in the case of a challenge. We suggest that one could not rule out the possibility of a challenge, in relation to the potential breadth of the inquiry, from an interested party or from a potential witness at the inquiry—someone who believed that their position might be prejudiced by the extent of the inquiry going beyond certain matters and perhaps including other jurisdictions.

We believe it is far preferable for the commission's terms of reference not just to be specified in the legislation but to be as broad as possible. We think that the terms of reference ought to be specific as to the types of matters which should be investigated—for example, the protocols, measures or practices. This covers a range of circumstances, and we have discussed some of those, such as whether there are appropriate protocols established—that is, the rules that have been laid down in relation to the importation of horses.

We have been talking about measures such as those contained in the AUSVETPLAN about showering before leaving the quarantine station, to minimise risk, and we have been talking about practices and whether the observance of such measures has been rigorously followed. We think it is much more responsible of the parliament to be specific that we intend—we expect; we require—this inquiry to deal with all of those aspects, rather than to leave that as a matter for interpretation.

The other matter which we think ought to be specifically spelled out in the legislation as a requirement for the terms of reference is the question of the policy settings upon which protocols are based, the role of ministers in the determination of those policy settings and indeed the appropriateness of those policy settings.

We are concerned, given that this government has form in relation to terms of reference shielding ministers from proper inquiry, that these terms of reference not be constrained by the minister with the discretions which are contained within the language in the bill currently and that it be a requirement that the commissioner look into the relevance of policy settings in relation to their role in the outbreak and spread of equine influenza. Of course, we agree that there may be matters which ought to be inquired into which arise in the course of those inquiries and which should be open to the commissioner. We therefore agree that what I will describe as the catch-all provision—which is the fifth provision: 'any matters incidental' et cetera, which I think is basically the same as the provision in the bill—ought to remain to allow the commissioner to delve into fields that arise from the sorts of inquiries that we have outlined in the earlier provisions.

It is our belief that it is much more preferable that these matters be required by the parliament to be investigated. This bill comes here to equip the minister with the power to commission an inquiry. We think that the parliament ought to be specific about the range and extent of the inquiry it requires, and these provisions would assist in the specification by the parliament of the terms of that inquiry. We do think that, despite the assurances which have been given, there is a risk that this inquiry will not be as broad as it should be, and we do believe, given the form of this government in relation to such inquiries, that there is a serious risk that the terms will be drawn in such a way as to constrain the inquiry and protect ministers from the proper reach of it. I think that would be a travesty, given that there clearly has been an involvement of ministers in policy settings affecting protocols as they apply to the importation of horses. That should be properly investigated and ministers involved ought to be accountable, through the inquiry, to the Australian people. We believe our amendment is important and we urge the Senate to support it.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (9.51 am)—The honourable senator opposite has made the bland assertion that, allegedly, the government has form. We, of course, reject that. The important thing with any royal commission and terms of reference is that there be the catch-all phrase. The fact that Senator O'Brien himself is reduced to using the catch-all phrase indicates that, no matter how clever you think you are at drafting, if you want a genuine inquiry you need a catch-all phrase, such as the one we are introducing—namely, 'any matters incidental to the matters referred to'. That is the important part.

Whilst Senator O'Brien has added a few extra words and an extra two paragraphs, he is reduced to also having, at proposed subparagraph (v), 'any matters incidental to'. In the terms of reference we talk about 'outbreak'; Senator O'Brien then says 'and spread' just in case 'outbreak' does not cover the spread. If I wanted to be smart, I could say: 'How can you have an outbreak without an introduction?' In that case the wording ought to be 'introduction, outbreak and spread'. We can keep on adding words ad infinitum, having a great verbal joust and playing word games, but, at the end of the day, we know that the totality of those matters that Mr Callinan needs to inquire into are covered by the final paragraph:

… any matters incidental to the matters referred to in subparagraphs (i) and (ii); …

In Senator O'Brien's amendment, it would be 'in subparagraphs (i) to (iv)'. I am sure that Senator O'Brien and I could sit down and draw up a list of potential extra paragraphs that would go for pages and pages about showering protocols and this quite bizarre allegation of ministerial involvement in the setting of the protocols. We could go through chapter and verse and set out in great detail, page after page, things that Mr Callinan should possibly inquire into. Even if we did that, if we had any sense whatsoever we would still be reduced to adding a final paragraph which said 'any matters incidental to'. I think most people fully accept and understand that that catch-all phrase, which is a description quite rightly employed by Senator O'Brien, is the important part of these terms of reference. We can spend day after day expanding the terms of reference without actually adding anything to it because of that catch-all phrase. Given those circumstances, we do not believe that the amendment will add anything to the terms of reference and to the full extent to which Mr Callinan will be clothed to conduct a very full, wide-ranging inquiry.

Senator O'BRIEN (Tasmania) (9.54 am)—The provision that both Senator Abetz and I have described as the catch-all can only catch all matters relating to, in the case of the bill, the previous two provisions and, in the case of the my amendment, the previous four provisions. The real test of how broadly the inquiry can range is how broad those first governing provisions, if I can put it that way, which establish parameters for the inquiry are. Matters which arise out of or are incidental to those matters are then available, one might say, through the catch-all provision. If we were debating this as a piece of legislation, the matters that are incidental and which can be referred to arise from those specifics contained in the terms of reference. That is the nature of the debate we are having. I have not heard the minister say that all of the matters contained in the four provisions in the amendment are specifically covered in the terms of reference. What I have heard the minister say is that, if Mr Callinan thinks he needs broader terms of reference, he will ask the minister for them. To that proposition, I say: if the parliament cannot be sure that all of these matters are currently covered in the provisions in the bill, then it would be good public policy for the parliament to require that these matters be inquired into without having regard to whether it would necessarily extend the term of the inquiry, increase the cost to the public or increase the process of the parliament to deal with it.

The other aspect which the minister has not responded to is the question of whether the terms in the bill as they stand guarantee that the inquiry, as determined by the commission signed off by the minister, will even be as broad as the government's bill, let alone the amendment as contained in sheet 5388. That is within the discretion of the minister. It may be that there are some arcane reasons why these things are normally couched in this way. I suppose it is not surprising that the minister is trying to ignore the fact that the Cole inquiry into the wheat for weapons scandal was couched in such a way. The public commentary makes it absolutely and abundantly clear in the public's mind that the role of the government in the scandal was not able to be properly investigated. The range of questions which could be asked of government witnesses was constrained by the commissioner in reference to the terms of reference. In other words, those intervening parties who sought to question ministers were told that the questions they were seeking to raise did not arise from the terms of reference and so their questioning was constrained. That is something we do not want to see with this. We know that there was an exchange of correspondence between the Australian Racing Board and the then relevant minister, Mr Truss, in 2004 and 2005, which I have referred to earlier, about specific protocols and with specific reference to the potential for the introduction of equine influenza. We know that there are circumstances where the effectiveness of protocols was questioned by industry in relation to the potential for the introduction of the disease, which is now having a very significant effect on horse industries in Australia.

If we are to leave this in the hands of the minister, especially in relation to the discretions that might arise if there is a deficiency, it will be inefficient and inadequate and will necessitate delay. If there is a deficiency in the words the government proposes, for example, the matter will need to come back to the parliament. We seek to make that unnecessary. To suggest that, somehow, we could talk about every possibility and put them in a terms of reference—of course, one can make that claim about any form of drafting that you attempt to draft exhaustively, but on the other hand you can attempt to draft away perceived issues so that they are not issues in the sense that the terms of reference will clearly allow those issues to be canvassed in the inquiry. The opposition have sought to introduce specific provisions with specific reasons behind them, which I have outlined, and to make sure that those matters are canvassed. We have not been given the absolute unquestionable assurance that these matters will be pursued and that is why we are pursuing them with this amendment.

Question put:

That the amendment (**Senator O'Brien's**) be agreed to.

The committee divided. [10.05 am]

(The Chairman—Senator JJ Hogg)

Ayes……	30
Noes……	33
Majority……	3

AYES

Allison, L.F.	Bartlett, A.J.J.
Bishop, T.M.	Brown, B.J.
Brown, C.L.	Campbell, G.
Carr, K.J.	Crossin, P.M.
Faulkner, J.P.	Fielding, S.
Hogg, J.J.	Hurley, A.
Kirk, L.	Ludwig, J.W.
Marshall, G.	McEwen, A.
Milne, C.	Moore, C.
Murray, A.J.M.	Nettle, K.
O'Brien, K.W.K.	Polley, H.
Ray, R.F.	Sherry, N.J.
Siewert, R.	Sterle, G.
Stott Despoja, N.	Webber, R. *
Wong, P.	Wortley, D.

NOES

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

PAIRS

Conroy, S.M.	Minchin, N.H.
Forshaw, M.G.	Kemp, C.R.
Hutchins, S.P.	Troeth, J.M.
Lundy, K.A.	Ellison, C.M.
McLucas, J.E.	Macdonald, J.A.L.
Stephens, U.	Chapman, H.G.P.

* denotes teller

Question negatived.

Senator O'BRIEN (Tasmania) (10.08 am)—I move opposition amendment (2) on sheet 5388:

(2) Schedule 1, item 5, page 4 (line 16), at the end of section 66AY, add:

(5) The Commissioner's report must be laid before each House of the Parliament within 5 sitting days of that House after the report is received by the Minister.

(6) If a House does not meet within 5 days after the report is received by the Minister, the report must be made available to the Presiding Officer of that House for distribution to the members of that House within 5 days after the report is received by the Minister.

I note that our amendment is similar but not identical to Australian Greens amendment (1) on sheet 5392. I think that we are both on the same page in terms of intent but that we have perhaps slightly different drafting instructions or drafting sources—I am not sure which. I think it is fair to say that what we are about is ensuring that the commissioner's report is made public. The concern which exists is that there ought be a complete public understanding of the causes or cause of the outbreak and spread of the equine influenza disease in the horse population and that if there are public moneys to be spent on that then the parliament ought be fully advised as to the findings. The way that the commissioner would write any such report would be, I think, with regard to the terms of reference. I am not certain one can feel that somehow the commissioner would be constrained in responding to the terms of reference because of fears of publication.

This is an examination of essentially the implementation of public policy and the adequacy of public policy in the form of our quarantine policies as they relate to the importation of horses. This is not akin to the inquiry that the government has referred to—the inquiry into human practices in the building industry. That, I suggest, was to do with the lawful or unlawful behaviour of individuals in relation to an industry and the practices that existed within it; this is an inquiry into the matters of public policy that determined the protocols that apply to the importation of horses, the practices and procedures that were put in place, the observance or nonobservance of those practices and the performance of ministers, departmental officers, managers and contractors in relation to their obligations to ensure that we did all that we could to keep disease from the Australian horse population—quite a different circumstance. We were told that the evidence taken in these inquiries could not be used against an individual in relation to any prosecution or civil case. I think the provision referred to for that protection was section 6DD of the Royal Commissions Act. So I am struggling to understand the caveat that the government seeks to place upon the issue of the publication of these reports. If the report is tabled in the parliament but the evidence cannot be used, I struggle to see how the findings of the commissioner based on that evidence could be intruded into any such proceedings.

One would have thought that if these are prosecutions under the Quarantine Act then they are not matters which will go to a jury. So I really do not understand the caveat that is sought to be placed on the publication of the findings. Were there to be a finding that individual A or B completely ignored their responsibilities in relation to a provision of the legislation, one would expect that those proceedings being subsequently considered would be considered on evidence

other than evidence before the commission and certainly not the findings of the commission. Without the presence of a jury trial, a trial in the public arena would, I suggest, perhaps not be the issue that the government has suggested it would be. So we cannot see the problem with publication. We think it is desirable that the information be available to the public. We are certain that the industry would desire the information to be published. We are certain that the public would like to see the result of this inquiry—after all, they are going to pay for it—and we cannot understand why the government would not agree to provisions which would require the reports to be laid on the table in parliament and the outcome of this inquiry to be public. The minister has said that it is his wish that this matter be made public but that he would leave that in the hands of the commissioner. We think it would be more appropriate for the parliament to determine the outcome at this stage and for the inquiry to commence on the understanding that, at the end of the day, in the mind of the commissioner, the parliament and the public the report would be made public.

Senator MILNE (Tasmania) (10.15 am)—I rise to support Labor's amendment and to indicate that the Greens have a similar amendment, the only difference being in the time frame. The Labor Party's amendment requires that the report be presented within five days. We are saying the report should be presented within 14 days. To save time, I thought that I would speak to my amendment and then, if the amendment is put sequentially when the time comes, it might facilitate the business of the chamber. The public has a great interest in this issue. Right across Australia communities want answers on where this disease came from and how it managed to escape the quarantine facility. Many questions are being asked about the compensation payments. We are told they are not compensation payments; they are income substitution payments. Perhaps there will not be compensation. It depends entirely on what the inquiry report finds and how far it goes. Certainly, there are people who argue that they ought to be compensated. We are going to see enormous public interest in the inquiry because it has such far-reaching ramifications throughout rural and regional Australia, particularly for the horse-racing industry. But it is not confined to that; it has ramifications for all horse related industries. I believe the report should be tabled in both houses of parliament.

My only experience of the impact of a royal commission report—and this is the equivalent of a royal commission—was the Carter royal commission into the attempt to bribe a member of parliament in 1989 in Tasmania. That report was full and frank in its assessment of the evidence. The detail was in the report and it was tabled. Royal Commissioner Carter made judgements at the time. He made it clear why matters were being referred to the DPP and where there was not sufficient evidence to warrant a reference to the DPP. If it was possible to make that kind of finding available in that case, I cannot see why it cannot apply in this case. I would expect—as would every member of parliament—that matters that would prejudice the outcome of any criminal proceedings would be dealt with appropriately by Justice Callinan in this report. I have no doubt that that will occur and that he will frame the report in a way that ensures the maximum potential for the success of any criminal proceedings in the event that they are warranted. It would give much more comfort to people around Australia if they knew that the report was going to be tabled in the parliament and that they were going to have an opportunity to read the whole thing from start to finish. They will then be able to determine whether they concur and can take comfort from the fact that (a) the investigation was comprehensive and (b) they were able to make judgements having read the evidence and looked at the recommendations. That is the entirely appropriate way to go.

With the Carter royal commission, which was much more politicised than this inquiry, the report was able to be tabled and made public in full at that time. I cannot see why the same cannot apply in this case. I do not follow the government's argument in terms of caveats. There is such huge interest in this issue that, as a matter of transparency for the Australian community, not only should the report be made available to the minister but very soon thereafter it should be made available to the parliament. I am prepared to support the tabling of the report within five days, as the opposition proposes. In the event that that is not supported by the government, my amendment seeks a period of 14 days. It is then a question of principle as to whether the government believes it is appropriate for people to read in full what Justice Callinan finds. It is entirely appropriate that, as the representatives of the Australian community, we insist that the whole community has access to the report as Justice Callinan writes it.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (10.20 am)—I thank Senator Milne for her approach to this, which will hopefully shorten the time taken to deal with these amendments. In my heart I was hoping for a while that the Labor Party and the Greens might have a huge argument as to the difference between five and 14 days, but then commonsense prevailed and I thought, 'It will take up a lot of the chamber's time so hopefully they will not,' and I thank them that they did not. In announcing Mr Callinan's appointment, the minister made it clear that the findings of the inquiry will be made public. So there is no argument or discussion to be had in relation to the findings being made public; that will occur. Mr Callinan himself has indicated his preference to conduct as many of his hearings in public as possible.

The government does not, however, support a legislative requirement that the report be tabled in parliament, and for one very important reason—and that is, it could actually narrow the scope of what Mr Callinan can include in his report. I note Senator Milne's reference to the Carter royal commission. Whilst I have a clear memory of it, my memory does not extend to the legislation empowering that commission and whether it included a specific clause in relation to a period in which the royal commission report had to be tabled. My advice is that not a single royal commission set up has had such a time limitation put on it in relation to reporting. The reason is that the report might contain, for example, personal information or commercially sensitive material that could not be made public without unfairly disadvantaging individuals involved in the inquiry. If required to table his report, Mr Callinan would effectively be limited to including only information that can be made public.

As I said before, it has never been a legislative requirement that reports of royal commissions be tabled—and with good reason. For example, with the Royal Commission into the Building and Construction Industry, the government was able to act on the commissioner's recommendation that one volume of his report remain confidential as it might unfairly prejudice future criminal prosecutions. Of course, if that occurs, Mr Callinan may well provide his report in two volumes—one that can be made public and which contains findings, and another that cannot be made public, or at least not for quite some time.

Accordingly, without knowing the exact nature of Mr Callinan's report, it would be inappropriate to include a legislative requirement that the report be tabled. Nevertheless, the government remains fully committed to making the findings of the report public, as Minister McGauran has indicated. Senator O'Brien indicated that it was really only an issue of public policy protocols and other matters. There is the possibility that charges may arise. I have been advised, for example, that if somebody has imported an animal in contravention of the Quarantine Act then that person may be prosecuted under section 67 of the Quarantine Act. If somebody provided false or misleading information to the Commonwealth, that person may be prosecuted under part 7.4 of the Criminal Code Act 1995. As I understand it, part of the procedure includes, for example, the signing of statutory declarations. So if somebody signed a false statutory declaration in relation to this issue, clearly that is a matter that can lead to prosecution as well.

For those reasons, and because it is a precedent which has been followed by every single royal commission that has been established, the government will oppose the amendment in relation to tabling, whilst absolutely guaranteeing that the findings will be made public and that whatever can be made public of the report will be made public as expeditiously as possible.

Senator O'BRIEN (Tasmania) (10.25 am)—Just so that we are clear on this, we do prefer our amendment, but in the event—and we know that the government has the numbers in the chamber—that it does not succeed, is the minister assuring the committee and the Australian public that only those matters contained in the report pertaining to identifying individuals who might be prosecuted will be withheld from publication, or is the minister saying something less than that?

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (10.25 am)—I have said two things. One was in relation to prosecutions and the other was that the report—and I will repeat this word for word—might contain personal information or commercially sensitive material that could not be made public without unfairly disadvantaging individuals in the inquiry. If required to table his report, Mr Callinan would therefore effectively be limited to including only information that can be made public. We do not want to see such a restriction being placed on the report to government which may in fact be very helpful in undertaking any changes. At the end of the day, what we want is the best possible advice arising out of this inquiry to ensure that we get quarantine in relation to this matter as correct as possible. Given those circumstances, we would want the greatest amount of flexibility given to Mr Callinan so that he can be full and frank in his report without having to constrain himself because of the considerations that I have outlined.

Senator MILNE (Tasmania) (10.27 am)—The problem I have here is that the minister is saying he wants Justice Callinan to bring down a full and comprehensive report. Everybody here is in total agreement with having that kind of inquiry and a report of that kind. My concern is that the minister is saying that the findings will be made public but not the report. The findings could involve 10 points at the end of the report in terms of recommendations about what may or may not happen. That is not going to give comfort to people who want to go through, blow by blow, what actually occurred during a time sequence, who was responsible and how it worked out.

Many people will be concerned about this and will even suggest that there is a cover-up, unless the government releases the report. Otherwise they are going to say: 'That's what the findings were but what did they base those findings on? Did they take this or that into account?' So there must be a way of presenting the whole report. Justice Callinan could decide to have part of the report remain confidential on the basis that it covered incriminating evidence against an individual, but the bulk of the report would cover the detail of what occurred—and that is what the Australian people

want to read, not just a two-pager at the end of 10 or 20 recommendations coming out of the report.

That is why both the Labor Party and the Greens are pushing here to have the report tabled in parliament so that the community has access to it, and not just to the findings or the recommendations contained in the report. You are not really giving us much comfort, Minister, and I do not think you are giving any comfort to people who want to know the sequence of events, by telling us that we will only have the findings publicly available. I would like to know how you intend to provide the material I am talking about—the day to day sequence, from the beginning, when we knew and what we knew, through to the end. That is what people want to know. Everybody would respect the fact that some information would need to be privileged in the sense that it may influence court cases or incriminate people. That is understood. But there must be a halfway house between having nothing on the table and just having the recommendations made public.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (10.30 am)—If I understand Senator Milne's comments correctly, we are in heated agreement. She has also—and I do not want to be provocative here—possibly spoken against her own amendment. What is being required in both these amendments is that the report, and you can only read that as 'the full report', be tabled within five or 14 days, depending on whether you go with Labor or Greens. But the report would have to be tabled.

What I have been trying to say—possibly not very well, and I will try it again—is that we as a government will definitely make the findings public. We also want to make as much of the report public as possible. It is fair and reasonable to say that we will be guided by Mr Callinan. A good example was the building royal commission. A number of chapters were made public and one chapter was withheld because of prosecution and other reasons. I would imagine that if Mr Callinan's report neatly fell into those sorts of categories—and with his judicial mind I am sure he would be able to separate and deal with those matters in an appropriate way—then that is what would happen here as well. What I do not want to do is predict what Mr Callinan might report or how he will report to government.

I think we do need to take into account the considerations that Senator Milne herself acknowledged should be, and would need to be, taken into account. Therefore just the bland amendment of saying that it has to be tabled within five days or 14 days would not cover off the sensitive areas to which Senator Milne herself has alluded. I can say and I can guarantee that this government, as always, is willing to be open and transparent, but there are considerations that sometimes militate against full disclosure, as in the case of the building royal commission. We as a government—as does the community, of course, as well—want to get to the bottom of all the matters to ensure that that which has occurred will not occur again. In those circumstances I think everybody would be well served with as much being disclosed as possible, and that is the government's intention.

Question negatived.

Senator MILNE (Tasmania) (10.33 am)—I move Australian Greens amendment (1) on sheet 5392:

(1) Schedule 1, item 5, page 4 (after line 16), at the end of section 66AY, add:

(5) The Minister must cause a report presented in accordance with paragraph (1)(b) to be tabled in each House of Parliament within 14 days of receipt of the report.

Question negatived.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (10.34 am)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

HIGHER EDUCATION ENDOWMENT FUND BILL 2007

HIGHER EDUCATION ENDOWMENT FUND (CONSEQUENTIAL AMENDMENTS) BILL 2007

Second Reading

Debate resumed from 12 September, on motion by **Senator Johnston**:

That these bills be now read a second time.

Senator CARR (Victoria) (10.34 am)—I would like to speak to the second reading of the Higher Education Endowment Fund Bill 2007 and the Higher Education Endowment Fund (Consequential Amendments) Bill 2007. These bills establish the Higher Education Endowment Fund, or HEEF, as announced in this year's federal budget. Labor support these bills. We do so for the reason that our publicly funded higher education system has been cruelly starved of funds for 11 long years by the Howard government. We support these bills because our university system is languishing in a state of serious decay. Its capital stock is in disrepair. Its research facilities are out of date, shabby, falling apart and, in some cases, dangerous. I will provide a few salient examples of the crumbling research facilities a little later in my remarks.

On the government's own figures, the maintenance backlog alone of our universities stands at $1.5 billion. That is before we begin to look at the needs of major refurbishment and replacement of facilities and build-

ings, and it does not include the needs of new facilities. The measures outlined in this bill have been hailed by some as a $6 billion windfall for Australian higher education. It is Labor's view that it is nothing of the sort. This money is not being handed over to the higher education system at all. It is just the return on the investments that will flow to the system. The government's largesse is not quite as some people have presented it. However, the government's own estimates suggest that this new fund will provide a welcome boost of over $300 million per annum. At this rate it will take five years just to clear the immediate maintenance backlog on university infrastructure, which is hardly overgenerous. This backlog figure, I recall, is a couple of years old, so in fact it will take longer than that to reach any level of equilibrium, on the government's own figures.

The lion's share of the funds generated by HEEF will go to university research facilities and infrastructure, and this increase is long overdue. It comes at a time when researchers in the sector are worried about the future of some of the existing programs that have funded universities' research. In particular, there is concern about the future of the major national research facilities that have been funded under the government's flagship Backing Australia's Ability research package.

The National Collaborative Research Infrastructure Strategy, or NCRIS, will terminate in 2011. 'Terminate' is the term used by a DEST officer at the last budget estimates. If it terminates, it will leave a significant number of large and expensive but vital scientific research facilities high and dry—facilities like AuScope, an integrated national research system for acquiring and analysing geophysical and geochemical data so that scientists can learn about the geological structure of the Australian continent. This research is vital to managing our environment, developing energy and mineral resources and anticipating natural disasters. This facility is funded at $43 million to 2011.

Another such facility is the Population Health and Clinical Data Linkage. That links and integrates population health data from different datasets across Australia. It facilitates researchers having access to that data. This initially will vastly enhance Australia's research capacity to undertake health research in fields such as epidemiology. This data facility will be funded at $20 million over five years.

But what will happen when the NCRIS program terminates and the funding abruptly stops? What will become of facilities such as these? That is the question we put to the government: what will happen to these research programs, given the statement that officers have made at Senate estimates that that funding will terminate? If the past is any guide, continued Commonwealth funding for such facilities is in fact far from guaranteed under this government.

The previous large research infrastructure fund, the Major National Research Facilities Program, or MNRF, was established by the previous Labor government in the 1994 federal budget. When the life of that program came to an end in 2005, a number of expensive research facilities were indeed left high and dry—at least, the universities which housed these facilities were left high and dry. Those universities have to decide whether they will be left with some pretty big white elephants or whether they will try to find some other means of securing funding to keep these national facilities in operation.

Let us take the case of the Airborne Research Australia facility, based at Flinders University in South Australia. It consisted of a series of specialist research aircraft designed to support atmospheric and meteorological research and included a unique high-altitude plane. This is a facility that cost $8.5 million. I understand that this facility has effectively been grounded. This is because the Howard government stopped funding it, leaving the responsibility for its continued operations up to Flinders University. The university tried to keep it running by charging fees for service, but without ongoing Commonwealth support it proved too costly. The last advice I had on this issue was that a very specialised, expensive aircraft is actually sitting in a hangar, completely idle. Of course, it was the university that was left with the responsibilities.

I do not seek to blame the university for this sorry state of affairs, but I do blame the government. I do blame this government for its failure to appreciate the long-term research needs of this country. I do blame this government for the fact that, as the OECD has yet again pointed out, this government has fallen further and further behind our international competitors. I do blame this government for not having the strategic wisdom to understand the significance of national research projects and the strategic wisdom to ensure that our research infrastructure was not allowed to deteriorate under these circumstances. I blame the government because it has failed to set up long-term strategies to ensure the funding of facilities such as this, which of course means that in effect there has been an enormous waste of public money because of the government's lack of long-term planning and long-term strategic vision.

We could take the case of the H1 Heliac at the ANU nuclear physics department. This is a research facility of national and international importance. I say that for a number of reasons. It was initially funded under Labor's Major National Research Facilities Program back in 1996. As I understand it, it was the only university based research facility in Australia that had the capacity to train future nuclear scientists. That is a particularly important issue, especially when we understand just how important nuclear research is in this country. I

know there are some simpletons around who suggest that all nuclear research is bad and must be somehow or other devoted to the production of weapons or nuclear power stations. Of course, nothing could be further from the truth. Nuclear research is critical in this country in a range of industries, from engineering to medicine; in geoscience, for instance in the oil and gas industry; in mining; in water and in waste disposal and sewerage; in the chemical industry; and of course in a host of industries in manufacturing. So the means of teaching nuclear scientists and researchers is quite important, and it is important for a myriad of peaceful purposes which are very much part of modern-day life, from cancer detection to food sterilisation to computer electronics, which are just a few examples.

This is a facility which is at the centre of Australia's research into nuclear fusion. Nuclear fusion has the potential to become a safe form of energy generation, one that does not create dangerous radioactive waste. Of course, it is a long way off and it requires substantive public investment, but, as I am advised by scientists at the ANU and by colleagues around the world, that is what they are seeking.

This facility was built and commissioned years ago and, in the fast-changing world of nuclear science, it is becoming out of date and obsolete. To operate it depends on a radiofrequency generator, a second-hand device sourced over 30 years ago from what was then Telecom. Upgrades are needed for chemical-handling gear and for basic safety. Research facilities are complex worksites, and government's reluctance to fund the installation of modern occupational health and safety equipment is limiting our capacity to undertake research of critical national importance. I do not know the cost of maintaining and operating this facility, but I expect it would be considerable and I would expect that funding for it, under the national research fund program, will run out. There is no replacement program for funding those facilities formerly funded under the MNRF program. So far, the Howard government has failed to guarantee to continue funding for this facility. This is the same government that wants to foist onto universities a string of conditions and administrative overburdens to restrict universities' capacity to make independent judgements about where their funds should be allocated. This is also a government that wants to foist on us a string of nuclear power stations, seeking across the eastern seaboard to find sites for the building of nuclear power stations—a government which, at the same time, will not fund the necessary research for a facility such as that at the ANU.

This sort of short-sighted hypocrisy highlights the lack of vision by this government. There is lack of understanding of the need to prepare for the future and there is lack of insight into what should be a long-term strategic vision of where our research infrastructure should be provided. It means that Australia will look rather foolish when it loses the capacity to train up our own nuclear scientists for the future. Australia will lose its chance to contribute to a safe and, arguably, climate change neutral energy source. This situation is similar to our national security. The Howard government cannot seem to be able to appreciate and guarantee the ongoing funding of a facility at the ANU, and the ANU itself is not able to fund the long-term running costs of such a centre. So the question arises: who will fund such a centre as this? It seems that, under the HEEF initiative, using a gesture of this type, the funding cannot be guaranteed either.

The HEEF funding is a strategy the government has pursued, which we see through the National Collaborative Research Infrastructure Strategy, NCRIS, which runs out in 2011. There is no strategy beyond NCRIS. It is quite obvious that the strategy the government adopted to provide ongoing support to the MNRF funded research facility was simply to pull the plug, and I am yet to see any indication from anyone in the government that there is a replacement strategy for that funding for the national infrastructure programs. The reality is that we have no guidelines yet. This legislation has not passed, and we do not know who are going to be the guardians on this body. We are in some doubt as to what the government's real plans are. My guess, however, is that when 2011 comes around and, under this government's model, desperate universities are casting about for a source of money to maintain their expensive NCRIS funded research facilities, there will only be one place to find it—and that will be this source of funding.

So I ask the minister at the table: is HEEF no more than a replacement of NCRIS? I ask and I will seek advice from the officials on that basis. Is this genuinely additional money? Can there be a guarantee that NCRIS funding will continue? What we have seen from the minister to date has been nothing but vague statements. She has vacillated on this issue. She was quoted in May at a press conference as saying that the HEEF fund would eventually replace other capital and infrastructure funds. She said:

> I have been concerned that we have in place a number of funds, each with different guidelines and numbers of criteria, and that universities have to put in lots of different applications ... Over time I would like to see that streamlined ...

The Treasurer, however, speaking on budget night, said that the fund would 'not take over existing education funding'. The minister's own second reading speech identified the fund as 'additional to existing programs' and, more recently, the minister has said that HEEF represented 'an opportunity for more of our universities to emerge as world-class institutions'. What is not clear from any of these statements is the purpose of this fund. We are not being told what the guidelines are. We have not seen these guidelines. We have no

basis for assessment of the criteria for the allocations of moneys under this program. The higher education sector is to be excused for being confused about what the government's intentions are and, in fact, they have every right to be terribly suspicious about what the government's actions are.

I put it to the Senate that at least part of the government's purpose is this: HEEF will, in a de facto way, be there to replace the current NCRIS funding. The scenario is simply this: NCRIS terminates in June 2011, just as the investments from HEEF are beginning to bear fruit. Universities will be forced to turn to HEEF to replace ongoing running and maintenance costs associated with the sophisticated pieces of research infrastructure that NCRIS currently funds. So, in my judgement, all I can see to date—given what the officials have told us at estimates—is that this money will be used to replace the current research infrastructure programs.

The other problem I have with this bill is the fact that the guidelines have yet to be published. We have no way of knowing how the program will actually be administered. As the minister recently said:

> This initiative will promote excellence, quality, and specialisation in Australian universities for years to come.
>
> … … …
>
> It is not – as some suggest – a source of recurrent funding to be divided equally amongst our universities.

The minister says:

> This is the opportunity for more of our universities to emerge as world-class institutions.

So it is not to be divided equally amongst universities. There is going to have to be some form of allocative mechanism put in place. We are entitled therefore to ask: on what basis will money be allocated? The minister has absolute discretion to make grants under this legislation, and, of course, under this legislation the recommendations of the HEEF advisory board will not be made public. In any case, the minister is free to treat these recommendations as she wishes. She can ignore them, and there is nothing in this legislation to prevent that occurring.

What we have is a government that has failed to provide the parliament and the public with the details of the criteria for the allocations and failed to provide us with any understanding of how money will be spent and for what purposes. Under this arrangement, the government is able simply to enact a sleight of hand to replace existing infrastructure funding under these new arrangements. I think we are entitled to know this and I expect that in this debate we will ask the minister for an explanation. We will ask: where are the funding guidelines? Who will be appointed to run this fund? Who will be there to make recommendations? What access will there be for the public to know what guidelines have been issued?

Since coming to power 11 years ago, the government has pulled the rug out from under the higher education sector by cutting university operating grants. In its 1996 budget it actually cut university operating grants by a cumulative six per cent, which resulted in a cut to the sector of some $850 million. As a proportion of total revenue, Commonwealth grants to universities have decreased from 57 per cent in 1996 to almost 40 per cent in 2004—and that is the point the OECD report makes—while university revenue derived from fees and charges increased from 13 per cent in 1996 to 24 per cent in 2004. It is against this background that we are entitled to assess the government's performance when it comes to such matters. That is why I now move the second reading amendment:

> At the end of the motion, add:
>
> (a) the Senate welcomes the fact that the Future Fund and the Higher Education Endowment Fund are for investment in Australia's long-term national interests, including the objective of meeting public sector superannuation liabilities;
>
> (b) the Senate notes that the Government's failure over eleven years to invest adequately in Australia's higher education as illustrated by the following:
>
> (i) on the Government's own analysis there exists a significant backlog of deferred infrastructure maintenance, estimated at $1.5 billion for the university sector;
>
> (ii) the Group of Eight Universities estimate in 2006 that the total deferred maintenance liabilities was $1.53 billion across Go8 Universities alone;
>
> (iii) the principal reason behind this backlog is the fact that since it came to power more than 11 years ago, the Government has undermined the higher education sector by cutting university operating grants, including in its 1996 Federal Budget which cut university operating grant funding by a cumulative six per cent over the forward estimates from 1997-2000, resulting in $850 million in cuts to the sector;
>
> (iv) as a proportion of total revenue, Commonwealth grants to universities have decreased from 57 per cent of their revenue in 1996 to 41 per cent in 2004, while university revenue derived from fees and charges has increased from 13 per cent in 1996 to 24 per cent in 2004;
>
> (c) the Senate condemns the Government for the adverse impact this has had on Australia's universities, including that:
>
> (i) since 1995 student-staff ratios have increased from 14.6 to 20.4 today, with adverse implications for the quality of teaching and learning;

(ii) Australia's education system now relies more on private financing than all other OECD countries except for the United States, Japan and South Korea;

(iii) university revenue derived from fees and charges has increased from 13 per cent in 1996 to 25 per cent in 2004, with the result that more than half of the cost of tertiary education today is met from private sources – with dependence on private sources increasing to 52 per cent in 2004 from 35 per cent in 1995;

(iv) the average amount of Commonwealth funding per student in real terms has declined by nearly $1,500, while student HECS contributions have increased by nearly $2,000, and fees and charges have increased by over $3,000;

(v) the deferment of essential expenditure on the maintenance of university buildings and facilities has had long-term consequences for the quality of essential infrastructure.

(d) further the Senate also notes widespread concerns that, over time, the HEEF could be used to replace existing capital and infrastructure programs in higher education, notably the Capital Development Pool, the Institutional Grants Scheme, the Research Infrastructure (Block Grants) Scheme and the National Collaborative Research Infrastructure Scheme;

(e) that the Senate also notes that:

(i) despite these belated measures, the Government has not put in place a long-term plan for meeting Australia's infrastructure needs, including a national Broadband network and that instead it has:

(A) produced 18 piecemeal broadband proposals in the past 11 years;

(B) recently imposed a two tier broadband solution for Australia through the 17th and 18th broadband plans;

(C) engaged in an election stunt designed to delay the building of a high speed fibre to the node network in the major cities;

(D) through Broadband Connect Infrastructure Program subjected millions of Australians living in regional and rural Australia to a second class broadband network that is based on an obsolete technology and is only capable of delivering average connection speeds twice today's average; and

(E) become embroiled in legal action involving preferential dealing in the Broadband Connect Infrastructure Program, after moving the funding goal posts for the program while only informing one participant;

(f) in contrast to the Government, Labor is committed to build with the private sector a National Broadband Network that includes a fibre to the node network that will deliver minimum connection speeds of 12 megabits per second to 98 per cent of the country. The remaining 2% will receive a standard of service which depending on the available technology will be as close as possible to that delivered by the fibre to the node network.

We call on the Senate to support this second reading amendment. In government, Labor will retain the Higher Education Endowment Fund. But, unlike the current government, we will guarantee that the money generated from its investments will be allocated to universities in a manner that is open, transparent, accountable and in the overall interests of the nation. That is what Labor is about: rebuilding our national innovation system and ensuring that we have adequate support for our major national research facilities.

Senator STOTT DESPOJA (South Australia) (10.55 am)—While I am sure we could have listened to Senator Carr all day on these issues—

Senator Wong—No!

Senator STOTT DESPOJA—time is up. I think that suggestion of 'No!' came from his own side. This is groundhog day for us. We have been doing this—that is, analysing and commenting on higher education policy—for 10 years at least, so I always enjoy the possibility of a debate with Senator Carr.

I also rise to speak on the Higher Education Endowment Fund Bill 2007 and the Higher Education Endowment Fund (Consequential Amendments) Bill 2007 as the higher education spokesperson for the Australian Democrats. I begin just where Senator Carr ended—that is, that we debate this legislation on the day after a vital OECD report was released which demonstrated that our country is the only developed country apparently to cut public spending on tertiary education in the decade to 2004. When you look at the table in that report, as I have had the opportunity to do, as well as at the media reports today, it is very clear that Australia is lagging behind the rest of the world when it comes to government contributions to university funding. According to the *Age* article today:

The OECD found private spending soared—

soared—

mainly due to students leaving university with a greater debt after the federal government lifted maximum HECS fees in 1997.

Unsurprisingly, the government has challenged these statistics. I particularly like the comment from the Minister for Education, Science and Training quoted in the paper today:

… the OECD analysis was flawed because it counted HECS and government full-fee loans as money paid by students …

Der! It is money paid by students. Doesn't the minister get it? People are repaying these loans, these debts—

their HECS. The debate takes place today within the context of, yes, 11 years of blatant underfunding; 11 years of fee hikes and increased loans and charges; deregulation and further deregulation of the postgraduate sector; almost total deregulation, it seems at the moment, of the undergraduate sector; and, of course, paltry, miniscule movement on the issue of student income support. As I say every time, we know that this is a fundamental, absolutely vital issue, a key issue, when it comes to increasing participation in education across the board and higher education specifically, especially for those groups that come from traditionally disadvantaged backgrounds.

With that context in mind, yes, the Senate can welcome the legislation before it today, albeit it is quite skeletal legislation, quite a framework of legislation, but not nearly as detailed or as specific as it should be. It certainly has some key flaws, some of which have been referred to by Senator Carr in his comments, particularly in relation to the powers of the minister—that is, ministerial discretion—and a lack of accountability and transparency in some of the roles of the minister and responsibilities when it comes to the decisions, for example, of the board.

The government's Higher Education Endowment Fund announcement in the budget was indeed a surprise and a welcome surprise in many respects. The recent announcement, too, of an additional $1 billion to be added to the fund out of the massive budget surplus in this country is also welcome. The two announcements represent a long-overdue investment in the higher education sector in this country, a sector that has been long starved of funds. So no wonder the sector generally and legislators are pathetically grateful for what has been given as part of the budget this year.

As I say—and many commentators have made this point—and as Senator Carr said before me, it has to be seen within the context of 11 years of underfunding of the higher education sector, starting, of course, with some $1.8 billion of cuts back in 1996. As I mentioned, since then we have seen increases in fees, loans and charges—and do not forget the implementation of so-called voluntary student unionism. They have been just a few of the radical reforms under this government, in some cases aided and abetted by Independent senators.

The cost to the sector of inadequate indexation has now blown out to around $1.5 billion. The shortfall has been made up by university operating budgets. VSU has stripped around $160 million alone from annual contributions—funds that we know were used for sporting and other recreational facilities, student welfare and other services, and, of course, representation. These services are now either existing on voluntary student contributions—representing a mere fraction of their previous income—or being assisted, once again, through university operating grants, and there is more and more demand on those particular university operating budgets.

In that context, a regular stream of grants for capital works or research facilities will certainly be put to good use by the higher education sector. There is much support for this initiative—I do not doubt it. But we need to make sure we do not get too carried away with the headline figures. Yes, a $6 billion investment fund sounds very impressive. But it is expected to translate into between $300 million and maybe $450 million per annum in competitive grants, according to the government's own figures. Do not get me wrong; the Australian Democrats do not oppose the idea of a long-term capital fund that can provide returns in perpetuity. We think the government is definitely getting much mileage out of the overall $6 billion invested in this fund. But I think that is actually quite misleading, and perhaps even more misleading was the minister's statement from her budget press release, where she indicated that 'a dividend of around $900 million over three years from 2008-09' could be expected—and this was with the original investment of $5 billion.

Evidence to the Senate committee from Bruce Gregor of Mercer Investment Consulting suggests that the government's estimates are quite optimistic, even with the $1 billion extra that has been contributed to the fund. You would know this, Mr Acting Deputy President Marshall, because you were there. I sat next to you for the committee hearings while we frantically used our calculators to work out exactly what this would mean on an annual basis. Mr Gregor suggested that an aggressive investment position could be expected to yield inflation plus four to six per cent in returns, which equals a dividend of around $240 million and $360 million for grants on a $6 billion fund. However, due to volatility and the requirement in the legislation to preserve the initial capital first and foremost—an understandable part of the legislation, arguably—a defensive strategy is necessarily required in the short term which is likely to yield a return of inflation plus two per cent.

With the United States showing some signs of heading into recession, and given the recent market volatility, you have to wonder what returns are likely from this fund in the near future when there is a clear and understandable intention to preserve its real value. If the government has reason to believe that the returns over the short term will be higher than those indicated by Mr Gregor then I am happy for them to explain that today. Perhaps the minister would take that on board and give us some of the financial modelling behind their estimates as to whether it will be greater or otherwise. Otherwise, I think we need to conclude that the impact of this fund will be seen further into the future than indeed the government would have us believe.

I also want to sound a note of caution regarding the government's expectations that this fund will serve as some kind of ideal mechanism through which to attract a greater level of philanthropic donations to higher education institutions. Again, this was another area of debate and questioning during the Senate committee process. I agree with the government that this is a worthy goal and I commend the government's focus in the area, though I will quickly rescind that if they see any improvement in this area as just another excuse to remove or rescind government funding to the area of higher education. However, as it stands, philanthropic donations need to be donated unconditionally. They will simply disappear into the fund itself, to be disbursed as the respective advisory boards and ministers see fit. For some people that may be fine; that may be how they want their donations to take place. Most philanthropic donors, I might suggest, like to feel some connection to the cause that they are contributing to. Again, this was evidence that we heard at the Senate inquiry. They are often more motivated to donate to specific causes that personally resonate with them. The more general the fund, the less likely, arguably, it is to attract support.

At the moment, philanthropic donations to the fund are handled in what I would describe as a very general fashion indeed. I note the minister's intention to seek advice on how the management of philanthropic donations could be altered to allow donors more control over how their funds are used. I look forward to any announcements in this regard. But, until these are forthcoming, I do not expect this fund to be the catalyst for philanthropy that the government seems to suggest. Over the long term, even with a more limited grant stream than the government is advertising, this fund should be more valuable than if the government were to award the whole lot now.

The key difficulty, though, for us here is that we cannot really anticipate exactly how it will impact on the higher education sector because, once again, the Senate is being asked to rubber-stamp an initiative when we have been given little information and little detail on how it will actually work. This is a key issue. Even money given with the best intentions can have unintended consequences. This fund is no exception. There are a couple of factors that concern me about the direction in which this fund could go.

Firstly, the media release from the minister said that the HEEF advisory board would 'take into consideration whether universities had been able to raise matching funds'. There is no doubt that such a requirement would favour the more established universities, particularly the Group of Eight universities, over the smaller regional ones and other institutions. I note the remark by the minister in her media release that proposals which 'support Australian government policy with respect to diversity, specialisation and responsiveness to labour market needs' would be favoured.

So there is a clear indication that certain types of projects that fulfil the government's ideals would be favoured. This was further reiterated by the Department of Education, Science and Training in the submission to the Senate Standing Committee on Employment, Workplace Relations and Education inquiry. Eh? What is going on here? I thought this was supposed to be about infrastructure and research facilities. What does responsiveness to labour market needs have to do with anything in this debate? What does it have to do with the allocation of these particular funds? Does this mean that universities that are more active in putting their staff on AWAs might be frontrunners when it comes to handing out grants under the fund? If not, what does it mean? I implore the government to explain: what does that sentence mean? It has certainly struck a note of caution for some of us. I am very concerned by that statement from the minister. It makes me wonder whether this fund is some kind of stick disguised as a carrot to bludgeon the sector into adopting a broader government ideology. Before anyone chokes on their Weeties, we have seen blackmail measures through higher education legislation before, particularly in relation to Commonwealth grants and industrial relations. But I digress.

There is a problem here: we really do not have the details to be able to answer some of these questions. I know that the government today will use its numbers in this place to pass legislation with the bare minimum of detail, and legislation that gives the minister incredibly broad powers to implement the program as she sees fit or indeed as does any minister in the future. As read, division 2 of this bill gives the minister the power to appoint the members of the advisory board, to terminate their appointment and to give them written directions about their functions and how they perform them. Under section 45 the minister can authorise grants with little apparent reference to recommendations from the advisory board. Presumably the minister will also hold the authority to determine the all-important program guidelines that will establish eligibility and merit criteria for the competitive application process.

This is an all too familiar trend that we have seen in this place of consolidating power for the executive government. There are not nearly enough protections or safeguards in this legislation. Indeed, the extent of ministerial discretion in this bill was noted by the Group of Eight, by the National Tertiary Education Union and by the Federation of Australian Scientific and Technological Societies, whom I note went to the point of stating that the Higher Education Endowment Fund runs the risk of being a significant slush fund for ministerial pork-barrelling. No-one wants that, so why

not clean it up? Why not tighten some of the provisions in the act?

That is what the Democrats will attempt to do. I will have a series of amendments that deal with some of these issues of accountability, transparency and the advisory board. That is because I believe this is an important scheme. That is because I am happy to see increased investment in the sector, especially if we are realistically talking about the kind of money that the government has talked about—$6 billion. I want to ensure that it is used in a way that is good for universities, good for the sector and good for the community but that it is done in a way that is completely above board, transparent and accountable. I am happy to speak to those amendments in more detail during the committee stage of the bill. Primarily, what I am intending to do is to amend the bill so that it is more specific about the composition of the advisory board and so that it requires the minister to table the recommendations of the advisory board. I think that is a pretty basic amendment. I would also like to make the program guidelines a disallowable instrument so that the parliament and, through us, the community and specifically the sector will be able to ensure that we are not merely signing off on funding that will have an impact on the sector which was not intended. So it will be making sure that the guidelines are not only public, as they will be, but also disallowable so that there is a role for the parliament in that process.

The idea of these amendments was supported by stakeholders—those who appeared before the Senate inquiry. Indeed, most of them were recommendations or were called for in the submissions that were put forward by the relevant sector groups who appeared before the committee. So I hope that senators will look at them objectively. They are not particularly radical or unprecedented but they ensure that there are further safeguards built into the legislation and that there is some check on ministerial power and discretion.

I am happy to state that this is a welcome initiative. There are many unaddressed areas of the higher education sector in relation to funding. Obviously, the big, outstanding one is adequate, appropriate and realistic indexation. Who is tackling that? Don't tell me that the Labor Party is tackling it. I note the comments in the paper today from Stephen Smith, the education spokesperson for the opposition. He said that the OECD report showed 11 years of underinvestment and neglect under the coalition. Yes, big tick—right on! Mr Smith said that Labor was committed to increasing funding at every level, but he would not give details. Not give details! Isn't it time we should be getting details?

At least today I know little bit more about the government's position on higher education funding. Actually, having said that, I have probably known a lot about the government's position over the last 11 years and have not necessary liked it, but at least I have known the position. I say to Labor colleagues in this place: give us a little more detail. What are you going to do on indexation? What is going to happen on income support? Please do not tell me that you are going to emulate the pathetic approach of this government to student income support. Okay, so we have had a little win, and, yes, the Democrats are thrilled that the student income support bill will come before the Senate this week, ensuring rent assistance to Austudy recipients. Yes, I have been working on that for a long time. I am happy to see it. But it is nothing in the context of the broader issues that need to be addressed in relation to income support. When is the government going to respond to the Democrat initiated Senate inquiry into student income support? That was the first Senate inquiry that looked at those issues specifically. Isn't the convention three months to respond? What are we up to? Three years? That was the last election. This government is not going to touch indexation. Is the next government, whether a Labor government or a coalition government? What are you going to do—either side? What are you going to do about student income support to realistically invest, particularly in those aspiring students who come from backgrounds that are disadvantaged? There are so many outstanding areas and I do not hear the requisite detail from either side.

We are feeling a bit bolshie today and are not going to support the Labor amendment. The Australian Democrats do not just want rhetoric from either side. We want a bit more detail. And I have to say that I am inclined to agree with Senator Carr on a lot of things, including about three-quarters of the amendment, as I recall. The bit about broadband is a bit too propagandish. They are good points, but, no, we are not supporting that today. We are going to move substantive amendments to the legislation that actually back this up with some detail, some transparency and some accountability. I implore colleagues to consider those amendments. *(Time expired)*

Senator BARNETT (Tasmania) (11.15 am)—Today, as a government senator, I proudly stand here on behalf of the government supporting both the Higher Education Endowment Fund Bill 2007 and the Higher Education Endowment Fund (Consequential Amendments) Bill 2007. I want to say at the outset that government of any persuasion cannot make these sorts of investments and bold policy pronouncements without managing the economy well. You cannot do it without managing the economy well and you cannot do it without eliminating, for example, government debt, which is what this government has done. We have delivered successive budget surpluses and, as a result of that strong economic management, can now make this decision in legislation which is, in my view, vision in action. It is an investment of $6 billion into the future

of Australia's higher education sector. You cannot invest that type of money into any sector—let alone the higher education sector—for the future of our children and for the future of this nation when you are saddled with debt and running budget deficits. That is exactly what the previous Labor government did in this country.

So I want to salute, right up-front, the leadership of our federal Minister for Education, Science and Training, the Hon. Julie Bishop. She has been outstanding and has performed brilliantly in this role. She has taken this bold approach with the full support of the cabinet: Mr Howard, Mr Costello and the rest of the leadership team. She has the full support of the government senators. This is vision in action, where we are planning for the future. We are not dealing with the problems of the past. Many of those have been dealt with. There is still more work to do, but this is visionary legislation. It is planning for the future. As a member of the Senate Standing Committee on Employment, Workplace Relations and Education, I want to acknowledge, in her absence, the work of our chairman, Senator Judith Troeth, who is not here, for personal reasons, but who I know would like to stand here and strongly support this legislation.

The government senators' report is available. It is a public document. In fact, the entire Senate committee report is a public document. I note with thanks that Labor senators—including you, Mr Acting Deputy President Marshall, who signed this particular report as deputy chairman—have supported the bills and that Senator Stott Despoja has welcomed the legislation, notwithstanding the various reservations that she has made about it. In respect of the report, I thank the committee secretariat for the work that was done to pull it together and I thank all my Senate colleagues on that particular committee for the work that was undertaken and the hearings that we had, including in Melbourne. The principle of the bill is to provide an additional income stream for universities, and that was widely supported. In fact, I think it was pretty much supported across the board—by all the witnesses and by all the submissions that we received.

The Higher Education Endowment Fund legislation will significantly increase the funds that are available to be invested in the higher education sector. As I said, this investment has been enthusiastically welcomed by that sector. There has been a lot said from the opposition benches and by Senator Stott Despoja in respect of the investment of that fund. I want to touch on that before talking about some other matters in respect of the bill. Yes, it is difficult to predict the returns of the investments under that fund, particularly in the short term, in light of the volatility of the various stock markets and investment regimes around the world. But it is noted that the Federation of Australian Scientific and Technological Societies estimated that the HEEF is likely to provide a funding stream of $300 to $400 million per year. Professor Richard Larkins, on behalf of Universities Australia, indicated an estimated potential funding stream of approximately $400 to $500 million per annum. It is noted that the Treasurer's Budget Paper No. 2 lists a national return of just over $300 million for each year of the 2008-11 triennium.

Of course, there will be ups and downs, particularly in the short term. But in the short term, medium term and long term, HEEF is going to deliver real benefits for the university sector. I want to say right up-front that something that I learnt during the Senate inquiry was that there would be a doubling of funding to this sector of all existing financial investments and endowments currently held in the university sector. Professor Richard Larkins indicated that he estimated that it is currently at around $2.5 billion. So this will be a doubling or, in fact, perhaps more than a doubling of all of the existing financial investments and endowments currently held in this sector. This is fantastic news for the university sector. It is fantastic news for tertiary education in Australia and our future wellbeing as a nation in terms of our productivity and the economy. I say again that none of these decisions could have been made without the economy being well managed. The investment of the endowment fund will be managed by the Future Fund Board of Guardians, with operational support provided by the Future Fund Management Agency. Another great initiative of Treasurer Costello and our government was the Future Fund. It is fantastic; it is planning for the future. And the benefits will flow through to our children and, hopefully, their children and on and on. This is vision in action. This is a similar principle applying in that regard.

In fact, this is an unprecedented investment in higher education in Australia. It will be a perpetual fund, so the future capital and research facility needs of the sector will be assured, supported and encouraged for years to come. Further contributions to the fund will depend on whether our economy is managed well. There will be a risk to the economy being managed well if the opposition is successful at the election. The Australian people have a choice of going down the path of risk or having the economy managed well and successfully. The choice we face in the weeks and months ahead is about whether the Leader of the Opposition, with his superficial facade, and the opposition are going to have a chance to wreck our economy or not.

I want to touch on a few of the benefits under this legislation, particularly the philanthropy aspects of the legislation. Senator Stott Despoja and Senator Carr referred to this, but in my view they did not give due acknowledgement to the importance of this theme flowing through this legislation. The endowment fund

will send a clear message to the community that we should provide greater philanthropic support to universities. It will send that very important message not only for years but for decades, and that is good. Our higher education institutions have not been as successful as their competitors overseas in attracting philanthropic donations. In fact, Minister Bishop has advised that less than two per cent of the income of Australian universities comes from philanthropic donations. That is a small percentage in anybody's book. In comparable universities overseas, it can be as high as 15 or 20 per cent.

The Senate committee considered this matter and, in the government senators' report, we referred to the figures of two per cent of income in Australia coming from philanthropic donations and 15 per cent of income overseas coming from philanthropic donations. At page 20 of our report we say:

> … the Minister stated that Australian higher education institutions have not been as successful as their overseas competitors in attracting philanthropic donations.
>
> … … …
>
> The Government has therefore created a new avenue for business and the general public to make philanthropic donations to the higher education sector, and signal to the community that greater philanthropic support to universities should be provided.

We discussed this and we asked questions about it in the Senate committee inquiry. It was clear to us that the funding would be not just for research purposes or block funding but could be for strategic purposes. I asked questions about whether it could be targeted towards health services. Other senators asked about other aspects of concern to them. Basically the answer is yes. There are certain parameters and criteria with respect to that funding and tax deductibility. In that regard, we are advised that the advisory board and the department will be consulting with the university sector about how to encourage future investments. They will be looking at tax deductions for research into certain areas, including health, diabetes and a whole range of other areas of interest. It was noted that this will be a great boost to the university sector throughout. This government has created a new avenue for business and the general public to make those donations.

In the first instance, the bill provides that tax deductible gifts of money to the endowment fund will only be able to be accepted on an unconditional basis. That was noted, but the government indicated that contributions could be earmarked for particular universities and that universities could choose to have their own philanthropic funds managed along with the endowment fund. This is an important point and I am sure that the universities will themselves look at this possibility, with respect to the management of their own investment funds, to see if they can make a difference and get a better return on funds invested for those particular universities.

According to the minister, these issues will be addressed following more detailed consultation with the higher education sector and the board of guardians, and the government may then consider amendments to the legislation. So watch this space. We are always looking to improve our legislative framework and our policy framework to encourage good policy and to encourage further investment in the tertiary education sector. I think the runs are on the board and this is actually being delivered.

We have had allegations from the other side and the crossbenches with respect to the lack of investment in the tertiary education sector. I reject those allegations out of hand. I want to compare the funding that the Australian government was contributing back in 1995-96 and what it is contributing now. This financial year alone the government will invest $8 billion in universities, a 31 per cent increase since 1995-96. This year the Australian government is providing an investment of $9 billion in education, science and training, including the centrepiece of this year's budget, the Higher Education Endowment Fund. This builds on an investment of over $56 billion made by this government in higher education, including research infrastructure for the sector. In fact, we have freed up the sector. We have provided an injection of funds, not just from government but across the board, and that is where the benefits will flow.

During the inquiry, I, as a Tasmanian senator, asked whether the Australian Maritime College will have an opportunity to apply for a benefit from such an investment. The answer was yes. The AMC will, of course, soon be part of the University of Tasmania. The University of Tasmania has plans for growth, and I believe the endowment fund will support the University of Tasmania very significantly. They have plans to grow from 12½ thousand full-time student equivalents to 15,000 by 2010 and to 20,000 by 2020. They have already grown from 10,000 in 2000 to 12½ thousand in 2004.

The planned growth for 2020 will result in an estimated total contribution to the gross product in my state by the University of Tasmania of $425 million or three per cent. That is around the same impact as interstate holiday visitors and around half the total impact of tourism. The University of Tasmania is one of the major employers in Tasmania and, for every increase of 100 effective full-time equivalent students at the university, the contribution to the economy is: $1.6 million to the real GSP, with a total of $130 million more by 2020; $1.9 million to real consumption spending, with a total of $138 million more by 2020; and 26 new full-time equivalent Tasmanian jobs, with 800 by 2010, doubling to 1,600 by 2020. Interstate students

will contribute $6 million more by 2010 and $14 million more by 2020.

That is a great result. I congratulate Professor Daryl Le Grew and his team at the University of Tasmania on the work that they have been doing in growing the university and on its success. I know that the federal member for Bass, Michael Ferguson, is working very hard on getting further and better support.

Senator Cormann—He is a very good member.

Senator BARNETT—That is right, Senator Cormann. He is a good member for Bass; thank you for that. He is working with the university to see what more he can do on behalf of the Australian government to support them and his constituents in the electorate of Bass. I know that likewise Mark Baker, the federal member for Braddon—

Senator Birmingham—Another good member.

Senator BARNETT—Thank you, Senator Birmingham. I agree with you. He works so hard. He is delivering for the north-west coast. I know that he is very supportive of the University of Tasmania and of the infrastructure and students they have on the north-west coast. He is doing everything he can to see if he can better those outcomes for the university.

So there are some things that are being delivered. I believe this legislation will deliver distinct and specific benefits to the University of Tasmania. I know that the Liberal Senate team are right behind and are very supportive of this particular legislation because of its vision and action. It is fully supported.

Senator MARSHALL (Victoria) (11.32 am)—I rise today to speak on the Higher Education Endowment Fund Bill 2007 and the Higher Education Endowment Fund (Consequential Amendments) Bill 2007. Both of these bills were referred to the Senate Standing Committee on Employment, Workplace Relations and Education for inquiry and report. The Higher Education Endowment Fund Bill 2007 establishes the Higher Education Endowment Fund, a perpetual endowment fund to generate earnings for capital expenditure and research facilities in higher education institutions. The Higher Education Endowment Fund (Consequential Amendments) Bill 2007 amends the Future Fund Act 2006 and the Income Tax Assessment Act 1997 to support the implementation of the Higher Education Endowment Fund.

The Higher Education Endowment Fund (Consequential Amendments) Bill 2007 provides that investments made by the Future Fund Board of Guardians will be determined by the Future Fund Board of Guardians, not by ministerial direction, and also specifies that responsible ministers cannot direct the Future Fund Board of Guardians to use the assets of the Future Fund to invest in particular assets.

By the government's own analysis, Australian universities have a significant backlog of deferred infrastructure maintenance. The Department of Education, Science and Training estimated this backlog at $1.5 billion for the university sector as late as last year. When the EWRE committee looked at the HEEF legislation, this exact point was made by several submissions, including by the Federation of Australian Scientific and Technological Societies, the Group of Eight universities and the National Tertiary Education Union. The Group of Eight universities went even further than the department, estimating that the total of the deferred maintenance liabilities was $1.53 billion across the Group of Eight universities alone.

The main reason behind this backlog is that, since it came to power more than 11 years ago, the Howard government has undermined the higher education sector. It is not just Labor that makes this point. Numerous submissions to the committee of inquiry hearing into these two pieces of legislation pointed out that the Commonwealth government's underfunding of the university sector since it came to power is a significant contributor to the current situation.

The submission by the Group of Eight noted that:

> While $6 billion is a large amount of money it needs to be viewed in the context of recent funding trends for Australia's public universities, the recurrent expenses and infrastructure challenges they now face ...

It is worth looking at the Howard government's record on higher education investments since it was elected in 1996. As the Group of Eight have openly acknowledged, the Howard government's first budget in 1996 slashed university operating grants by a cumulative six per cent over the forward estimates from 1997 to 2000, resulting in an $850 million cut to the sector. Not surprisingly, this has had significant flow-on effects in subsequent years as universities have dealt with the impact of those cuts. Universities Australia have confirmed that the government's funding cuts to university operating grants since 1996 have put greater financial pressure on university finances and, following on from this, the services and quality of education they then provide.

Recent work undertaken by Universities Australia has demonstrated that funding shortfalls by the Commonwealth and the inadequate indexation formula have had a direct impact on teaching quality. That work shows that, since 1995, student to staff ratios have increased, with the result that students today receive less time one-on-one with their lecturers and tutors than their counterparts 12 years ago. According to this study, the student to staff ratio today is 20.4 compared to 14.6 in 1995. This assessment was reinforced by the Group of Eight's submission, which stated that the implications of funding pressures faced by universities today include: even larger increases in student to staff

ratios, with implications for quality of teaching and learning; reductions in academic salaries relative to average wages, with implications for the sector's ability to attract talented candidates; and the deferment of essential expenditure on the maintenance of buildings and facilities, with long-term consequences for the quality of essential infrastructure.

Australia's education system now relies on private financing more than all other OECD countries bar the US, Japan and South Korea. More than half of the cost of tertiary education today is met from private sources, with dependence on private sources having increased to 52 per cent from 35 per cent in 1995. As a proportion of total revenue, Commonwealth grants to universities have decreased from 57 per cent of their revenue in 1996 to 41 per cent in 2004. At the same time, university revenue derived from fees and charges has increased from 13 per cent in 1996 to 24 per cent in 2004.

The government is often heard justifying this situation by stating that tertiary spending has increased by 25 per cent since 1996. Whilst that may be true, enrolments have increased by more than double that since 1996. As a consequence, the average amount of Commonwealth funding per student in real terms has declined by nearly $1,500, while student HECS contributions have increased by nearly $2,000 and fees and charges have increased by over $3,000. It is a sign of what a clever politician Mr Howard is when he has Senator Barnett stand up in this place to talk about the real increase in funding, but one only has to step slightly behind those figures to see an absolute demonstration of how much money has actually been cut from this sector by this government.

The provisions of the Higher Education Endowment Fund Bill have been modelled on the provisions of the Future Fund Act 2006. The bill provides the Future Fund Board of Guardians with statutory powers to manage the investments of the Higher Education Endowment Fund. The bill also provides that, as per the Future Fund Act, the Treasurer and the Minister for Finance and Administration are the responsible ministers. In this capacity they will issue directions to the board about the performance of its investment functions. The board is therefore accountable to the Treasurer and the finance minister for meeting its obligations to manage the HEEF. The responsible ministers will set rules to determine the maximum amount available for payments from the HEEF and make the determinations to credit government contributions—initially $6 billion—to the fund and any subsequent government contributions.

A HEEF advisory board will be established to provide advice to the education minister on grants. Because of the different nature and intent of the HEEF compared to the Future Fund, the education minister, not the responsible ministers, is responsible for authorising grants of financial assistance to eligible higher education institutions and for appointments to the HEEF advisory board. It is unsurprising that the Higher Education Endowment Fund has been so well supported and welcomed in the higher education sector, given the continued underfunding of the sector by the Commonwealth government.

Putting the favourable reception by a neglected higher education sector to one side, this HEEF proposal is not without some concerns. This is confirmed in the detail of the bills. A central concern is the transparency of ministerial determinations. Under these bills, the education minister determines who sits on the fund's advisory board and authorises grants of financial assistance to eligible higher education institutions in relation to capital expenditure. There is no direction in the legislation as to the make-up of the advisory board. There are no requirements for sufficient expertise or merit, and many groups have questioned why the responsibilities of the board are not set out in the bills themselves. This provision rings alarm bells, given the history of this government in administering funds on a political rather than a practical basis.

Just recently we saw the Regional Partnerships program used as a pork-barrelling slush fund yet again, although this time it was the Minister for Foreign Affairs, Alexander Downer, wanting a slice of the action after watching so many of his National Party colleagues trash due process to reward their own electorate projects. In this latest Regional Partnerships program fiasco, the foreign minister bypassed the standard application process, asked the Prime Minister to intervene and then ignored the relevant department's advice after an application for funding in his electorate was rejected.

As this government has shown, it falls prey to temptation when it comes to subverting proper process for its own political advantage. These bills must be evaluated on the basis that they will be used for political advantage rather than on the merits of individual proposals. Senator Stott Despoja raised some of those concerns on behalf of the Democrats. I suspect that in future the strategic consideration of Liberal Party and National Party electoral prospects will have more influence than any strategic consideration of the sector's infrastructure needs. I thought that the FASTS submission put it best when they stated that, in its current form, the fund is in effect 'a significant slush fund for ministerial pork-barrelling'.

On top of this, there is no requirement that the advisory board's recommendations or any variations to those recommendations be made public. It is not surprising that the Howard government prefer no public scrutiny when it comes to public money, as they seem to treat it as their own. Such is their arrogance after 11

years in government. The legislation does not even set out in any detail the rules by which funding will be distributed under the HEEF program.

In the event of a negative return for the fund, when there is little or no income, the fund will not release money. This would have the effect that the fund would not discharge any of the $300 million forecast by the Howard government. This has implications for eligible higher education providers that may be relying on being awarded approval for HEEF funds for infrastructure projects. There is little detail provided as to the investment strategy being considered by the board of guardians, including the time frame and scope of investments being made on behalf of the Commonwealth. Are the board of guardians considering an investment approach in the first few years that will not allow for returns to be released to eligible higher education providers? Nobody, at this point, seems to know. If this were the case, it would be at odds with the budget papers, which forecast an estimated average six per cent return per year.

This $300 million forecast is one that deserves to be looked at in detail. While the government is happy to trumpet this announcement, in reality there will be no sizeable return until late 2008, given the transfers to the HEEF will be made at the end of October 2007 and then at the end of January 2008. Based on the evidence presented by the government's own Department of Education, Science and Training, and by Mercer Investment Consulting, the fund will struggle to deliver $300 million per year in the first years of its operation.

I found it interesting that the provision in the Higher Education Endowment Fund (Consequential Amendments) Bill 2007 specifying that the responsible ministers cannot direct the Future Fund Board of Guardians to use the assets of the Future Fund to invest in a particular asset was commented upon by the Minister for Finance and Administration, Senator Nick Minchin. He claimed that this amendment was to 'stop the Labor Party robbing future generations by raiding the Future Fund, taking its annual earnings and dictating to the board that it should invest its money in advancing Labor's political interests'.

I know that the senator is worried that we may seek to copy their impressive efforts in subverting due process when administering funding. Whether it be aged-care bed licences, Senator Boswell's mysterious entitlements, the Regional Partnerships program or the shemozzle that is the broadband network tender process, I can assure the good senator that he should not be worried. We will not be emulating such amazing feats of political favour, ignoring process whenever and wherever. We are guided by the concepts of good governance, transparency and accountability—concepts which some government members think belong to another language. When these concepts are talked about by Kevin Rudd, most government members think that he is lapsing into Mandarin, such is their understanding of the principles of good governance.

Should we be entrusted by the Australian people to govern, Labor has given the commitment to restore transparency and accountability to government programs. Labor supports the Future Fund and is committed to the Future Fund objective of meeting public sector superannuation liabilities. The current coalition government has no plans for long-term investment in infrastructure. In contrast, Labor will invest future surpluses in the Building Australia Fund and make earnings available for infrastructure investment, with investment priorities recommended by Infrastructure Australia. Labor is committed to invest up to $2.7 billion in a national broadband network, with earnings reinvested in the Future Fund. Along with contributions from the private sector, the $2 billion Communications Fund will be used to help build the national broadband network which this country so desperately requires.

Labor supports the establishment of the Higher Education Endowment Fund. This is in line with the submissions received by the EWRE committee on the bills and in light of the evidence presented by the higher education sector to the committee. The measure to establish a Higher Education Endowment Fund is a welcome one. Indeed, the measure to increase Commonwealth funding for infrastructure purposes is long overdue and comes after years of neglect by the Howard government of our higher education sector.

We could do with some positive policies in this sector after such a long line of spectacular policy failures. Here are just a few to jog the memory. There are now more than 100 degrees offered by public universities that cost in excess of $100,000, and this has occurred despite the Prime Minister's promise that 'there will be no $100,000 university degrees under this government'. There are now degrees at public universities that cost more than $200,000. You can get into a full-fee degree with a mark 20 per cent worse than your HECS counterparts if you have the money to pay the full fee. VSU legislation has destroyed student services and campus amenities. Work Choices is being forced onto universities through funding arrangements, with further restrictions to come as university workers have voted with their feet by rejecting AWAs in favour of collective agreements.

Having brought down the quality of education, services and access across the higher education sector, the government has now firmly set its sights on trade skills and training. Given the current skills shortages, we must take action now. However, for this government action means a poor-quality quick fix, a dumbing down of trades qualifications and a lack of concerted effort to

work with the three largest stakeholders in Australia—industry, the states and the Australian people.

The choice is now very clear. Australians can vote for a tired, arrogant and out-of-touch government who believe public money is their own and whose answer to problems with productivity and skills shortages is to slash wages and working conditions of ordinary Australian workers. Or they can vote for a party which believes education is the engine room of the economy, that education is about fairness—a party that believes helping Australians foster and create new skills through education and training is the pathway to prosperity.

Labor sees education and training as being about the economy and about opportunity. We see education as a means to not only learn and earn, but also to inspire creativity and innovation. Education, skills and training is the pathway out of poverty. It is the pathway to a career, security and a decent standard of living. We want education and training to be about lifelong learning. From the cradle to the classroom, from the living room to the workplace, we need to keep investing in ourselves, in our skills and therefore in our future. No matter where you are from, or how much money you have, you should still get a great education. That is our goal. We want education to be for the many and not just the few.

Senator HUMPHRIES (Australian Capital Territory) (11.51 am)—I support the Higher Education Endowment Fund Bill 2007 and I seek leave to incorporate my speech on the second reading in *Hansard*.

Leave granted.

The speech read as follows—

Mr President, I wholeheartedly support this Government's moves to establish a Higher Education Endowment Fund to secure the financial future of Australia's world-class universities. I think it is further proof of this Government's strong economic leadership that it has not only brought about a significant budget surplus for several years running now, but that it has had the foresight to invest part of this surplus in education – one of the most important investments that can be made for Australia's future.

That said, I wish to make a contribution to this debate on the consequential amendments created by the Higher Education Endowment Fund Bill because there is an important change contained in these amendments, and a change which will potentially affect many thousands of people in my community of the Australian Capital Territory.

This Bill will expand the role of the Future Fund Board of Guardians to include the management of the Higher Education Endowment Fund. This is a sensible move, as it will ensure that this fund is responsibly and appropriately managed by people who have experience in managing big investments on behalf of the Australian community. But more importantly, Section 18A of this Bill will protect both the Future Fund and the Higher Education Endowment Fund from intervention or meddling by Government Ministers of any persuasion, and for that, many thousands of Commonwealth Superannuants in my electorate will be extremely thankful.

Specifically, section 18A prevents the Treasurer or the Finance Minister directing the Board of Guardians to invest in a particular financial asset, acquire a particular derivative or allocate financial assets to a particular business entity or a particular business. The effect of this will be that no Government, of whatever political inclination, will be able to direct how or where the money from these funds is spent. The Future Fund, and with it the Higher Education Endowment Fund, will become a locked box. It is impossible to overstate the importance of this section 18A, particularly when we have an alternative Government who have clearly stated their intention to treat the Future Fund less like a locked box, and more like a piggy bank to be crackled open whenever they hear the ice-cream truck of wild ideas coming down the street.

The Future Fund was set up to meet the unfunded superannuation liabilities of thousands of past and present Commonwealth Public Servants. It was set up so that those who have spent their careers working diligently on behalf of the Commonwealth will receive every cent they are entitled to in retirement. It was set up to allow future governments to meet their legal and social responsibilities to today's workers, without bankrupting future generations in the process. It was not set up so that future governments could dip into it at will to fund the promises which they are banking on to secure election later this year.

And yet that is exactly what the Labor Party is proposing to do. Despite criticising this Government in the past for not making the Future Fund enough of a `locked box', Labor is now proposing to dip into the fund and swipe $2 billion to pay for their half-baked broadband scheme. They want to take $2 billion out of the pockets of retirees and older Australians to pay for a broadband plan that won't reach all Australians, won't deliver services to the bush, and won't address inherent infrastructure problems with existing telecommunications technology. Our Government has a plan to use a mix of wireless, ADSL and satellite technology – and a mix of public and private investment – to provide high speed coverage to 99% of the Australian population at very little cost, and will have this service up and running within two years. By contrast, Labor wants to drain the $2 billion Communications Fund and take $2 billion from the Future Fund to pay for a plan which will leave many Australians to wallow in coverage black holes, and which won't even be up and running within this decade.

This is Labor's so-called `Broadband Future', and Commonwealth superannuants are expected to pay for it with their hard-earned entitlements. Perhaps it wouldn't be so bad if it were only $2 billion they proposed to spend, but Labor's Lindsay Tanner has also repeatedly refused to rule out further raids on the fund. He has refused to say what else Labor might use the Future Fund and its interest for, or how much might be left over for its intended purpose of paying superannuation entitlements when they've finished frittering it away on pointless broadband plans, consultative committees and advisory groups. This willingness on the part of Labor to pick superannuant pockets to pay for their promises begs a rather serious question: does Labor care about Commonwealth public servants at all?

Perhaps they don't, Mr President, and perhaps they take these public servants and their roles for granted, and therein lies the problem. From the top of the party down to the local apparatchiks we see nothing distain for the public service, and hear nothing but loud rhetoric about big spending cuts which will put jobs at risk and severely curtail the important work our public servants do. Although my colleagues and I on this side of the house seriously doubt Labor's ability to make these cuts given the dodgy maths their claims are based on, the fact is that they have long had the public service in their sights.

As if it isn't bad enough that this is the case, as if it isn't worrying enough that Labor is talking about cutting billions of dollars from the budgets of dozens of Departments, now they also want to rob those public servants who manage to hang on to their jobs long enough to accrue superannuation of this entitlement! Let's be completely upfront about this: robbing the Future Fund is robbing from Commonwealth superannuants. Labor's plan to raid the Future Fund amounts to a raid on the secure futures of many thousands of Commonwealth public servants.

There are some senior Labor figures that do not seem to have a problem with this. For example, in August this year in a debate on communications infrastructure, former Labor Leader Simon Crean told the Parliament: "The government's solution is to put [savings] into the Future Fund, which does

what? It meets the unfunded superannuation liabilities of who? Commonwealth public servants. Why should the nation's savings be used for such a limited purpose? Why should the Future Fund be used to pay only the superannuation liabilities of Commonwealth public servants? Apparently, to Mr Crean, providing for the retirement of many thousands of Commonwealth workers is a "limited purpose". Apparently, Labor doesn't think this is a worthwhile way to spend a portion of the nation's savings.

Well, I do. As Senator for the ACT, the territory where so many public servants are based, I know very well the contribution these workers make, and how hard they work on behalf of the Government of the day – whoever that Government may be. I know that many public servants spend their entire working lives within the service, accumulating a wealth of valuable experience and knowledge which Governments often rely on to guide their decision-making. And I believe that these workers, like all other Australians, have the right to know that when the time comes, their employer will be able to pay their superannuation entitlements, not turn around and say `Sorry, but we spent it all on broadband and some other stuff that seemed like a good idea at the time.'

This is why this Bill is so important, and why I am pleased to lend my support to it, particularly section 18A. It may seem as though this Bill just ties up the legislative loose ends surrounding the creation of the Higher Education Endowment Fund, but in reality, there is a much more important question at stake. That is: do we lock the Future Fund away from interference by governments so that it is able to meet the Commonwealth's superannuation liabilities into the future, or do we leave it open to raids by any Government which needs a quick cash injection?

I know that I speak for the many thousands of Commonwealth public servants in my electorate when I say that the Future Fund should be treated as a locked box, not a piggy bank, and as an investment for the future, not a source of ready funds today. Commonwealth superannuants have just as much right to a financially secure future as all other Australian workers, and for that reason I would urge my colleagues on both sides of this chamber to support this Bill and save the Future Fund from the grubby hands of a future Labor Government or any others who would try to raid it.

Senator GEORGE CAMPBELL (New South Wales) (11.51 am)—I seek leave to incorporate Senator McEwen's speech on the Higher Education Endowment Fund Bill 2007.

Leave granted.

Senator McEWEN (South Australia) (11.51 am)—*The incorporated speech read as follows—*

The Higher Education Endowment Fund Bill 2007 is a small step in the right direction towards providing Australia's tertiary education institutions with the funding they need and that our nation urgently requires.

The Bill, and the Higher Education Endowment Fund (Consequential Amendments) Bill 2007 follow the Government's announcement in the 2007-08 Budget to create a continuous endowment fund which is intended to generate earnings to be used for research facilities and capital expenditure in Australia's higher education institutions.

Labor supports this Bill with some reservations. Like so much of the legislation the Government brings to this chamber, it is too little too late and is a desperate attempt to remedy 11 years of neglect of a sector critical to the future economic and social well being of the nation.

We know that this legislation is here before the Senate only because Labor and Kevin Rudd have put education front and centre for the forthcoming election campaign and a desperate Prime Minister has decided he had better do something to make it look like he really cares about something other than caring about clinging on to power long enough to plan his retirement.

For 11 years the Howard Government has undermined and underfunded the higher education sector and it is only now, on the eve of an election that the Government has chosen to do something that will, hopefully, increase the sector's funding. This funding mechanism, cumbersome though it is, is welcomed, but is not enough.

The National Tertiary Education Industry Union expressed a similar view stating in its submission to the Senate Enquiry into this Bill that it "acknowledges the Higher Education Endowment Fund does provide additional funding to universities, although we would stress that it in no way makes up for nearly a decade of serious disinvestment by the Commonwealth in Australia's university system."

A vibrant, well funded tertiary sector is a priority for the NTEU—the major union in that sector—but Mr. Howard made it clear from the beginning of his term as Prime Minister that education would not be an area that he would prioritise.

In his very first term of office in 1996, Mr Howard presided over budget cuts to university operating grants of a cumulative 6% from 1997 to 2000. That meant a massive $850 million loss to the sector.

Universities have attempted to claw back this money somehow, and charging exorbitant amounts for degrees and

taking in full fee paying students has been the avenue some have been forced to take.

In 1999, Prime Minister Howard infamously said that 'The Government will not be introducing an American-style higher education system. There will be no $100 000 university fees under this Government.' Of course that was another untruth from this Government and the most recent edition of the Good Universities Guide shows that there are now 104 domestic full-fee university degrees that cost in excess of $100 000, three of which cost more that $200 000.

Labor Leader Kevin Rudd made comment the other day about how he had benefited from a free tertiary education thanks to the vision of a former Labor Leader, Gough Whitlam. Many of us in this Chamber were also beneficiaries of that system and it is depressing to see that in such a short time we have now got a university system that - unless this Government is stopped in it tracks – is fast approaching the bad old days when only the wealthy could afford to contemplate a tertiary eduction.

Unlike the soon to be retiring Prime Minister and the Treasurer, Mr. Costello, who would like to be Prime Minister and who has been instrumental in wrecking our higher education system, Labor on the other hand does support universities and does support students and proudly puts education front and centre of our vision for the future.

We are committed to phasing out domestic full-fee degrees at public universities commencing 1 January 2009 to ensure access for all young Australian students is based on merit rather than financial means.

This Government's appalling disregard for the nation's higher education system doesn't stop at lack of funding. Another attack on our universities was the Howard Government's introduction of Voluntary Student Unionism – despite the opposition of the sector. That was a spiteful and miserable piece of anti-student legislation has had a significant impact on universities across the country.

This bullying, extremist Government saw VSU as a way to silence students and—in its usual blinkered, visionless way—failed to see the implications such legislation would have on universities and their surrounding communities. Student unions provide subsidised child care, organise sporting teams, provide free advocacy to students and create vibrant, social campuses. A number of these services provided by student unions were also made available to the local community and this was particularly important in regional areas. Student unions also paid for the maintenance of many buildings on campuses. By introducing VSU the Howard Government put even more financial pressures on universities to provide services and infrastructure on top of an $850 million budget cut.

The Government's own analysis has shown that there is a significant backlog of deferred infrastructure maintenance that has built up since 1996 when this Government was first elected. That deferred maintenance expenditure was estimated by the Department of Education, Science & Training to be at $1.5 billion for the university sector. The Department's figure appears to be conservative. The Group of Eight Universities estimated that the total deferred maintenance liabilities was $1.53 billion in 2006 for the Group of Eight universities alone.

A number of submissions to the Senate Inquiry into this Bill expressed the view that the Government's under funding of the university sector since it came to power is a significant contributor to the current situation. The funding cuts made by the Howard Government have not only led to the deferment of essential expenditure on the maintenance of buildings and facilities, but have changed the operation of universities. With greater financial pressures, the quality of teaching in the university sector has been difficult to maintain, a situation that negatively affects hundreds of thousands of students across Australia.

According to Universities Australia, the student-staff ratio has gone from 14.6 students per teacher in 1995, to 20.4. The Group of Eight's submission to the Senate Committee also found that universities have had to reduce academic salaries relative to average wages, making it difficult for the sector to attract top quality staff.

Of course, this Government's only real contribution to the staffing situation at universities is to tie up administration in red tape, not the least of which is to force universities to offer AWAs as a condition of funding. This is a classic example of the breathtaking hypocrisy of a Government that spruiks about freedom of association and choice and flexibility but really it is just an interventionist and overbearing bully that demands the higher ed sector implements the governments IR agenda or risks funding.

The effects of this Government's under funding of the tertiary sector has had real implications for Australians. Apart from Ireland, Australia spends the least on education of the English-speaking OECD countries.

Another damning statistic is that of the English speaking OECD countries, Australia now ranks second lowest for persons in the age groups 25 – 35 with an upper secondary education.

These are appalling statistics that show under this Government Australia has not kept pace with our compatriot OECD countries. Instead of facilitating growth, the Government has stopped growth in the education sector.

While funding for universities has increased by approximately 6% since 2001, this has made little difference as there has been a 12% increase in the number of full-time students in the same timeframe.

Australia's education system now relies on more private financing than all other OECD countries with the exceptions of the United States, Japan and South Korea.

It is an absolute disgrace that during a period of rapid economic growth, largely due to the resources boom - and in a period of huge government surpluses - we fail to provide for our educational institutions. An estimated 52% of the cost of tertiary education today is dependent on private sources, a huge increase from the 1995 figure of 35% dependency on private sources.

So now, in a desperate attempt from a desperate government to address its woeful lack of investment in Australia's future, we are being asked to support the establishment of the Higher Education Endowment Fund, a financial asset fund consisting of cash and investments.

The Treasurer and the Finance Minister will have the power to credit cash amounts to the Fund through a Special Account which is created by the Bill. These Ministers will

also be required to issue an Investment Mandate to the Board regarding the investment of monies in the Fund.

A Higher Education Endowment Fund Advisory Board will also be established. The chief role of this board will be to prepare reports for the nominated Minister as well as keeping the Minister informed on any relevant issues. The nominated Minister is in turn responsible for providing copies of those reports and the annual report to the Education Minister.

The consequential Bill amends the Future Fund Act and the Income Tax Assessment Act 1997 to support the implementation of the Higher Education Endowment Fund. The Bill consists of two primary amendments along with related changes and some minor amendments.

The first primary amendment is the extension of the Board's functions under the Future Fund Act to include its functions under the HEEF legislation and the second amendment to the Future Fund Act is to ensure that investments will be consistent with the Future Fund's objectives by including two limitations on its mandate.

Labor will support the Higher Education Endowment Bill 2007 and the Consequential Amendments as we recognise the importance of investing in our tertiary education facilities, particularly after the financial hardship they have faced over the last 11 years. We do, however, have a number of concerns which I would like to outline.

Firstly, the Bill gives the Education Minister of the day an enormous amount of power over the Endowment Fund. The Education Minister will decide who is on the Advisory board, appointing and dismissing members of the board at his or her own will. This allows for an incredibly biased, political board and not the independent board wanted by the sector. The National Tertiary Education Industry Union submitted that:

'Given previous experience of the use of Ministerial power in relation to areas like the Australian Research Council grants process, the interests of transparency and good governance would be better met if the functions and responsibilities of the Board are set out in the Higher Education Endowment Fund Bill 2007. This must include the appointment process, which should be open and transparent.'

Many submissions received outlined another concern in regard to the Advisory Board and that is the credentials of those appointed to the board. It is important that the board is comprised of people who are very experienced in the tertiary education sector so that they will be able to make decisions that will be most beneficial to the sector.

From the submissions received it is clear that for the board to have the confidence of the sector there will need to be appropriate selection criteria. For example, The Australian Academy of Science expressed its hope that members of the Advisory Board will be appointed for their knowledge of the higher education sector, and on the basis that there is no conflict of interest.

The Australian Technology Network of Universities—in its submission—acknowledged that:

'When assessing proposals, the Advisory Board will also consider the degree to which funding will support Government policy with respect to excellence, quality and specialisation.' This consideration is particularly important as we face such an enormous skills shortage – another result of the lack of vision and future planning from this tired Government and its stale leadership.

Under this Bill, power is given to the Education Minister to give directions and authorise grants to eligible higher education institutions. With the allocation of grants determined only by the Education Minister, however, the grant process may not be independent and based solely on merit. The only requirement that needs to be met when allocating grants is that the board must have provided a statement for the relevant financial year. This does not stop the Minister from having complete control over the grants process as the Advisory Board is appointed by the Minister.

There is also the possibility of some institutions receiving large grants for the Government's own political gain. While the Board will specify a maximum grants amount in accordance with the Maximum Grants Rules, these rules will be determined by the responsible Ministers. It has been advised that the deliberations regarding the Maximum Grant rules will be informed by external advice from an asset consultation, but this is not in the Bill and does not seem to have been committed to by the responsible Ministers.

The Group of Eight reflected these concerns in their submissions, stating:

'The Bill vests control over the selection and allocations of grants from the Fund to the Minister of the day. With such large amounts of public funding involved, the policy priority should be the achievement of clear, transparent and non-political mechanisms for allocating grants. There are risks under this model that funding allocations will be based on political factors rather than on the merits of individual proposals or through any strategic consideration of the sector's infrastructure needs.'

I note that the Scrutiny of Bills Committee Alert Digest no. 11/07 indicates that the Committee intends to ask the Minister whether or not the ministerial directions and authorisations in the Bill are appropriately exempted from disallowance provisions. We look forward to the Ministers response and note that, once again, the Government has put into the Chamber legislation that is insufficiently detailed and accompanied by an explanatory memorandum that is also lacking in detail.

Both the Australian Technology Network of Universities and Universities Australia noted that the legislation does not set out in any detail the rules by which funding is to be distributed under the HEEF.

This is concerning as without the detail, we cannot know if the system chosen will be fair or if it will disadvantage some institutions. Labor would like to know how the income expected to be generated through the fund will be distributed.

Many submissions noted concern with the requirement that a university is able to put up funds to match those provided by the fund. The Innovative Research Universities Australia stated in their submission that 'matching funds should not be a requirement as some infrastructure cannot attract such funding.' There is legitimate concern in the sector that this requirement would seriously damage a number of universities, particularly new, small and/or regional institutions.

There is also great concern regarding the possibility of a proportion of the grants being competitive. The March 2007

Productivity Commission Report on Public Support for Science and Innovation agreed that:

'Competitive grants schemes effectively lock up a significant proportion of each university's block funds and that any attempts to increase the proportion of competitive research funding relative to discretionary research block funding is not warranted and would threaten universities' ability it undertake meaningful strategic research.'

That Report also stated that 'the high cost to universities in leveraging competitive grants is a threat to the quality of educational services that universities are able to deliver, especially in an environment where there have been significant real cuts in university operating grants for government supported students.'

It is unclear exactly how much funding the Higher Education Endowment Fund will provide as predictable returns will not be achievable over the first five years and very few of the Bill's practicalities have been made available.

However The Federation of Australian Scientific Technological Societies estimates that the fund is likely to provide a funding stream of between $300 and $400 million per annum. This is a similar amount to the $300 million for each year from 2008-2001 estimated in the Treasurer's Budget Paper.

Labor is particularly concerned by Section 49 which provides that in the event of a bad year and the Fund returns little or no income then the Fund will not release any money. Such a decision would mean a loss of an expected $300 million to the sector. This has implications for eligible higher education providers that may be relying on being awarded approval for funds for infrastructure projects.

For Australia to be successful on an international level, it is crucial that Australia has high quality educational institutions. The Higher Education Endowment Fund will benefit research and capital projects, as well as improve the necessary infrastructure for teaching and research in the coming years. However the detail of the Bill will determine wether or not these benefits will extend to all tertiary education institutions.

I trust that the HEEF's potential to be politicised will not be exploited and that we see the creation of a transparent funding process.

After 11 years of neglect, it's about time the Government gave back to the universities of Australia.

Senator BIRMINGHAM (South Australia) (11.51 am)—It is my pleasure to speak in favour of the Higher Education Endowment Fund Bill 2007 and the Higher Education Endowment Fund (Consequential Amendments) Bill 2007 and to welcome them as yet another step in the Howard government's advancement of Australia's future prosperity. In particular, I acknowledge in the gallery today many young Australians who are obviously studying at present and who will be enjoying the benefits of this bill in their future years. Certainly, this is the type of initiative that is an investment in their future as much as it is an investment in the future of Australia.

The world is undergoing much global and economic change, and that is why higher education is so important to Australia's future. I acknowledge that the Senate Standing Committee on Employment, Workplace Relations and Education completed a report on this bill, and within that report it stated:

... internationally, major investments are being made in universities and research facilities. These countries are Australia's economic competitors, both now and in the future, and if Australia is to be successful on an international scale, then it is imperative for Australia to be able to compete in the top end of the market.

This new Higher Education Endowment Fund will ensure that Australia is well placed to compete at that top end of the education market. It injects $6 billion into a perpetual fund to ensure that our higher education facilities can have the resources, infrastructure and facilities that they deserve into the future. It is part of the Liberal-National government's broad commitment to getting it right across the education sector, across all the aspects of education and learning that Senator Marshall referred to earlier—not a narrow focus just on universities or on any one particular area, but actually on getting it right everywhere. It focuses on our schools, investing in our schools and ensuring that we have the right curriculum—a curriculum that addresses basic skills in literacy and numeracy, a curriculum that ensures that young Australians learn about our history, and getting the right mix of curriculum.

Indeed, the Senate only recently completed a report into academic standards in schools, instigated by the Howard government. This will be used as a driving force, I am sure, in the future to ensure that those standards are raised. This is coupled with government investment in the school sector standing at a very high level, supporting both the government and non-government sector, particularly through programs such as the Investing in our Schools Program, which again is providing the practical facilities that schools so desperately need.

It is not just about the schools sector and the higher education sector. This government has provided strong benefits to vocational education and training. This government has proudly reinvigorated traineeships and apprenticeships as an important part of that mix, which has ensured that we have more Australians undertaking such apprenticeships than has ever been the case before. These are proud achievements in getting the right mix of education throughout lifelong learning for all Australians. This will ensure that young Australians, such as those in the gallery today, have a great schooling system and at the end of that have the opportunity to choose the pathways that will suit them best, be it an apprenticeship, a traineeship or going on to university.

We have worked with TAFEs and with the vocational education and training sector. I acknowledge that in this budget we have introduced not only this Higher Education Endowment Fund but also FEE-HELP for VET students. In fact, we are providing practical sup-

port as a first and new measure to assist those undertaking vocational education and training, just as we have provided such support to university students over a long period of time.

The university sector is the focus of this legislation. The university sector, contrary to what we hear from the opposition and the minor parties, has been enjoying a resurgence and is doing extremely well under this government. We need only look at the revenues that the university sector is generating. Details were announced today by the Minister for Education, Science and Training, Julie Bishop, who is doing such a good job in all of these areas of education. Minister Bishop announced that revenues for universities reached in 2006 a record $15.5 billion. That is an increase of $1.6 billion or 11 per cent over the year 2005. That represents significant growth in the revenue available to our universities to support students, and to support and develop the facilities they require.

That level of revenue has been achieved because this government has funded more public places than ever before, as well as supporting the option of up-front fee-paying places. It is that mixture of fee-paying places and government supported places that has provided universities with the surge in revenue that will allow them to achieve great things into the future.

Government funded places, as I said, have also been on the rise. The minister announced only last week 2,300 new Commonwealth supported places to help meet the demand for higher education into the future. These places are addressing student demand and skill needs for Australia. They include 560 new places for engineers, 390 new places for science professionals, 395 new places for nurses, 375 new teaching places, and 210 places for other health professionals. All up, they will contribute to around 4,600 new places that the government allocated last year, in 2006. So the Howard government is building growth upon growth in our university sector. Ultimately, it is expected that 50,000 new university places will be funded by the Australian government by 2011. This represents significant investment in university places for young Australians by this government.

We actually have historically low levels for the number of eligible students who cannot get a place. Some 92 per cent of eligible students received an offer this year, up from 90 per cent last year and the best result in more than two decades. So contrary to what we hear at times from those on the other side of this chamber, it is the best result in more than two decades. If a young person qualified for a place in university, in the last year they had the best chance of getting it in more than two decades. That is a great achievement by this government. I acknowledge that Senator Marshall in his comments recognised that enrolments in universities have more than doubled under this government. That is a proud achievement—that we have increased the number of places in universities and increased the funding in universities to match. That is why this government has something to be proud of having regard to its work in the university sector.

In my home state of South Australia, some 290 of these places will be injected for this year. They will fund 95 new science professionals, 90 engineers, 75 nurses, 10 teachers, 10 health professionals and 10 psychologists—additional places in key skills areas and additional opportunities for young South Australians. By 2013 the Australian government will have funded another 830 university places in South Australia. Coupled with this was an announcement which is of great benefit to South Australia: the government is supporting our first veterinary science school, at the University of Adelaide's Roseworthy campus. For too long young South Australians who have aspired to study veterinary science have had to leave South Australia and study elsewhere. Now we will have a new veterinary science school proudly established at Roseworthy. I acknowledge the commitment of the minister to contributing $15 million in one-off funding to allow the University of Adelaide to establish this school. That is funding for places so that by 2013 up to 270 young people will be studying at the campus either a Bachelor of Animal Science degree or a Master of Veterinary Science degree. This is a great achievement. In addition to acknowledging the minister, I acknowledge David Fawcett, the member for Wakefield, where the Roseworthy campus is based. He is a very hardworking local member who campaigned very hard to achieve the funding for this university campus from this government. It is a proud achievement for David Fawcett and for the government that we have managed to deliver this new opportunity for young South Australians.

This is a healthy tertiary education sector with a bright future that is being made even brighter by the funding provided as a result of the Higher Education Endowment Fund. As we have heard, the fund will take the opportunities for universities to invest in their facilities and infrastructure to a new level. It will create a special account under the Future Fund, managed by Future Fund trustees. It was initially announced in the budget this year at $5 billion but was subsequently increased to $6 billion. A long-term commitment was made by the Treasurer to take that amount further, to hopefully see at least $10 billion in this fund. I hope for even more over the years, for a perpetual fund that will provide ongoing financial support to our tertiary sector. As the Senate committee acknowledged:

> The HEEF is expected to significantly increase the funds that are available to be invested in the higher education sector.

It went further:

> This investment has been enthusiastically welcomed by the sector.

This is good news that is well appreciated by our universities. It is estimated that the initial investment will provide some $300 million to $400 million per annum for investments. These investments will be assessed by an independent advisory committee. So we will ensure that the money goes where it is needed most. That is in addition to the ongoing investment from this government in the higher education sector. The minister has made it perfectly clear that this fund will not be in place of anything—that it is an additional boost. It is in addition to the Capital Development Pool, which has had approximately $607 million invested over the past 11 years; it is in addition to the Research Infrastructure Block Grants, which have had approximately $1.5 billion invested over the same period; and it is in addition to the Major National Research Facilities Program, in which over $59 million has been invested. Over the next five years an estimated $540 million will be invested in the National Collaborative Research Infrastructure Strategy. This is not just about supporting new university places and the facilities at our universities; it is a great investment in the research and development and intellectual capabilities of Australia going into the future.

As my colleague Senator Barnett acknowledged, the fund will also be open to philanthropic donations. As a government, we hope the fund will provide a vehicle to encourage further consideration by the private sector to support these universities and to support the future potential for such excellence in Australian higher education. The Senate committee noted:

> Grants from the HEEF are intended to promote the development of a world-class higher education sector with the provision of significant, targeted and strategic investments in the sector. The committee believes the HEEF has the capacity to deliver excellence in the higher education sector.

I welcome those findings of the cross-party committee. It is important that we do deliver these benefits, this additional funding and the financial gains it will provide to our universities.

The government are able to make this major social investment in Australia's education sector because of 11 years of good economic management. This is part of the social dividend that we as a government are able to deliver that would not have been possible 11 years ago. Why would it not have been possible 11 years ago? Because 11 years ago we were paying more than $6 billion a year in interest on Labor's $90 billion of debt. That is the reason. We were having to fork out this type of money on an annual basis as a nation just to meet debt payments. Now, 11 years later, this government has turned that around, has eliminated the debt and is making investments in the future—investments into the Future Fund that will clear up our future public sector superannuation liabilities; and investments into the Communications Fund, a $2 billion investment to ensure that into the future Australia's rural and regional communities get the types of communications infrastructure they need.

Once again Senator Marshall, in his comments, committed the Labor Party not just to raiding the Communications Fund but to spending it all in one fell swoop and wiping it out. This is the type of attitude we have coming from the other side of the chamber. The risk the Higher Education Endowment Fund will face and the risk the Future Fund will face is that we will see a Labor government that not just starts to take little bits of it but starts to spend the whole lot on its way to placing Australia in debt again.

I welcome the establishment of the Higher Education Endowment Fund. It is a major investment into our university sector. It has been enthusiastically welcomed by our university sector. It is a demonstration, again, of this government's commitment to fiscal responsibility as well as to investing into the future—to actually be putting money aside for perpetual investments into the future. A re-elected Howard government would no doubt be able to build on the approach of the last couple of years in the establishment of these funds to build them up to reduce the tax requirements for future generations and to ensure that we have the type of ongoing investment in Australia's economic and social infrastructure that is required. I am confident that this will be of great benefit to many future students in Australia's university sector, and I endorse the bill to the Senate.

Senator CROSSIN (Northern Territory) (12.08 pm)—The Higher Education Endowment Fund Bill 2007 implements the government's budget announcement about the establishment of a perpetual endowment fund for the use of higher education institutes in this country. The fund so set up will generate earnings which can then be applied for and used for capital projects. The Treasurer and the finance ministers will be given the powers to credit cash amounts to this fund, which will in turn be managed by a board of guardians. The responsible ministers then issue an investment mandate—a series of ministerial directions—to the board regarding the investment of the funds and benchmark returns expected on these investments. They will also have the powers of setting the rules for determining the maximum amount of payments from these funds. We note here that these directions will be tabled in parliament as legislative instruments. I understand, though, that these instruments will not be disallowable. The Minister for Education, Science and Training is responsible for appointments to the board and then responsible for authorising grants from the fund based on advice from the Higher Education Endowment Fund Advisory Board.

We note that, by including non-disallowable instruments concerning ministerial determinations and Higher Education Endowment Fund investments, the

government is actually minimising the transparency and accountability of the processes surrounding this fund, its investment and allocations. I know that the bills concerning the establishment of this fund were sent to the Senate Standing Committee on Employment, Workplace Relations and Education, and concerns have been expressed about the operation of this fund and the way in which the funds emanating from this will be distributed. In fact, we have expressed concerns and uncertainty about exactly how it would work.

I noticed when the majority report was tabled that it played down the risk of the fund being used for pork-barrelling and, of course, I questioned whether the advisory board would have the expertise that is needed in order to allocate this fund. We know that the board is going to have a chairman and six members, including the Secretary of the Department of Education, Science and Training and the Chief Scientist. The minister has told us that members will be chosen for their knowledge of the higher education sector—that is probably a good thing, an essential thing—and other relevant expertise. 'Other relevant expertise' is yet to be defined.

We are not sure what that would mean. Perhaps under this government it would mean previous Liberal government members or even ministers. As we have seen with the Regional Partnerships program, this government is not averse to ensuring that funds it sets up are delivered and directed most prominently to its marginal seats, so we have grave reservations about how these funds will be allocated. The implications for the higher education providers that may be relying on being awarded approval for the endowment funds for infrastructure programs are, I think, fairly massive under this government. We know that decisions may well be made for political purposes. I noticed that in the minority report Senator Stott Despoja actually suggested that the funding recommendations from the board be made publicly available and the funding guidelines should be subject to parliamentary scrutiny and veto. So there are concerns about not only exactly how this fund will operate but how the funds will be awarded and established at the end of the day, particularly under this government.

We are in the position of having publicly said that we would of course support much-needed funding for higher education, but we are critical of this government, which has neglected higher education for so many years. In fact, we have seen a real funding decline in this sector since this government came to power in 1996. The government commenced cuts to this sector of the education industry in its first budget in 1996, under Senator Vanstone, and has never reversed the trend. It has never turned around the funding implications and the funding cuts. It has never reversed the trend in cuts to the higher education sector in its 11 long years in government. It has forced universities to find other funding avenues and forced students to pay even higher fees.

The government's own estimates are that there is a backlog of $1.5 billion in infrastructure needs in the higher education sector, so no wonder it has sought to set up a fund under the guise that this is something new and wonderful. Once again, this government is really playing catch-up for its 11 long years of neglect. Universities have put a much higher figure on what is needed in infrastructure. This government would say $1.5 billion; the Group of Eight say that it is closer to $1.53 billion just for them alone. That is $1.53 billion for just the Group of Eight, unlike this government's guesstimate, which is $1.5 billion for our 38 universities, so there is quite a significant difference in where this government believes the infrastructure shortfall is at this point in time.

As a proportion of their total revenue, this government has cut Commonwealth grants to universities from 57 per cent in 1996 to only 41 per cent in 2004. It has forced universities to raise 24 per cent of their revenue from fees and charges since 2004. While just about every other developed country has been increasing higher education funding, the Howard government has gone the other way. The result of this perverse policy, bucking the trend of the rest of the developed world, has been that, since 1995, student to staff ratios have increased from 14.6 to 20.4 today. Bigger class sizes clearly have an adverse impact on teaching and learning, but this is a concept that this government has failed to grasp—not only in the higher education sector but particularly in primary schools and in early childhood education, where they believe quality teaching is the be-all and end-all to outcomes in education, as opposed to actually looking at staff-student ratios, resources and infrastructure needs. Many lectures are now given to groups of well over 100 per class. Tutorials and seminars, too, have decreased in numbers offered and have increased in class size.

The Group of Eight sum it up in their submission to the Senate inquiry, in saying that the implications of the funding cuts are fivefold:

1. large increases in student to staff ratios, with implications for quality of teaching and learning;

2. reductions in academic salaries relative to average wages, with implications for the sector's ability to attract top talent;

3. the deferment of essential expenditure on the maintenance of buildings and facilities, with long term consequences for the quality of essential infrastructure;

4. the pursuit of alternative sources of income, for example from full-fee domestic and international students; and

5. the pursuit of various practices designed to increase productivity and reduce costs.

These are all indicators of the implications of the funding cuts under this government.

Indeed, this government has been more concerned with forcing their industrial relations laws on the higher education sector than they have been with the quality of the education itself. Our higher education system now relies more on private financing than all other OECD countries except, of course, America, Japan and South Korea. It is clear that the present Prime Minister follows everything the American government would want us to do, and he would have us go the same way. We often talk about and hear about the Americanisation of our higher education system. The average amount of Commonwealth funding per student has declined in real terms over the life of this government by nearly $1,500. At the same time, HECS fees and other charges have had to rise to cover not only the real decline in government funding but the ever-rising costs faced by universities. Even with the rising charges and fees, universities have often had no choice but to defer important capital infrastructure projects.

Now they may have the chance to get some of this work funded, although there is no guarantee of that under the model proposed by this government. Submissions for assistance from this fund will be made on a competitive basis, by competitive tender on as yet unknown criteria. It is, therefore, possible under such conditions that the smaller, newer universities and institutions in the regions may be disadvantaged by this process. I might say that institutions that, perhaps, are in very safe Labor seats may well be disadvantaged as well. They may lack the economies of scale of projects on larger campuses or be forced to incur higher costs due to isolation.

Of course, the amount available will depend on the performance of the fund and the returns managed. Over the past few years, these returns might have been expected to be high, but in the present situation the financial market is quite volatile, largely—and very ironically—tied to the economic situation in the Prime Minister's favourite country, once again, America. Returns have become far less predictable and may, indeed, be very low in the present circumstances. Under the maximum grant rules, the ministers responsible cannot allow payments to exceed accumulated nominal earnings, so the trust fund has to earn a return, and this may not be much in the early days. Mercer Investment Consulting, under Bruce Gregor, presented evidence before the Senate inquiry which said that a provision designed to preserve the government's initial cash contribution would impose a very defensive investment strategy, possibly leading to no returns at all in the event of extreme market volatility in the early years.

This fund will not be operating until the end of this financial year and will certainly not be of immediate benefit. One would have to say that 18 months from now might see some funds available for payment towards replacing or repairing degraded infrastructure. The budget papers have the fund returning a notional $300 million a year, but, as indicated earlier, this is by no means guaranteed. However, even at this rate, if the Group of Eight is correct with their estimate of their needs being $1.53 billion just between those eight universities, it would take six years of returns just to meet the needs of those eight universities. In their submission to the Senate committee, the Group of Eight said:

> While $6 billion is a large amount of money it needs to be viewed in the context of recent funding trends for Australia's public universities, the recurrent expenses and infrastructure challenges they now face, and international developments in public investment in higher education systems.

In other words, it is not as generous as this government would have us believe. The appointed advisory board will advise not only on grants made but also on investment proposals and strategies. As I said, this board will have a chair and six members, all appointed by the minister and able to be unappointed and dismissed by that minister.

The Senate inquiry into this legislation received several submissions expressing concern about the composition and appointment of this board. Again, these ministerial discretions are non-disallowable instruments, so the degree of transparency and accountability of the board can be questioned. The board could be open—and will be open, I suggest—to undue pressures or influence, as we have seen in the past, as I mentioned before, with the Regional Partnerships program. Again, I use the Group of Eight submission to reinforce this point. They say:

> However, as introduced the Minister will determine who sits on the Fund's Advisory Board (ss.40(2 &3)), how the Board is to carry out its function and the processes by which it will operate (ss.40(4)), will decide which grants are funded (s.45) and the terms of any funding (ss.50(3)).

The Group of Eight go on to say:

> There are risks under this model that funding allocations will be based on political factors rather than on the merits of individual proposals, or through any strategic consideration of the sector's infrastructure needs.

Philanthropic gifts can be paid into this fund; however, under this legislation they cannot be for any specific project. You would perhaps have to wonder why you would not just give your money to a single institution in its own right rather than go through the fund. The funds will go into the general 'pool', so a grateful former student of a particular university will be able to donate to the fund but will not have a say in where their donation is used—hardly any real incentive to donate. Despite all these doubts about the workability of the fund, it is a sure sign that, after 11 years of neglect, the Howard government has, in its own way, rediscovered higher education. 'It must be an election year,' I hear you say.

The recent ACOSS report *A fair go for all Australians: international comparisons, 2007* found that Aus-

tralia spends the least on education of the six English-speaking OECD countries except Ireland. We are lagging behind Canada, UK, New Zealand and the United States. The OECD report *Education at a glance* for 2006 shows that we are fourth lowest in the proportion of public expenditure on education—not a performance, I would have thought, that would give much optimism for the future of the skilling of this country.

The government of course makes all the excuses it possibly can and brings out the spin doctors and statistics geniuses to deny these reports. Even today we have Senator Bishop denying figures that have been released in an international report with regard to school education.

Senator Lundy—Minister Bishop. You said 'Senator Bishop'.

Senator CROSSIN—Well, we wouldn't give her that elevation. We have had Minister Bishop denying funding reports on an international report on primary education, saying that they are the wrong statistics at the wrong time, without looking at the fact that, during the period this government has been in office, higher education investment has declined no matter what sector you look at and no matter what period of time you concentrate on. Statistics are used by this government to disguise their neglect of the sector. They roll together figures for expenditure on both public education and private education to hide the fact that sometimes we are talking about money specifically being withdrawn from public education. Private education is necessary, of course, but private is private and public is public; they are two different things and they are funded quite differently by this government.

Australian public funding of tertiary education is at 48 per cent of their funds, down from nearly 65 per cent in 1995 and compared to the OECD average of 76.4 per cent. So when the OECD average for public funding of tertiary education is over 75 per cent, here in Australia it languishes at 48 per cent. While spending on tertiary education has risen in real terms against the base figure for 1995, it has declined considerably in per-student terms due to the large rise in student numbers. It has declined by around $1,500 per student. ABS figures show that since 2001 spending has risen by six per cent but student numbers have gone up by 12 per cent.

I have already stated the effects of this: larger class sizes, less one on one with lecturers and tutors, more reliance on classes being delivered online through the internet, and, of course, increased fees payable by students one way or another. Student fees and charges have risen from 13 per cent of tertiary revenue in 1996 to 24 per cent of tertiary revenue in 2004 and they are rising annually. Aussie students now face mounting HECS debts after completing studies or higher full course fees to get their degrees. Our universities have been forced to rely more and more on HECS fee increases and full-fee-paying students, whether domestic or overseas—predominantly, I would have thought, overseas. It is not a desirable or long sustainable situation as more overseas countries such as China increase their own provision of tertiary education.

As said previously, this Higher Education Endowment Fund will be supported by Labor, although it could be seen as too little, too late. There are obvious faults with the way in which it is proposed to be managed, with government ministers having too many unfettered powers and with many of the regulations being determined as non-disallowable instruments. There is too little transparency and accountability. It is very welcome provided, too, that it is not used to replace existing programs. Again, I refer to the submission from the Group of Eight, in which they said:

> There are a variety of existing Commonwealth Schemes that directly or indirectly support investment in university capital and research infrastructure.

They said that, for reasons outlined in their submission:

> … it is critical that the HEEF never be seen as a substitute for these important schemes which each serve specific purposes.

Labor believes that the income derived from this fund should be available as an addition to any existing program and that it should be available to those projects that genuinely advance our national interests and not just for any short-term political interests of the government of the day.

Senator NETTLE (New South Wales) (12.28 pm)—We have seen overnight, with the latest OECD report, that Australia lags well behind comparable countries in public investment in education. In fact, for public investment in education Australia ranks 29th out of 34 countries in the OECD report. Those countries that choose to put more public money into education have better educational outcomes and do better economically. The GDP of those countries that choose to invest public money in education is higher than that of Australia.

We have the opportunity here in Australia to invest more public money in education so that we cannot only improve the quality of education but improve our society and our economy. The Greens call on the government to invest an additional $5.5 billion of public funds in education each year. If the government invested an additional $5.5 billion each year in education, that would put us among the top 10 comparable countries in the OECD—it would bring us up to about seventh—in terms of public investment in education.

The Higher Education Endowment Fund Bill 2007 relates to a $5 billion education announcement that occurred on budget night. It is not a decision to invest $5 billion each year but rather a one-off payment to go into a fund, the interest of which will be invested into

capital infrastructure and research at Australia's universities. Five billion dollars for education is a good thing, and the Greens support this bill because it puts public funds into education. But we have a variety of different ideas about how you might choose to invest $5 billion in higher education. One of the things the Greens have been advocating for many years now is that we return to a situation where students are able to get into university based on their ability and their merit rather than their capacity to pay. Five billion dollars could go a long way to removing the exorbitant HECS fees that students have to pay right now in order to get into university. The Greens would like to see the federal government investing money in higher education for the purpose of making higher education more accessible. Let us ensure that all the students who qualify academically are able to access a university rather than just those who are able to pay the fees associated with it. We would like to see our whole society benefit from a government investment in higher education that allows more people to access higher education. Our whole society would benefit from more people having the opportunity to access higher education. Funding that would remove HECS fees and full fees that prevent students from accessing higher education would be a worthwhile investment. The Greens would like to see the government put funding into higher education to do that.

We have other priorities and ideas about what might be the best way to invest $5 billion in higher education. We are concerned that these bills fall well short of what could be achieved with this kind of money available to the government. We are also concerned that the control over the distribution of the income generated by these funds leaves too much power in the hands of the education minister. On budget night, the Greens were the first to point out that the $5 billion headline could amount to less government investment going into university research and infrastructure than currently occurs. These concerns have been borne out by the ambiguous statements from the minister and the department about whether the income in this fund will be additional funds. The minister was reported in the *Australian* saying that these funds would 'eventually supersede other capital funding sources such as the Capital Development Pool'. Yet in her second reading speech on this bill, the minister assured us that this is not intended to be a recurrent funding stream. That would be nice, if you could believe that.

The thrust of the way in which the government has been funding education—or not funding education—over the 11 years it has been in office has resulted in a shift away from government money to private funding. That is another thing we found in the OECD report that came out overnight—that shift to fund education in this country has moved onto the shoulders of students and their parents, as the government has pulled out funding. The government has reduced the amount of public investment in education and, instead, put the burden onto students and their parents. There has been an overall shift by this government in relation to education funding. I think we need to look at this bill in that context—that the government has reduced public funding and has put the funding burden onto individual parents and students.

Another confusing aspect of policy in this bill relates to philanthropy. The kind of philanthropy that the minister talks about that occurs in the US and the UK to encourage the university sector in those countries would not be effectively stimulated by this fund. The legislation fails to show how potential donors would be encouraged to contribute when the funds would be swallowed into the government fund. It does not allow the kind of support for specific projects that donors usually require. The reality is that most donors will continue to contribute directly to the institutions which they are interested in supporting and this fund will remain largely a public fund.

The way in which this fund is significantly different to other funds paid for from taxpayer surplus funds is not clear. What does it matter to the university or the taxpayer that the investments that have generated the funding have been labelled the Higher Education Endowment Fund rather than some other label where the surplus is invested? The key difference seems to be that this fund allows even greater power over the direction of research investment to rest with the minister.

The Greens share the concerns of others about the lack of transparency about the decision-making process that the minister would follow in approving projects paid for from this fund. The previous minister showed a willingness to ignore the advice of the Australian Research Council in rejecting research funding applications. Why does the government think that it is appropriate for a minister to reject the advice of expert panels without having to give reasons to the parliament? Why does the government think it is appropriate to make the determinations of the minister not subject to disallowance or approval by this parliament?

The government seems to have set up a fund which made great headlines on budget night but which fails to deliver on any significant educational or public interest grounds above what already happens. The Greens conclude that the government would be better off investing the $5 billion directly in the higher education sector now. Failing that, the government should put more government revenue—and that is all this fund is, just revenue with a different name—into recurrent funding of research. They should not add to the complexity of the research funding competition by introducing another competitive funding source. Instead, why can't we see more funding going through the Australian Research Council block grant model?

Investing $5 billion in higher education is a good and necessary thing. The Greens call on the federal government to put an additional $5.5 billion into education each year so that we can go from being right at the bottom of comparable OECD countries in terms of public investment in education to being up in the top 10. The Greens have pointed to other ideas about how the government could spend its $5 billion by investing in higher education, including the abolition of HECS and making universities accessible to those who have the ability to get into university rather than simply being able to afford it. I foreshadow that I will move a second reading amendment on behalf of the Australian Greens.

Senator ELLISON (Western Australia—Minister for Human Services) (12.38 pm)—Senator Nettle sat down before I thought she was going to.

Senator Carr—Are you going to support our second reading amendment?

Senator ELLISON—No, I want to conclude the debate.

Senator Webber—Ha!

Senator ELLISON—That is not as funny as it might seem, Senator Webber, because it is a serious issue.

Senator Carr—You support my higher education amendments as a rule!

Senator Webber interjecting—

Senator ELLISON—Senator Carr knows very well that we have a history with education going back some years. We might have both shared an interest in it but I am not so sure we agreed on how that interest was to be reflected. The Higher Education Endowment Fund is an unprecedented investment in higher education in Australia. That is a common theme and something which is accepted. This is a $6 billion fund which provides future funding for capital and research facilities in the higher education sector. It is a true endowment fund, with a requirement in the legislation to maintain its real value over the medium to long term. Grants from the endowment fund will be directed towards promoting excellence, diversity, quality and specialisation in Australian universities—all laudable goals which I am sure are supported by all.

There will be an advisory board to ensure that grants are allocated in a way that delivers meaningful outcomes for the sector. This independent Higher Education Endowment Fund Advisory Board will be established to provide advice to the education minister, and its role will be to advise on the best way to implement and manage the endowment fund.

The provisions of the Higher Education Endowment Fund Bill 2007 and the Higher Education Endowment Fund (Consequential Amendments) Bill 2007 allow for the movement of moneys into the endowment fund and for those moneys to be invested for the future. The responsibility for that investment rests with the Future Fund Board of Guardians. So there is a layer of probity, accountability and prudential requirement.

The sector will have a genuine opportunity to provide input into the development of guidelines, outlining how the funding program will operate. There is no requirement for this level of detail to be included in the legislation, but I say that so that it is on the record. I think the sector would welcome that opportunity to provide input.

Consistent with the government's aim of encouraging diversity within the sector, all institutions listed under table A and table B of the Higher Education Support Act 2003 will be eligible to apply for funding. That is something which speaks for itself and is open to transparency and public inspection.

With the establishment of the endowment fund the government has created a new avenue for business and the general public to make philanthropic donations to the sector. That is something that universities in particular benefit from. In my home state of Western Australia, the University of Western Australia has, over a period of time, enjoyed that to great benefit. That is the reason it is perhaps one of the wealthiest universities in the country.

In the first instance, the bills provide that tax deductible gifts of money to the endowment fund will only be able to be accepted on an unconditional basis. At the time the endowment fund was announced, the government indicated that contributions could be earmarked for particular universities and that universities could choose to have their own philanthropic funds managed along with the endowment fund. These issues will be addressed following more detailed consultation with the higher education sector and the board of guardians. The government may then consider amendments to the legislation.

In order to support the establishment and operation of the Higher Education Endowment Fund, amendments to the Future Fund Act 2006 and the Income Tax Assessment Act 1997 are required. Broadly, the amendments to the Future Fund Act extend the functions of the board of guardians to include its functions under the endowment fund act. The bill also makes it clear that there are two investment mandates that the responsible ministers can issue to the board: one for the Future Fund and one for the endowment fund. Correspondingly, the consequential bill clarifies that the board has two investment functions: one for the Future Fund and one for the endowment fund.

Both bills set out the limitation of the investment mandates. In line with good governance practice, the bills also specify that the responsible ministers cannot direct the board to use the assets of the Future Fund to invest or support particular financial assets. The In-

come Tax Assessment Act is also being amended to allow deductible gifts of money to be made to the endowment fund. I thank those senators who have contributed to this debate and, in particular, the standing committee, for its work in relation to these bills. I commend these bills to the Senate.

The ACTING DEPUTY PRESIDENT (Senator Marshall)—The question is that the second reading amendment moved by Senator Carr be agreed to.

Question negatived.

Senator NETTLE (New South Wales) (12.44 pm)—I move:

At the end of the motion, add:

"but the Senate:

(a) condemns the government for failing to invest adequate public funds into higher education and consequently;

(i) leaving Australia languishing 29th out of 34 OECD countries by public investment in higher education;

(ii) presiding over a decrease in real terms in public investment in higher education over the past decade;

(iii) allowing teacher student ratios in universities to blow out to over 1:20;

(iv) increasing the financial burden on students who now pay almost the highest proportion of the cost of their education in the OECD;

(v) forcing universities into competitive commercial management models that have put educational outcomes below financial considerations;

(vi) forcing universities to pursue alternative funding sources that have skewed the academic profile of those universities;

(vii) leaving academic and general staff under increased pressure, impacting on their ability to provide the best quality services our students deserve;

(b) calls on the government to reverse its policy of university privatisation and instead;

(i) abolish HECS and upfront full fees for all appropriately qualified domestic students, returning Australia to a fee free higher education system;

(ii) commit to a per student increase in direct commonwealth grants to universities to bring Australia up to the top ten of OECD nations by public investment in higher education;

(iii) ensure that commonwealth support for region and rural universities allows those institutions to prosper as both research and teaching institutions;

(iv) boost the numbers of Aboriginal and Torres Strait Islanders that both graduate from and work in the university system".

Question negatived.

Senator NETTLE (New South Wales) (12.44 pm)—I note that the Greens were the only people in the chamber to support that amendment.

Senator Carr—You did move it!

Bills read a second time.

Debate interrupted.

MATTERS OF PUBLIC INTEREST

The ACTING DEPUTY PRESIDENT (Senator Marshall)—Order! It being 12.45 pm, I call on matters of public interest.

Ageing Parents of Children with a Disability

Senator BOYCE (Queensland) (12.45 pm)—I would like to speak today about an ongoing and serious issue for parents of children with a disability. The issue actually hinges on the very poignant question: what happens when we are too old or are no longer able to care for our children with a disability? This issue came to the fore again recently in Brisbane, in a radio interview given to the ABC by a very well-known rugby league coach. The interview started out being about his team's ability and position on the ladder, but what caused a fuss about this interview was that this very controlled, very strong man became very emotional—with his voice actually breaking—when he was asked about the future for two of his children who have a disability. The question that was asked was: what about their long-term future? He answered that it was something that he lived with each day and it was not going to go away. He hoped that he and his wife had prepared for their future as best they could and that the family would be there to pick up the pieces when he and his wife were no longer around. His two children will no doubt have their physical needs met in the future. But as to their happiness, their sense of contentment with life, this planner and motivator extraordinaire could simply say that he would do his best and hope everything would be all right.

This same question and this same hope, rather than certainty, about the future confronts many thousands of families around Australia—families that have an adult child or a growing child with a disability. Many of these families have a far lesser ability to plan and to carry through their plans than the well-known Brisbane coach as they face this dilemma of getting older and continuing to look after their adult children with a disability. What happens to those we care for when we are no longer around or no longer able to care for them? The size of this problem within Australia is in fact relatively new. Firstly, advances in medical treatment mean that people with disabilities are, on average, living much longer lives—in many cases, with life spans close to the average Australian life span. In the 1960s, the life expectancy for a person with down syndrome was about 32 years. I now know a number of adults

with down syndrome who are well into their sixties and living active, productive lives. I know young men with muscular dystrophy who are living well past the life expectancy for people with this disability. So there are more older people who have a disability than in previous generations, and we have the right to have every expectation that, in many cases, these people will outlive their parents. This is a relatively new phenomenon.

Secondly, the great majority of people with a disability now live in the community, either with or near their families. They do not spend their lives from birth to death in institutions, as happened in previous generations. But their ability to live functional lives within the community is often very dependent on the little things that their family do to assist them. I am speaking here not of paid services that are often provided by professional organisations but of the smaller things that keep life ticking along. Without that sort of planning and help from their families, there is a very real risk that, at their parents' death, these adult children will lose not just their parents but also their home as they struggle to cope without a caring monitor of the quality of their lives. The medical and social advances that I have mentioned that have led to this increasing longevity and community inclusion for people with disabilities are to be very loudly applauded. But these advances have created, on a larger scale than we have ever seen before, a new and urgent need for long-term planning by parents and by siblings of people with a disability. Carers Australia has in fact described this need as a policy crisis.

I would like to flesh out a little for senators this dilemma being faced by thousands and thousands of Australian parents. In the majority of cases, these people with a disability will have their physical needs taken care of by others when their parents have gone. They will most likely be adequately fed, clothed and housed. But I ask any parent in this place to think about whether that would be their idea of enough for their child or for any vulnerable person they know. In fact, in contemporary Australia, our idea of an adequate or a good life includes a very high social component. In terms of a hierarchy of needs, an adequate or a good life includes living somewhere that is genuinely your home, not just a roof over your head controlled by others where you can sleep. A good and adequate life includes spending time with people you like and/or love—people who care about you because of you, not because they are paid to do so. It includes spending your time involved in activities that you actually enjoy, not just filling in the days going to functions and on outings that someone else thought might be a nice idea for you. Most crucially, a good or an adequate life within contemporary Australia involves having people who care about you and about the sort of life you are leading.

In many cases, when parents die, the siblings will take up this monitoring role for adults with a disability. But I hope that we as a society have already recognised that we ask far too much of many parent carers, ignoring their needs until they are at crisis point. To expect siblings—who probably have their own families, life issues and problems—to replace the parent completely in that role is, in my view, unrealistic and unreasonable. Most parents of people with a disability whom I know do not have an expectation that a sibling would completely replace them. They expect the siblings to be involved in the life of their brother or sister but they do not expect them to be the provider of all things in the way a parent might happily be.

I would briefly like to mention those who will not even get the basics of adequate minimum care that we are talking about—basic food, shelter and clothing. Many of the homeless people in our cities and those living in boarding houses and hostels are people with psychiatric and intellectual disabilities. They are very vulnerable people who have fallen through the cracks. None of us, least of all the state governments, can be proud of our lack of support for homeless people.

For the past few years, I have been involved with a Queensland organisation called Lifeways. I want to speak briefly about the purpose of Lifeways, as it relates to planning. The basic premise of the Lifeways organisation is that good housing, good support services and adequate financial resources are very important in the lives of adults with a disability but it is even more important for vulnerable people to be cared about—that is the critical need. What keeps vulnerable people safe is not a good house, a good car, a good bank account or a good service provider but having someone—and preferably lots of people—in their lives to ensure that they are not being exploited, abused or neglected.

The Lifeways solution to this problem would be to have paid facilitators to help families, including the person with a disability, to develop a long-term plan and a personal support network that would gradually replace the parents in caring about the individual at the centre of the plan. There is some good Canadian research on the establishment of networks. It would certainly involve siblings, if there are siblings around, but often people who are keen to be involved in the life of a person with a disability are not recognised by parents. Parents of children with a disability, particularly a psychiatric disability, often experience a lot of negativity from others and they are very reluctant to ask for help. So the idea of having an independent facilitator who would locate people to be part of a network, and maintain that network as it inevitably goes through the waves and troughs that any organisation established by people will do, is very important to this plan.

It is also very important for helping people in more remote areas where there simply may not be enough people to establish a support network of known volunteers within the social networks of the family. It would be thought that, in situations like that, you would have people from community organisations and church groups involved in assisting perhaps more than one person with a disability so that, in the long run, when parents are no longer there, there is a group of people who care about the person with a disability and care about continuing to ensure that there is a group who will monitor the quality of the services that are being offered to these people not just for their adequacy but for their suitability for the particular individual.

I think it is important to note that succession planning services should not be provided by current service providers. By that I mean that the organisation that is currently providing accommodation or employment or assisting with personal hygiene and health issues should not also be the organisation that is doing the planning for those things. It seems to me and Lifeways that there is an unacceptable conflict of interest if organisations that are providing accommodation and other services are also assisting families to plan for the provision of services and for monitoring the quality of those services.

Late last year the Department of Families, Community Services and Indigenous Affairs responded to this planning crisis by producing two very useful booklets on succession planning for families. This followed quite wide consultation throughout Queensland. This parliament also passed legislation, initially developed by Senator Patterson when she was the Minister for Family and Community Services, to enable families to establish special disability trusts. I think special disability trusts deserve wider publicity and recognition than they are currently getting. There was a catch 22 for parents who were trying to provide for an adult child with a disability in that if they managed to save any significant amounts of money to help that person it affected their pension entitlements. Special disability trusts allow families to have funds of up to half a million dollars and a principal place of residence for the use of the adult with a disability before pension entitlements and other government benefits are affected. This gives people a very strong impetus to save to underpin that planning for the future.

It is also worth mentioning that in recent weeks Minister Brough has announced a $1.8 billion disability assistance package of supported accommodation and respite services. Information sessions on this will be held throughout Australia in the coming weeks.

What are the state governments doing? In most cases, it is very little. There is one good planning organisation in Queensland, called Pave the Way, but it is only able to assist a very small proportion of those families wanting help. Across the board, most state governments are failing their disability communities. Queensland, New South Wales, Victoria and Tasmania apparently cannot even manage to develop lists of the known unmet needs in the disability area in their states. They cannot meet even the most basic governance requirements in relation to the Commonwealth funding— *(Time expired)*

Mr Bruce Trevorrow

Senator KIRK (South Australia) (1.00 pm)—I rise today to draw the Senate's attention to a landmark decision of the Supreme Court of South Australia concerning an Indigenous Australian, Mr Bruce Trevorrow. On 1 August this year, the Supreme Court delivered a decision which found that Bruce Trevorrow had been wrongfully removed from his family when he was a baby. Justice Gray of the Supreme Court awarded Mr Trevorrow over half a million dollars in compensation. This was the first decision of its kind in Australia and the first formal recognition by a court that an Indigenous Australian had been wrongfully removed from their family.

Bruce Trevorrow was born to Ngarrindjeri parents, whose traditional land is along the Coorong in the south-east of South Australia, near a town called Meningie. The Supreme Court's decision comes 10 years after the *Bringing them home* report was tabled in this parliament in May 1997. The report revealed that at least 100,000 Indigenous children were forcibly removed from their families. The report brought to the attention of many Australians the experiences of what have become known as the stolen generation. To this day, this federal government has refused to apologise to this group of Indigenous Australians or to acknowledge any responsibility for what occurred. Following the refusal of the government to offer compensation to this group, some members of the stolen generation instigated their own private legal action against state governments. Until the decision of Justice Gray in the matter of Trevorrow v State of South Australia in August this year, these actions were unsuccessful.

Bruce Trevorrow was born in Adelaide in November 1956. Although he suffered health problems as an infant, he returned home to live with his mother, Thora Karpany, and his father, Joseph Trevorrow, and siblings at One Mile Camp, a former Aboriginal settlement 150 kilometres from Adelaide. Christmas Day 1957 was a poignant day for the Trevorrow family. Bruce's father, Joe Trevorrow, was caring for the family while Thora, Bruce's mother, was away visiting friends. Bruce, who was then aged 13 months, was suffering stomach pains and chronic diarrhoea. His father, Joe, became worried and approached local police to call for an ambulance, but they were unable to help him. Joe then approached a neighbour who owned a car and asked if they would be able to transport Bruce to hospital. They agreed to

do so. Unbeknownst to Joe, he would not see his young son again.

Bruce was taken to the Adelaide children's hospital by his neighbours, the Evanses. Hospital records show that Bruce recovered quickly from his ailment and that by New Year's Eve he was doing well. However, the hospital admission paperwork recorded that Bruce was a 'neglected child without parents'. On 6 January, just a fortnight after Bruce's admission to hospital, Martha Davies and her husband were authorised by the Aborigines department to foster young Bruce. Bruce was not returned home to his parents. It was in the home of Martha Davies and her husband that Bruce Trevorrow spent the first 10 years of his life. Neither of Bruce's birth parents were informed about the decision to foster him and certainly neither of them consented to it. Bruce's mother, Thora, awaited the return of her son and made attempts to inquire about his welfare, but her inquiries were dismissed by authorities. As a consequence, Bruce was raised by Martha Davies and her husband, together with their daughters and son.

In 1963 changes to state legislation made the Aborigines Protection Board's legal guardianship over Aboriginal children ineffectual and gave guardianship to natural parents. But Bruce's mother was never informed about these changes and it was not until 1966, when she contacted the department and requested to see her son, that things began to change. Bruce Trevorrow met his natural mother and siblings on his 10th birthday. He returned to her in Victor Harbour on subsequent occasions. By May 1967 the Department of Aboriginal Affairs had decided that Bruce would permanently return to live with his birth family. Unfortunately, however, Bruce had difficulty coping with this major change and became stressed, confused and overwhelmed.

Throughout his childhood Bruce displayed testing behaviour both when he was with his foster family and when returned to his natural mother. It reached the point that neither family could cope with his behaviour and he was placed into institutional care. Bruce spent his teenage years in state institutions, including jail. He is quoted as saying:

I just remember the punishment, the strictness. I was always in trouble.

In adolescence he turned to alcohol, felt increasingly isolated, became depressed and got in trouble with the law. His adult life involved periods of unemployment and heavy drinking. Although he married and fathered four children, the relationship has been described as unhappy and unsatisfactory.

In 1994, Bruce finally decided to question what had happened to him throughout his childhood. He met with a lawyer from the Aboriginal Legal Rights Movement in South Australia. He said at the time:

You see kids come and go, they do their time and go home. But with me it was different. I was just moving from institution to institution. I thought I'd just ask why I ended up in there.

And so he began what would be a decade-long legal challenge. Bruce's action against the state of South Australia involved four claims: firstly, misfeasance of public office; secondly, false imprisonment; thirdly, breach of a duty of care; and, fourthly, breach of fiduciary and statutory duties.

In relation to the claim made of misfeasance of public office, the court received into evidence advices given by the Crown Solicitor's office of the day. These showed that the processes that had been followed in removing Mr Trevorrow from his parents had not been legally authorised and, as a consequence, it was beyond the power available to the Aborigines Protection Board. Justice Gray concluded:

... that government was well aware that removals and placements of Aboriginal children were taking place in a manner contrary to the advices of the Crown Solicitors ...

As a consequence, Justice Gray found that Mr Trevorrow was entitled to damages for misfeasance. The judge remarked:

T was dealt with by the APB—

that is, the Aborigines Protection Board—

and the departmental officers in circumstances that involved a foreseeable risk of harm.

On the claim of false imprisonment, counsel for the plaintiff argued that Mr Trevorrow was imprisoned by virtue of the fact that he was unlawfully fostered and not returned to his natural mother, despite her requests. His Honour Justice Gray found that the APB's intention to detain Mr Trevorrow was evident from the fact that it placed him into foster care and took no steps to return him to his mother until 1967. Accordingly, His Honour found that Mr Trevorrow was entitled to damages for false imprisonment.

Justice Gray further found that a duty of care was owed by the state of South Australia which was ongoing throughout Mr Trevorrow's adolescence. He held that the state breached its duty of care and thereby caused Mr Trevorrow damage and loss. In particular, Mr Trevorrow suffered anxiety and depression as a child through being removed from his Indigenous family. This was a condition that persisted throughout his life and led to alcohol abuse and difficulty in coping. In his remarks Justice Gray said:

I am satisfied that the conduct of the State, amounting to misfeasance in public office, together with the false imprisonment of the plaintiff, has been a material cause of the plaintiff's long-term depression. It was this conduct that ruptured the bond between the plaintiff and his mother and natural family.

The end result is that Justice Gray ordered that Mr Trevorrow be paid $525,000 in compensation.

The Trevorrow case is, as I said, a landmark decision, as it is the first requiring a state to compensate a member of the stolen generation. The case has implications that go well beyond South Australia and has given state governments cause to reflect upon the role they may have played in the removal of Indigenous children from their parents in the 1950s and 1960s. Not surprisingly, the federal government distanced itself from the prospect of future compensation payouts, with the Minister for Families, Community Services and Indigenous Affairs, Mr Mal Brough, saying, in response to the Trevorrow decision, that there would be no Commonwealth compensation fund.

On the 10-year anniversary of the *Bringing them home* report in May this year, Labor's shadow Indigenous affairs spokesperson, Jenny Macklin, reiterated Labor's commitment to a formal apology to the stolen generation when in government. Ms Macklin said:

> It is the just and decent thing to do. An apology is not an empty gesture; it can, I think, be a circuit breaker.

The Trevorrow case highlights the injustices perpetrated by the state against members of the stolen generation and reminds us of the need for governments to take positive steps to ensure that Indigenous Australians take their place as equals in our society.

Tiwi Islands

Senator MILNE (Tasmania) (1.11 pm)—I rise today to draw the Senate's attention to land clearing on the Tiwi Islands. I think most Australians would be appalled to know what is happening in this beautiful part of Australia. I am talking about the Tiwi Islands, which are off the Northern Territory; Melville and Bathurst islands, owned by the traditional owners. It is Aboriginal freehold land, under the Commonwealth Aboriginal Land Rights (Northern Territory) Amendment Act 1978. Different parts of those islands are owned by different clans of Indigenous people and traditional owners. The areas have high biodiversity values, with eucalypt forests and tropical savannas side by side with rainforest patches such as Jump-up Jungle. They are sensitive to fire and disturbance and they are important as biodiversity areas, particularly as species refugia, as biodiversity is being diminished in other parts of the Northern Territory because of the spread of the cane toad, amongst other things.

These forested areas in the Tiwi Islands are now the subject of a major clear-felling and woodchipping project approved by the Howard government in 2001, so the Tiwi Islands are becoming an industrial monoculture. That, by any definition, is deforestation. Deforestation is when you have natural forest areas cleared for crops, and that is precisely what is now happening in the Tiwi Islands, contrary to the Global Initiative on Forests and Climate that the Howard government released in July this year and of which it is so proud. At the press conference in July, the Australian government said that almost 20 per cent of global greenhouse gas emissions come from clearing the world's forests and that, if the world could halve the rate of global deforestation, we could reduce greenhouse gas emissions by three billion tonnes a year. It went on to say that the Australian government was investing $200 million to support new forest plantings, limit the destruction of the world's remaining forests, promote sustainable forest management, and on and on it goes.

At the same time as the government through this initiative and the Sydney declaration is telling the other APEC leaders about this, and leading up to the Bali conference—at which avoided deforestation will be a major issue—native areas of vegetation, tropical savannah and the buffers of rainforest patches are being cleared illegally, and we are seeing a massive conversion taking place. We are talking about 31,000 hectares since 1998 approved for clearing by the Howard government, and it must stop. It is particularly important to draw attention to it now because there is a proposal to take the area to be cleared up to 80,000 hectares. That would for the first time see the inclusion of 20,000 hectares of forest on Bathurst Island.

I rise today to say that this has to be investigated, that the breaches of the agreement that the Howard government had for this land clearance need to be properly investigated and that people need to be brought to account. You might wonder how this could be possible in an age where we recognise we are losing biodiversity and native vegetation at a great rate and where we are concerned about greenhouse gas emissions and climate change. In 2006 alone, 10,000 hectares were cleared. That was the single largest native forest clearing project for the whole of Northern Australia and it was done essentially for woodchips. The native forest is cleared and burned. The project is currently under federal investigation for serious breaches of environmental laws, such as clearing buffers around rainforest patches, and it is to be hoped that when that investigation is concluded the companies involved will be fined and required to restore native vegetation.

There are people working on the project who allege unsafe work practices and who say that there is complete disregard for the environment, largely because of the isolation of the Tiwi Islands. The project is supported by the Tiwi Land Council, a Commonwealth statutory body created to represent the interests of traditional owners. In 2006 almost 500 Tiwi Islanders signed a petition calling for an inquiry into the Tiwi Land Council in relation to its land use decisions, and the petitioners also called for the resignation of the longstanding non-Indigenous executive secretary of the Tiwi Land Council, John Hicks, due to concerns about his influence over traditional owners. A company called Pirntubula was created by the Tiwi Land Council in 1987, and there are concerns that the majority of

the board are non-Tiwi and work for the companies exploiting the islands' natural resources, which of itself is an incredible conflict of interest. The project was instigated in the late nineties by Silvertech Ltd. It had close political ties with the Northern Territory Country Liberal Party and the federal coalition. It was approved by the Howard government in 2001, after a fast-tracked environmental assessment, and since it was approved millions of dollars of government subsidies have gone to Tiwi forestry projects, including over $1½ million for road upgrades and $4.3 million for a new port, from the Commonwealth controlled Aboriginals Benefit Account.

Silvertech was taken over by Perth based MIS company Great Southern Plantations in 2005. Since then Great Southern has boasted about how much it is saving by leasing the Tiwi Islanders land:

> The Silvertech acquisition will provide Great Southern access to extensive plantation land for future projects at a significant discount to current market prices for land in Great Southern's traditional plantation regions.

Great Southern is paying the Tiwi traditional owners only $17 a hectare a year for leasing their land, while southern landowners get paid $150 to $350 per hectare per year for the use of their land by similar woodchip plantation companies. What is going on when Great Southern Plantations (a) gets the benefit of managed investment schemes for deforestation and (b) is able to so badly rip off Indigenous people in the Tiwi Islands? That is clearly what is happening.

But it gets even worse. We have discovered that the Tiwi owners were told that the export of the logs from this deforestation would earn them millions of dollars, but the first seven shipments of these logs to Asia incurred a net total loss to the traditional owners of $525,000. How is it possible that the government could approve a project to deforest the Tiwi Islands and sell that timber and that the shipments could lose that amount of money? That just does not seem possible. There is no satisfactory explanation that has ever been given as to how so many shipments could be sold at a loss to the traditional owners. Somebody made a lot of money out of that, but it was not the traditional owners. It is unclear whether the companies involved in the export and sale of these logs—that is, Pentarch Forest Products and Stratus Shipping—also made a loss or made a profit. There needs to be a full investigation not only of the environmental breaches of the conditions set down under the EPBC Act, because we know that there have been serious breaches, but of how there has been such gross mismanagement of this project that the traditional owners have made a loss when they were led to believe that they would benefit from the logging operation in the Tiwi Islands.

That is the main point that I want to make today in relation to this project. At least 2,000 Australians have invested with Great Southern through the MIS and believe they are doing something in relation to wood production. Great Southern needs to explain to their very own investors how they have got mixed up in actively pursuing a deforestation project to the detriment of the traditional owners of the Tiwi Islands. More particularly, we want from the government a clear statement that they will not continue to approve any further deforestation in the Tiwis, that they will not allow this application for expanded logging of up to 80,000 hectares.

There have been some excellent media reports on what is going on up there. The Tiwi women have put out a petition and in that petition they made it very clear that what they wanted was an investigation and they wanted the logging to cease. What they have discovered is that they have been completely misled, that they have been ripped off and that the people making the money are these forest companies. Indeed, the company that was supposed to be to set up to represent them is full of people who do not represent them. For example, the board of this company, which is meant to be representing the traditional owners, includes John Hicks as the company secretary and, as I have indicated, he is a non-Indigenous executive officer. There is also the director, Bill Headley, of Great Southern plantations. So the company is on the board of the company representing the traditional owners. That is a gross conflict of interest.

I believe this would not be occurring anywhere else in Australia. In fact, it would not be occurring if this area were easily accessible. I think it is a case of 'out of sight, out of mind': because it is the Tiwi Islands, because people are not going there regularly either as tourists or as businesspeople or in any other capacity, this is going on behind the scenes. I think it is about time that people look at the corporate social responsibility and ethical responsibility of companies like Great Southern and the banks that are financing some of these operations.

More particularly, I would like to know from the government how the investigation of the breaches of the conditions set down under EPBC is progressing and whether any charges are going to be laid in relation to that investigation. When is the community going to know where that investigation is up to?

Secondly, I would like a commitment from the Commonwealth to stand by its Sydney declaration and its global initiative on deforestation and to stop deforestation in the Tiwis. How ridiculous is Australia going to look, how hypocritical, at the United Nations Framework Convention on Climate Change (UNFCCC) meeting in Bali later this year, when the community groups get up and point out to all the other APEC leaders, and indeed to all of the signatories of the UNFCCC, that Australia is saying to Indonesia

'Stop deforestation', saying to PNG 'Stop deforestation', but right next door in the Tiwi Islands the Australian government is not only encouraging and approving the conversion of native vegetation but it is also subsidising it—and subsidising it directly as well as through the MIS. That is not going to be something that the rest of the world is going to overlook in Bali. It is going to significantly diminish Australia's standing.

The fact is you cannot get away with this. A simple search on Google Earth will take you to where Great Southern have cleared the buffer zones to that rainforest patch of refugia.

We have to make sure that this stops and stops soon. I am calling on the government and the minister for the environment to become serious about what is happening on the Tiwi Islands, and I am calling on Great Southern to explain themselves, because they are a company which is trading on goodwill and trading on being 'out of sight, out of mind', and this cannot continue. Some scrutiny needs to be given. Where did the money go? Who benefited from these shipments, since the traditional owners ended up losing money on the logging of their own forest to the detriment of the wellbeing of that community?

Problem Gambling

Senator PATTERSON (Victoria) (1.26 pm)—It is estimated that there are around 300,000 Australians who are problem gamblers and a further 2.3 million people who are directly affected by problem gambling. It is a very serious problem and it has a devastating effect on marriages, on families, on friendships, on children and on the whole community.

I was fascinated with Mr Rudd's pledge to reduce state government reliance on pokies revenue. But what was missing in what he said was what he was going to do about it. He has admitted today that he did not see any revenue substitute for poker machines in public sector and clubs. Just saying you hate poker machines is not enough, Mr Rudd. States and territories are accountable for the delivery of services to address the adverse effects of gambling, and there is no doubt they need to do a lot more. They receive more than $4.7 billion in gambling revenue every single year, yet they choose to spend less than five per cent on this problem—some states spend even less than five per cent—on gambling services, on education, on research and on community benefits. They themselves have become addicted to gambling revenue.

Given Mr Rudd's hatred of poker machines, I checked *Hansard* to see what he had said in *Hansard* over the time he has been in the House of Representatives. Do you know what? He has said absolutely nothing about poker machines in the whole time that he has been here.

We saw Mr Mark Latham pushing the populist buttons before the last election. I do not know how many leaders they have had since then. Mr Rudd was talking on Saturday about new leadership: we have got new leadership all the time in the Labor Party. When Mr Latham was leader, he said he was going to push the gambling button too. He was caught out, because what the public wanted was substance, not just the pushing of populist buttons.

Mr Rudd's railing against poker machines is nothing more than that. He has got no record on the issue. He has never spoken on it. If he had, his new-found interest might not sound quite so hollow. Where is the substance? What does he propose to do? How will he reduce the reliance of wall-to-wall Labor governments on revenue from poker machines?

It was the Labor Premier Mrs Kirner who introduced poker machines into Victoria. Now a Labor Premier in New South Wales is expanding keno in clubs in New South Wales. So it is always a case of: do not look at what Labor says; look at what Labor does. He cannot divorce himself from the Labor premiers and from the Labor governments in the states. Mr Rudd cannot do that.

In 1998 the Treasurer directed the Productivity Commission to report on the performance of the gambling industry and its economic and social impact across Australia. I do not have time to go into the details, but the report provided a picture of the effects of problem gambling and provided measures which could be considered to address the issue. Most, if not all, of those issues were issues that should have been addressed by the states.

In December 1999 the Prime Minister, John Howard, announced the Australian government's support for a national approach to problem gambling and that involved the establishment of a council of Australian ministers responsible in the community services area to focus on: stopping the further expansion of gambling in Australia, the impact of problem gambling on families and communities, internet gambling and consumer protection. Let me tell you my experience with convening that council. When I was the health minister the state Labor ministers were all gung-ho about calling meetings on health, but I do not think I ever had one minister responsible for gambling ask me to convene a meeting of this council. It was on my instigation that we convened the meetings, and they were very reluctant to come. So the Labor ministers were not rushing to participate and there was strong resistance to my call for states to report clearly their income from gambling and their expenditure on addressing the resulting problems.

I spent time meeting with the ATM industry, the gambling industry, the banking industry and people working with people with gambling problems and was

convinced—and still am convinced—that what we needed was evidence based research to understand how to deal with the very small group of problem gamblers, many of whom are the least able to afford to gamble and yet are the highest contributors to gambling revenue. So here we have a small number of people—one to two per cent, it is estimated—contributing most of the revenue, and many of those people cannot afford to gamble.

Mr Tim Costello of World Vision came out in support of Mr Rudd's statement and Mr Rudd said he would be enlisting him for one of his innumerable committees. There are not enough people in Australia to participate on all of Mr Rudd's committees. They might have to even ask me in my retirement, given there are so many committees. I have great respect for Mr Tim Costello, but when I heard him say that ATMs should be shifted out of poker machine venues I wanted to sound of word of caution. We do not know whether that will stop problem gamblers. Behaviour which is rewarded with random reinforcement is the hardest to extinguish—any psychologist will tell you that. Poker machines are a process of random reinforcement. How do we know that people will not go to the relocated ATM and take out a larger amount of money? We do not, and they might be liable to gamble more. We do not know whether they will go 400 metres down the road and take out more money. We do not know whether more people will be mugged on their way back to the gambling venue.

Sadly, when I was minister I could not convince the ministerial council to set up an independent national gambling research institute. We have some very good researchers in this area in Australia and New Zealand. I put $3 million on the table. I had talked to the banking, gambling and ATM industries and they indicated to me that they would come to the party in support of an interdependent research institute, where the research was guided by an independent committee so that it could not be biased one way or the other towards the gambling industry or the states. I called on the states to combine and match the Commonwealth funding, so we would have had $10 million or more for a gambling research institute. I had hoped that we would get some sound evidence that would provide policy directions for the states to pursue to tackle the issue of problem gambling—not hot-headed, poll-driven, button-pushing announcements but real changes based on peer reviewed research that would, hopefully, have helped those whose lives are devastated by their addiction to gambling.

I have to say that I most probably dislike poker machines as much as Mr Rudd, but at least I have a record in trying to do something about them. My hopes were dashed when the state ministers refused to do match this funding and dressed up an existing failed program, through a process of smoke and mirrors, to cover their reluctance to spend their gambling revenue on this very significant problem.

When various groups concerned about gambling made calls to shift ATMs the states constantly tried to shift the responsibility to gaming venues. I constantly got calls from the media asking: 'What are you going to do about it? Why don't you legislate the location of ATMs?' The states and territories have the power to act in this area. The Australian Government Solicitor provided me with advice that the states and territories have the ability to regulate access to ATMs, place limits on withdrawals—and some states do do that—as well as impose sanctions on providers who do not meet their regulations. But the Labor states shirked their responsibility. They would not support a national gambling research institute and they tried to pass the buck about who was responsible for the placement of ATMs. Sadly, I have no confidence that the states will tackle the very serious problems arising from problem gambling.

If Mr Rudd were fair dinkum and if he had the gumption, he would be saying, 'Do what I do, not what I say.' What should he do? He should take a lead from the team that I barracked for as a kid growing up in the inner city of Sydney—the Rabbitohs. Today they announced that they have turned their back on poker machines. Mr Rudd could insist that the Labor Clubs in Canberra—and there are four of them delivering campaign funds to Labor—eliminate poker machines from the clubs, or at least he could reject campaign funding from them. Then the public might believe what he is saying. These clubs are Labor Clubs, and he could have some influence, surely. He could put his money where his mouth is. Actions speak louder than words.

While he is at it, maybe he could ask Labor luminaries like Barrie Unsworth, Keith DeLacy, John Ducker, Joe Meissner, Richard Face, Neville Wran—all of whom have been involved at a senior level in the gambling industry in some way—or David White, who has lobbied for the industry, to back his calls on the recalcitrant Labor state governments. Sadly, I think Mr Rudd will be standing there alone. He will not be backed by those people.

If Mr Rudd had spoken about gambling in the other house, if he had supported me when I was calling on the states to join in funding a high-level research institute on problem gambling and if he were to refuse funding from Labor Clubs in Canberra and call on them to reduce or eliminate poker machines, then maybe families devastated by problem gambling and the public would be inclined to listen to what he is saying. It is no good pressing the buttons, like Mr Latham tried to. You need to see some sort of action. I would have liked to have seen from those Labor ministers some commitment to evidence based research—not

feel-good policies about turning off the lights or putting clocks on every machine, which just adds cost to the industry.

Some people enjoy gambling. I am not denying that there are a lot of people who enjoy going to a club to put some money in the poker machines as a social activity and then leave. They are not addicted to it. I am not condemning that. But simplistic so-called solutions—simple solutions which are not solutions at all—that make you feel good about an impost on the industry and which do not have one bit of evidence to support them and not one chance of changing those people's behaviour are, in fact, a lie. It makes some politician feel good that they are going to do something about problem gambling because they are turning off the lights, shutting machines down, banning smoking in gambling places or insisting that you have a clock on the machine. All sorts of suggestions have been made and the industry has been required to implement some of them. That is not going to change the behaviour of these people whose families wait for them to come home when they have put most, if not all, of their welfare cheque—or even borrowed or stolen money—into a poker machine. Just saying that you do not like them or that you hate them is not going to change it.

If he is ever going to be Prime Minister, Mr Rudd needs to learn that you have to back up what you say you are going to do with gumption and make hard decisions. Just saying that you are worried about it does not have any effect. I issued press releases about this measure. He did not come to me and say: 'I will come and support you. I will talk to my mates in the Labor Party. I will talk to the people in Queensland.' He has a lot of mates up there. He admitted that he was involved in the Queensland government at an official level when they introduced poker machines, though I do not blame him for that. He might have had some connections to help me fund this national research institute, but he was nowhere to be seen. He cannot come as a Kevin-come-lately and say that he is interested in reducing reliance on poker machines. I want to see what he has done; I want to see what he will do. He should actually back up his words with actions.

Eye Health

Senator MOORE (Queensland) (1.39 pm)—On its website, the International Trachoma Initiative defines trachoma as a 'hidden disease'. Trachoma itself is caused by the bacterium *Chlamydia trachomatis*. It has been known about since ancient times; in fact, it is one of the oldest known infectious diseases. It virtually disappeared from the industrialised world in the last couple of decades, though it continues to plague the developing world. The World Health Organisation website outlines where trachoma continues to exist as a painful, devastating problem and it lists Latin America, parts of Africa—in particular, Niger—and Australia. To our shame, in 2007 Australia still has a disease on the international awareness program which is clearly defined as preventable. In late 1999 the World Health Organisation in conjunction with the International Agency for the Prevention of Blindness launched Vision 2020, a wonderful project which aims to wipe out preventable blindness and ensure eye health across the world.

Australia has a strong role to play in that program and we are beginning to do so. But, as has been said in this place this week by other senators, it is still to our shame. We are not looking at developing countries where this issue of trachoma continues to blind people; we are looking at it in our own country, Australia. The causes are not unknown; people understand the causes. What is unknown and what we still do not have in this country despite numerous reports is a clear snapshot of the number of people who are suffering from this disease. We also do not have a snapshot that identifies those who are potential sufferers of the disease so that these cases can be wiped out before they start. In July 2004, the Australian Health Ministers Conference agreed on the need to develop a national eye health plan for Australia to promote eye health and to reduce the incidence of avoidable blindness. This was, in part, our contribution and our commitment to the World Health Organisation's decision. In that process, a document was produced which sets out a strategic national framework for action for the promotion of eye health and the prevention of avoidable blindness. I say again: the prevention of avoidable blindness.

This is to our shame; it is avoidable blindness. We have the ability, the knowledge and the strength to identify those people who have the potential to lose their sight so that this can be treated immediately and stopped, as has been done in many other countries. We have a growing awareness and level of commitment, and the state and federal governments have worked together to look at what is going on in our country. In the last 12 months, health management guidelines have been developed by the Communicable Diseases Network. Those guidelines have been agreed on and distributed, and funding has been offered to the three jurisdictions where trachoma occurs most in Australia. Unsurprisingly, those jurisdictions are South Australia, the Northern Territory and Western Australia. The members of our community who are at risk of losing their sight—or who far too often have already lost their sight—are our Aboriginal population. That has been known for generations. In 2007, we have on record that this is a major issue.

The government has developed a new National Trachoma Surveillance and Reporting Unit; it is welcomed. It is an organisation which must be continually funded and whose work must be supported. This is where we are able to take—and I say this with

shame—our first tottering steps towards solving the problem. Those words sum it up: surveillance and reporting. We are able to look at what is going on, report on the incidence and then take action to ensure that people's sight is protected. The National Trachoma Surveillance and Reporting Unit has been established by the Centre for Eye Research Australia after a very competitive open tender process. It is in line with the Australian government's objective to improve the overall quality and consistency of data collection and reporting on trachoma in Australia.

We know that this is a problem and, as recently as 2006, there was a report put out called *Prevalence and control of trachoma in Australia, 1997–2004*. This document was released through the document *Communicable diseases intelligence*, volume 30 number 2: June 2006. The report was an academic surveillance of what was going on in our country in the period 1997 to 2004. It involved academic and professional consideration of the data that was already being collected across all states of Australia, how it was being collected and what was being done, and then what treatments were being put in place. It was, I think, an attempt to see exactly what the current statistics are in our country. Unsurprisingly, what came out of it was that there was no standard way of reporting on the incidence, and that we needed to have an agreed process for all the jurisdictions to ensure that their counts were being done in the same way and to ensure that people were involved in the process so that we did not lose people who should be part of any program. As a result of an effective data collection, we can effectively plan so that resources can be directed to the places where they are most needed.

We now have guidelines that have been developed and agreed—this is an evolving process that we now have a first round snapshot of the data from 2006—so we can effectively move forward with the focused treatment actions that need to take place. The focuses treatment actions are known. It is clear that this horrid disease, trachoma, is linked to a whole range of life issues so that, once again, we understand that disadvantage causes people to be unwell. Trachoma incidence is one that has been clearly defined—if there is an effective education program; if people understand what causes the condition; if people then amend behaviours so that, most particularly, there is cleanliness and effective health in the households, the schools and the communities—if those things are understood and then cooperatively entrenched in the communities, this preventable disease can, in Australia in 2007, be prevented. That does seem to me to be something that we should be able to commit to without any problem.

Over a series of Senate estimates that I have been involved with in the last few years, and I know for many years before that, there have been consistent questions asked about the eye health of Indigenous people in Australia. Attempts to find out how the process is operating, where resources are being dedicated and also, in terms of outcomes, to find out the measurement to ensure that, when areas of need have been identified, that processes and ongoing monitoring are put in place so that initial treatment can be maintained into the future. This condition can come back. It is not enough just to do one intervention. Too often our health programs are focused around single interventions. It needs to be cooperatively agreed that this is a long-term dedicated and systematic process that involves working into the future, particularly when working with children. Recently we have heard a lot about health checks for children, and that is something that must be maintained and welcomed so that children have confidence in knowing that their health is being considered, that they have safety and that people care about their futures. Once interventions are put in place through the initial monitoring and testing that must be done, then at the local level with local people a long-term strategy is put in place to ensure that the health and security is maintained. Only then can we feel secure that people's eyesight and other things—but I am focusing on eyesight today—will be protected and maintained.

At what cost? How can you cost the aspect of someone's ability to see? When we see the impact of people who have lost their sight, we see the restriction of their life and the various things that they can no longer do, the impact on their livelihoods and their ability to communicate in their local area. All those things are impacted upon by their inability to see effectively. What is so worrying is that, in many Indigenous communities, it seems that the fact that people go blind is accepted as something that is quite normal. We should not be accepting that. The World Health Organisation has agreed that we have an international responsibility to ensure that people's eyesight be protected. We should have that same security in every community in our country—that it is not okay for people to accept that it is a natural thing for people to get sore eyes and go blind. I point out here that when we are talking about 'sore eyes'—and that is a direct quote from working with kids in remote locations—this condition, trachoma, and what comes beyond that is incredibly painful.

We have the immediacy of someone who is losing the ability to see, something that we treasure so strongly. Eyesight is something so natural that we cannot imagine not having that right. Not only is the eyesight restricted, which leads on to a whole lot of other issues about ability to learn, ability to be part of sporting teams and ability to live life to your fullest ability, which is one of our rights as citizens, but more so than that, there is incredible pain. I do not think that we should accept that, in 2007, in Australia a preventable

disease such as trachoma should be able to be even acknowledged as being there, let alone being listed by the World Health Organisation as the only developed country where this condition is listed.

We have the ability to collect data from participating state and territory jurisdictions consistent with the guidelines which have now been agreed. We can analyse and report on the trachoma prevalence and control activities within Australia, and then we can monitor the rates of antibiotic resistance to—I am going to have a go at this one—Azithromycin. It is the current best practice usage of the antibiotic readily available but, as with all things, we have to make sure that we monitor the usage of this to ensure that the strength is able to be retained. Once again, single interventions in long-term health plans do not work.

The only way that we will be able to achieve the goals, which we have set and agreed to, is to ensure that we are not looking at a one- or two-year plan. The World Health Organisation is aiming in Vision 2020 to have this particular round of preventable diseases wiped out across the world by 2020. We need to make the commitment for much longer than that. This comes back to the Close the Gap campaign, which we have talked about before in this place, which aims to close the gap on a whole range of health issues in the Indigenous communities within a 25-year span. It is only when we are able to work cooperatively, to engage together with communities and share our commitment and our strength, that we will be able to reach those goals.

When Close the Gap was launched, instead of just quoting statistics we were called to look beyond numbers to see faces and people. It is particularly important when we are looking at the issue of eyesight that we look at the faces and we see the joy when someone is able to see well and also the overwhelming joy where through an intervention, particularly through surgery, someone is able to regain the use of their eyes. We have a long way to go in our program. We have the ability to win this battle. When we come to the end of 2020, preventable blindness in this country must no longer happen. Trachoma should be retained always as a historical disease rather than one which is being faced by people in our community in 2007.

Sitting suspended from 1.54 pm to 2.00 pm

QUESTIONS WITHOUT NOTICE

Housing Affordability

Senator WEBBER (2.00 pm)—My question is to Senator Scullion, the Minister representing the Minister for Families, Community Services and Indigenous Affairs. Is the minister aware of a report released yesterday that says the number of Australian households enduring mortgage stress will rise above 600,000 in coming months? Doesn't the *Australian mortgage industry report* by Fujitsu and JPMorgan also find that 113,000 families may be forced to give up their homes because of mortgage stress? Doesn't the report cite rising interest rates as the main reason for mortgage stress and conclude that young families in the outer suburbs will be particularly hard hit? Don't these findings, which show that record numbers of families are losing their homes, reveal the impact of the government's broken promise to families that it would 'keep interest rates at record lows'?

Senator SCULLION—I particularly love getting a question from Labor on interest rates. They have absolutely no sense of irony. I remind senators once again that the highest interest rates there have ever been under the coalition government are still lower than they were at the lowest point under the last Labor government. What do the Australian Labor Party say to those people who struggled under 17 per cent interest rates when they were in power? What do they say to the two million people who were unemployed? It is almost a trifecta: you have interest rates out of control, nobody has a job and you have exploding inflation. They try to make some sort of a comparison, but I have to say that in the last 11 years of government we have been extremely effective with housing policy. We introduced the first home owners grant. Perhaps I can share with this place the interesting anecdote today of a staffer who has just purchased her first home in the Australian Capital Territory. She lives in the ACT and was delighted to receive the $7,000 first home owners grant. However, she was just a tad disappointed to be hit for $11,000 in stamp duty by Mr Stanhope.

Senator Chris Evans—Mr President, I rise on a point of order. It goes to relevance. While I normally enjoy Senator Scullion's reminiscence and anecdotes, Senator Webber asked a very serious question about the *Australian mortgage industry report*. I would appreciate it if you would ask him to respond to the very serious question asked of him.

The PRESIDENT—Senator Evans, I cannot direct the minister how to answer a question but I can remind him of the question.

Senator SCULLION—It is good to see the Leader of the Opposition is paying attention. The substance of the question was about interest rates. The report indicated that interest rates are going up, so I stand in this place to remind the Australian people of what it must have been like to have had 17 per cent interest rates, rather than the 8.3 per cent that we have now. I think that is a very reasonable consideration of the question that was put to me. Over the last 11 years of this government we have been extremely active on housing policy. We now have tax arrangements to encourage—

Opposition senators interjecting—

The PRESIDENT—Order!

Senator SCULLION—We have already spoken in this place of a new approach to boost the supply of public housing by getting the private sector involved. We have had tax arrangements to encourage the Labor state governments to start doing the right thing in regard to cutting their housing tax. We have again provided a strong economy so that everybody who wants a job has one. It is very hard to pay off your mortgage if you do not have a job. Again, 2,186,000 people today enjoy a job that did not exist in 1996. That is the crux of it. You have a job and you can have the joy of being able to buy your own home.

We are an experienced government. We make policies that are well thought out, sensible and extremely well considered. We do not pretend that we can solve problems by establishing another inquiry or having a committee. We have philosophies based on substance, not on froth and bubble. Of course, our government is characterised by a leader who is prepared to make decisions. Unfortunately, those opposite are led by a completely weak and gutless leader.

Opposition senators interjecting—

The PRESIDENT—Order! Had you concluded your answer, Senator Scullion?

Senator Scullion—I had indeed, Mr President.

Senator WEBBER—Mr President, I ask a supplementary question. Hasn't the Howard government had 11 long years to do something about the housing affordability crisis? Why is it that, after 11 years in office, the best this government can do is hold a brainstorming session in the party room to desperately try and discover a pre-election policy? Doesn't this highlight the fact that this stale, out-of-touch government has no idea about how to make it easier for young families to buy a home in the future?

Senator SCULLION—I was actually in the party room, and I am not sure about 'a brainstorming session'. As I have said in this place, if those opposite were paying attention, we have made a substantive investment in a new relationship with the private sector. The private sector can be trusted to deliver. I know that if we invest $10 billion over 10 years with the private sector, we will not be scrabbling around and wondering why we had absolutely zero houses, which is what we had from Labor. There will be a new and refreshed relationship with the private sector, because Australians deserve to have a better deal in terms of housing affordability. That is exactly what this government are going to deliver, because we have strong leadership and they have none.

Government Administration

Senator CORMANN (2.07 pm)—My question is to the Minister for Finance and Administration, Senator Minchin. Will the minister inform the Senate of the importance of maintaining efficiency in government administration? Is the minister aware of proposals to create a number of new bureaucracies and conduct reviews and inquiries? What are the implications of such proposals for the level of government spending?

Senator MINCHIN—I thank Senator Cormann for that question. It is indeed the fact that one of the most important principles in running the federal budget is to ensure that departmental running costs are kept at a minimum so that taxpayers' money is spent where it should be—on the services we deliver to the Australian people. At the last election, the coalition promised to increase the annual efficiency dividend on government departments from one per cent to 1.25 per cent. That measure, fully implemented, has saved taxpayers over $280 million in departmental running costs in the three years since the last election.

By contrast, and in response to Senator Cormann's question, I note that the Australian Labor Party have promised an explosion in government bureaucracy, with 67 new departments, agencies, committees and task forces, and no less than 96 reviews and inquiries. Obviously, that will add enormously to the cost of merely running the federal government, let alone the business of actually delivering programs and services. Of course, the Labor Party have not told us how much this great new empire of theirs is actually going to cost or how it would be paid for. As usual with Mr Rudd, the detail is left to another day.

What is even more audacious is that Labor frontbenchers keep telling us they have identified a great pool of savings to pay for all of this great new bureaucracy. Of course, in reality, of the claimed $3 billion in savings over four years—that is, less than $1 billion a year, which is their claim—at least $2 billion of that is either completely spurious or lacks any explanation as to how they would achieve it or where it would come from.

It is particularly laughable in light of this expanding bureaucracy that they propose. They claim they would save money on consultancies, but they are setting up 96 new reviews and inquiries. Who on earth is going to conduct all of these reviews? If it is not the consultants, because they are going to save money on consultants, I suppose they are going to be hiring additional full-time staff to perform them. How much will that cost? They say they will save money by abolishing Work Choices, but they do not mention that they want to set up Fair Work Australia, a number of job protection authorities, an office of work and family, as well as conduct reviews into subjects ranging from the Job Network to Work for the Dole for artists. We are going to review that, Mr President!

Labor have claimed a saving from cutting the budget of the Department of Foreign Affairs, but they do not say how they are going to pay for their new Canberra commission, their new WTO working group, the Af-

rica-Australia council, the Pacific climate change centre or the regional disaster management coordination authority, not to mention the cost of nine reviews of everything from AusAID to the diplomatic service to a review of our further integration with New Zealand, which we look forward to. The Labor savings do not add up, because they do not understand that you cannot reduce spending if you are going around expanding the size of government, as they propose.

Despite the incoherence of that position, they continue to cling to the notion that they are going to produce savings. Mr Rudd said that the cost of the new bureaucracy will be met from these mythical savings, but Wayne Swan has already said that those same savings, this new magic pudding of Labor's, will pay for their education promises. Lindsay Tanner says that the same magic pudding will pay for Labor's skills and infrastructure commitments. Last night, Nicola Roxon claimed on *The 7.30 Report* that this same mythical magic pudding of savings would fund the $2 billion in new spending on health. They think that if you can just assert these savings, you can use the same pool of savings several times over to fund every conceivable election commitment, including a massive new bureaucracy. You cannot run a trillion-dollar economy or a $230 billion budget with this nonsensical approach to government.

Senator Chris Evans interjecting—

The PRESIDENT—Order! Your colleague is waiting to ask a question, Senator Evans.

Housing Affordability

Senator GEORGE CAMPBELL (2.12 pm)—My question is to Senator Scullion, the Minister representing the Minister for Families, Community Services and Indigenous Affairs. Is the minister aware of data contained in the Housing Industry Association 2006 census showing that over half of all people renting in Hastings, Great Lakes, Coffs Harbour, Nambucca, Kempsey, Bellingen, Tweed and Byron Bay shires are in rental stress? Doesn't it also show that over 40 per cent of people living in Auburn, Strathfield, Fairfield, Rockdale, Liverpool, Botany Bay, Holroyd, Kogarah and Hurstville in Sydney are enduring mortgage stress? Can the minister explain how this latest report fits with the Prime Minister's claim that working families in Australia have never been better off?

Senator SCULLION—I think we all accept in this place that there is a clear link between the cost of rent and housing affordability generally. I know these matters all fall within the same argument. I think it is important that we deal with some facts. It is surprising to note the number of reports that do spring up, and an important document is the most recent census document. The census showed that median weekly rents as a proportion of median weekly household incomes have remained stable at about 19 per cent since 1996. That is a fact that should be noted. But that does not mean we should not acknowledge that there are pockets of demographics around Australia that the good senator can point to that may be experiencing fluctuations. I am not aware—I am not sure whether the senator is—of particular reasons behind that. It may be because of a particular shift in some demographic or another.

It is really important to have a look at some of the issues that the Commonwealth government, in a generic sense, have afforded. We provide nearly $2.3 billion a year to ensure that people can enter the private rental market through our rental assistance program. This is an absolutely essential program that we are committed to, and it is the single biggest budget item anywhere in Australia in terms of people paying rent. We have a whole range of issues that need to be considered at a state and Commonwealth level. The cost of rent is tied very much to the cost of housing. We need to address the absolutely cynical approach by the states and territories in terms of land release and the provision and expansion of public housing.

I was in South Australia last Friday, on the Eyre Peninsula. A number of people were talking to me about this very issue. A number of people were saying: 'Rent's just increasing. It's becoming very hard.' It is in a demographic that you are speaking of. I made further inquiries that day. I understand that for some reason known only unto themselves the South Australian government are selling 150 of their own public housing stocks. One hundred and fifty houses are being sold by the South Australian government at a time when there is rental pressure on their own constituents. I am not sure if that is a circumstance that exists everywhere, but I suspect that if Australians need to understand why the rents are going up in some particular area the answer will be about housing stocks and the availability of public housing. I think substantially we can look to the complete failure of the Labor governments around Australia to produce a single extra house, at the cost of some $10 billion provided by the Commonwealth government, and we can look to the very cynical process of providing money for public coffers by selling off public housing.

Senator GEORGE CAMPBELL—Mr President, I ask a supplementary question. I point out to the minister, just in case he misunderstood my original question, that all of the places and areas I named are in New South Wales. None of them are in South Australia. Doesn't the government's own backbench know that the government has dropped the ball on housing affordability? Hasn't the Howard government had 11 long years in office to help families who cannot afford housing? Why is it that after 11 years the best the Howard government can do is to get out the white-

board in the party room and try and cobble together a desperate pre-election stunt?

Senator SCULLION—All of Australia needs to understand that this government in this matter is fair dinkum. We have decided to pull apart the foolish relationship we have with Labor in the states and territories. We are going to stop pouring money into the states and territories, hoping they will get fair dinkum and actually provide a single house for Australians. They are not going to do that. We are fair dinkum. We have engaged the private sector. We are going to be fair dinkum about providing new houses for those people in Australia, particularly in those demographics that are suffering from rental increases. We are fair dinkum, but I can tell you that those on the other side do not have a clue. They are a policy-free zone on this matter and on almost every other matter you care to name. We are a government that is characterised by strong leadership, not like the absolutely leaderless mob on the other side. We are going to provide better, affordable housing in Australia in the future.

Broadband

Senator BIRMINGHAM (2.19 pm)—My question is to the Minister for Communications, Information Technology and the Arts, Senator Coonan. As the minister is aware, the delivery of broadband services is very important across Australia, especially in my home state of South Australia. Will the minister please update the Senate on government action to ensure all Australians enjoy access to broadband? Further, is the minister aware of any alternative policies?

Senator COONAN—I do thank Senator Birmingham for his question and recognise his ongoing commitment to the delivery of real broadband services for Australians. The Howard government has taken the tough decisions required to deliver fast broadband to all Australians, not only in South Australia but regardless of where they live. Delivering fast broadband to all sectors—to the universities, research organisations, businesses, farms and householders—is a national priority. Despite the sideshows being run in some quarters, we are getting on with the job of delivering high-speed broadband for consumers. Our broadband rollout is real and fully costed. We know exactly where it will cover. It is affordable, the contracts are signed and it will be available to 99 per cent of the population by July 2009.

The last time I looked, Labor's so-called broadband alternative consisted of a six-month-old press release and nothing more. True it is that I have been calling on Labor to release essential detail about how, when, where and who in relation to building Labor's network and what it will cost the hapless taxpayer. So imagine my excitement this morning when I heard Mr Rudd say that they have already indicated the design specifications for delivering their broadband plan. Labor, of course, have done no such thing. It is clear that either Mr Rudd is totally ignorant of what technical specifications are required or he is hiding the fact that Labor have no policy detail to release. But this really should not surprise anyone. Labor are clueless when it comes to actually making a decision or getting a job done.

At last count, Labor had announced, as Senator Minchin has said, no fewer than 67 new bureaucratic agencies and an astonishing 96 inquiries or reviews, 13 just in my portfolio alone. Yesterday, not to be outdone by his colleagues—although he came late to the game—Senator Conroy announced yet another inquiry, this time an inquiry into the internet and costs of broadband access. The problem with Labor's latest stunt is that the ACCC already do this job. They have done it for years and they are expert at it. By announcing its own process, Labor has made it crystal clear that part of its deal with Telstra is to cut the ACCC out of the picture. This is a great danger for consumers, who under the ACCC have seen retail telecommunication prices fall by over 26 per cent.

I will tell the Senate something else for free. I predict that Telstra will try to meddle in the upcoming election with one aim in mind: to get Labor into power and then demand that competitors be driven from the field. We all know that Telstra have John Utting, Labor's pollster, on their payroll. So I say to Mr Trujillo, Dr Burgess and all the others who pass for Telstra executives: if you want to meddle in Australian politics, get it out in the open, stand for Labor preselection and actually bring it on—you had just better stand for Australian citizenship first. While Mr Rudd and his weak Labor team dither with inquiries, paralysed by inaction, this government will get on with the job of delivering Australian consumers the services they need and want.

Opposition senators interjecting—

The PRESIDENT—I remind senators on my left that one of your colleagues is waiting to ask a question.

Skilled Migration

Senator LUDWIG (2.24 pm)—My question is to Senator Ellison, the Minister representing the Minister for Immigration and Citizenship. Can the minister confirm reports that the 457 visas of two Chinese men have been cancelled despite the men being owed more than $30,000 each in unpaid wages? If these two workers did not have the required skills, as Immigration now claims, can the minister indicate how and why they were granted their visas in the first place? Can the minister also explain why the official who cancelled the visas said, 'I do not consider that the visa holder will be caused significant hardship by the cancellation of his visa'? Does the minister support this finding? If so, can the minister explain to the two men why he thinks that being forced to leave Australia despite being owed $30,000 is not an example of significant hardship?

Senator ELLISON—I note that Senator Ludwig does not refer to a particular case. For privacy reasons, I can understand that, but I am not aware of the particular two instances that Senator Ludwig has referred to. Can I say that section 457 visas play a very important role in getting industry the skilled labour it needs. I mentioned the other day in this place the oversight that we put in place in relation to 457 visas and the fact that the Workplace Ombudsman has advised that the cancellation of a visa holder's visa will not preclude them receiving any back payment owed. That is in a general sense.

As for the specifics of this case, I am quite prepared to provide a briefing to Senator Ludwig without revealing the details publicly if he does not want to, but I am not aware of the particular instance involved. The only advice I have is that the Workplace Ombudsman has advised the department that cancellation of a visa holder's visa will not preclude them from receiving any back payment owed. That is my advice. If Senator Ludwig has any further details, he can take them up with me.

Senator LUDWIG—Mr President, I ask a supplementary question. The minister can look at the *Sydney Morning Herald* of 19 September to perhaps gain a few more details in respect of the case. He might like to get back to the Senate with an answer to the question. But—while he is doing that—doesn't this case, in the words of the *Sydney Morning Herald* journalist Malcolm Knox, 'lay down a template for any employer wishing to import cheap labourers and rip them off'? Does the minister seriously think that the two workers will not be disadvantaged from pursuing their underpayment claims if they are forced to leave? Doesn't this case again expose the fact that the government is allowing the 457 visa scheme to be used as a way of driving down the wages and conditions of Australian workers?

Senator ELLISON—Now that I have some more information to identify the source of the question—the newspaper reports referred to by Senator Ludwig—I can say that, on the advice I have, both visa holders and the employer have provided false and misleading information to the department. The visa holders were happy to go along with this employment relationship until it broke down. It was only then that it came to the attention of the department, the Workplace Ombudsman and the New South Wales police. The investigation is now with the New South Wales police. In those circumstances, I will not comment any further.

Workplace Relations

Senator FIFIELD (2.28 pm)—My question is to Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. I refer the minister to false claims being made that the Howard government's workplace laws do not provide a strong safety net for Australian workers and their families. Is the minister aware of any evidence which contradicts these false claims? Further, what is the minister's response to claims that any worker can be sacked at any time on the pretext of operational reasons?

Senator ABETZ—I thank the intellectually robust Senator Fifield for his question. The fact is that Australian workers today have a very strong safety net, a safety net which I venture to say is stronger than at any time in our history. Under the workplace relations system, we have legislated minimum conditions which cannot be traded away. Under the fairness test, conditions cannot be traded unless there is fair compensation. And all this is enforced by a strong, independent policeman: the Workplace Ombudsman.

Last week, the ombudsman secured a successful prosecution and a massive record fine against a business that broke the law by trying to force employees to sign AWAs against the law. Yesterday we saw the ombudsman advise a company that their proposed AWAs failed the fairness test and would have to be corrected. Today, as a result of a Workplace Ombudsman prosecution, another company was fined almost $25,000 for pressuring a worker to sign an AWA. Despite this overwhelming success, the Labor Party will abolish the Workplace Ombudsman and leave these workers unprotected.

I was also asked by Senator Fifield about claims being made by those opposite and by their union masters about dismissal for operational reasons being an open book for employers. Here is what one of those misleading ACTU ads says about someone losing their job: 'They said it was for operational reasons. Two weeks later they advertised my job for $25,000 less.' This case is still before the commission, so I cannot comment on the specifics—although I note that the ACTU ad pre-empts the outcome. But can I advise the Senate that the law is this: you cannot dismiss someone for operational reasons unless you can prove that your business is facing financial crisis if you keep the person on.

Today another case of an alleged unfair dismissal was brought to my attention. It is about an employee taking action over an alleged unfair dismissal by her heartless boss. The boss says her redundancy was the result of a 'genuine business decision'—in other words, it was an operational reason. He also said that the employee was made redundant because the business wanted to outsource some of its services to Victoria. 'We would be getting a lot more for considerably less outlay,' he said. This boss is a trade union boss, and the employer I was referring to was, in fact, a trade union—and guess which trade union it was. It was the Community and Public Sector Union. If I am not mistaken, that is the trade union to which Mr Rudd, the would-be Prime Minister of this country, belongs. So,

once again, we have a classic case of the Labor Party and the trade union movement saying, 'Do as we say, not as we do.' When you expose the activities of the trade union movement and how heartless they are with their employees, you realise the cant that is involved in the ACTU and its advertisements. *(Time expired)*

Petrol Sniffing

Senator SIEWERT (2.32 pm)—My question is to the Minister representing the Minister for Health and Ageing, Senator Ellison. My question concerns petrol sniffing and the eight-point plan for the rollout of non-sniffable Opal fuel in the central desert region. Can the minister tell us how successfully Opal fuel is being taken up by providers within the region identified in the eight-point plan and if measures are in place to enforce retailer compliance? Is the minister aware of reports that three roadhouses within the identified region are still stocking sniffable fuel, including Ti Tree, Rabbit Flat and Tilmouth Well? What action is being taken to address this?

Senator ELLISON—This is an important issue in relation to the health care of Indigenous Australians. We announced, in the 2006-07 budget, funding for the rollout of Opal non-sniffable fuel. As I recall it, the sum was around $20 million, and we announced further funding for it, in the additional estimates, of another $11 million plus. That amount was also to allow for access to treatment services.

I am advised that the rollout of Opal has been an important contributing factor in reducing the prevalence of petrol sniffing in remote communities across Australia. Senator Siewert has inquired about the rollout, and I can say that, as of 1 July 2007, there are 104 sites across Australia supplying Opal unleaded fuel. This includes 72 communities, 29 service stations and roadhouses and three pastoral properties. A survey conducted by the Ngampa Health Council in October 2006 reported an 80 per cent reduction in the number of petrol sniffers in the APY lands since 2004, and that same body conducted a six-month follow-up survey in May this year. This identified a further reduction of more than 50 per cent since October last year, which is a very good result indeed. With the exception of two communities, no petrol sniffing was reported in the APY lands for the period of October 2006 to May 2007. Anecdotal evidence suggests that petrol sniffing is no longer regarded as an attractive expression of adolescent peer group experimentation or 'acting out', as it is referred to. That is a great deal of progress. There is still more work to be done, and I can say that just over $4 million was allocated in the recent Northern Territory emergency response to address petrol sniffing.

Senator Siewert mentioned, in the other part of her question, the take-up by three roadhouses. I am not aware of the situation in relation to those particular roadhouses. I will take that up with the minister and advise the Senate. What I can say to the Senate is that there has been a great deal of success in rolling this out and that, from independent reviews, it would appear that there has been a significant reduction in petrol sniffing, which is indeed very good news in relation to the health of Indigenous communities and, particularly, of young Indigenous people. It is something that we have committed a good deal of funding to. We will continue to work on it. I acknowledge Senator Siewert's interest in it. It is something which we should all be interested in. It is something of great importance in the Indigenous health sector. I will have a look at those three roadhouses and get back to the Senate.

Senator SIEWERT—Mr President, I ask a supplementary question. I appreciate the minister's undertaking. I would like to also know whether the minister would be concerned if the reports are correct and that, in fact, sniffable fuel is available at Ti Tree, in particular, which is just near Tennant Creek. As I understand it, it is planned to roll out non-sniffable fuels into Tennant Creek. Will the availability of sniffable fuel undermine that rollout in Tennant Creek? Secondly, has the government investigated a reported outbreak of petrol sniffing among young people in Ti Tree earlier this year?

Senator ELLISON—Again, that is something I do not have detail on as to the particular community, but I would say that the government's position is quite clear. We want to see this taken up. We want to see the Opal fuel used, and that is why we are expending all this money. So certainly I will follow that up and advise the Senate accordingly.

Arts Funding

Senator BOYCE (2.37 pm)—My question is to the Minister for the Arts and Sport, Senator Brandis. Would the minister inform the Senate about the current state of the arts industry in Australia and how the Australian government has supported the arts? Is the minister aware of any alternative policies?

Senator BRANDIS—Thank you very much, Senator Boyce, for that question. I know that this is an area that interests you a great deal. I am delighted to inform you, Senator Boyce, through you, Mr President, about the very strong support that the Australian government, throughout the life of the Howard government, has given to the arts in Australia. I am also, I am pleased to say, aware of alternative policies.

Senator Carr—What about the rodent? A memorial to the rodent?

Senator BRANDIS—Excuse me, Senator 'Kim Il' Carr, I am speaking.

The PRESIDENT—Order! Senator Brandis, you will address the senator by his proper name.

Senator BRANDIS—I withdraw, Mr President. It was only an affectionate nickname. I have something of a weakness for affectionate nicknames.

Since the last Keating government budget in 1995 to this year's 13th Howard government budget, funding for the arts in Australia has been increased from $410 million to $680 million, an increase of 65.8 per cent over that period. There have been increases in particular sectors of arts funding: an increase in funding to the Australia Council, which over the lifetime of the Howard government has had its funding increased from $73 million 12 years ago to $161 million this year, an increase of 110 per cent over the period; increases in funding of the visual arts and crafts strategy, including a 27 per cent increase in funding for that sector over the previous year; and an increase of 34 per cent in the major performing arts companies over the previous triennium. So there has been very, very strong support for the arts in Australia from the Howard government, not to mention, of course, the film package—which I am delighted the Senate passed yesterday—which invests $280 million over four years in the Australian film industry.

I want to get to some alternative policies. I could tell you, Senator Boyce, that one of the policies of the Australian Labor Party is to reduce funding to the arts. That has certainly been the experience of state Labor governments. The Australia Council has recently prepared a document of arts and cultural funding by state and territory governments for 2007-08, which discloses a reduction in arts funding by the New South Wales Labor government in the coming year of $19.8 million, or 6.5 per cent, and a reduction in funding of arts by the Queensland government of $53.9 million, or 20.5 per cent. If you want to know what the Labor Party would do if they were in power, look no further than the state Labor governments that are in power.

In fairness, to give them their due, Mr Garrett, the shadow minister, produced a document—a very flimsy document—last Friday on federal Labor arts funding. They are going to have a review of the funding model of the Australia Council. That is on page 4. On page 5, we discover that they are going to have a review of the performance of ABAF, the Australian Business Arts Foundation. Then we go to page 7 and we find that we are going to have a review of the Regional Arts Australia strategy. And we only have to go over to page 8 to find that they will consider the review of the Australian National Academy of Music. I have not even read it very carefully, but that is four reviews in the first eight pages. Given that page 1 is a blank piece of paper, page 2 is a preamble, page 3 is a table of contents and page 4 is some rodomontade about the Howard government, that is not bad going at all. What you will find particularly interesting, Senator Boyce— *(Time expired)*

Senator BOYCE—Mr President, I ask a supplementary question. I ask the Minister for the Arts and Sport if he could further elaborate on the alternatives that are not being proposed.

Senator BRANDIS—Thank you so much, Senator Boyce. I will not weary you with all the other reviews in the remaining few pages of this very, very flimsy polemic. I have only got a minute. But I might mention what the Labor Party arts policy document does not cover. It says nothing about the visual arts other than some remarks about Indigenous art. When it comes to Indigenous art, the Australian Labor Party will have a review of policies in relation to the protection of Indigenous artists. There is nothing about the major performing arts companies. We are not even going to have a review of them, except of course the review of the Australian National Academy of Music. There is nothing, for instance, about NIDA and nothing about the Australian Ballet School. There is nothing—not a word—about infrastructure and no mention of literature other than in the context of Indigenous art, where we are going to have a review as to the availability of literature in the Indigenous sector. *(Time expired)*

Equine Influenza

Senator O'BRIEN (2.43 pm)—My question is to Senator Abetz, the Minister representing the Minister for Agriculture, Fisheries and Forestry. I refer the minister to information supplied to the Senate last night about quarantine arrangements at Eastern Creek quarantine facility. Can the minister confirm that so-called additional security and quarantine measures were implemented after 24 August when equine influenza was detected at that facility? Can the minister confirm that these measures include:

> … a requirement for all persons entering the force quarantine area to undertake disinfection of their footwear ... to shower on arrival at the station, to shower when leaving and to wear AQIS supplied protective clothing at all times while in the station.

Given that the facility was supposed to be a secure quarantine area before 24 August, can the minister explain why these requirements were not followed before the disease outbreak? Given the overwhelming probability that the outbreak was initiated at Eastern Creek, couldn't the spread of equine influenza have been prevented if these basic measures had been followed prior to 24 August?

Senator Carr—What about the inquiry?

Senator ABETZ—I think, for once, Senator Carr made a worthwhile interjection. He is absolutely right. This Senate today—

Senator Chris Evans—But you don't do inquiries; you govern.

Senator ABETZ—Before the arrogant Leader of the Opposition in the Senate gets too whipped up, his

own party supported this and there was unanimity around this chamber. Nobody opposed it, other than, it seems, the Leader of the Opposition in the Senate, and if he had been in here he would have opposed it. The reality is, it got through this Senate on the voices. The reason it got through is that it made such good common sense. Rather than Senator O'Brien trying to play Inspector Clouseau, rather having a bumbling inspector going around, we thought a High Court judge of the experience of Ian Callinan QC would be the sort of person whom we would want to inquire into all the aspects surrounding the outbreak of equine influenza. If Senator O'Brien thinks he can make cheap political comment about this, can I tell him that the $3.6 billion industry that surrounds the 10,000 commercial horses in this country and all the people who gain their livelihoods from the horse industry—

Senator O'Brien—They want to know the answer to my question.

Senator ABETZ—They do want to know the answer, but they do not want to hear the answers in a political climate such as Senator O'Brien is trying to whip up. What they want is a rigorous, robust inquiry as will be conducted by Mr Callinan. Therefore, whether certain procedures were or were not followed at Eastern Creek is not something on which I am going to speculate. That is something for Mr Callinan to determine and for him to make commentary on. I leave it at that. This is a serious matter. Believe it or not, the Senate unanimously agreed to this inquiry just a matter of a few hours ago. What I suggest to all honourable senators, especially Senator O'Brien, as he is so interested in showers, is that people should take a cold shower, take a deep breath and allow Mr Callinan to do his work.

Senator Robert Ray interjecting—

Senator ABETZ—That is very offensive, Robert Ray. You are a grub.

Senator Robert Ray—So are you.

The PRESIDENT—Order! Senator Abetz, I did not hear what Senator Ray said, but I did hear what you said and you must withdraw.

Senator ABETZ—You heard what I said and I withdraw unequivocally. If Senator Ray is decent, he will come round to my office, we will have a cup of coffee and get rid of that.

Senator Robert Ray—Senator Abetz, I withdraw.

Senator O'BRIEN—I ask a supplementary question, Mr President.

Opposition senators interjecting—

The PRESIDENT—Order! Sit down, Senator O'Brien. We are not going to continue with Senator O'Brien's supplementary question unless the chamber maintains order.

Senator O'BRIEN—I remind the minister that my question went to the actions or inaction of the government prior to the outbreak, and I suggest that even this government can answer questions about what it did or did not do without an inquiry telling it what it did or did not do. Can the minister guarantee that the absence of these basic precautions like wearing protective clothing and disinfecting footwear did not facilitate the spread of equine influenza from the Eastern Creek facility? Why did it take this devastating equine influenza outbreak for the government to put these very basic arrangements in place at what is supposed to be a secure quarantining facility?

Senator ABETZ—Once again, Senator O'Brien is asking me to speculate on the matters surrounding this unfortunate outbreak. I do not think it serves the benefits of the industry in any shape or form for Senator O'Brien to make assertions or for me to seek to answer them. That is why we have Mr Callinan inquiring into all the matters surrounding this.

Senator Sherry—An inquiry.

Senator ABETZ—Yes, an inquiry that has the backing of the unanimous support of this chamber. Of course, Senator Sherry was absent as well, so he would not know the basis of this. Senator Sherry and Senator O'Brien ought to get together and work out with Senator Evans what the opposition's stance is on this. I thought they had gone out to the industry saying that they supported this inquiry. There are no ifs and buts with us. We support the inquiry. We initiated it. We want all the details to come out. We do not want the result of a blundering 'Inspector' O'Brien undertaking an inquiry. We want the result of professional people such as Mr Callinan undertaking the task on behalf of all Australians.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the President's gallery of an Australian Political Exchange Council delegation from the United States. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Indigenous Housing

Senator BARTLETT (2.51 pm)—My question is to the Minister for Community Services. Noting the minister's comments during a number of question times, including today's question time, about 'the complete failure of state governments in regard to public housing', why is the federal government choosing this moment to defund the community housing program for Indigenous Australians, which will shift most of those Indigenous Australians in community housing in urban areas onto the record waiting lists for public housing—

which are overseen by those very same state governments—at precisely the time of record competition for private rental housing and the worst housing affordability figures on record?

Senator SCULLION—I thank the senator for the question. Whilst the senator is aware of yesterday's $514 million commitment to Indigenous housing and the maintenance associated with that, he may not be aware of some other circumstances that would perhaps put that contribution and our policy in context. At the most recent housing ministers conference that I chaired in Darwin some time ago, we provided to the remaining housing ministers an explanation of the current and future policies with regard to the Commonwealth's investment in Indigenous housing. The way of the future is this: we will no longer be funding Indigenous housing organisations. The senator is quite right there. But we have no intention of moving people out of those houses; in fact, quite the contrary. We have now said that we will bring every one of those houses up to an acceptable standard, if an Indigenous housing organisation chooses to do so. That acceptable standard is the same standard as we would accept. The houses and infrastructure will be brought completely up to standard.

There is an interest, then, to ensure that the standard of those houses is maintained. We will be asking the Indigenous housing organisation to pass the responsibility of maintaining the tenancy agreements and those houses over to the state and territory governments. So the houses will be brought up to a standard and then passed over to the state and territory governments, whose responsibility is then to ensure that those houses are treated in the same way as every other house. So, for example, if you are a tenant in a public house, someone will come every three months and inspect the house. For example, if there is some damage—a door is kicked in or something like that—it is the responsibility of the state or territory government to not only repair the damage but also have some mechanism by which it can recoup the cost of the damage. They are the same maintenance requirements that are on any other public house.

The reason we have gone that way is that the current arrangements for Indigenous housing organisations, which I am familiar with in the Northern Territory, simply have not worked. Whether it is the capacity of the organisation or the governance arrangements we are not really sure, but they have not worked and that is why we have gone to this new model to ensure that Indigenous Australians will be able to live in the same place and the same houses and that those houses will be built to a standard. There will now be a responsibility for the tenants that reflects the responsibility of any tenant in a tenant-landholder arrangement. It will now be the responsibility of the state and territory governments to maintain those tenancy agreements.

Senator BARTLETT—Mr President, I ask a supplementary question. My question remains: given that the minister has confirmed that responsibility for maintaining these houses in acceptable standards will be pushed over to state and territory governments—exactly the same people whom he labelled earlier today as complete failures with regard to public housing—how is it that Indigenous community housing organisations can have any confidence that this will deliver better outcomes for Indigenous Australians in urban areas? Is the minister saying that there is not a single Indigenous community housing organisation around the country—he may be familiar with those in the Territory; I am certainly familiar with some in urban Brisbane—capable of maintaining their housing to acceptable standards and that all of that housing should be transferred across to a state government that he has labelled a complete failure in this area?

Senator SCULLION—I thank the senator for reminding me of my earlier statements regarding how we trust, and sometimes reflect on the performance of, state and territory governments. Yes, of course we are nervous about those processes. But we are now in a situation where we are going in with our eyes wide open. There will be contractual arrangements to ensure not only that the standard that we have undertaken is an acceptable standard and that it is delivered—that is on our side of the bargain—but also that the state and territory governments abide by their word and that those maintenance obligations are adhered to, as they would be in any tenancy agreement.

Climate Change

Senator HOGG (2.56 pm)—My question is to Senator Abetz, the Minister representing the Minister for Agriculture, Fisheries and Forestry. I refer the minister to a Citigroup review on the effect of climate change that found that Australia's big mining companies BHP and Rio Tinto were well prepared for the impact of climate change on their business. Given that BHP and Rio Tinto are prepared to recognise and plan for the impact of climate change on their business, why is the government not prepared to recognise and plan for the impact of climate change on Australia's farmers? Don't the severe reductions in ABARE crop forecasts show that climate change has the potential to cost the farm sector and our economy billions of dollars in lost earnings? How much longer does the agriculture sector have to wait for the government to put in place measures to help it adapt to climate change?

Senator ABETZ—We as a government are well known for our position in taking Australia forward and indeed taking the world community forward in relation to climate change. We are concerned to engage all sectors of our economy—

Senator Carr—Aren't you a sceptic?

The PRESIDENT—Order! Senator Carr, I have reminded you a number of times to cease interjecting.

Senator ABETZ—Thank you, Mr President. You would think that if the Labor Party were genuinely interested in climate change they would at least allow me to get 30 seconds into the answer before they get the bovver boys like Senator Carr and others to interject. We as a government have taken a considered stance that is being accepted around the world as being the appropriate position, and that is to take the actions—

Senator Chris Evans—Around the world!

Senator ABETZ—The arrogant Leader of the Opposition interjects again and says, 'Around the world.' Yes—around the world, as was shown at the APEC conference, where we were able to get the United States, China, Russia and some of the big emitters to sit down together and work out how we can move forward together. Here we are achieving on a grand scale—Australia is punching well above its weight—and the reason is that we have credibility generally, right around the world, because of our Prime Minister and our foreign minister and because on this issue we have credibility. A lot of countries accept that we have credibility, despite the fact we have not signed up to Kyoto, because we have taken a rigorous and robust approach in relation to this.

In relation to the agricultural sector, it needs to be remembered that Australia, to a large extent, is one of the breadbaskets of the world. We have a responsibility and a duty not only to our farming communities but also to those countries that we supply to try to provide food as cheaply as possible. Currently, the agricultural sector is going through devastating consequences as a result of a drought the proportions of which, chances are, we have not seen since the greater Federation drought of 1901. In all those circumstances we have been saying that we will work with the agricultural community to deal with these issues but in a way that they can adapt and ensure their ongoing viability. Of course, that is the thing that has underscored our total approach on this issue, which is to make sure that every industry sector can cope, can deal with the challenges, without sending them broke. That is the big difference between the Howard government's approach and the Rudd approach.

Senator HOGG—Mr President, I ask a supplementary question. Wasn't the Prime Minister's decision to specifically exclude the agriculture sector from his emissions task group evidence that this government has no regard for the role of agriculture in potential solutions to climate change? Doesn't the government's failure to help our critical agriculture industries adapt to climate change show once again that the government is full of climate change sceptics, like the minister, who are not serious about tackling climate change?

Honourable senators interjecting—

Senator ABETZ—Above the cacophony, I think I did hear the questions—and there were two of them. I can answer them for the honourable senator in the following manner. The answer to the first question is no. The answer to the second question is no.

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

WOMEN IN PARLIAMENT EXHIBITION

Senator CROSSIN (Northern Territory) (3.02 pm)—Mr President, I have a question to raise with you. I understand that a decision has been made to permanently close and dismantle the *Women in Parliament* display and exhibition, which is currently on the first floor of the Senate side in this building. I further understand that this information will now only be seen online or in a booklet publication, so I ask you—

Senator Patterson interjecting—

Senator CROSSIN—We ask—thank you, Senator Patterson—on behalf of perhaps all women parliamentarians in this place: can you please inform the Senate who made this decision and why there was no consultation about this decision? I also ask: what is the reason for this decision? And, given that women only constitute 28.3 per cent of this parliament, why will this government not support continuing this display on public view and complement the display with any online or printed information? I also ask: will the pictures or paintings of Speakers or Presidents in this building also be removed and placed online, just like the women will be?

Senator Minchin—Mr President, on a point of order: I make the point that it is not appropriate for you to be asked about the government's position. You are here as the presiding officer of the Senate. I presume the question is not meant to be to you in relation to the government. If it is a question to the government, the senator should ask for the government's position, but you may answer in your capacity as the presiding officer.

The PRESIDENT (3.04 pm)—Senator Crossin, as you are well aware, I have only been in this position for four weeks and I am still acquainting myself with many decisions that have been made over the past period of months. This is not an issue that I have seen. It is not a question that has been asked of me before. I can promise you that I will look into it, get back to you and answer you comprehensively.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Answers to Questions

Senator LUDWIG (Queensland) (3.04 pm)—I move:

That the Senate take note of the answers given by the Minister for Community Services (Senator Scullion) to questions without notice asked by Senators Webber and Campbell today relating to housing affordability.

In the main issue of housing affordability, Australians do not have a government that runs on sound economic principles, with rigorous policy development processes working for the benefit of Australian working families. We do have a government that has one guiding principle and one guiding principle only—that is, its marketing spin of its research agency, Crosby Textor. It is a government that will do anything, say anything and spend any amount to win office in the forthcoming election. It is a government desperately manufacturing lines and policies on the run in an attempt to create an agenda. We see that when it goes to its own backbench and says: 'There is a whiteboard. What we want is some good ideas about housing affordability.' It is too late. Time is too short. It is a short-termism that is typical of this government. It is not a way of engaging with your backbench. It demonstrates that the government does not have any policy and does not have any ability to lead the debate on housing affordability. Instead, it wants to simply jot down ideas on a whiteboard and then wipe them off after the next election.

We have a government that is more interested in spin. It does not respect the difficulty that working families are facing out in the community. It is not mindful of the struggles and challenges that working families have to meet every day. Let us look at the evidence. Over the last few weeks we have seen the attempts of the Prime Minister to promote himself as a strong man. The government mentioned today how he is out there in a strong way. But what he is doing is a furphy. He is aggressively attacking the states but as a proxy for the opposition. We have seen the truth come out, though. It is about pork-barrelling and largesse reaching new levels from this government. It knows only one way, and that one way is to spend its way out of a problem. It has done that every time. You see that with phrases like 'aspirational nationalism'. It tries to come up with phrases to jag the public's interest. Stop the rot. Do not try to find phrases like 'aspirational nationalism' to get people's attention. Come up with a good policy. Come up with a proper approach. Come up with something other than short-termism, something other than the most ugly and clumsy juxtaposition of ideas and language since the Prime Minister brought us 'incentivisation' back in 1987.

What we do know from Crosby Textor is that Howard will play a brand of federalism politics that is likely neither to work nor to endure as a template for government. Working families are juggling work commitments, increased consumer prices and increased uncertainty about their working conditions. They are worried about their children in the workplace as well. They are worried about how they are going to afford their houses. They are worried about how they are going to get to work, because this government has not built critical infrastructure. They are worried about how they are going to compete in the marketplace. They are worried about how they are going to ensure that all of those matters are addressed. This government has not invested in significant broadband services. In fact, all this government has done is find a label to stick across everything.

The Prime Minister said that people have never been better off, but it is reported in the press that people are struggling and losing their houses because this government does not care. The research shows that the number of households enduring mortgage stress will rise above 600,000 in the coming months. The Australian Mortgage Industry Report, from Fujitsu Australia and JPMorgan, reveals that 138,000 families may be forced to give up their homes because of mortgage stress. This is how out of touch this 11-year-old government has become. It is out of touch and does not care. As working families tighten their belts, this government embarks on a spending spree which is devoid of any purpose other than keeping Mr and Mrs Howard in Kirribilli House. Senator Minchin summed it up some time ago. In terms of the industrial relations debate, they do not want to tell us what they are going to do or provide any future direction— *(Time expired)*

Senator BOYCE (Queensland) (3.09 pm)—I would like to take note of answers in relation to housing affordability. I find it completely bemusing that it would cause concern to the opposition that, for 2½ solid hours yesterday, members of the coalition managed to come up with good, fresh, innovative ideas to help this country. We do not just have committees and reference groups to think about what to do; good ideas have been a hallmark of this government and will continue to be so. It is somewhat bizarre to think that having good ideas would be seen as a failure or a weakness of any sort.

Let us look at some of the facts behind the housing affordability situation. Yes, there are some families struggling and, yes, our government is working to assist those families. Let us also look at what the state governments are doing to assist those families. In all states there is a department of housing. What are they doing to help families with any problems? What have they done to develop more rental stock? What have they done to assist people who are in any sort of crisis—apart from selling off a few houses and not worrying about demand or supply? Let us look at what they

have done to assist those families who may be about to experience mortgage stress. What have the states done with their growth taxes such as the GST, stamp duty, land tax and even, shamefully, their growing revenues from gambling? What do they do with those funds, which might assist families who have any concerns about their ability to afford houses?

Let us flip that around and look at it from the other perspective. What has the federal government done to assist working families? We are proud that we can say 'working families', because more families than ever before are currently in work. This is part of the reason why these people can afford mortgages to buy houses. More people than ever before are in a position to get themselves into the housing market.

Let us also look at what we have done in terms of reducing tax over the past 12 months. The new tax rates that came in in July this year give families the opportunity to invest that little bit more in their mortgage. In fact, if you look at the current mortgage situation, you will find that more than 25 per cent of people are more than a year ahead with their mortgage payments. Half the people in Australia who have mortgages are ahead with their repayments. That is the very sensible attitude that a lot of Australians have taken to give themselves a buffer in case of problems that might arise—not small increases in interest rates but the dramas and crises that can come up and affect any family as it goes through life.

We should also look at the Reserve Bank's notes on the views of households about their personal finances. Most households report that their personal finances are stronger today than 12 months ago. They have continued to reap the benefits of a strong economy with high employment, lower tax rates and a lower take from the federal government. That is not so, unfortunately, in terms of the state governments. The states were dragged kicking and screaming to get rid of their taxes on bank deposits and other areas—things they were supposed to give up in exchange for getting the GST. What have they done with those growth taxes they have received from the federal government? They have done very little to help families. Senator Ludwig mentioned infrastructure. I thought roads, buses and gutters were the province of state governments. This is where we should be looking if we want to look at housing affordability— *(Time expired)*

Senator CROSSIN (Northern Territory) (3.15 pm)—I rise to take note of the answer given to us today by Senator Scullion in relation to housing affordability. This is an absolute policy-free zone when it comes to the Howard government. If it is not a policy-free zone then it is certainly a policy area where there are many different ideas and messages coming from the government members of parliament. One only has to look at the papers today to see that there are almost as many different policies on housing affordability as there are government MPs in this place.

According to newspaper reports today, policy No. 1 has come from Mrs Mirabella and Senator Ferguson, who are suggesting that first home buyers should receive the benefits of negative gearing on the home they live in. Policy No. 2 came from Mrs Danna Vale, suggesting that the Commonwealth should release land and build homes with the private sector. But wait, there is more policy. Policy No. 3 comes from Mr Pat Farmer, who has suggested that the government should match dollar for dollar, up to $50,000, the money first home owners save for their deposit. Last but not least, there is policy No. 4, which is from all the other MPs in this government, suggesting that the first home owners grant should be raised.

Coalition backbenchers are throwing policies around like they are going out of fashion. That is because they are desperate to have one clear, consistent policy from this government when it comes to housing affordability. But the Prime Minister and his cabinet ministers have been unable to lock in a concrete policy on how they want to tackle this issue. They are caught in a bind. There have been nine consecutive interest rate rises under this government and five interest rate rises since the last election. The pressure on this government to come up with a policy and plan for the future, an idea about how they will tackle this if they are re-elected, has caught them out again with a lack of policy on housing. We know that it is embarrassing for their backbenchers, who reiterate three or four different policies in any one day just to try to get this government to lay down a plan for the future and a plan for people who want to buy their own homes. Mr Peter Lindsay only last week blamed young people themselves for being priced out of the housing market.

After 11 long years in government and with a housing market that has frozen out most young people and average wage earners, it is astonishing that this government is in such disarray when it comes to having a plan or policy for housing affordability. At this point in time, statistics show us that homeownership amongst young people has dropped during this government's term in office. Last week, the Real Estate Institute of Australia published figures showing that only 16.7 per cent of homes financed in June were purchased by first home buyers, compared with the historic average of 20 per cent. So the number of young people buying and purchasing their own homes is dropping. This government refuses to accept those statistics or to act on them.

According to Mortgage Choice's latest survey, 28 per cent of Australians will be aged 41 years or older when they buy their first home. Even more sadly, hundreds of thousands of Australians will be simply unable to ever afford to buy a home without any action by this federal government. In fact, back on 18 July the *Aus-*

tralian stated that this is clearly all a bit beyond the Prime Minister. And clearly it is a bit beyond this Prime Minister and this government to come up with a plan to tackle housing affordability.

We know that data released this year also shows that purchasing a home in a capital city has become even tougher, with the Australian dream of homeownership slipping further out of the reach of families. This is a government that has no plan for housing affordability and no blueprint for what it will do in the future. It languishes in the past and pretends it has a track record on this when the statistics show us otherwise. After nine consecutive interest rate rises and five interest rate rises since the last election, this is a policy-free zone—*(Time expired)*

Senator CORMANN (Western Australia) (3.20 pm)—I also rise to take note of the answer by Senator Scullion. Another day in the Senate and another day of empty Labor Party rhetoric. We on this side of the chamber take the pressures on working families very seriously. That is why we are focused on a strong economy, creating jobs, increasing real wages and keeping taxes low. The reality is that, in an environment where we have a growing population, the main thing that we can do to improve housing affordability is increase the supply of affordable land. If senators on the other side of the chamber were really so concerned about improving housing affordability across Australia, they would be phoning the Premier of New South Wales, the Premier of South Australia, the Premier of Victoria and the Premier of Western Australia. I call on my esteemed colleague Senator Ruth Webber to phone her very good friend the Premier of Western Australia, Alan Carpenter, and the Minister for Planning and Infrastructure, Alannah MacTiernan, and call on them to release more land and cut red tape, and call on the Treasurer of Western Australia, Eric Ripper, to reduce the extreme property taxes, stamp duties and land taxes—these are great disincentives for investors to get involved in the housing market—and to make affordable housing available to renters across Western Australia and Australia.

All we have heard today is empty rhetoric. We need a plan for a strong economy and a plan to create jobs and increase real wages, which is why the workplace relations reforms that the Howard government introduced in 1996 and subsequently are so important. I had the great privilege of talking about this last night. What is Labor proposing? Labor is proposing to abolish Australian workplace agreements. Labor is proposing to abolish the Australian Building and Construction Commission. Not only is that going to push the cost of housing up; it is going to have a negative impact on real wages and employment and it is going to make it more difficult for people across Australia to afford their own homes. It is an absolute disgrace.

I have actually experienced, in my own home state of Western Australia, exactly what can happen when Labor comes into government and pursues those sorts of policies—indeed, particularly in the building and construction industry, which is so relevant when it comes to affordable housing. Straight after the Gallop Labor government was elected in 2001, in less than two weeks unions were going on a rampage across all of the major building sites across Western Australia. Of course, should Labor be successful—God help us!—at the next election, we are very likely to see exactly the same thing. The impact of that is less affordable housing, not more affordable housing.

Senator Ludwig spoke about marketing and how the government is focused on marketing itself. I do not think that there are any lessons we can take from the Labor Party on that. Today, I came across an article in the *Age* headed: 'Bracks' water ads broke budget'. I thought I would read that into *Hansard* because it is quite outrageous. The article states:

> Controversial advertisements starring former premier Steve Bracks spruiking the Government's water plans cost taxpayers more than $1.7 million—70 per cent more than Mr Bracks admitted at the time.
>
> Documents obtained by *The Age* under freedom of information reveal taxpayers funded television, radio, print and internet advertisements, shown in June, had a price tag of $1.7 million.

Those are, of course, those infamous ads showing the then Premier, Stephen Bracks, coming down in the helicopter and trying to sell himself.

The issue of housing affordability is a very serious issue. There are many families across Australia aspiring to buy their first home and, in the current environment, finding it tough. We are the first ones to acknowledge that. All of us as policymakers across Australia, whether we are at the state or the federal level, ought to very seriously reflect and consider what sorts of policies are able to make a positive difference to those families across Australia. Those families are not going to be helped by empty political rhetoric from the other side. If you are really seriously concerned, if you are really seriously interested in making a difference, pick up the phone, talk to your premiers, talk to your state ministers and get them to cut red tape, get them to reduce their property taxes and get them to get off their backsides and do something about it.

I feel very passionate about this because in Western Australia the levels of taxes and property taxes—the disincentives for people to buy their own home and for people to invest in properties that they might make available for affordable rental housing—are just so enormous. We are having very serious issues, particularly in our regional areas. *(Time expired)*

Senator WEBBER (Western Australia) (3.25 pm)—All I can say, with all due respect to you, Senator Cor-

mann, is that I must live in a different part of Perth to you, because if you were aware of what is going on in Perth you would not be interested in the blame game, which is all that those opposite do; you would actually understand what is happening in the northern suburbs. You would understand that in the electorate of Stirling 34 per cent of people are suffering from mortgage stress. When I am in that community, people come and see me regularly and complain about the $300 a week they have to pay to rent a house in Balga or Nollamara. You would not be interested in playing the blame game; you would be interested in sitting down and talking about real solutions, if you really do care about those people.

Obviously, your colleague Peter Lindsay from Queensland understands, although he likes to blame young people themselves. Other members of your party are open about the fact that there really is a housing affordability crisis. They talk about young families under mortgage stress being forced to sit on milk crates. What we need to do is work together and address the problem. All of those people in Stirling, those 34 per cent of people who are suffering from mortgage stress, all remember your Prime Minister and your Treasurer—L1 and L2 as they are colloquially known around here now—promising to keep interest rates at record lows. Five interest rate increases later, they do not believe it when all of a sudden you have a brainstorming session and decide that you care. The way that you demonstrate that you care is to blame-shift—blame someone else. The Treasurer, after the last interest rate rise, said:

> House prices are higher than they have been and they are higher than they have been because more people are in work and more people are able to afford to borrow to purchase more expensive housing.

When asked whether there is no crisis, the Treasurer replied:

> Well, no.

You cannot have it both ways. You cannot say, 'Yes, there is a crisis and we are going to blame everyone else,' even though you are the party that has been in government for 11 long years; you are the party that has been responsible for the five successive interest rate rises since the last election. You have the Treasurer—L2 as he is colloquially known now—saying, 'Well, actually there is no crisis.' He does not seem to accept that there is a crisis. You can go for the third option, which is the option that Senator Ludwig was referring to, which is to simply come up with another marketing plan: get your mates from Crosby Textor out there and work out what the spin needs to be.

In the real world—the real world that is the northern suburbs of Perth, where 34 per cent of people are suffering mortgage stress—working families are facing the prospect of not being able to afford to buy their own home. They are facing the prospect of not being able to afford to pay $300 a week to live in Balga or Nollamara. That is the real world; that is what is happening today. After 11 long years, your government has done nothing to help people face those challenges. Those families are obliged to pay nearly one-third of their incomes on home loan repayments—the highest ever percentage of their income. That is the Howard-Costello-Vaile—whoever wants to claim responsibility for this government's legacy—legacy to the northern suburbs of Perth. And what is the answer? Blame someone else. There was a scattergun, brainstorming exercise yesterday, where we had, all of a sudden, lots of different issues and lots of different options. The government just play the blame game, rather than accepting responsibility and helping those families who are in mortgage stress or helping the young families who are looking to buy their first home—and rather than actually showing that you accept some responsibility for five interest rate rises in a row.

When you add to that those families spending over one-third of their income trying to meet their mortgage repayments and the uncertainties they face in the labour market, thanks to Work Choices—that labour market system whose name the government dare not say anymore—it is little wonder that families are feeling very nervous and very stressed about the future. This government's typical solution is to take a scattergun approach, blame everyone else and then get Crosby Textor to test a few of the lines that were tried— *(Time expired)*

Question agreed to.

Petrol Sniffing

Senator SIEWERT (Western Australia) (3.30 pm)—I move:

> That the Senate take note of the answer given by the Minister for Human Services (Senator Ellison) to a question without notice asked by Senator Siewert today relating to petrol sniffing.

At the time I thanked the minister for outlining how the Opal non-sniffable fuel plan is being rolled out in the region. As the Senate inquiry into petrol sniffing pointed out, it is very important that the non-sniffable Opal fuel plan is rolled out across the entire region if we are to deal with the scourge of petrol sniffing. As the minister outlined, this is starting to prove successful. Unfortunately, we are starting to hear worrying reports that a number of petrol stations or roadhouses in the identified region of the eight-point plan are continuing to sell sniffable unleaded fuel. If there is a source of sniffable fuel in the region it will undermine and undercut the rollout of the non-sniffable fuel plan. This is why it is very important for the government to have an understanding of where sniffable fuel is still being sold in the region. It must have a strategy to deal

with it, because the whole system will be undermined if sniffable fuel is available in this region.

Along with these worrying reports that roadhouses are continuing to stock sniffable fuel were reports of petrol sniffing from Ti Tree earlier in the year. This is a classic example of what I have been talking about—that is, if the fuel is available, people will access it and, therefore, rolling out Opal fuel will not accomplish its aims. It is very important that the government follow up these roadhouses and ascertain whether they are selling sniffable fuel. If they are, it should require them to stock only Opal fuel because that is a key component in the success of this plan.

The Senate inquiry recommended in its unanimous report that putting in non-sniffable fuel buys time to put in other strategies that keep people, kids, permanently off sniffing fuel. In other words, you need non-sniffable fuel and then you implement diversionary and other health programs to help the people who have been affected by sniffing fuel to recover. I urge the government to investigate the claims that there are at least three roadhouses in the region that are still supplying sniffable fuel. It has been reported that they are actively undermining the rollout of the program by saying or implying that Opal fuel damages cars. This is a continuation of the undermining of the program that occurred in Alice Springs. The government eventually acted on what was happening in Alice Springs and rolled out a quite comprehensive media awareness program that assured consumers and buyers of petrol that Opal fuel did not damage cars. The Automobile Association has proved that it does not damage cars. But, as I understand it, there are still some rumours circulating in the region that it does.

This issue is particularly important at the moment because the next phase of the eight-point plan and the rolling out of Opal fuel will be in Tennant Creek. If what we are hearing on the ground is true—that the Ti Tree roadhouse is still stocking sniffable fuel—it is occurring on the road north to Tennant Creek. It is vitally important that the whole region has Opal fuel, non-sniffable fuel, otherwise you undermine the rolling out of Opal fuel into Tennant Creek. It is critically important for the success of the whole plan that the roadhouses that are continuing to stock sniffable fuel are identified and required to stock non-sniffable fuel. The next component of the plan will also be undermined if this is not dealt with now. I urge the government to continue its good work on petrol sniffing and to ensure that it solves the problem once and for all. We do not want to see such a good program undermined because some roadhouses are not doing the right thing and are not stocking non-sniffable Opal fuel.

Question agreed to.

NOTICES

Presentation

Senator Stott Despoja to move on the next day of sitting:

That the Senate:

(a) notes the murder of Mr Dario de Jesus Torres, a member of the San José de Apartadó Peace Community, in Colombia on 13 July 2007;

(b) recognises that the murder of Mr Torres is part of a pattern of violence against members of the peace community by paramilitary forces;

(c) notes that:

(i) non-government organisations continue to observe paramilitary forces in the vicinity where Mr Torres was murdered, and

(ii) the Inter-American Commission of Human Rights, in 2000 and again in 2004, called for the Colombian Government to guarantee the security of the peace community; and

(d) urges the Australian Government to raise this issue with the Colombian Government, including the need for a full investigation into the killing of Mr Torres and compliance with the resolutions of the Inter-American Commission of Human Rights, to prevent further persecution of the peace community.

Senator Bartlett to move on the next day of sitting:

That items 41 and 72 of Schedule 1 and items 7 and 8 of Schedule 2 of the Migration Amendment Regulations 2007 (No. 7), as contained in Select Legislative Instrument 2007 No. 257 and made under the Migration Act 1958, be disallowed. [F2007L02644]

Senator Barnett to move on the next day of sitting:

That the Senate:

(a) notes the damaging long-term effects to Australian society caused by the sexual assault and abuse of children and young people;

(b) recognises the importance of following up expressions of concern with genuine action to assist survivors of sexual assault and to bring perpetrators to justice;

(c) notes:

(i) recent concerns expressed about an alleged pack rape of a 14-year old girl in the John Oxley Youth Detention Centre in Queensland in 1988, the need for a proper investigation into circumstances surrounding the incident and the importance of ensuring that the victim of the alleged assault receives justice, and

(ii) the many petitions tabled in the Senate, expressing the support of many Australians for a royal commission into the sexual assault and abuse of children in Australia and the ongoing cover-ups of many of these matters; and

(d) expresses support for the longstanding call for a comprehensive royal commission into the sexual assault and abuse of children throughout Australia, especially in institutions.

Senator Coonan to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to amend the law relating to communications, and for related purposes. ***Communications Legislation Amendment (Crime or Terrorism Related Internet Content) Bill 2007***.

Senator Payne to move on the next day of sitting:

That the Senate:

(a) notes that:

(i) the suffering of the 'comfort women' in the 1930s and 1940s was an appalling episode in Japan's history and that of the Asia Pacific region, and that there can be no disputing the facts of what occurred and the pain that it caused to those affected,

(ii) the position of successive Australian governments has been that the 1951 Peace Treaty, which Australia signed, firmly drew a line under the crimes committed by Japan before and during the Second World War, for which many Japanese were rightly tried, convicted and sentenced,

(iii) Japan has made great progress since 1945 in recognising and atoning for its past actions, and for many decades has been a major contributor to international peace, security and development, including through the United Nations,

(iv) the 1993 statement by then Chief Cabinet Secretary Yohei Kono on the comfort women issue (the 'Kono statement') fully and officially acknowledged the complicity of the Japanese Government and military in the 1930s and 1940s in a coercive system of sexual slavery in occupied territories, and

(v) the Kono statement has been reaffirmed by subsequent Japanese governments and prime ministers, including by Prime Minister Abe;

(b) commends the Japanese people and Government for the steps they have taken so far to acknowledge and atone for Japan's actions in the 1930s and 1940s; and

(c) encourages the Japanese people and Government to take further steps to recognise the full history of their nation, to foster awareness in Japan of its actions in the 1930s and 1940s, including in relation to comfort women, and to continue dialogue with those affected by Japan's past actions in a spirit of reconciliation.

Senator Fielding to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to regulate creeping acquisitions, and for related purposes. ***Trade Practices (Creeping Acquisitions) Amendment Bill 2007***.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (3.36 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 various bills, as set out in the list circulated in the chamber, allowing them to be considered during this period of sittings.

Health Insurance Amendment (Medicare Dental Services) Bill 2007

Health Legislation Amendment Bill 2007

Higher Education Support Amendment (Extending FEE-HELP for VET Diploma and VET Advanced Diploma Courses) Bill 2007

Indigenous Education (Targeted Assistance) Amendment (Cape York Measures) Bill 2007

National Health Security Bill 2007

Social Security Amendment (2007 Measures No. 2) Bill 2007

Social Security Legislation Amendment (2007 Budget Measures for Students) Bill 2007

Tax Laws Amendment (2007 Measures No. 6) Bill 2007

Trade Practices Amendment (Small Business Protection) Bill 2007.

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 statement of reasons read as follows—

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2007 SPRING SITTINGS

HEALTH LEGISLATION AMENDMENT BILL

Purpose of the Bill

The bill corrects an unintentional requirement that in the course of deciding an application for registration the Private Health Insurance Administration Council (PHIAC) must refuse the application if the rules of the private health insurer, relating to both health insurance business and health related business, permit improper discrimination. The improper discrimination provisions have always applied to health insurance business which is insurance products that cover hospital and general treatment. Health related business covers overseas visitors' health cover, dental and optical clinics. It was not intended to subject health related business to the improper discrimination provisions. Unless an amendment is made it will have a particular impact upon the provision of insurance to overseas visitors and could mean that private health insurers are not prepared to offer overseas visitors' health cover.

Two provisions in the Private Health Insurance Act 2007 (PHI Act), unintentionally require health insurers to community rate overseas visitors' health cover. This was not the policy intention, and amendments need to be made to a provision regarding re-registration and an offence provision in the PHI Act to allow health insurers to risk rate these products. Health insurers will then be able to compete on a level playing field with general insurers who offer overseas visitors' health cover.

Amendments to the PHI legislation are also required to provide that APRA regulation and FSR requirements of overseas students' health cover do not come into effect until 1 July 2008. This would align overseas students' health cover with overseas visitors' health cover (which is not subject to APRA regulation or FSR requirements until 1 July 2008), and would give the affected insurers enough time to change their business practices to comply with the new requirements.

To allow pharmacists to continue to substitute other brands of other pharmaceutical items of the same drug that are

marked as equivalent and are considered to be interchangeable in the Schedule of Pharmaceutical Benefits. An unintended consequence of the National Health Amendment (Pharmaceutical Benefits Scheme) Act 2007, which amended the National Health Act 1953, was to inadvertently restrict this substitution, which is an important element of the Pharmaceutical Benefits Scheme. Restricting pharmacists from carrying out this role will have adverse effects on pharmacists, consumers and the pharmaceutical industry.

This amendment will restore the substitution of pharmaceutical items to its original legislative and policy intent.

Reasons for Urgency

Prior to the enactment of the PHI Act overseas students' health cover did not have to meet the requirements of general insurance and was not subject to APRA standards or FSR regulation. APRA has raised concerns that in effect the overseas students' providers may be offering general insurance without a general insurance license, which attracts a criminal penalty of $35,000 a day.

The measures concerning the PBS needs to be implemented in time for the release of the October Schedule of Pharmaceutical Benefits to insure minimum disruption for pharmacists, consumers and the pharmaceutical industry.

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2007 SPRING SITTINGS

HIGHER EDUCATION SUPPORT AMENDMENT (EXTENDING FEE-HELP FOR VET DIPLOMA, ADVANCED DIPLOMA, GRADUATE DIPLOMA AND GRADUATE CERTIFICATE COURSES) BILL 2007

Purpose of the Bill

The Bill sets up the arrangements and appropriation to extend FEE-HELP assistance to full-fee paying students at the VET diploma level qualifications and above at registered training organisations, including TAFEs and private providers.

As this Budget measure is an extension of FEE-HELP in the higher education sector, this amendment is based substantially on the existing FEE-HELP mechanisms already in the Higher Education Support Act.

Reasons for Urgency

The legislation needs to be enacted to allow training providers as much lead time as possible to permit the introduction of FEE-HELP from 2008 as indicated in the budget.

Delay in the passage of the Bill will cause considerable disruption to students planning for study during the 2008 academic year.

Students may consider deferring study until FEE-HELP is available resulting in an adverse financial impact on training providers.

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2007 SPRING SITTINGS

INDIGENOUS EDUCATION (TARGETED ASSISTANCE) AMENDMENT (Cape York MEASURES) BILL 2007

Purpose of the Bill

This proposal is part of a package being put forward by the Cape York Institute for Policy and Leadership under an Indigenous Welfare Reform trial design phase, funded by the Australian Government.

The purpose of this Bill is to amend the Indigenous Targeted Assistance Act 2000 Act to provide additional education support in the Cape York communities of Coen, Hope Vale, Aurukun, and Mossman Gorge by:

- embedding the MULTILIT (Making Up for Lost Time in Literacy) teaching methodology and Tutorial Centres to enhance literacy teaching practice and literacy standards in Cape York schools; and
- implementing Student Education Trusts (SETs) to enable parents/guardians to save to financially support their child's education.

Reasons for Urgency

The amendments for increased funding for the 2008 year are required by 1 January 2008 to enable the Cape York Institute for Policy and Leadership to implement MULTILIT and SETs in the four identified communities in Cape York prior to the commencement of the 2008 school year.

It is critical that the increased funding is made available to the Cape York Institute with as much lead time as possible to permit the appropriate delivery of MULTILIT and SETs for these students from the beginning of 2008.

It is highly desirable that the additional funding for the initiatives be available from the beginning of the school year to ensure minimal disruption in implementation. As increased funding is regarded an urgent priority in the Cape York region of Queensland to assist disadvantaged students, delays in implementation may cause adverse public reactions.

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2007 SPRING SITTINGS

NATIONAL HEALTH SECURITY BILL

Purpose of the Bill

The bill provides the basis for a national framework for the management of Australia's response to public health events of national and international concern.

The bill establishes a national register of laboratories holding hazardous biological materials and makes the legislative changes needed for Australia to comply with the core provisions of the International Health Regulations (2005) (IHR (2005)). These include the need to address privacy concerns related to the collection and sharing of health data between jurisdictions, the Commonwealth and the World Health Organization.

Reasons for Urgency

Australia's response to national public health emergencies has been characterised by strong collaboration, cooperation and coordination between the states, territories and the Commonwealth. However, the 21st century has introduced a

new era of public health challenges for Australia and the global community. The bill provides for certainty in consultation and cooperation between all Australian governments.

The bill gives certainty to implementation of IHR provisions for the exchange of health surveillance information, which entered into force on 15 June 2007.

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2007 SPRING SITTINGS

SOCIAL SECURITY AMENDMENT (2007 MEASURES No. 2) BILL

Purpose of the Bill

The bill makes various amendments to social security law. It expands eligibility for automatic exemptions from participation requirements to principal carers who are relatives (other than parents) caring for a child under a parenting order under the Family Law Act 1975.

Section 12 of the Social Security (Administration) Act 1999 does not operate as intended and the amendments to section 12 remove ambiguity and limit retrospectivity of transfers to other payments and access to closed payments.

The bill also reinforces the role of the Job Capacity Assessor (JCA) in assessing work capacity and applying impairment tables for people with disability or temporary incapacity. Amendments ensure appropriate income support decisions and reviews of these decisions under social security law, which will clarify and uphold the role of JCA providers.

A minor technical amendment to section 1237AAD of the Social Security (Administration) Act 1999 is also included in the bill, with a view to streamlining administrative arrangements.

Reasons for Urgency

The bill is in part a response to the ruling of the Federal Court concerning the operation of section 12. The early passage of the bill will provide certainty to those affected.

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2007 SPRING sittings

SOCIAL SECURITY LEGISLATION AMENDMENT (2007 BUDGET MEASURES FOR STUDENTS) BILL 2007

Purpose of the Bill

The Bill makes amendments to the Student Assistance Act 1973, the Social Security Act 1991 and the Income Tax Assessment Act 1997 to implementation measures announced in the 2007-08 Budget. The Bill also makes amendments to streamline the administration of these Acts.

The measures are:

- Extending Rent Assistance to Austudy students
- Extending Youth Allowance and Austudy to approved professionally oriented coursework masters programmes
- Amending the Tax Act to exclude payments under the ABSTUDY Crisis and Bereavement payments from the definition of income.

Reasons for Urgency

The legislation needs to be enacted to allow Budget measures to commence on 1 January 2008 so as to support students for the 2008 academic year. Students who have planned their future study intentions on the basis of Budget announcements for 2008 should be able to rely on receiving these payments from that date.

Without enabling legislation, the Determination of Education Institutions and Courses to support the measures and technical changes to the Centrelink operating environment to implement these measures cannot proceed.

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2007 SPRING SITTINGS

TAX LAWS AMENDMENT (2007 MEASURES No. 6) BILL 2007

Purpose of the Bill

The Bill amends various taxation Acts.

Reasons for Urgency

These measures need to be enacted as early as possible to provide certainty for business and taxpayers in relation to how the law applies. Passage in this sitting is required as several of the measures are retrospective or are to commence in 2007.

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2007 SPRING SITTINGS

TRADE PRACTICES AMENDMENT (SMALL BUSINESS PROTECTION) BILL 2007

Purpose of the Bill

The bill amends section 87 of the Trade Practices Act 1974 (the Act) to allow the Australian Competition and Consumer Commission (ACCC) to take representative action in relation to sections 45D and 45E of the Act, affording business, particularly small businesses, enhanced protection from unlawful secondary boycotts.

Reasons for Urgency

Passage of the bill in the Spring sittings would allow the benefits to businesses contained in the bill to commence without delay.

Passage of the bill will allow the ACCC to seek compensation for illegal boycott activities on behalf of businesses that may otherwise not have the time or resources to enforce their legal right. By doing so the bill improves the access of such businesses to remedies under the Act.

A delay in the passage of the bill may deny an effective remedy to businesses that suffer loss or damage as a result of an unlawful activity.

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

That the Senate:

(a) notes the death of Australia's grand old man of the environment, Mr Vincent Serventy, aged 91;

(b) expresses its condolences to Mr Serventy's wife, Carol, family and friends;

(c) celebrates Mr Serventy's life and achievements, from his early success in saving the Dryandra Forest in Western Australia to his role in helping save the Great Barrier Reef, and his ongoing efforts to establish ten green

commandments, through a global bill of rights for the environment; and

(d) recognises that Mr Serventy, as a bushman, educator, author, filmmaker and President of Honour of the Wildlife Preservation Society of Australia, made a remarkable contribution to Australia's environmental well-being.

Senator Nettle to move on the next day of sitting:

That the Senate:

(a) notes:

(i) the current visit to Australia of representatives of the Carteret Islanders of Papua New Guinea,

(ii) that rising sea levels, caused by climate change, threaten the viability of the Carteret Islands, and

(iii) the urgent need to relocate the population of the Carteret Islands; and

(b) calls on the Australian Government to provide financial assistance to facilitate the relocation of Carteret Islanders.

LEAVE OF ABSENCE

Senator GEORGE CAMPBELL (New South Wales) (3.37 pm)—by leave—I move:

That leave of absence be granted to Senator Stephens for the period 18 September to 19 September 2007 inclusive, on account of personal matters, and that leave of absence be granted to Senator Hutchins for the period of 19 September to 20 September 2007 inclusive, on account of illness.

Question agreed to.

NOTICES

Postponement

The following items of business were postponed:

Business of the Senate notice of motion no. 1 standing in the name of Senator Siewert for today, proposing the reference of a matter to the Community Affairs Committee, postponed till 20 September 2007.

General business notice of motion no. 914 standing in the name of Senator Milne for today, relating to firearms laws in Tasmania, postponed till 20 September 2007.

ALCOHOL TOLL REDUCTION BILL 2007

First Reading

Senator FIELDING (Victoria—Leader of the Family First Party) (3.39 pm)—I move:

That the following bill be introduced: A Bill for an Act to create a culture of responsible drinking, and to facilitate a reduction in the alcohol toll resulting from excessive alcohol consumption, and for related purposes.

Question agreed to.

Senator FIELDING (Victoria—Leader of the Family First Party) (3.39 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 FIELDING (Victoria—Leader of the Family First Party) (3.40 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—

Australia has a drinking problem. As a nation, we have a problem with booze, a major problem.

Alcohol kills THREE TIMES more Australians than all illicit drugs combined, yet no one in Government or Opposition is serious about tackling our alcohol toll.

You see, as a nation, we celebrate alcohol. We drink to celebrate success. We drink to celebrate achievements. We drink to be sociable and to be part of the crowd.

Family First is not anti-alcohol. We know alcohol is a part of life and social drinking is fine. But our culture is one that celebrates alcohol and binge drinking—it is way out of control and we simply must do something about it.

Just look at how alcohol is promoted and advertised. David Boon was a great cricketer, but he is as well remembered for knocking off 52 tinnies on a flight to London.

Doesn't that make him then the 'logical' choice to promote booze? 'Boonie' is held up to be a hero—gee a bloke who can down 52 tinnies in one plane trip – so of course Victoria Bitter are going to pay him handsomely to flog their amber fluid.

No one in the Federal Parliament is taking this issue seriously. No one is pushing for tough action to tackle Australia's alarming alcohol toll and bring it down.

That is why Family First is doing something about it. Because alcohol is a killer—it is killing young Australians and adult Australians—and we HAVE to do something about it.

Instead of waiting for the Government to act, Family First is today introducing new laws to reduce Australia's crippling alcohol toll and change our binge drinking culture.

Family First's Alcohol Toll Reduction Bill 2007 will:

- Require health information labels on all alcohol products;
- Restrict TV and radio alcohol advertising to after 9pm and before Sam, to stop alcohol being marketed to young people;
- Require all alcohol ads to be pre-approved by a government body comprising an expert from the medical profession, alcohol and drug support sector, accident trauma support sector and the alcohol industry;
- Ban alcohol ads which are aimed at children or which link drinking to personal, business, social, sporting, sexual or other success.

Family First's Bill is supported by the Australian Drug Foundation and Arbias, which researches the link between alcohol and brain damage.

Geoff Munro, from the Australian Drug Foundation, has said of Family First's Bill:

"Too many hospital beds are occupied by people who have drunk too much alcohol, and too many Australians are damaged and die. Much of the alcohol toll is preventable... (Family First's) proposals are moderate and reasonable, and should meet with extensive community support."

Sonia Berton, the chief executive officer of Arbias, which recently ran a national campaign to highlight the fact that two million Australians risk alcohol-related brain damage because of their risky drinking behaviour, said:

"There's no question that we're going to see a whole generation of brain damaged Australians emerging based on current drinking levels. Treatment providers will be literally swamped in the next 10 years because of this massive invisible issue. There are enough Australians at risk ofalcohol-related brain damage right now to fill 4,800 jumbo jets. We have to get serious about tackling the massive impact alcohol is having on our society. This bill is a clear step forward. Alcohol is causing mammoth damage in our community. Why aren't we being told? Where are the ads and messages warning people?"

Family First has met with the Prime Minister, the Health Minister Tony Abbott and the Opposition Leader to discuss the alcohol toll and our Bill.

They all say they are concerned about the issue and understand its seriousness, but still have not taken tough action.

And that is extremely disappointing—a national disgrace.

But perhaps it is not surprising when you look at the HUGE amount of revenue the Government raises through alcohol taxes, and when you consider the power of the alcohol lobby.

The Distilled Spirits Industry Council of Australia has given more than $200,000 to the Coalition over the last nine years.

Family First's top concern is the health and welfare of Australia's families and Australia's families, and that is why we are taking action to reduce Australia's alcohol toll.

The welfare of Australia's alcohol—and for that matter sporting lobbies—is certainly not our top priority.

It is one thing to SAY you are concerned about a problem, but it is truly another thing to actually DO something about it.

It is enlightening to take a look at the Government's National Drugs Campaign website.

Under a section entitled "Information about drugs", it outlines "examples of various drugs...and some of the potential consequences of using them."

It goes on to mention that "people can become dependent on (addicted to) drugs."

The list of drugs is long and includes ice, speed and base, ecstasy, marijuana, cocaine, inhalants and hallucinogens.

But there is NO mention of alcohol—no mention of the drug—the addictive drug—that kills THREE times more Australians than all illicit drugs combined.

That is startling, and begs the question: Why?

Why is there no mention of alcohol of the most dangerous drug of all?

Just look at some of the statistics on binge drinking in Australia; they are truly horrifying.

Alcohol causes almost 4,300 deaths each year, is responsible for 40 per cent of police work and is a factor in up to one in five road deaths.

- 450,000 Australian children under 12 are at risk of being exposed to binge drinking in their home by a parent or other adult, according to the Australian National Council on Drugs;
- 35 per cent of Australians drink at levels that risk short-term harm and 10 per cent at levels that risk long-term harm, according to the Australian Institute of Health and Welfare; and,
- Alcohol is at the top of the list of drugs Australians seek treatment for, according to the Institute.

As a nation, Australia has tackled our road toll, our drug toll and our tobacco toll. And we should be proud of the fact we have had success.

Surely it is time—well overdue—for Australia to tackle its alcohol toll. Its love of the booze, its binge drinking culture.

Advertisers are being allowed to link alcohol with success and achievement. TV ads encourage under-age drinking and associate sporting or sexual success with drinking.

Are these the messages we really want to be sending to our children? That to have a good time, to celebrate their achievements and to have a big night out, they have to get plastered, blind drunk, at the same time.

Another big problem is that the alcohol industry regulates itself, and is responsible for its own TV and radio advertising. What a joke'

Families are given the impression that the Advertising Standards Bureau—a body that sounds independent and impartial—regulates alcohol advertising.

But if you dig a bit deeper, you find that alcohol advertising is looked after by the Alcoholic Beverages Advertising Code (ABAC) Chief Adjudicator, who is not named.

So who actually administers the scheme?

The answer is found on the website of the Distilled Spirits Industry Council of Australia, which is part of the ABAC management committee.

The ABAC Management Committee also includes other major alcohol groups, the Australian Associated Brewers, the Liquor Merchants Association of Australia and the Winemakers' Federation of Australia Inc (WFA).

Family First's new laws will be an important first step in seeking to create a culture of responsible drinking in Australia.

As I stated at the beginning, it is important to stress that Family First is not anti-alcohol. Alcohol is a part of life and social drinking is fine. But we must change our culture which celebrates alcohol and accepts binge drinking.

Family First believes we must adopt a policy of zero tolerance to binge drinking and our escalating alcohol toll.

As well as the huge health bill, the massive social cost and damage to family life, there is the enormous drain on police and court and prison resources, as well as problems of crime and violence, child abuse, property damage and other drug use.

Binge drinking among young Australians is a particular concern. Teenagers go out to get blind and it is considered okay.

This is a worry for all parents. My wife Sue and I have three teenage children and understand that, as parents, we are responsible for our children and are important role models. Of course we cannot let adults off the hook.

But, as I mentioned earlier, this is a major social and health issue which, as a community, we must tackle.

There are obviously other measures which could also be adopted to tackle Australia's alcohol toll, and we should look at them all. A massive advertising campaign would be among them, as would investigating the boom in liquor licences to pubs and nightclubs.

But the key point is that we have to start somewhere. And Family First's new laws set us on the right path to seriously tackle a vital issue that has for too long been ignored—perhaps because our major parties pander to the influential alcohol and sporting lobbies.

Let's start saving lives ruined by alcohol and seriously tackle Australia's binge drinking culture and alcohol toll.

Let's stop being wusses when dealing with alcohol. I commend this bill to the Senate.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

CHILD PROTECTION WEEK

Senator BARTLETT (Queensland) (3.40 pm)—I move:

That the Senate—

(a) notes that:

(i) the week beginning 2 September 2007 was National Child Protection Week, and

(ii) there have been repeated, fundamental major failures by a number of child welfare agencies to protect children from serious abuse and neglect;

(b) urges the Government to prioritise the encouragement of states and territories to develop uniform laws and strategies on child protection; and

(c) expresses support for child protection to be made a national priority and for all governments to urgently decide on ways to significantly reduce child abuse and neglect in Australia.

COMMITTEES

Rural and Regional Affairs and Transport Committee

Reference

Senator SIEWERT (Western Australia) (3.41pm)—I, and also on behalf of Senator Milne, move:

That—

(a) the Senate:

(i) notes the dire state of agricultural production addressed in the latest report from the Australian Bureau of Agricultural and Resource Economics', *Australian Crop Report: 18 September 2007, No. 143*,

(ii) recognises the severe impact of a series of ongoing poor seasons on the livelihoods of Australian farmers and the knock-on effect on the well-being of associated rural communities, and

(iii) notes the need to ensure the security of Australian food production; and

(b) the following matters be referred to the Rural and Regional Affairs and Transport Committee for inquiry and report by 30 June 2008:

(i) the scientific evidence available on the likely future climate of Australia's key agricultural production zones, and its implications for current farm enterprises and possible future industries,

(ii) the need for a national strategy to assist Australian agricultural industries to adapt to climate change, and

(iii) the adequacy of existing drought assistance and exceptional circumstances programs to cope with long-term climactic changes.

SEXUAL SLAVERY

Senator WONG (South Australia) (3.42 pm)—I ask that general business notice of motion No. 882, standing in my name and in the names of Senator Stott Despoja and Senator Nettle for today, relating to Japan and sexual slavery during World War II, be taken as a formal motion.

The DEPUTY PRESIDENT—Is there any objection to this motion being taken as formal?

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (3.42 pm)—I seek leave to make a very brief statement in relation to this motion, indicating that the government will be opposing it.

Leave granted.

Senator ABETZ—I thank the Senate. The government is deeply sympathetic to the suffering of former comfort women. However, the government does not support the Senate making a demand of the Japanese government in this manner when successive Japanese Prime Ministers have reaffirmed their commitment to the 1993 Kono statement of apology.

The DEPUTY PRESIDENT—There being no objection to the motion being taken as formal, I call Senator Wong.

Senator WONG (South Australia) (3.43 pm)—I, and also on behalf of Senator Stott Despoja and Senator Nettle, move:

That the Senate—

(a) notes that:

(i) between 1932 and 1945, more than 200 000 women and children of Korean, Chinese, Filipino, Indonesian, Burmese and Dutch origin were kidnapped or forced into a sex slavery system enforced by the Japanese Imperial Army,

(ii) these victims, some as young as 12, were systematically raped and tortured in so-called 'comfort stations', and coerced to have sex with up to 40 soldiers a day, every day for years,

(iii) 62 years later the Japanese Government still refuses to accept responsibility for this crime, or ac-

knowledge its guilt, or to apologise to the hundreds of thousands of women who suffered from these inhumane deeds, and

(iv) 44 members of the Japanese Parliament recently took out an advertisement in the *Washington Post* denying that this sex slavery ever occurred; and

(b) calls on the Government to:

(i) urge the Japanese Diet to pass a resolution to formally apologise to the women who were forced into sexual slavery during the Second World War,

(ii) urge the Japanese Government to provide fair compensation to these victims, and

(iii) urge the Japanese Government to accurately teach the history of comfort women in Japanese schools.

Question put:

That the motion (**Senator Wong's**) be agreed to.

The Senate divided. [3.47 pm]

(The President—Senator the Hon. Alan Ferguson)

Ayes……	34
Noes……	35
Majority……	1

AYES

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

NOES

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

PAIRS

Forshaw, M.G.	Kemp, C.R.
Hutchins, S.P.	Troeth, J.M.
Stephens, U.	Coonan, H.L.

* denotes teller

Question negatived.

WOMEN IN PARLIAMENT EXHIBITION

The PRESIDENT (3.49 pm)—Senator Crossin asked me at the conclusion of question time about the *Women in Parliament* display which is in the public area of the Presiding Officers display area near the Parliament House theatrette. No decision has been taken by the Presiding Officers to remove this display. The Senate Procedure Office, which curates the display, has recently approached some serving senators and members to request electronic copies of photographs used in the display so that they can be posted online. The display is in need of refurbishment, and options are being considered to effect that. But I emphasise that any proposal to change this display has not been put before the Presiding Officers, who have the sole responsibility for such decisions.

Senator CROSSIN (Northern Territory) (3.50 pm)—Am I able to seek leave to take note of your response?

The PRESIDENT—You can seek leave. I made the statement at that time, although there are other formal motions to go through, simply because most senators are here now, and I thought it better that everybody was put in the picture. But you can seek leave; it is your prerogative to seek leave at any time.

Senator CROSSIN—Otherwise I would take your advice about when we should take note of the response you have given this chamber. I seek leave.

Leave granted.

Senator CROSSIN—I move:

That the Senate take note of the response.

I understand that this is an unusual time to do this, but for the record I do want to take the opportunity to take note of the response you have provided to the Senate. I appreciate that you have done that in a very timely manner. I also understand that you have put to us that none of the Presiding Officers has made that decision. If I understand it correctly, it is the Presiding Officers who will make that decision, as opposed to perhaps a senior public servant in the Department of Parliamentary Services. I want to place on record—and I think I would probably speak on behalf of most women parliamentarians in this place—that if such a decision were ever to be made we would want to be consulted. That does not say that we do not believe, perhaps, that the photos need to be updated, that the display might need to be updated or that in fact it could be modernised, but I think to close down such a display and totally replace it would be most unfortunate. Perhaps you

could also, by tomorrow, give the Senate a guarantee that that display will remain in place until the convening of the 42nd Parliament.

The PRESIDENT (3.53 pm)—Senator Crossin, I will consider that and report to the Senate tomorrow.

Question agreed to.

HUMAN RIGHTS

Senator ALLISON (Victoria—Leader of the Australian Democrats) (3.53 pm)—I move:

That the Senate—

(a) notes that:

(i) thirteen Melbourne men accused of terrorist-related crimes have been held for nearly 2 years in the maximum security Acacia unit in Barwon prison; segregated, shackled, regularly strip-searched, and confined to their cells for more than 20 hours every day,

(ii) Justice Bongiorno, in a bail application hearing earlier in September 2007, said the conditions lacked any justification and risked undermining the rule of law by treating the men in the same way as the state's worst convicted contract killers, stating that 'I find the conditions in Barwon very troubling from the court's perspective. The state runs Barwon prison. What is the reason why ... people need to be treated in the way that ... the accused in this case have been treated? ... It is extremely difficult not to see this as some sort of pre-emptive punishment being imposed', and

(iii) the trial, which may last for 6 months, is due to begin in February 2008;

(b) considers that it is unacceptable for accused prisoners to be awaiting trial for 2 years in punitive conditions akin to criminals convicted of the most heinous crimes; and

(c) urges the Government to ensure fair and reasonable remand conditions and the expeditious conduct of trial proceedings for these accused.

Question put.

The Senate divided. [3.58 pm]

(The President—Senator the Hon. Alan Ferguson)

Ayes……	8
Noes……	48
Majority……	40

AYES

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

NOES

Abetz, E.	Adams, J.
Barnett, G.	Bernardi, C.
Birmingham, S.	Bishop, T.M.
Boyce, S.	Brandis, G.H.
Brown, C.L.	Bushby, D.C.
Campbell, G.	Chapman, H.G.P.
Colbeck, R.	Cormann, M.H.P.
Crossin, P.M.	Ellison, C.M.
Faulkner, J.P.	Ferguson, A.B.
Fielding, S.	Fierravanti-Wells, C.
Fifield, M.P.	Fisher, M.J.
Hogg, J.J.	Hurley, A.
Johnston, D.	Kirk, L.
Ludwig, J.W.	Lundy, K.A.
Macdonald, I.	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.	Scullion, N.G.
Sherry, N.J.	Sterle, G.
Trood, R.B.	Watson, J.O.W.
Webber, R.	Wortley, D.

* denotes teller

Question negatived.

CLUSTER MUNITIONS

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (4.00 pm)—I move:

That the Senate—

(a) notes that the Government:

(i) has announced an additional $1 million to help the people of Lebanon clear unexploded cluster munitions, and

(ii) describes itself as taking a 'leading role' in negotiating a new treaty to limit the use of cluster weapons; and

(b) calls on the Government to show real international leadership and delay the impending purchase of new cluster weapons until after the Oslo negotiations to limit the spread of cluster weapons.

Question put.

The Senate divided. [4.02 pm]

(The Deputy President—Senator JJ Hogg)

Ayes……	9
Noes……	43
Majority……	34

AYES

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

NOES

Abetz, E.	Adams, J.
Barnett, G.	Bernardi, C.
Birmingham, S.	Bishop, T.M.
Boyce, S.	Brandis, G.H.
Brown, C.L.	Bushby, D.C.
Campbell, G.	Chapman, H.G.P.
Cormann, M.H.P.	Crossin, P.M.
Fierravanti-Wells, C.	Fifield, M.P.
Fisher, M.J.	Hogg, J.J.
Hurley, A.	Johnston, D.

Joyce, B.	Kirk, L.
Ludwig, J.W.	Lundy, K.A.
Macdonald, I.	Marshall, G.
McEwen, A.	McGauran, J.J.J.
McLucas, J.E.	Moore, C.
Nash, F.	Parry, S. *
Patterson, K.C.	Payne, M.A.
Polley, H.	Ray, R.F.
Scullion, N.G.	Sherry, N.J.
Sterle, G.	Trood, R.B.
Watson, J.O.W.	Webber, R.
Wortley, D.	

* denotes teller

Question negatived.

PROPOSED PULP MILL

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (4.05 pm)—I move:

That the Senate endorse the commitment of the Prime Minister (Mr Howard) that 'the final decision to go ahead with the project [Gunns Limited's proposed pulp mill] would be subject to all environmental considerations being fully satisfied'.

Question put.

The Senate divided. [4.06 pm]

(The Deputy President—Senator JJ Hogg)

Ayes……	8
Noes……	43
Majority……	35

AYES

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

NOES

Abetz, E.	Adams, J.
Barnett, G.	Bernardi, C.
Birmingham, S.	Bishop, T.M.
Boyce, S.	Brandis, G.H.
Brown, C.L.	Bushby, D.C.
Campbell, G.	Chapman, H.G.P.
Cormann, M.H.P.	Crossin, P.M.
Fielding, S.	Fierravanti-Wells, C.
Fifield, M.P.	Fisher, M.J.
Hogg, J.J.	Hurley, A.
Johnston, D.	Joyce, B.
Kirk, L.	Ludwig, J.W.
Lundy, K.A.	Macdonald, I.
Marshall, G.	McEwen, A.
McGauran, J.J.J.	McLucas, J.E.
Moore, C.	Nash, F.
Parry, S. *	Patterson, K.C.
Payne, M.A.	Polley, H.
Ray, R.F.	Scullion, N.G.
Sterle, G.	Trood, R.B.
Watson, J.O.W.	Webber, R.
Wortley, D.	

* denotes teller

Question negatived.

Senator Bob Brown—I seek leave to make a brief comment on the matter.

Leave not granted.

Senator Bob Brown—I note that Senator Abetz was one of those who would not grant leave.

The DEPUTY PRESIDENT—Senator Brown, I looked directly at the Government Whip for direction on what the government were doing.

CORAL SEA

Senator SIEWERT (Western Australia) (4.09 pm)—I move:

That the Senate—

(a) notes:

(i) that the Coral Sea is one of the world's most diverse and pristine tropical marine regions, covering approximately 800 000 square kilometres, more than twice the size of the Great Barrier Reef Marine Park, and is extraordinarily rich in marine life,

(ii) that the region is virtually unprotected and is facing immediate pressures from legal and illegal fishing, as well as long-term impacts from climate change, and

(iii) the urgent need to ensure protection and management of this unique ecosystem; and

(b) calls on the Government to begin the consultation process for the declaration of the entire Coral Sea region as a marine-protected area, which includes a comprehensive network of marine sanctuaries.

Question negatived.

COMMITTEES

Scrutiny of Bills Committee

Report

Senator ROBERT RAY (Victoria) (4.11 pm)—I present the 10th report of 2007 of the Senate Standing Committee for the Scrutiny of Bills. I also lay on the table Scrutiny of Bills *Alert Digest* No. 12 of 2007, dated 19 September 2007.

Ordered that the report be printed.

Senator ROBERT RAY—I move:

That the Senate take note of the report.

In tabling the committee's *Alert Digest* No. 12 of 2007 and the 10th report of 2007, I would like to advise the Senate that the committee has not had the opportunity to consider the Australian Crime Commission Amendment Bill 2007, which was introduced in and passed by the Senate yesterday. While, pending the election, any comments that the committee may have on the bill will be included in a future *Alert Digest*, this will obviously be too late to inform the Senate debate on this bill, which is unfortunate.

I would, however, like to draw the Senate's attention to a bill that has been reported on in *Alert Digest* No. 12 of 2007—the Financial Sector Legislation Amend-

ment (Review of Prudential Decisions) Bill 2007. This bill includes numerous provisions that create offences of strict liability. Under the Criminal Code, if a law that creates an offence provides that the offence is one of strict liability, there are no fault elements for any of the physical elements of the offence. This means that, for example, the prosecution has to prove only that the person committed the act in question, not that they intended to do so.

The committee recognises that strict liability offences are appropriate in some circumstances. In particular, strict liability may be appropriate where it is necessary to ensure the integrity of a regulatory regime such as public health or financial or corporate regulation. The committee is of the view, however, that fault liability is one of the most fundamental protections of criminal law and that to exclude this protection is a serious matter. Where legislation seeks to apply strict liability to an offence, the explanatory memorandum to the bill should clearly explain, on a case by case basis, why strict liability is considered appropriate in the particular circumstances of that offence.

Such explanations should clearly demonstrate that the principles outlined in the *Guide to the Framing of Commonwealth Offences, Civil Penalties and Enforcement Powers* have been taken into account. The committee's sixth report of 2002, *Application of absolute and strict liability offences in Commonwealth legislation*, also outlines a number of principles that the committee considers important to the application of strict liability. Under no circumstances should the imposition of strict liability be justified by reference to broad, uncertain criteria such as the 'public good'.

In the case of the Financial Sector Legislation Amendment (Review of Prudential Decisions) Bill 2007, the explanatory memorandum seeks to justify the application of strict liability on the basis that these are:

> … offences for non-compliance with basic regulatory requirements that should be complied with by all persons.

The committee's view is that one could argue that all laws, by their very nature, should be 'complied with by all persons' and that this is not, therefore, a justification for applying strict liability to these particular offences.

It is also of concern to the committee that this is not the first time that we have seen this justification for the application of strict liability. The explanatory memorandum to the Financial Sector Legislation Amendment (Simplifying Regulations and Review) Bill 2007 also sought to justify strict liability offences on the same basis. The committee commented on that bill in its 8th report and is awaiting advice from the Treasurer.

The committee has written in similar terms to the Treasurer about the Financial Sector Legislation Amendment (Review of Prudential Decisions) Bill. Pending receipt of that advice, I draw these provisions to the attention of senators.

Question agreed to.

Australian Crime Commission Committee

Report

Senator IAN MACDONALD (Queensland) (4.15 pm)—I present the report of the Parliamentary Joint Committee on the Australian Crime Commission entitled *Inquiry into the future impact of serious and organised crime on Australian society*, together with the *Hansard* of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator IAN MACDONALD—I move:

> That the Senate take note of the report.

As this is no doubt the last inquiry that this committee will perform in this parliament, I want to particularly thank Dr Jacqueline Dewar, committee secretary; Ms Anne O'Connell, principal research officer; Mr Ivan Powell, research officer; and Ms Jill Manning, executive assistant. The secretariat have been marvellous in the work they have done during the last three years. On behalf of the committee, I particularly thank them for their work, their advice and their contributions.

I also want to thank the members of the committee. In my view, it is a very good committee. I particularly make reference to the deputy chair, the Hon. Duncan Kerr. The committee is indeed fortunate to have his expertise. Mr Kerr is a former Minister for Justice and Attorney-General, and brings great knowledge to the committee's work. As well, of course, he is a senior counsel and well understands the law. We are also very fortunate to have four people on the committee who were associated with the police force: Mr Jason Wood, Mr Kim Richardson and Senator Stephen Parry, and Mr Chris Hayes, who I understand was involved with an agency of a police force. As well as that, I thank the other committee members for their contributions, particularly Senator Polley, who is always an assiduous attendee at committee hearings and I thank her for that. Indeed, I thank all the committee members.

In relation to this report, I want to thank all those who made contributions to the inquiry. I thank them for their evidence and their submissions. I particularly mention the ongoing assistance we received from the Australian Crime Commission and from all the state police commissioners or senior representatives who attended to assist the committee with its inquiry.

Serious and organised crime encompasses a widening range of criminal activities. It is involved in almost every aspect of criminal endeavour and is greatly assisted by rapid increases in technological capability. As with most enterprises in a market economy, profit is the motivator for most serious and organised crime. Organised crime trades in commodities that offer maximum profit for the lowest risk of detection and prosecution.

The inquiry heard that organised crime groups have established flexible connections with other groups domestically and internationally, as well as with legitimate businesses. Domestically, outlaw motorcycle gangs dominate serious and organised crime, notably in the manufacture and distribution of illegal drugs. However, there is a significant and growing threat to Australia from highly professional and sophisticated organised crime groups operating internationally.

While illicit drugs continue to be the major organised crime activity, the inquiry found that high-tech crime offers an unparalleled opportunity for organised crime groups to pursue new types of crime. The evidence provided a chilling sense of the scope of high-tech crime, which includes electronic piracy, counterfeiting and forgery, credit card fraud, child pornography, electronic funds transfer fraud, money laundering and denial-of-service attacks. This technology makes the task of addressing high-tech crime by law enforcement agencies both complex and costly.

Estimating the future cost of organised crime, as well as calculating the present cost, is very difficult. Not only is this because organised crime groups pursue a diffuse and shifting range of activities; most agencies do not keep discrete statistics on organised crime expenditure as opposed to other law enforcement expenditure. Further, there are social and health costs arising from organised criminal activity which are also difficult to quantify.

The inquiry demonstrated that Australia has taken important steps toward establishing a legal environment which is hostile to the activities of organised crime. These include the creation of statutory bodies such as the Australian Crime Commission as well as state crime and corruption bodies. The introduction of money laundering and proceeds of crime legislation has also provided needed support for the fight against organised crime.

However, the committee identified several areas for attention. One area is the ACC Act itself, in which there is a need to strengthen the provisions concerning the failure to co-operate with an ACC examination. That is one that really needs to be addressed very quickly by the parliament.

Another area is more difficult to fix. Because Australia has eight jurisdictions, there is a comparable variation in approaches to the criminal law and therefore to dealing with organised crime. Not only does this have implications for resource use by each jurisdiction; it also means that there are areas of weakness from state to state which can be exploited by organised crime to their advantage.

One such example is in my home state of Queensland, where there is a lack of telephone intercept powers available for criminal investigations—a situation for which the committee has recommended a speedy resolution. I am disappointed that every other state in Australia has these telephone intercept powers and has come to an arrangement with the Commonwealth on them. Queensland chooses not to adopt the same sorts of rules and therefore is the odd man out, which really, as some of the evidence to us suggested, gives criminals a bit of a break if they happen to be performing their criminal activities within the Queensland state jurisdiction. In addition to that, an abiding lesson of the inquiry is that legislative inconsistencies across Australia must, as far as possible, be removed and Australia must develop a harmonised legislative approach across all jurisdictions. This will require prompt identification and rectification of legislative weaknesses at a national level.

As well as legislation, there were found to be areas of administration and regulation which, if rationalised, could provide additional support in combating organised crime. In particular, the current requirements for recording SIM card user details are deficient and impede the ability of law enforcement agencies to detect suspect mobile phone users. The committee has made recommendations in that area.

The committee also heard evidence on staff retention, particularly in state forces. There is a need for police strategies to be established around a targeted, comprehensive and ongoing research effort involving police, government and academia.

One of the most important aspects of the inquiry dealt with the adequacy of Australia's information and intelligence databases and case management systems. The committee again found that there have been substantial recent improvements to Australian information and intelligence systems, particularly with the establishment of CrimTrac and the Crime Commission. However, there is substantial potential for improvement, particularly with the addition of new datasets to CrimTrac's minimum nationwide person profile. The committee also found that the development of a national automatic number plate recognition system would provide an additional powerful resource in cross-jurisdictional organised crime detection.

One of the most important issues to emerge from the inquiry was the need for a single national police case management system. The committee has made recommendations on that. The committee hopes that the recommendations will provide the Australian Crime Commission, as well as other law enforcement agencies, with the technical, administrative, research and financial capability they need to effectively continue their work in combating serious and organised crime.

The report was unanimously adopted. I was rather nonplussed by, and found it rather curious that, my colleague Senator Mark Bishop—apparently on his own account; it is obvious not a document of the Australian Labor Party—made some additional comments.

I am curious as to why the additional comments were made. With respect to Senator Bishop, the tortured English in his additional comments makes it quite difficult to understand what he was getting at. It does seem that he had some concern that the evidence was not detailed enough. If those of us on the committee did not think the evidence was detailed enough, we should have asked some additional questions and tried to get from the witnesses—and there were many of them, with a wide range of experience—more details. I am rather curious about that.

Senator Bishop also suggests in his conclusions that perhaps the committee should not exist, that the work of the committee should be conducted by way of an annual review by a retired judge or an eminent lawyer with relevant experience. To me that seems to be an unusual conclusion, but also unusual in the context of this inquiry. I would have thought that, while Senator Bishop has every right to put whatever he likes in additional comments, they are the sorts of comments he might have raised with the committee and the committee might have had a discussion about those things. He first of all suggests that perhaps we should not exist and then he goes on to suggest that perhaps the committee should give more detailed examination to the matters the committee has identified in this report. He talks about a different modus operandi for the committee. I am a fraction curious about, and almost nonplussed by, why these comments were made in relation to this inquiry, which did receive unanimous support from all of the members and does contribute greatly to our fight against organised crime in Australian society. I certainly recommend the report and its conclusions and recommendations to the parliament.

Senator MARK BISHOP (Western Australia) (4.27 pm)—I too wish to take note of the report from the Parliamentary Joint Committee on the Australian Crime Commission. I make the point at the outset that it has indeed been a wide-ranging and useful inquiry. It gives particular insight into the nature of the problem of organised crime. The recommendations are relevant and, if implemented, would improve the capacity of law enforcement agencies. To that extent I support the recommendations.

As the report notes, however, there is a gap between evidence on the nature of organised crime and the committee's knowledge about what is happening to combat it, except in the most general terms. It is inevitably a feature of the subject matter, where compromise is necessary in the interests of confidentiality. I can understand why law enforcement agencies are reluctant to speak openly. That tends to limit the normal modus operandi of a parliamentary committee such as this. Thus, as Senator Ian Macdonald noted, my additional comments in this report may appear critical of the committee.

The inquiry had broad terms of reference, so we might not have done complete justice to the subject matter. I also suggest—and I stand by my remarks—that the committee may have misunderstood its own terms of reference in embarking on the inquiry in the first place. The committee's terms of reference limit its role to matters 'appertaining to the authority'—that is, the Australian Crime Commission. By my reading, each of the five terms of reference confine, and continue to confine, the committee's activities to functions, duties, powers, structure and procedures of the ACC.

In its report on organised crime, the committee has dealt with broad-ranging matters relating to organised crime—not the ACC's part in combating organised crime. There are sections, of course, and the integration of, and access to, databases is one important matter where the ACC is making steady progress. Nor do my comments derogate from the value of anything the committee has heard or said. The report is a relatively useful assessment of organised crime in Australia. But the report itself makes little comment on the ACC's role or the state of play nationally under its responsibility for dealing with this. It is an important point to be considered when the committee discusses what it might next investigate.

Putting aside the technical issue about the committee's role and function—and, indeed, it is more than a technical issue, because it goes to the heart of the delegation of authority from the parliament to the committee and the creation of a set of functions for the committee—I would like to also address a contradiction which occurred to me during the inquiry. That is an ambivalent policy attitude towards organised crime on the one hand and terrorism on the other. When the committee looked at issues such as money laundering, identification authentication, internet access and communication interception, it found that a strict regime has been put in place for one but not for the other.

Indeed, certainly at the Commonwealth level, the resources allocated to antiterrorist activity far outweigh those for combating organised crime. The legal regime against terrorism is much tougher, yet these new powers to fight terrorism are not as yet translatable to organised crime, even though the purpose of protecting the public is the same. Controversy surrounding identification authenticity for mobile phones and SIM cards is a case in point. State law enforcement agencies identified this shortcoming in the current law as a major gap in their capability. Whilst the Attorney-General has been reluctant to proceed with tougher identity checks for obtaining SIM cards, the Haneef case may have indeed caused a rethink. Acceptance of the committee's recommendation should address that.

No such double standard exists in respect of the Telecommunications (Interception and Access) Amendment Bill 2007 currently before the parliament.

Whilst the committee did not consider the importance of this bill, the bill goes some way to addressing another law enforcement agency need to access telephone and internet communication detail—that is, time of calls, duration, numbers calling and called, location of calls and internet sites visited but not, I stress, content. In this instance at least, the synergy of interest between policing terrorists and criminals is treated alike. My point is simply this: why is this approach not adopted more broadly? With those comments, I commend the report the Senate. I also put on record my appreciation for the work done by the committee secretary, Dr Dewar, and the principal research officer, Ms Anne O'Connell.

I return at the end of my comments to matters raised by the chair of the committee, Senator Ian Macdonald. The point that goes to the nature of the evidence that was received—seeing that Senator Macdonald specifically raised it—is this: nothing new or that was not completely on the open and public record was presented to the committee. Everything that was presented was available in annual reports or in parliamentary reports.

Senator Ian Macdonald—Not when we went in camera; we were in camera for quite a period of time.

Senator MARK BISHOP—Nothing new was presented in public that was not on the public record. What that means as a matter of logic is that you cannot engage in questioning and dialogue on matters that witnesses and law enforcement agencies do not wish to bring to you. Why do they not want to bring that information to a parliamentary committee? It is because the act that established the ACC and regulates the role of the committee provides for a different mechanism of regulation and oversight. The ACC reports to its board. That reports to an intergovernmental committee comprising seven ministers, which in turn reports to individual ministers. In those lines of oversight, regulation and authority there is no role for the parliamentary committee; hence, officers of law enforcement agencies, properly, will not engage in dialogue or will refuse to answer questions because they do not believe it is the role or the responsibility of the committee to inquire into those matters. Those matters are properly regulated through the structure of authority. I have no quarrel with that.

Senator Ian Macdonald—Which matters?

Senator MARK BISHOP—Matters that any committee member might refer to that go outside those five limited matters as to functions and roles that are in the enabling section of the act that established the committee.

Senator Ian Macdonald—That's simply not right, mate.

Senator MARK BISHOP—It is simply right. It necessarily imposes a limit on the ability of a parliamentary committee to oversee properly, publicly and in detail the role of the ACC. That may well be the intent of government, and that may well have been the intent of parliament in establishing the committee. So be it. It just imposes a limitation on members of parliament to pursue matters.

A direct analogy is the role of oversight of the Parliamentary Joint Committee on Intelligence and Security, which does have access to private information. It does have access to detailed information, and that in turn imposes responsibilities on members of that committee to perhaps conduct themselves, in an intelligence oversight committee, in a different way to an oversight committee of other committees of the parliament.

Senator PARRY (Tasmania) (4.36 pm)—I am a member of the Parliamentary Joint Committee on the Australian Crime Commission. I was not going to speak on this matter, but I totally disagree with Senator Bishop's comments. We had a bipartisan report, and it was a good report. We conducted hearings around this country and we heard a lot of in camera evidence—evidence of a private nature, which Senator Bishop referred to. He says we have only matters which are on the public record, but he has completely ignored the in camera evidence, which was very valuable and of a very private nature. Some of the police commissioners, in particular, were very forthcoming with information during the in camera sessions, so I do not agree with Senator Bishop. I wish we had had that discussion in the committee, because it is the first I have heard of this. I thought we had a very congenial and bipartisan approach which established a good inquiry, and the inquiry established some good key findings and recommendations. Senator Bishop's remarks are remarkable in the sense that I did not detect any of that during the inquiry.

Question agreed to.

Public Works Committee

Report

Senator PARRY (Tasmania) (4.38 pm)—On behalf of the Joint Standing Committee on Public Works, I present three reports of the committee, as listed at item 11 on today's *Order of Business*. I move:

That the Senate take note of the reports.

I seek leave to incorporate a tabling statement in *Hansard*.

Leave granted.

The statement read as follows—

On behalf of the Parliamentary Standing Committee on Public Works, I present the Committee's tenth, eleventh and twelfth reports of 2007.

The Committee's tenth report relates to a proposed collocation of CSIRO Ecosciences and Health precincts with those of the Queensland Government, and in this sense represents an important strategic alliance between the Commonwealth and the State of Queensland. It will have the effect of harnessing the extensive research being undertaken by the CSIRO and by scientists of the Queensland Government's departments of Primary Industries and Fisheries, Natural Resources and Water, and the Environmental Protection Agency, and avoid duplication of research.

The new facility will enable the CSIRO to dispose of three sites on which it occupies buildings that are currently over 40 years old that will require significant Commonwealth funding for refurbishment and modification to meet the basic scientific and safety requirements of the CSIRO.

Furthermore these properties are dispersed across the Brisbane metropolitan area with buildings fragmented across the individual sites precluding the opportunity to realise benefits from critical mass created through the collocation of CSIRO Divisions and its scientific collaborators.

Mr President, by electing to collocate there is considerable potential for financial savings to accrue to the Commonwealth, not only in terms of the avoidance of the need to maintain buildings that do not meet acceptable standards, but also through the capacity to collocate a critical mass of scientific research with the capacity to deliver the best return on investment.

The new facility is to be constructed on a cost-share basis with the Queensland Government meeting the majority of the total cost of $371.23 million.

The estimated cost to the CSIRO is expected to be $85 million. This will be derived from the sale of three properties with the balance coming from CSIRO capital funds.

Mr President, I turn now to the Committee's eleventh report that relates to the proposed RAAF Base Amberley Redevelopment Stage 3 project.

These proposed works build on works undertaken in previous stages of the redevelopment of RAAF Base Amberley.

Stage 1 was the subject of a Committee report to Parliament in 1998 that addressed a general upgrade of facilities needed to enhance operational, training, aircraft maintenance, logistics support, and improvements to engineering facilities and the demolition of redundant facilities.

Stage 2 was the subject of Committee inquiry in 2005 that focussed on the development of facilities associated with the introduction into the ADF of new Multi Role Tanker Transport aircraft and other related infrastructure works.

Mr President, the current works reflect the changing operational requirements of RAAF Base Amberley.

It has recently been announced by the Government that the F/A-18F Superhornet Bridging Air Combat Capability will operate from Amberley from 2010. Amberley also supports elements of the strategic Lift capability with the introduction of the Multi Role Tanker Transport aircraft and the C-17 about which I will have more to say shortly.

New training accommodation, a new Headquarters building for the Combat Support Group, the provision of additional fuel storage facilities, an upgraded RAAF Security and Fire School, the rationalisation of maintenance facilities and the demolition of some facilities that are now inappropriately located are some of the works proposed.

While the Committee recognises the importance and the need for the current project, equally it is important for Defence to recognise the need to ensure that projects of this magnitude take into consideration the range of issues that have a bearing on the wider community.

The Committee was particularly concerned to ensure that Defence addresses a number of issues related to the provision of infrastructure services associated with the sustainability of the base. These include water and power.

While the Committee is satisfied that the department will exercise responsibility in terms of water consumption and energy usage, we have asked that it report to us in due course on the measures it has implemented to conserve the use of water and energy.

The proposed works will have some impact on the local community.

Mr President, the Amberley State School that will be brought within the proposed new medium security fencing will need to be relocated, and a new school provided.

Recently the Prime Minister announced that the Federal Government would contribute $26.8 million toward the cost of a new Amberley School to replace the existing school. Other issues affecting the local community are the subject of ongoing consultations with various community groups by Defence, and will hopefully be resolved. The Committee has requested Defence to keep it informed of the progress of these consultations.

The Committee has recommended that these proposed works to be undertaken at an estimated cost of $331.5 million proceed.

Finally Mr President, I would like to address a few words to the Committee's twelfth report relating to the C-17 Heavy Lift Infrastructure.

Works for this project will be undertaken at RAAF Base Amberley, RAAF Base Darwin, RAAF Base Edinburgh, RAAF Base Pearce, and RAAF Base Townsville.

The decision to acquire four C-17 Globemaster aircraft was taken by the government in 2006. The first two of these aircraft are already in service with the remaining aircraft due for delivery in February and March 2008.

The Committee considered the proposed works as 'repetitive works' since the nature of the project is similar at all bases.

The works largely involve the strengthening and widening of runways, taxiways and aprons to take into account the weight of the aircraft as well as the increased payload it is able carry, and some modifications to cargo handling facilities. The exception is the proposed works at RAAF Base Amberley which, because it will be the home base for the new aircraft, will need to incorporate additional features including new and larger warehousing and cargo storage facilities, an aircraft simulator, a new Headquarters building for No 36 Squadron that will operate the aircraft, and additional training facilities for load masters and maintenance crews.

Until the new facilities are provided, some of the previous redevelopment works associated with RAAF Base Amberley will be shared with the Multi Role Tanker Transport aircraft. At those bases identified as deployment bases, tests are cur-

rently being conducted on the strength of existing airstrips and taxiways so that operations of the C-17 are able to continue albeit at less than full operational capacity.

The Committee has recommended that the works associated with the C-17 Heavy Lift Infrastructure at RAAF Base Amberley, RAAF Base Darwin, RAAF Base Edinburgh, RAAF Base Pearce, and RAAF Base Townsville proceed at an estimated cost of $268.2 million.

In concluding Mr President, I would like to thank all those who contributed to these inquiries, including my fellow Committee members, officials of the CSIRO and the Department of Defence, and for the assistance of the Committee Secretariat.

Mr President, I commend the Reports to the Chamber.

Senator STERLE (Western Australia) (4.38 pm)—I seek leave to incorporate remarks from Senator Carr.

Leave granted.

Senator CARR (Victoria) (4.38 pm)—*The incorporated statement read as follows—*

Parliamentary Standing Committee on Public Works: 10th report of 2007: CSIRO collocation with the Queensland Government...[in] eco-sciences and health and food sciences precincts, Brisbane, Queensland.

I rise to make a few comments about the Standing Committee's report on CSIRO's plans to consolidate and re-locate its research facilities in Brisbane.

This proposal continues CSIRO's longer-term plans to consolidate its research facilities and exploit collocation possibilities with state-based research agencies and with universities.

If properly executed, such a strategy can have much to commend it.

How does one judge such projects?

Collocation with other researchers and other agencies is one criteria—and it is pleasing to note the emergence of a number of important research precincts around the country.

But the obvious, and most important, criteria is this—does the process of consolidation provide better facilities in which important research can be undertaken?

Does the relocation improve CSIRO's capacity to undertake its research mandate?

In recent days it has been suggested by some within CSIRO that this might not be the case.

It has been suggested that members of the Standing Committee on Public Works might not have been given the full story by CSIRO witnesses.

I do not seek to judge this matter, but the concerns that have been expressed do appear to me to be significantly important to warrant further consideration.

Those expressing these concerns are not opposed to CSIRO's strategy of collaboration and co-location—they, like so many others can see its potential advantages.

As I have suggested, their concern is otherwise.

It is a pity that, the Staff's submission on this project was submitted late and not received by the Committee but their concerns warrant consideration for all that.

What the staff question is a process that fails to deliver improved research facilities and potentially compromises their research effort.

They strongly dispute expressed one CSIRO witness before the committee that the absence of car parking and the need to use public transport is "the sole area of staff concern."

Contrary to the evidence provided to the Committee, their concerns are more fundamental, and go to the heart of their research practice.

One of the sites to be sold is the CSIRO waterfront facility at Cleveland. It provides the Division of Marine and Atmospheric research with the facilities to undertake practical experimental research in seawater and in a marine environment.

The facility provides direct access on a daily basis to aquaculture facilities, boatsheds and seagoing equipment as well as providing saltwater of sufficient quality and quantity to enure the continuity and validity of marine research.

CSIRO now proposes to move that research to Boggo Road—an inner-city, inland site.

It obviously lacks direct water access and it does not appear to have adequate on-site facilities for this Division's practical research.

To compound matters, early last month staff were told that the small scale saltwater facilities planned for the Boggo Road facility had been dropped.

What is the option?

Staff have now been told that the options now under consideration for experimental marine research include a site on Bribie Island (a four hour round trip) or the AIMS facilities south of Townsville.

Neither is a satisfactory alternative.

South east Queensland is undergoing acute growing pains and the pressure on its marine environment requires sustained, dedicated research.

Once gone, the waterfront facilities at Cleveland will be irreplaceable—the move has every potential to undermine CSIRO's research capacity.

It must be all the more galling to watch irreplaceable research assets sold to provide land for further residential or commercial development!

There are other legitimate concerns.

Does this new facility have sufficient private workspaces for writing up research?

At Cooper's Plains, what provision has been made for staff from Food Science Australia who will be losing their existing slaughterhouse and meat processing facilities?

Is it still the case that no effective options to replace these have yet been developed?

Underlying all these concerns is the complaint of staff that their representatives in project management process are not being listened to and that their legitimate concerns are being ignored.

I understand that these, and other concerns have now been conveyed to CSIRO's most senior managers.

I hope that these concerns are adequately resolved before it becomes impossible to address them properly.

In particular, I hope to see a satisfactory resolution to the Marine Science Division's need for adequate access to saltwater close to their research facilities.

What we must ensure is that any process of consolidation opens up options for improved research, rather than detracting from them.

Question agreed to.

AUDITOR-GENERAL'S REPORTS

Annual Report

The PRESIDENT—In accordance with the provisions of the Auditor General Act 1997, I present the following report of the Auditor-General: Australian National Audit Office annual report for 2006-07.

DOCUMENTS

Tabling

Senator Mason—I table a document on agreement making in Australia under the Workplace Relations Act for the period 1 January 2004 to 31 December 2006.

Senator MARSHALL (Victoria) (4.40 pm)—by leave—Given the controversial nature of the introduction of the Work Choices legislation, this report has been long awaited. In the development of this report there has been some discussion in the Senate estimates process. I have had a chance to study this report, because it has already been tabled in the House of Representatives, and it is as disappointing as I expected it to be. It is a very bland report and does not really give any support to the government's position that the unfair agreement-making process under Work Choices has supported any of the outcomes that the government claims.

I am not surprised that the report does not assist the government in any of those cases, because, during Senate estimates, we asked how the department was going to use the data it was collecting from AWAs and other forms of agreement making to prepare this report. Most of this information is gathered from the workplace agreements database, although it does rely on some general information from the ABS and some other departmental sources. The information detailed in the report is from the workplace agreements database. In answer to a question from me at Senate estimates, Mr Kovacic, from the Department of Employment and Workplace Relations, explained what the workplace relations database was and what it could be used for. He said:

We have replicated a database in respect of AWAs to coincide with the introduction of Work Choices. It is not an analytical tool, in the sense that it does not enable us to analyse, I suppose, the results of bargaining. It really is a tool to assist us in the preparation of the report on agreement making.

Of course, no analysis took place. Further, at the same estimates hearing on 15 February this year, Mr Kovacic said:

The workplace agreements database does not enable us to undertake any analysis of protected award conditions along the lines that I think were referred to by Peter McIlwain at the May estimates of last year.

The estimates hearing of May 2006 was the only time we were actually able to get an analysis of agreement making. That was when Mr McIlwain, the then Employment Advocate, admitted, after an analysis of a sample of AWAs, that 100 per cent of AWAs at that time removed at least one protected award condition; 16 per cent of AWAs removed all protected award conditions; 64 per cent of AWAs removed annual leave loading; 63 per cent of AWAs removed all penalty rates; 52 per cent of AWAs removed loadings for shift work; only 59 per cent of AWAs retained declared public holidays; 22 per cent of AWAs did not provide for any wage increase for the life of the agreement; and 14 per cent of AWAs applying to casual workers provided for a loading of less than the legal minimum—that is, less than 20 per cent.

No analysis has since been done by the Department of Employment and Workplace Relations or by the Office of the Employment Advocate—as I understand it, the only two government bodies that have access to forms of agreement making and AWAs. Mr McIlwain, the then Employment Advocate, told the Senate estimates hearing that he was not collecting any data on AWAs since that time—and conveniently the government department decided they would no longer provide any data or any analysis of it. Only later did we find out that Mr McIlwain was lying through his teeth at the Senate estimates hearing about the ongoing collection of data, because it was soon leaked to the media. We got an update of the analysis that was in fact being done by the OEA—even though Mr McIlwain denied that to the Senate estimates process, which was a grave disappointment.

Mr McIlwain is no longer the Employment Advocate; he is the deputy employment advocate. He missed out on the new job. We have all seen Ms Barbara Bennett, the new employment advocate. The role has a new name and has been rebadged as part of the government's attempt to disassociate itself from Work Choices.

This report is probably more significant for what it does not tell us than for what it does tell us because, in the words of the department, it does not provide a basis for any real analysis of what is happening with AWAs. There are other researchers analysing the impact of AWAs on working people, working conditions and wages. A recent report, *From awards to work choices in retail and hospitality collective agreements*, from a team of over 20 researchers, examined every collective agreement lodged federally between 26 March and 8 December 2006 in two industries where large numbers of workers were previously dependent on awards. Those industries were the retail and hospitality indus-

tries, covering enterprises in New South Wales, Queensland and Victoria. All those AWAs were provided by the government to this research team. They found that the majority of agreements have discarded entitlements or reduced them under Work Choices. Their findings on protected award conditions showed that: 80 per cent of agreements removed annual leave loadings; 79 per cent of agreements removed laundry allowances; 76 per cent of agreements removed Saturday penalty rates; 71 per cent of agreements removed Sunday penalty rates; 68 per cent of agreements removed overtime rates; 60 per cent of agreements removed public holiday penalty rates; and 55 per cent of agreements removed all paid breaks.

Some of the provisions removed and reduced in AWAs were not protected award conditions but were very important to people, particularly in these specific industries. Seventy-four per cent of agreements removed casual loading; 65 per cent of agreements removed severance pay; 63 per cent of agreements removed rostered days off; 62 per cent of agreements put limits on part-time hours; 62 per cent of agreements removed the right to average hours over a one- to four-week period; 56 per cent of agreements only provided for minimum part-time daily hours; and 54 per cent of agreements removed time off between overtime and the next working day.

In the retail industry, this study found that on average the wages lost in these AWAs were between two per cent and 18 per cent, and the potential average gains were never more than 0.5 per cent. Casual part-time sales assistants working a 12-hour week in retail lost on average 12 per cent of their earnings. Permanent part-time workers on the same hours lost 18 per cent. In hospitality, the losses were between six per cent and 12 per cent. The only gains were in union agreements and, at most, these were just over three per cent. Permanent part-time waiting and bar staff in the hospitality industry working a 21-hour week of split shifts lost 12 per cent on average under these AWAs. These averages conceal some of the very significant falls in earnings. The worst of those, with losses greater than 10 per cent, included the following. In liquor stores, workers on AWAs suffered losses of between 11.9 per cent and 31.1 per cent. In the fast food industry, workers on AWAs suffered losses of between 12.5 per cent and 21.3 per cent. In bakeries, workers on AWAs suffered losses of between 17.9 per cent and 24.5 per cent. In restaurants, workers on AWAs suffered losses of between 10 per cent and 12.8 per cent. In cafes, workers on AWAs suffered losses of between 10 per cent and 15.7 per cent.

It is no wonder that the government report does not analyse the impact of AWAs on Australian workers, because every study that it has commissioned anywhere in this country that has looked at the conditions of AWAs and made any analysis only shows that workers are having their wages and conditions completely gouged under the unfair and extreme industrial relations system of Work Choices that this government has introduced. We hear the government, time after time, trying to discredit the authors of these reports, but never do you hear the government going into the methodology or challenging the results of the reports. They simply want to discredit people who have worked on reports previously, because of the fact that different governments may have commissioned these reports. *(Time expired)*

Senator IAN MACDONALD (Queensland) (4.50 pm)—Senator Marshall has said it all: the reports with the sorts of details he is giving do come at times from what I would call questionable sources. It is quite clear to me in hearing Senator Marshall that the unions have been working flat out to try to discredit what is clearly a work system that is embraced by most Australians. The flexibility that the Work Choices legislation gives to Australians is well appreciated and the benefit of it is demonstrated by the fact that, since Work Choices commenced, unemployment has been at the lowest it has been in the memory of any of us in this chamber. Unemployment is so low because of (a) this government's good economic management and (b) the flexibility of Work Choices.

I know the unions have contributed upwards of $30 million to the Labor Party to run what I consider to be a very dishonest television campaign on the Work Choices legislation, but I think the facts of this Work Choices legislation are becoming increasingly known to the Australian public. We have put in place a lot of safeguards. In question time today, Senator Abetz indicated prosecutions that have been brought against employers who have breached the very stringent rules contained in the Work Choices legislation.

I understand that this is the last gasp for the unions and the Labor Party. If the Labor Party do not win this election, the unions will be finished in Australia. Why will they be finished? Because they are not needed anymore. People these days—young people in particular—have the confidence to deal with their employers and get a good deal. What the Labor Party and the unions continue to overlook is that employees are more important to employers than employers are to employees. Employers cannot run their businesses without a competent, skilled, satisfied and happy workforce. That is why the Work Choices legislation has given the sort of flexibility that most Australian working people now enjoy.

As I said, it is a last gasp issue for the Labor Party. If the Labor Party get in, they will do what they did when they were last in power: they kept throwing money at the unions and putting them on all the dodgy boards. How many boards were there; how many

committees; how many focus groups? I know that Mr Rudd is very influenced by focus groups. The Labor Party are promising so many new committees, so many new organisations—you will be able to fill them all with your union mates, give them some money and—

Senator Bernardi interjecting—

Senator IAN MACDONALD—that way you will find, I guess, as Senator Bernardi cleverly says, future Senate candidates. I think we pointed out before that, of the 20 Labor Party Senate candidates coming up for election this time, 15 are from the unions and four worked for the Australian Labor Party in the—

Senator Bernardi interjecting—

Senator IAN MACDONALD—Yes, staff of Labor senators. You are quite right. I know that Senator Conroy comes from a real job: he used to be a truck driver or used to work for the truckies' union. Perhaps there is a bit of a difference in that. Back in the Keating years, the Labor Party used to give the unions big licks of money to set up a library or something like that. Of course, the union would then shuffle the money through and donate it back to the Labor Party for campaign funds. That is why the unions and the Labor Party do so well when there are Labor governments.

When you have wall-to-wall Labor governments—every state government, every territory government and should the federal government become a Labor government—can you just imagine: the unions will run riot. In this chamber they are all representatives of the union. Right around the states, you see the unions having such a strong influence on what state Labor governments do. Senator Bernardi, did you want to speak?

Senator Bernardi—No.

Senator Conroy—Everyone else is too embarrassed.

Senator Bernardi—I've got plenty to add, Stephen.

Senator IAN MACDONALD—I was just checking. I do not want to deny my colleagues the opportunity of giving the lie to the sort of misinformation that Senator Marshall gave to the Senate in the previous speech. It is very important that the Australian people make the distinction between the union propaganda that Senator Marshall has just contributed to the Senate and the real facts. The real facts are: Work Choices works; Work Choices gives flexibility; it gives us the lowest unemployment in the memory of anyone in this particular chamber.

Senator Ronaldson—There are 400,000 good reasons.

Senator IAN MACDONALD—There are 400,000 good reasons—thank you, Senator Ronaldson—why this legislation is good. I come from North and Central Queensland, in the Bowen Basin. You guys should go to some of those places; you should go to the mines and talk to the miners—get out of the cities and talk to the miners. I will give you a map and show you where they are. You should talk to the miners, because they love Work Choices. They hated being on an award that gave them $60,000 a year. They are now dragging in $150,000 or $200,000 a year. They love Work Choices because they have the flexibility to negotiate with their employer to get a good deal for themselves. That contributes to a very strong economy and makes everyone's lifestyle, our way of living, so much better. It is important that we understand the facts of the Work Choices legislation and not fall for the sort of misinformation that the unions give us through the mouths of Labor senators opposite. I seek leave to continue my remarks.

Leave granted.

FIRST SPEECH

The PRESIDENT—Before I call Senator Bushby, I remind honourable senators that this is his first speech. I therefore ask that the usual courtesies be extended to him.

Senator BUSHBY (Tasmania) (4.58 pm)—I rise here today as the 75th senator for Tasmania and the 519th person who has had the honour to sit in the Senate of the Australian parliament. The relativity of these two numbers highlights the balance between the states that was built into our federalist system by our forebears. Their absolute value highlights how rare an honour it is and the great responsibility that the few who sit in this place accept in making decisions that affect so many.

I would not be standing here today were it not for the resignation of Paul Calvert. Paul was a truly great senator of inimitable style. His highly affable nature allowed him to develop strong relationships that he could use to achieve significant outcomes for those he represented. Tasmanians were very privileged to have him serve them in the Senate for over 20 years and Australians have been well served by his five years as President of this place. I would also like to take this opportunity to thank the Clerk of the Senate, the Deputy Clerk, the Black Rod and their staff for their guidance. I have no doubt that their knowledge and experience will be needed on many further occasions.

I would also like to thank my good friend Don Morris for his assistance, which has certainly made my transition so much smoother, as well as both the Liberal Party in Tasmania and the Parliament of Tasmania for the faith they have placed in me by sending me to this place.

The greatest influence on my political life and the man who set me on the path that has led me to this place was my father, the Hon. Max Bushby OBE, who was a state Liberal member for Bass from 1961 to 1986, the last four years as Speaker, and amongst other

things a war correspondent in the Korean War, a lay preacher, a state and national president of a number of voluntary and church organisations, and a passionate anticommunism crusader. As I grew up, I never doubted that my father had chosen his calling because he believed his efforts could make a difference for the people of northern Tasmania. He was the most honest, principled and hardworking role model a child could ask for and he created in me a belief that politicians sought only to serve. Sadly, my father passed away in August 1994, some 21 months after he was diagnosed with prostate cancer.

About a month before he died, my father encouraged me to become actively involved in politics. And I did, with my path leading me to a number of senior roles in the Liberal Party and, in seeking to find new ways to serve the party and the people of Tasmania, leading me here today. My only regret as I stand in this chamber this evening is that my father, who set me off on that path, is not here to see it. I do, however, take great pleasure in acknowledging the presence of my mother, Elaine; my brothers, Peter and Michael; my sisters, Wendy and Helen; together with my nephew, Ben; nieces, Laura and Amanda; and my sister-in-law Debbie. I would also like to thank my many friends and colleagues who have made the effort to attend today, some travelling far to be here.

I am a fifth generation Tasmanian—and no Tasmanian jokes please! My great great grandfather, George Bushby, arrived from England at the fledgling Swan River settlement in 1829 as an employee of the pioneering Henty family. Swan River in 1829 was a marginal proposition, and in 1832 George Bushby moved to Van Diemen's Land, again with the Henty family, settled in Launceston and did significantly better than he had in the west. As such, I was almost a Western Australian, but I am not. I am a Tasmanian, and I am proud of it. But, like many Western Australians, I passionately believe in our federalist system and in the benefits for all Australians of the important role the states have played and continue to play in our system of government, and that this role provides a major pillar of the stability we have enjoyed as a nation and of what has made our system of government one of the most, if not the most, successful in the world.

Tasmania has since 1996 gone from strength to strength. We have strong industry growth in a number of sectors, with the highest level of full-time employment achieved in manufacturing, followed by retail trade, construction, health and community services and then agriculture, forestry and fishing. Employment is up and unemployment is down. Average weekly earnings are up, turnover of retail establishments is up and population is up. However, despite all these measures moving in the right direction, in each of them we lag behind all other states. This simply is not good enough if Tasmania is to develop a robustness to its economy that will see it survive any future economic downturn. I believe this is in part caused by the failure of the Tasmanian Labor government to fully capitalise on the opportunities created by the national coalition government-led recovery, combined with the alarming message sent by the activist green movement in Tasmania that we do not want investment—shamefully, including visits to Tasmania's trading partners talking down trade with Tasmanian businesses.

Despite this, the Tasmanian economy is buoyant, and credit for this must go to the efforts of our current Australian government and the specific measures implemented to address Tasmania's particular disadvantages, such as the Bass Strait Vehicle Equalisation Scheme and the Tasmanian Freight Equalisation Scheme. Looking forward, Tasmania must continue to develop new opportunities that provide a balanced solution to future economic and social needs, a balance that must include sensible large-scale development as well as small, and everything in between.

Of course, my responsibilities as a senator are to not only Tasmanians but all Australians. The 21 million or so Australians who are alive today are amongst the most fortunate people who have ever lived. Life for the vast majority of people who have walked this earth has been a constant struggle to find the basic necessities for survival—food, clean water, shelter, warmth and security. They had a low life expectancy, little security for their person, their property or their families, no medical or health care or education, no social security safety nets and no freedom of movement, association, speech or to dissent. Leisure as we know it, discretionary income, the rule of law and security of person and property simply did not exist, and sadly still does not for many people of the world.

In Australia today very few of us face such a basic daily struggle to survive. We have access to adequate health and hospital services regardless of our ability to pay. The vast majority of those able and willing to work can, and when they do they get paid a higher real wage and get to keep more of it. Where Australians are not able to work or to find work, a safety net ensures that they do not fall through the cracks, and most Australians feel relatively comfortable about their personal security and that of their families and their property. I see it as my clear responsibility to continue to support laws and policy outcomes that ensure Australians retain their status as some of the most fortunate people who have ever lived, because the balance of factors that have delivered us to this most fortunate position is a fragile one and one that can be affected by the decisions we make, the messages we send and the leadership we show.

The fact that fewer than 10 nations remained free and democratic for the entirety of last century demon-

strates that we cannot assume that what is will always be. The people of all nations aspire to achieve prosperity, democracy, freedom and justice yet few have consistently achieved this aspiration. As demonstrated by the loss of some or all of those freedoms elsewhere, their establishment is no guarantee of their continuance.

History shows us that there are a number of key factors that have delivered our stability as a nation. These include: that we are a constitutional monarchy with a head of state who leaves our executive and legislative arms to work almost entirely without interference; an independent judiciary; a well-balanced federal system with a clear set of checks and balances; a free market system where Australians are encouraged to seek to better themselves through hard work and ingenuity, with the promise of reaping the rewards when successful; an acknowledgment that all Australians benefit from the promotion of successful businesses, as this success creates jobs, raises taxes to pay for health, education, defence and social measures and builds wealth; the application and wholesale acceptance by Australians of the rule of law; a widespread belief in and application of the Judaeo-Christian ethic and a belief in the importance of the family unit as the bedrock of society; sensible and strong alliances with nations of similar values and a preparedness to defend our way of life and that of our allies as and when required; and that we are egalitarian enough and wealthy enough to ensure that those who may have fallen through the cracks, whether as a result of poor life decisions or through no fault of their own, are looked after through appropriate safety net, welfare and charitable measures.

We need to set a legislative and policy framework in which a strong and robust economy can flourish, so that Australians who are willing and able to work can, and at a wage that allows them to provide well for themselves and their families.

If you believe that business success creates prosperity and jobs, you should leave business as free as possible to succeed. If you think that government spending, taxing and regulating distort business outcomes and penalise success, then you should stop government doing these things. The role for government is not to interfere with fair competition but to ensure fair competition and to minimise the obstacles placed in the way of small business owners working hard to build successful enterprises.

At this point I am reminded of the words used by Abraham Lincoln, who set out far more eloquently than I ever could certain truths that should always be remembered:

> You cannot bring about prosperity by discouraging thrift.
>
> You cannot strengthen the weak by weakening the strong.
>
> You cannot help little men by tearing down big men.
>
> You cannot help the wage earner by pulling down the wage payer.
>
> You cannot further brotherhood of man by encouraging class hatred.
>
> You cannot help the poor by destroying the rich.
>
> You cannot establish sound security on borrowed money.
>
> You cannot keep out of trouble by spending more than you earn.
>
> You cannot build character and courage by taking away men's initiative and independence.
>
> You cannot help men permanently by doing for them what they could and should do for themselves.

I am always amazed at criticism of governments that 'focus too much on the economy'. What is the alternative? If you do not achieve a strong economy, you have more Australians without work—with consequential loss of self-esteem, increases in crime and social problems, more bankruptcies and home foreclosures and less tax to fund hospitals, aged care, childcare, defence, social security and schools. What critics fail to acknowledge is that a focus on the economy is merely a means to achieve the end, and not the end in itself.

Eleven years ago, our economy was on its knees and our society exhibited all of these negative consequences and more. We had a parliamentary secretary in the then Labor government saying things were not so bad compared to the economies of Mali, Peru and Bangladesh, and left wing commentators saying that we should not be so distressed at the idea of living in a Third World economy.

Paul Keating is known to have said around that time, 'If you change the government, you change the country.' Thankfully, in 1996 the government did change and the economic, legislative and social programs implemented by the coalition government since changed the country and returned security and certainty about our economic prospects, with all the positive social benefits that follow.

We currently face a rapidly changing world. It is incumbent upon those of us in this place and the other place to ensure that we strike a considered balance between policy responses appropriate to meet the challenges of change and to capitalise on new opportunities and those fundamental principles that have delivered us to where we are as a nation today. In looking forward we must be innovative, flexible and creative but always remember the lessons of the past.

One of the great challenges we face is that of demographic change. The industrialised world is coming to the end of two centuries of great population growth fuelled by the transition from societies with high birth rates and low life expectancies, to societies with low birth rates and high life expectancies. The consequences of this transition include a likely negative natural rate of population change as the number of deaths in industrialised nations exceeds the number of

births. In Australia, this will be likely to occur in the first half of this century. Accordingly, without immigration at a level notably higher than today's, Australia's population may start falling during the next 50 years.

A further consequence is the changing structure of the Australian population. We will need new, innovative approaches to issues arising from an enormous shift of people from the workforce into retirement, as the baby boomers age, with unprecedented growth in demand for health services, aged care and aged pensions. And, as this generation of retirees will be highly active and 'cashed-up', new opportunities will arise, catering to their increased leisure needs.

The proportion of Australians of working age will also decline, which will exacerbate the current skills and labour shortage. And the patterns of population change will unfold at different rates across the states, causing disparities and new regional challenges. Given the impending nature of these demographic changes, the decisions we make in the next five to 10 years will have a great impact on how we weather the next three to four decades, our future prosperity and our place in the world.

Measures that can affect population growth should be considered, including the natural rate of population increase, for example the baby bonus, but also other measures that make it easier for people to choose to have a family, such as assistance for collective childcare in people's homes, tax deductibility of education, or income splitting. We should also consider how we can compete with other nations facing similar demographic challenges to attract migrants who can meet our skills needs, including stronger incentives to attract migrants to regional areas.

The shift in the proportion of working age Australians will also require the adoption of innovative approaches to issues such as industrial relations. New thinking is required on policy and legislative responses that are flexible enough to maintain an appropriate and fair balance between the needs of employers and those of employees in a highly fluid and competitive labour market. In times of labour shortage—a situation we already face—employees have a strong bargaining position and industrial laws should reflect this to maximise the job creation potential at that time. If it is possible to achieve full employment, or near it, we should impose a framework that makes it reality, whilst ensuring appropriate safety net provisions are maintained. Flexibility, not ideology, is the key. The laws should reflect the times.

Mr President, it is clear that the issue of water security is of enormous importance to the future of this country and that changing weather patterns have highlighted the need to rethink the way we approach water use and conservation in Australia. Current thinking is big desalination plants and massive infrastructure projects to solve this issue big time and in one hit. These approaches may be the answer and must be considered.

But I also believe that sometimes the solutions to big problems are small. We need to look at solutions that involve better harnessing of water resources at local levels: better use of rain that falls on the roofs of houses, sheds, schools and barns, by collecting it for use for both potable and non-potable purposes. For example, using rainwater in toilets can reduce reticulated water usage by up to 17 per cent. And we must make better use of water that currently runs into the sea—at the end of creeks and rivers—by investing significantly in dams in local areas for domestic and production purposes.

Despite being the driest continent, more than enough water to meet our needs falls and flows to the sea and we have water resources that are not fully utilised, particularly in Tasmania and in the north of Australia. The impact of human activity on our climate is also a matter of great concern to many Australians. I do not pretend to understand the details of the science on the extent to which our activities have an effect. However, what is clear is that there are over six billion people on this planet and their existence must affect our environment. Although it is prudent to try to limit the impact, the reality is we cannot eliminate it, so we need to plan for change to adapt to the impact of our activities in a way that balances our obligation to provide a sustainable future for our children with our ongoing need for economic and social activity. Environmental change has always been with us and humanity has always adapted. Regardless of the cause of current change, we need to monitor the actual effects and make provision to address the demonstrable consequences as they arise—for example, through greater investment in water security and innovative methods of water retention and use, and the adoption of cleaner energy options.

The other great challenge in coming years is that posed by terrorism. There is no easy way to address this threat. In the short term, we need to take a strong stance against all terrorist acts and implement appropriate measures to minimise the risks that fanaticism fuelled actions can pose to innocent people. In the long term, I believe the only answer is to raise the desire of populations in all nations to achieve prosperity, democracy, freedom and justice through education, the fostering of new economic and trade opportunities and the encouraging of stable democratic institutions.

There are many other topics of interest on which I would like to express my thoughts this evening, but time does not permit. In the coming months and—hopefully—years, I will take up the opportunity to do so.

I now wish to specifically acknowledge my wife, Sarah, and my three daughters, Mollie, Lily and Emily.

My appointment to this place will undoubtedly take me away from them far more than I or they would like. I will inevitably miss many of the important moments in the lives of my children and will leave Sarah to shoulder many of the burdens of parenthood that are better shared in partnership. It is a sacrifice that I have chosen to make as much for the future of my children as for any other reason, but one that Sarah and my children will endure not by their own choice. For that I thank them and I particularly thank my wife for her love and support.

Not that long ago, shortly after I was announced as Paul Calvert's replacement by the Liberal Party in Tasmania, a member of this place passed on a sage piece of advice. The comment was: 'This place will find you out.' I hope that when this place does find me out it uncovers a senator who is passionate about his state and his country, who is tenacious, capable and driven to deliver an Australia in which all Australians can continue to enjoy life in a prosperous, just, stable, secure and democratic nation. Thank you, Mr President.

Honourable senators—Hear, hear!

COMMITTEES

Finance and Public Administration Committee

Report: Government Response

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.20 pm)—I present the government's response to the report of the Senate Standing Committee on Finance and Public Administration on its inquiry into the provisions of the Superannuation Legislation Amendment Bill 2007. I seek leave to have the document incorporated into *Hansard*.

Leave granted.

The document read as follows—

Responses to the Report's recommendations

Recommendation 1 – Agreed in-principle

The Government appreciates the importance of providing information to members of the Public Sector Superannuation Scheme (PSS) and the Commonwealth Superannuation Scheme (CSS) who are considering reducing their member contributions or leaving the PSS.

ARIA will continue to provide information and advice to members in accordance with the terms of its Australian Financial Service Licence. This licence permits ARIA to provide general advice, but not personal advice, to members.

However, the *Superannuation Industry (Supervision) Act 1993* does not permit the Government to instruct the trustee of a superannuation scheme in its decision making. For this reason, the Government is unable to agree to the exact wording of the recommendation.

Recommendation 2 – Agreed in-principle

The Government acknowledges the need to effectively promote the pension restoration changes. As the Report notes, this process has already begun. Arrangements have been made with the Department of Families, Community Services and Indigenous Affairs and other relevant entities (such as the Superannuated Commonwealth Officers Association) to include appropriate information about pension restoration in their newsletters.

As with recommendation 1, however, the *Superannuation Industry (Supervision) Act 1993* does not permit the Government to instruct the trustee of a superannuation scheme in its decision making. Therefore, the Government is unable to agree to the exact wording of the recommendation.

Recommendations 3 and 4 – Not agreed

The Government acknowledges the desirability of individuals not being financially disadvantaged by the commencement provisions of these changes and notes that the Committee's proposals are designed to achieve this outcome. However, the Government is concerned that the retrospective effect of these recommendations may have detrimental impacts on individuals. For example, the additional income an individual receives in relation to a prior year as a result of the proposed backdating may be sufficient to reduce or remove eligibility for other benefits, such as the social welfare pension and the health care card.

Should individuals be found to have been overpaid such benefits due to an increase in their income, it may result in a debt being owed to the Commonwealth.

Therefore, while the Government agrees to the Committee's intention in making these recommendations, it is of the view that the same outcome can be achieved effectively through mechanisms, such as act of grace payments, under the *Financial Management and Accountability Act 1997*.

Recommendation 5 – Agreed

The Government agrees to the recommendation that the Senate pass the Bill.

HEALTH INSURANCE AMENDMENT (MEDICARE DENTAL SERVICES) BILL 2007

INDIGENOUS EDUCATION (TARGETED ASSISTANCE) AMENDMENT (CAPE YORK MEASURES) BILL 2007

First Reading

Bills received from the House of Representatives.

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.20 pm)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the *Notice Paper*. I move:

That these bills may proceed without formalities, may be taken together and be now read a first time.

Question agreed to.

Bills read a first time.

Second Reading

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.21 pm)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

HEALTH INSURANCE AMENDMENT (MEDICARE DENTAL SERVICES) BILL 2007

This Bill introduces amendments which will increase access to dental treatment under Medicare for people with chronic conditions and complex care needs.

People with chronic conditions (such as diabetes, cardiovascular disease and cancer) often have poor oral health, which can adversely affect their condition or general health.

From 1 November 2007, new dental items will be introduced on the Medicare Benefits Schedule, enabling these patients to receive Medicare benefits for a broad range of dental services.

Eligible patients will be able to access up to $4,250 in Medicare dental benefits over two consecutive calendar years. This amount includes any Medicare Safety Net benefits payable to the patient. Patients will be able to access benefits for any combination of dental assessment and treatment services, based on their clinical needs.

I am pleased to say this is more generous than what was originally announced in the Budget. The new arrangements were developed following consultations with stakeholders and will provide more flexibility for patients to receive complex treatment when it is required.

The Commonwealth Government has committed $384.6 million over four years to this measure—a significant investment that will help eligible patients to access dental treatment in the private sector. The Medicare items complement, but are not intended to replace, public dental services which are the responsibility of State and Territory Governments.

The new Medicare items will be targeted at people with chronic conditions and complex care needs where the person's oral health is impacting on, or is likely to impact on, his or her general health. To be eligible, a person needs to be managed by a general practitioner (GP) under specific chronic disease management and multidisciplinary care plans. Patients will need to be referred by their GP to a dentist.

The Health Insurance Amendment (Medicare Dental Services) Bill 2007 enables the implementation of the measure in two ways.

First, it enables eligible patients to receive Medicare benefits up to a specified amount ($4,250 over two consecutive calendar years) for dental services.

Second, the Bill enables Medicare benefits to be payable for the supply of dental prostheses, including dentures. This will particularly help the elderly, many of whom have chronic and complex conditions and who need dentures to be able to eat a balanced, healthy diet.

The new Medicare items complement other Commonwealth initiatives announced in the 2007-08 Federal Budget designed to increase access to dental treatment and support the dental workforce. These include investments in a new School of Dentistry and Oral Health at Charles Sturt University, more rural clinical placements, and dental scholarships for indigenous students.

Together these measures will help to further strengthen dental care in Australia.

INDIGENOUS EDUCATION (TARGETED ASSISTANCE) AMENDMENT (CAPE YORK MEASURES) BILL 2007

The primary purpose of this Bill is to amend the Indigenous Education (Targeted Assistance) Act 2000 by appropriating additional funding of $2 million over the 2008 programme year to improve education opportunities for Indigenous students in the Cape York region of Queensland. Additional funding of $8.1 million will also be provided to support these measures beyond 2008.

This funding will be used by the Cape York Institute for Policy and Leadership to embed the Making Up Lost Time in Literacy (MULTILIT) accelerated literacy programme and to work with parents and guardians to establish Student Education Trusts (SETs) in the Cape York communities of Coen, Hope Vale, Aurukun, and Mossman Gorge.

The funding provided to support these measures will ensure additional education support for Indigenous Australians living in the remote communities in Cape York, to achieve equitable educational outcomes.

The MULTILIT measure will provide approximately 1280 MULTILIT interventions for students who require intensive literacy support. The successful MULTILIT accelerated literacy programme will be embedded through teaching methodology in classrooms to enhance teaching practice and through Tutorial Centres to further improve literacy skills of Indigenous students.

While some parents in Cape York already contribute financially to their child's education, a high number of school children start school with minimal learning support in their homes. The Cape York Institute will work directly with parents in the nominated communities to establish education trusts to support their child's on-going education and its cost.

These measures reflect the Australian Government's continuing commitment ensuring that Indigenous students, wherever they live, have access to educational opportunities.

I commend the Bill to the Senate.

Ordered that further consideration of the second reading of these bills be adjourned to the first sitting day of the next period of sittings, in accordance with standing order 111.

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

HIGHER EDUCATION ENDOWMENT FUND BILL 2007

HIGHER EDUCATION ENDOWMENT FUND (CONSEQUENTIAL AMENDMENTS) BILL 2007

In Committee

Consideration resumed

Bill—by leave—taken as a whole.

(Quorum formed)

Senator ALLISON (Victoria—Leader of the Australian Democrats) (5.25 pm)—At the request of Sena-

tor Stott Despoja, I move Democrat amendment (1) on sheet 5353:

(1) Clause 40, page 30 (lines 7 to 9), omit subclause 40(2), substitute:

(2) The Advisory Board consists of not less than 7 members representing a range of professional backgrounds who collectively possess knowledge and expertise in the following fields:

(a) tertiary sector management;

(b) the research sector;

(c) teaching and learning;

(d) the evaluation of capital infrastructure;

(e) knowledge transfer to industry;

such persons to be appointed from time to time to the Advisory Board by the Education Minister in writing.

The Higher Education Endowment Fund Bill as it currently stands gives the Minister for Education, Science and Training enormous freedom to appoint members of the Higher Education Endowment Fund Advisory Board as she sees fit, but there is no mention of the size of the board in this legislation nor of the expertise that would be sought. Although the minister has separately announced that it will consist of a chair and six members with the Secretary of the Department of Education, Science and Training and the Chief Scientist serving in ex officio roles, this clause as read is very open-ended.

The amendment that the Democrats have put forward today clarifies the size of the advisory board and stipulates that the board should collectively possess knowledge and expertise in certain fields. Our amendment focuses on the part of the Higher Education Endowment Fund Bill 2007 that deals with the Higher Education Endowment Fund Advisory Board, its relationship with the minister for education and the awarding of grants to universities. This amendment is designed to improve the level of transparency and accountability in the government's delivery of this significant initiative. This amendment deals with clause 40, which sets out membership of the advisory board. Currently the clause is open-ended, as I have said, giving the minister total discretion as to the number of members, when they are appointed, when their appointments are terminated, what their experience is and so on.

We have taken advice from the sector. They say that the advisory board must have a strong mix of experience from research, academia and industry. The National Tertiary Education Union, the Group of Eight universities, the Federation of Australian Scientific and Technological Societies, and The Australian Academy of the Humanities all raised the extent of ministerial discretion in appointing the board as a matter of concern. So our amendment seeks to specify the kind of knowledge and experience that should be on the board in order to position it to be best suited to the job at hand. We specify collectively so that one individual could potentially cover off more than one of those categories of experience. This still gives the minister significant discretion in appointing members but also gives the higher education sector some certainty that the appropriate skill set will be on the board. It is also consistent with other legislation—for example that dealing with national health and medical research advisory committees—which specifies particular knowledge or experience.

Senator CARR (Victoria) (5.28 pm)—I would like to ask the minister at the table: is the government still of the view that the National Collaborative Research Infrastructure Scheme program will be terminated as the education committee of the Senate was advised at the last estimates around? On what date will that be terminated?

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.29 pm)—I am told that it is a terminating program as set out in the budget papers.

Senator CARR (Victoria) (5.239 pm)—What is the government's intention in the breakdowns for the distribution of funding under this legislation between what might be called capital for teaching purposes and capital for research infrastructure?

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.29 pm)—I am told that is a matter for consultation between the government and the sector.

Senator CARR (Victoria) (5.29 pm)—I ask the minister at the table: when will the guidelines for the operations of this fund be available?

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.30 pm)—There is an advisory board and that is a matter for them to consider. When they have advised the government, we will take it from there.

Senator CARR (Victoria) (5.30 pm)—What is the government's expectation of when this advisory board will be appointed?

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.30 pm)—Very soon. Indeed, in the next few days.

Senator CARR (Victoria) (5.30 pm)—Can I ask the minister to repeat that?

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.30 pm)—Very soon. Indeed in the next few days.

Senator CARR (Victoria) (5.30 pm)—What is the process by which this board will be appointed?

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.30 pm)—Pursuant to the

legislation, by the minister. If you had read the legislation, I think you would have seen that.

Senator CARR (Victoria) (5.30 pm)—Yes, I understand that. Given that the minister has indicated that there will be consultation with the sector, what consultation with the sector has there been about the composition of this board?

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.31 pm)—A number of peak bodies for the sector—Universities Australia, University Chancellors' Council, the National Academies Forum and the Business, Industry and Higher Education Collaboration Council—were asked to provide suggestions. These suggestions are currently under consideration.

Senator CARR (Victoria) (5.31 pm)—Minister, is it the government's intention to maintain the numbers on the board that Minister Bishop has outlined on a previous occasion, or has the number been varied?

Senator BRANDIS (Queensland—Minister for the Arts and Sport) (5.31 pm)—There will be no change.

Senator CARR (Victoria) (5.31 pm)—When will these funds be available for distribution to institutions?

Senator BRANDIS (Queensland—Minister for the Arts and Sport) (5.31 pm)—Not before 1 July 2008.

Senator CARR (Victoria) (5.32 pm)—What is the method of distribution of those funds?

Senator BRANDIS (Queensland—Minister for the Arts and Sport) (5.32 pm)—That will be determined after consultation with the sector.

Senator CARR (Victoria) (5.32 pm)—I will take this opportunity, because at this time of the year time is short, to indicate that the Labor Party is disappointed with the answers the government has given. While we have indicated support for the principle of this legislation, it is quite apparent that the level of ministerial discretion is wide-open. The capacity under this legislation for the minister to vary decisions on advice received from the so-called 'council of guardians'—some sort of Orwellian group of people that the minister will appoint—

Honourable senators interjecting—

Senator CARR—No, Orwellian would be more appropriate. We have a situation here where the level of detail in this legislation is grossly inadequate and it is quite apparent, as the previous minister at the table indicated, that the government itself sees the need for amendment to this legislation. In this debate, the government has already foreshadowed that, if it is re-elected, it will be proposing further amendments to this legislation. With that in mind, I indicate to the chamber that the Labor Party too feels that this legislation in its present form is inadequate, is vague and is unclear in a number of important aspects. Also, as the chamber would be aware, the Labor Party has a different approach to the development of a national innovation system and its administrative arrangements. Given that a very large proportion of this funding will end up going towards research funding, it is quite clear that there will be need for revision of the way in which these mechanisms are administered. In that context we say to the Democrats, on all three amendments—because this bill has been so badly drafted and, notwithstanding that we support the sentiments that have been expressed by Senator Allison—we will be opposing them.

We take the view that this legislation has a number of deep flaws, and tinkering with it at this point would not be appropriate and would not be able to remedy the problems that have been identified. The processes of allocation of research support are not transparent and, under these Democrat amendments, that situation will not necessarily be improved. There are acute problems remaining with the core issues indicated at this point with regard to the criteria for making recommendations for funding to institutions. They are not adequately specified in this legislation and we have yet to see the guidelines. We are only told that there will be further consultation, which in this government's sorry record in regard to research policy could mean with anybody, and it gives me no satisfaction and no confidence that this government will proceed properly. Rather than provide a bandaid solution at this point in the cycle, we will not be supporting the amendments of the Democrats.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (5.35 pm)—The minister said that decisions will be made very shortly. I understand that means to be in the next few days or so. Can the minister indicate whether expertise has been sourced from the fields identified in that amendment, namely tertiary sector management, the research sector, teaching and learning, the evaluation of capital infrastructure and knowledge transfer to industry? Can the minister assure the committee that board members will, individually or collectively, cover each of those fields?

Senator BRANDIS (Queensland—Minister for the Arts and Sport) (5.36 pm)—Senator Allison, I am advised that broadly the answer to your question is yes.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (5.36 pm)—Then I wonder why the government would not support the amendment. If that is the case, then surely the amendment is supportable unless there is a problem with the number of members. I ask for a clarification of that. This amendment calls for there to be not fewer than seven members. Is it the case that there are only six?

Senator BRANDIS (Queensland—Minister for the Arts and Sport) (5.37 pm)—There will be seven members.

Senator CARR (Victoria) (5.37 pm)—I noticed one of the submissions before the Senate inquiry into the operations of this particular legislation concerned actuarial advice suggesting that the funds will not necessarily be available in the time lines that have been indicated. I wonder if you could check with the officers present. In the light of that actuarial advice tendered to the Senate committee, is it the department's view that funding will be available in the time lines previously indicated? Is it the department's view that the returns on funds will meet the stated claims or has there been any variation within the department as to what dividends will be available for distribution?

Senator BRANDIS (Queensland—Minister for the Arts and Sport) (5.38 pm)—The answer to your first question, Senator Carr, is yes. In relation to your second question, you asked whether the department is of the view. Departments do not have views; governments do. But the government is of the view that the time lines will be within the current estimates.

Senator CARR (Victoria) (5.38 pm)—Finally, Minister, I raised with you twice recently the question of the failure to return estimate hearings answers. Is it possible now to establish when estimate answers were actually sent to the minister's office from the department or are they still with the department?

Senator BRANDIS (Queensland—Minister for the Arts and Sport) (5.39 pm)—I have no further information for you beyond what I indicated in the chamber the day before yesterday.

Senator CARR (Victoria) (5.39 pm)—The point I put to you, though, is that there are officers here now who can answer this question. You told the chamber yesterday that the reason for the failure to return answers to this chamber is that the work was still being undertaken and that the answers had not been concluded. My question to you, Minister, is: the officers are now here, so can you advise this chamber when questions were sent to the minister's office in response to the last budget round of estimates from this division of this department?

Senator BRANDIS (Queensland—Minister for the Arts and Sport) (5.39 pm)—I do not think it is appropriate for Senator Carr to seek in the committee stage of debate on a bill to circumvent the procedure in standing order 74. There are officers from the department here, that is so. I do not know what knowledge those officers might have of these questions. I am not personally aware of what the questions were. I undertook, in the appropriate manner, inquiries of the nature that I conveyed to Senator Carr yesterday and I am not in a position to advise you of any further information. I would not be in a position even if I were to ask the officers to give you that information without a clearance from the minister, as you well understand. Senator Carr, I do not think your question is appropriate in these proceedings and I have nothing to add to what I have already advised you. Did I say the day before yesterday? Perhaps it was yesterday.

Question negatived.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (5.41 pm)—I move Democrat amendment (2) on sheet 5353:

(2) Clause 41, page 30 (lines 22 to 30), omit the clause, substitute:

41 Functions of the Advisory Board

(1) The Advisory Board has the functions of:

(a) assessing and ranking applications submitted under the Higher Education Endowment Fund for a grant of financial assistance, according to guidelines issued by the Education Minister;

(b) making grant recommendations to the Education Minister; and

(c) other matters referred to it by the Education Minister that relate to:

(i) making grants of financial assistance to eligible higher education institutions in relation to capital expenditure; or

(ii) making grants of financial assistance to eligible higher education institutions in relation to research facilities.

(2) A guideline made under subsection (1)(a) must specify the considerations by which grants of financial assistance will be made to higher education institutions, including but not limited to criteria providing for merit and eligibility.

(3) A guideline made under subsection (1)(a) is a legislative instrument to which section 42 (disallowance) of the Legislative Instruments Act 2003 applies.

(4) The Minister must cause a copy of a grant recommendation made in accordance with paragraph (1)(b) to be tabled in each House of the Parliament within 15 sitting days of the Minister's receipt of the recommendation.

This amendment again seeks to address both Democrat concerns and those of several sector stakeholders regarding the lack of specificity in this bill on the functions of the board and how grants under the fund will actually be awarded. It amends section 41 to clarify that the primary function of the advisory board is to assess and rank applications for grant assistance under the Higher Education Endowment Fund and to make recommendations to the education minister on which applications should be awarded funding.

This amendment retains the power of the education minister to seek other advice from the board where it in some way relates to grants for capital works or research facilities. We have also introduced reference to program guidelines in this section and stipulated that these guidelines must make clear the considerations by which grants of financial assistance will be awarded, including amongst other things the eligibility and merit

criteria. These factors will have a critical impact on whether the fund is a successful stimulus to the higher education sector or not.

As the bill stands, the parliament is being asked to approve legislation for the commitment of a very significant amount of money to an initiative that could have a big impact of the higher education sector and yet we have little detail to allow either us or the sector to anticipate what that impact might be. Once the bill is passed, we will have no control over the fine detail and I am not alone in being concerned about the extent of discretion afforded the government in this regard.

Again, many sector stakeholders suggested to the Senate inquiry that the guidelines be a disallowable instrument, so this amendment stipulates that as well. Finally, this amendment also refers to the interaction between the advisory board and the minister on applications for grant assistance under the fund. Currently the bill does not actually specify that the advisory board is to recommend applications for grant assistance to the minister, but this was implicit in Minister Bishop's second reading speech, where she said that she will be supported by the board in allocating:

... grants in a manner which best enhances the sector ...

The Department of Education, Science and Training further confirmed this in their submission, but there is however no legislative requirement for the minister to heed these recommendations. This was highlighted as a concern by a number of sector stakeholders during the Senate inquiry because it leaves the door open to politicisation of the grants process. The Democrats share those concerns and with this amendment we seek to ensure that any grant recommendations by the advisory board are tabled in the parliament. That still gives the minister the discretion to accept or reject the recommendations of the board, but it will improve the level of transparency afforded to those decisions.

The government may protest that they approach these things professionally, but it is a fact that perception counts for a lot when awarding taxpayers' money, so any improvement to transparency ought to be welcome. If the government wishes to reject this amendment, I would ask what exactly they have to hide by doing so.

Senator BRANDIS (Queensland—Minister for the Arts and Sport) (5.45 pm)—With all due respect, Senator Allison, what a silly question—what does the government have to hide?—just because it does not agree with your amendment. Grow up!

The TEMPORARY CHAIRMAN (Senator Barnett)—Order! Senator Allison, do you wish to make a point of order?

Senator Allison—Yes. It does not seem to me to be very parliamentary for the minister to be telling senators in this place to grow up. Chair, I ask you to ask the minister to refrain from that kind of jibe.

Senator BRANDIS—I withdraw. It does not seem very parliamentary either to accuse the government of having something to hide simply because it does not agree with an amendment. Let me explain the government's position to the senator. As stated in 41(1) and 41(2) of the bill, the function of the advisory board will be to advise the education minister about matters related to the making of grants of financial assistance to eligible higher education institutions in relation to capital expenditure and/or research facilities. The government has made it clear that the higher education sector will have a genuine opportunity to engage in the development of this new funding program. This will ensure that the advisory board can make recommendations to the education minister on the basis of sound advice and sector participation.

Further, the government does not accept the need for amendments to the provisions of the bill relating to the issues of program guidelines. It is unnecessary for this level of detail to be prescribed in legislation. This is not an unusual situation. The government has many successful, robust grants programs that do not have their guidelines in legislation. It is an entirely appropriate mechanism, along with the requirements of the Financial Management and Accountability Act, to safeguard against the inappropriate allocation of grants.

The TEMPORARY CHAIRMAN—The question is that Democrat amendment (2) on sheet 5353 be agreed to.

Question negatived.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (5.47 pm)—I move Australian Democrats amendment (3) on sheet 5353:

(3) Page 30 (after line 30), after clause 41, insert:

41A Keeping the Parliament informed of grant recommendations

The Minister must cause a copy of a recommendation from the Advisory Board that relates to:

(a) a grant of financial assistance to an eligible higher education institution in relation to capital expenditure; or

(b) a grant of financial assistance to an eligible higher education institution in relation to research facilities;

to be tabled in each House of the Parliament within 15 sitting days of the Minster's receipt of the recommendation.

This amendment works with the bill as it is currently read to simply call for the minister for education to table the advisory board's recommendations relating to which applications should receive grants. I am moving this separately because I think it is possibly the most effective single step we can take to improve the level of transparency inherent in the implementation of the

fund. In this case the amendment works with section 41 as printed, adding a new section 41A to stipulate that any recommendations from the advisory board relating to grants to higher education institutions be tabled in the parliament within 15 days. While it is possible that this amendment could be seen as including all advisory board recommendations to the minister, I would like to stress that I am specifically interested in the advisory board recommendations as to which applications should receive grant funding and not recommendations relating to broader policy or program implementation issues.

Senator BRANDIS (Queensland—Minister for the Arts and Sport) (5.48 pm)—The subclauses 45(1) and 45(2) make it clear that it is the education minister who authorises grants of financial assistance to eligible higher education institutions. I note that this power was not disputed by any of the parties who made submissions or gave evidence to the recent Senate committee hearing. It is proper that the right to authorise grants rests with the responsible minister, who is accountable to the department for her decisions. This is not an unusual situation. The government has many successful, robust grants programs that do not table recommendations of ministerial advisory bodies in parliament. I further note that the government has made it clear that the higher education sector will have a genuine opportunity to engage in the development of this new funding program.

Question negatived.

Bill agreed to.

HIGHER EDUCATION ENDOWMENT FUND (CONSEQUENTIAL AMENDMENTS) BILL 2007

Bill—by leave—taken as a whole

Higher Education Endowment Fund Bill 2007 and Higher Education Endowment Fund (Consequential Amendments) Bill 2007 reported without amendment or request; report adopted.

Third Reading

Senator BRANDIS (Queensland—Minister for the Arts and Sport) (5.50 pm)—I move:

That these bills be now read a third time.

Question agreed to.

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) AMENDMENT (TERRORIST MATERIAL) BILL 2007

Second Reading

Debate resumed from 15 August, on motion by **Senator Colbeck**:

That this bill be now read a second time.

Senator LUDWIG (Queensland) (5.51 pm)—I rise to speak on the Classification (Publications, Films and Computer Games) Amendment (Terrorist Material) Bill 2007. I note that Labor are supportive of this bill; we will support it and vote for it. However, during the committee stage we will move amendments consistent with the recommendations of the Senate Standing Committee on Legal and Constitutional Affairs. These were recommendations from a decision of a committee where the majority of Liberal and Labor members supported those recommendations. The aim of the legislation is to provide greater clarity on whether or not terrorist material must be refused classification by the Classification Board of the Office of Film and Literature Classification. The bill will insert a new section 9A into the Classification (Publication, Films and Computer Games) Act, which provides that material which advocates terrorist acts must be banned.

The proposed new section also provides the criteria that will be used to determine whether or not material advocates the doing of a terrorist act, specifically whether it: (a) directly or indirectly counsels or urges the doing of a terrorist act; (b) directly or indirectly provides instruction on the doing of a terrorist act; or (c) directly praises the doing of a terrorist act in circumstances where there is a risk that such praise might have the effect of leading a person—'regardless of his or her age or any mental impairment (within the meaning of section 7.3 of the Criminal Code) that the person might suffer'—to engage in a terrorist act. The report of the Senate committee has recommended changes be made to proposed subsection (c) to remove the phrase:

... (regardless of his or her age or any mental impairment (within the meaning of section 7.3 of the *Criminal Code*) that the person may suffer) ...

This is an amendment that Labor foreshadows it will move in the committee stage. I will return to that in due course. The recommendation was that proposed new subsection 9A(3) provide a clarification to this, so that the new section not apply if the depiction or description:

... could reasonably be considered to be done merely as part of public discussion or debate or as entertainment or satire.

So material which is produced genuinely for public debate or for entertainment and satire will not fall under the aegis of proposed section 9A.

Turning to the background of the bill, the bill originated from considerations earlier this year that films advocating terrorist acts of martyrdom and jihad and calling Jews 'pigs' were freely available in Australia, having been rated PG by the Office of Film and Literature Classification—OFLC—after referral of the material by the Australian Federal Police. In response to this, the Attorney-General, Mr Philip Ruddock, firstly called on the states and territories to amend the classification laws and subsequently released a discussion paper, *Material that advocates terrorist acts*, which has culminated in this bill.

Labor's response was to call on Mr Ruddock to immediately refer the film to the Classification Review

Board on the grounds that the material promoted and incited crimes or violence. However, I would note that the *Sydney Morning Herald* had revealed the existence of these movies some two years ago. At the time, the Attorney-General promised that he would act but then did nothing for a year, until he wrote to the states to request action on the National Classification Code. Surprisingly enough, the Attorney-General has now decided that it is time to act, in this instance very shortly before an election. Rather than bring forward this legislation when the situation became public knowledge two years ago and rather than to act to protect Australians from this material at the time, he has instead chosen to debate this legislation in possibly the final sitting week before the election.

There is no point in playing the blame game. There is no point in blaming the states for this delay, for not agreeing to the proposals that he took to SCAG earlier this year. The Attorney-General knew about the problem for a year before he wrote to the states. It is a little rich to sit on an issue for a year then throw your hands in the air, foist it on the states and expect them suddenly to agree. Once again the government really demonstrates that it is in a bit of a slow panic over this issue. The government knew about the matter and could have dealt with it in a reasonable way in the course of the 12 months. It could have raised it with the states, raised it through the proper channels and then been able to resolve it, at least with time on its side. The government has known of the existence of the material for the past two years, and still, with the introduction of this legislation, done nothing to attempt to remove it. We have only got to this point now.

I want to take a moment to say a little bit about the Classification Review Board. The chief problem facing Australia's classification regime these days is simply the fact that the government has spent the last 11 years, instead of making sure that the Classification Review Board has community representation and instead of ensuring that it works effectively within the legislative regime, making it a place where Liberal Party mates are more than well represented. We have now come to a stage where four out of the seven members of the review board have either a direct or very close links to the Liberal Party. In other words, we have what is commonly called a non-representative body, in my view, where a large part of the community is not represented.

On the board is a narrow political ideology representing their views. It is really no wonder that the decisions are so out of touch with the community when the Liberal Party is the holder of the majority in the Classification Review Board. How can, really, the Australian community have any confidence in the classification watchdog when more than half of its members are representatives of such a narrow constituency? The government has, like it has with other areas of Public Service institutions, got its hands on it. It has transformed the Classification Review Board into another source of jobs for mates. That is how we got into this mess. Now the Attorney-General has had to find a legislative fix, given his inaction and the way he has treated the Classification Review Board as a place for mates.

I note that many in the community are opposed to the bill. I hope to allay some of their concerns, if not all. It is Labor's opinion that the bill will not improperly or unfairly impact on the legitimate right of the community to debate these issues. There are moves underway at the Standing Committee of Attorneys General that will allow much greater freedom for academics to access material that has been refused classification. As I understand it, many in the community have legitimate concerns regarding the legislation. However, there are four key points that I would like to take the opportunity this evening to respond to.

The first is that the legitimate concern of many in the community opposed to the bill must be weighed against the competing interests, which include the right of the community to protect itself from material which openly advocates violent attacks upon it. The unfortunate and unacceptable situation at the moment is that we have material which openly advocates for young children to become terrorists and racially vilifies Jewish people and which is given a PG rating. As Australia's alternative government, Labor takes the threat of terrorism seriously. We will not allow a situation to evolve where material such as Hamas's infamous Mickey Mouse-like and jihad bee characters indoctrinates young Islamic children into acts of violence. I point out that this bill belatedly arose out of a situation in which a DVD urged young children to become terrorists and martyrs, and yet it was given the same rating as *The NeverEnding Story* or *Star Wars*.

There is a serious and legitimate concern about freely allowing material which openly purports to turn children into holy warriors or terrorists to circulate. While there is a general presumption in the classification code that adults should be able to see and read what they wish, there have always been limits on this. The right to free speech does not extend to yelling 'Fire!' in a crowded theatre, nor does it extend to indoctrinating children in acts of terrorism. On balance, Labor believes that this legislation does strike an appropriate balance between the competing desires of public safety and the right of adults to see and read what they wish.

The second point I would like to take up is that there naturally are legitimate uses of the material itself. Academic, security and intelligence purposes come to mind. I note that some have called for an exemption for academics from the provisions of the new bill; however, this cannot be achieved for technical reasons.

While it is the Commonwealth which classifies this material, it is usually state or territory law which provides penalties for its distribution. In other words, the penalty provision or regime is within the states, so this is not something which can be achieved easily under the federal jurisdiction.

However, I would note that there are currently proposals before the Standing Committee of Attorneys General which are looking at ways to allow academics and others with a legitimate interest to legally access material that has been rated RC. I will take the opportunity in the committee stage to examine how far that has now been progressed. It was a matter that was raised in the Senate committee hearings, and obviously some time has passed since then, so I am sure that the department, through the minister, can provide some assistance. In federal Labor's view, this is an appropriate way to progress the issue. Labor supports the SCAG process. The proposals before the SCAG go a long way to eliminating many of the concerns—the legitimate concerns, may I add—that have been raised by persons who have a legitimate interest in the material.

The third point I would like to explore is that, when you look at it, this legislation in fact only clarifies the existing position. The National Classification Code, as it stands, provides that material that counsels, praises, urges or instructs in matters of crime or violence must already be refused classification. As advocating terrorism and terrorist acts are already offences under the Commonwealth Criminal Code, the effect of the legislation is largely to clarify the situation of material that promotes and incites terrorism. The effect of the scheme would actually be to streamline the process for police investigation of this material. If the police believed that material advocated a terrorist act—again, already an offence under the Criminal Code—then they would be able to refer it to the OFLC for their classification.

Finally, I turn to the recommendations of the Senate Standing Committee on Legal and Constitutional Affairs. The Senate committee recommended a change to the legislation to make it easier for the material to be classified. I have touched on this earlier this evening. As I stated earlier, the problem arises in subclause (c), which provides that material must be banned if it:

> ... directly praises the doing of a terrorist act in circumstances where there is a risk that such praise might have the effect of leading a person (regardless of his or her age or any mental impairment (within the meaning of section 7.3 of the *Criminal Code*) that the person might suffer) to engage in a terrorist act.

The Senate committee made this recommendation after receiving submissions, including from the Classification Review Board itself, that this clause would be difficult to enforce. The Classification Review Board said:

> It is difficult to envisage circumstances where the Review Board might objectively assess how a teenager, for example, or a person with some mental impairment might react to praise of a terrorist act.

The committee, having examined the submissions, ultimately recommended the removal of this clause from the bill. Labor will support that position and similarly foreshadows an amendment. The position ultimately arrived at, on the submission by the Classification Review Board itself, objectively sought to ensure that the Classification Review Board could do its job effectively and could ensure that material that fell into directly praising the doing of a terrorist act could be removed by making a Refused Classification decision. That which did not meet that standard would not. In other words, the Classification Review Board was indicating that it would be able to then make those decisions itself.

Unfortunately, in this instance, having allowed the situation to continue for over two years—plus, I might add, the full year in which he sat on his hands and did nothing—the current Attorney-General, Mr Ruddock, once again went to the blame game, blaming the states not agreeing to the proposal that he took to SCAG this year to be able to resolve the matter. Notwithstanding, he then went out and beat it up beforehand, expected them to meet an agreement and held the bill over their heads to say: 'If you don't agree, I'm going to pass the legislation in any event.' You really wonder about the negotiating skills of the Attorney-General in this respect. He was always going to get what he wanted—that is, the legislation—because of the way he commenced with the negotiation. It was not, in my view, in good faith. He undertook a situation where he then ensured that we would be here debating this legislation rather than trying to reach general agreement with the states.

But I have already said that this matter was revealed more than two years ago. So, given he had known about it for that length of time and had left it right to the end to use in a manner which he chose, you can only conclude that he had one aim in mind. That was not to reach agreement with the states themselves but to then find someone to foist the responsibility for the delay in bringing forward proper measures onto the states themselves—in other words, to say, 'Because you haven't agreed, it's your fault; therefore, I have to legislate, and it will take time.'

However, the legislation, in any event, is before us. It is appropriate and adapted to the twin tasks of providing proper guidelines for the classification of terrorist material and of ensuring that the principle that adults should, prima facie, be able to read and view what they want is upheld. It does achieve that. Labor will support the legislation, but I think it does not reflect well on the Attorney-General and the process that he has adopted in bringing this legislation forward. It

could have been a much easier and neater process to engage the states, change the guidelines and give the opportunity for the OFLC, the Classification Board and the Classification Review Board to do their work.

Senator BARTLETT (Queensland) (6.09 pm)—I seek leave to incorporate Senator Stott Despoja's speech.

Leave granted.

Senator STOTT DESPOJA (South Australia) (6.09 pm)—*The incorporated speech read as follows*—

As the Democrats' Attorney-General Spokesperson, I rise to speak on the Classification (Publications, Films and Computer Games) Amendment (Terrorist Material) Bill 2007

This Bill is objectionable to the Australian Democrats for many reasons.

We consider that the Bill represents a confrontational approach by the Government to law making and comments by the Attorney-General to the effect that this legislative change is necessary because of a lack of cooperation from State Governments are commensurate with a power grab and must be resisted.

The Attorney General noted in his second reading speech that it would be preferable to deal with the subject matter of this Bill via the National Classification Code. The Code has operated as a cooperative classification scheme between the states, territories and the Commonwealth for almost 11 years. It is a scheme that, by and large, has served the community well and operated effectively.

Indeed, the Attorney General devoted more time in his second reading speech to criticising his State counterparts for failing to support amendment to the Code, rather than providing the necessary and concrete basis to Parliament which justifies the need for this legislation.

There is a good reason why the Standing Committee of Attorneys-General did not reach consensus on this Bill – the mechanism is clumsy, the means not justified, and the implications for fundamental rights are too high.

Power grab/constitutionality

In its submission to the Senate inquiry, the Law Council warned that Parliament should not jeopardise the cooperative national scheme by using the Classification Act to circumvent the nationally agreed standards in the Classification Code. In short they say that 'the success in Australia's federal system is contingent on jurisdictions not withdrawing their support or simply "going it alone" whenever their preferred view does not prevail'.

The Victorian Attorney General, Mr Rob Hulls, has stated that the matter hasn't even been properly discussed with the states and that the Attorney General:

'is trying to bully the states and territories into accepting laws he hasn't even demonstrated we need.'

Some stakeholders challenged the laws on constitutional grounds. In particular the Sydney Centre for International and Global Law stated that the:

'proposed power to refuse classification for "praising" terrorism may excessively restrict freedom of religious expression, since it disproportionately affects all believers to control the expressions of a few.'

The Commonwealth is expressly prohibited, of course, from making any laws which prohibit the free exercise of religion by virtue of s.116 of the Constitution.

Moreover, the Centre noted that:

'constitutional protection limits only Commonwealth laws and does not prevent the States from curtailing religious speech, which is significant given that State criminal laws primarily enforce classification decisions.'

This emphasises the inherent flaw in the Mr Ruddock's attempt to sideline the states on this issue. The Democrats are concerned by these arguments and consider that it raises the question as to whether the Commonwealth should be legislating in this area on constitutional grounds.

Bill of Rights

At the risk of sounding like a broken record, the Democrats also consider that the Bill's dramatic implications for human rights and civil liberties are even more concerning, given Australia does not have a Bill of Rights or Human Rights Act.

As the only common law country without such protection, the basic human rights of Australians are subject to greater risk than the rights of citizens of these other nations.

While a number of the provisions contained in this Bill emulate the United Kingdom's laws, it does not contain the UK's accompanying protections for human rights and civil liberties.

The Human Rights Act and the European Convention on Human Rights provide citizens of the United Kingdom with an avenue of appeal and an opportunity for judicial review when their Government infringes on these rights. I ask the Government: why do Australian citizens not deserve commensurate protection?

Clearly, the absence of a Bill of Rights or Human Rights Act exposes Australians to unjust infringements on their rights and freedoms. A Bill of Rights is about protecting people and ensuring that our Government remains accountable for its actions.

As Sydney Centre for International and Global Law noted:

'...in the absence of any entrenched statutory or constitutional protection of human rights in Australia, it would not be appropriate to modify classification law in this far-reaching manner. The proposed amendments have the potential to unjustifiably and arbitrarily infringe freedom of expression, without showing any proximate connection to a substantial likelihood of imminent unlawful terrorist violence actually occurring.'

The Democrats' Parliamentary Charter of Rights and Freedoms Bill is on the Senate Notice Paper and the Democrats will continue to advocate for an Australian Charter of Rights and Freedoms.

Empirical justification

Turning now to the lack of justification for this Bill by the Government, its content has been described as unjustified and unrepresentative of community views.

Several agencies have requested empirical evidence to show a causative link between accessing 'radical materials' and the risk of terrorism occurring. However, none of the extrinsic material that accompanies the Bill provides a convincing argument as to why existing classification laws should be

extended in this manner, nor how the vulnerable in the community are to be protected. No such evidence was presented to the Senate inquiry either.

In contrast, many credible submissions to the Senate inquiry argued that the classification scheme as presently configured is capable of being applied so as to ban material which advocates terrorism.

HREOC recommended that the proposal be reconsidered on the basis that it was not convinced 'of the necessity for tighter censorship laws in order to combat incitement and/or glorification of terrorism.'

The current provisions of the Classification Code provide that material must be refused classification if, amongst other things, it promotes, incites or instructs in matters of crime or violence.

These existing grounds are claimed by the Attorney General to be inadequate, notwithstanding an acknowledgement that a terrorist act is both a matter of crime and violence. As the Law Council noted:

'…as such material which promotes or incites the commission of such an at or provides instruction on its commission must already be refused classification'

Put simply, the law as it stands is sufficient. The Government is making laws for the sake of making laws and, in all likelihood, as part of its hitherto successful campaign of maintaining a 'climate of fear' to justify is actions.

Definition of a terrorist act

The Democrats consider that the Bill uses a problematic definition of terrorism.

In the words of the NSWCCL:

'the Code has too broad a definition of what may constitute terrorist activities. While this broad definition may be suitable for dealing with actual terrorist actions, it is not suitable as a guideline for censorship.'

The definition of terrorism for the purpose of the Bill is taken from the Commonwealth Criminal Code—a definition which itself has been widely condemned by none less that the Government appointed Security Legislation review Committee, the Parliamentary Joint Committee on Intelligence & Security, the Senate legal & Constitutional Affairs Committee and the UN Special Rapporteur on the Promotion and Protection of Fundamental Freedoms while Countering Terrorism.

All of these entities recommended that, in the very least, section 102.1(1A) of the Code, the equivalent of subsection 9A(2), should be amended to require a substantial risk that praise of a terrorist act might lead someone to engage in terrorism, rather than a mere 'risk'.

But will the Government heed this advice? Of course not, it pushes on with a defective definition, and throws some extra complexity in for good measure!

Subsection 9A(2) attempts to define how someone 'advocates' the doing of a terrorist act. The use of advocacy is problematic because it includes the notion of 'praise', a far vaguer notion than 'promotes' or 'incites' as is presently the case in the Code. Quite simply, the definition is too broad.

Further, the Bill purports to require decision makers to stand in the shoes of a young or mentally impaired person, in considering whether there is a risk that praise may lead to terrorist activity. Apart from the obvious logistical difficulties that this scenario may raise, as was made clear by the Classification Review Board itself (how can you put yourself in the shoes of a mentally impaired person!) this requirement unnecessarily introduces a 'lowest common denominator' factor.

As stated by the Law Council:

'..the ability of people to participate in a public debate…should not be unduly circumscribed by prohibitions based on speculation about how irrational actors may respond to certain material'

If this Bill is to become law we will be moving amendments to delete reference to the phrases identified above and replace them with terms which narrow the scope of materials which can be censored and introduce more objective tests.

Exemption for genuine educational purposes and policy makers

Finally, the Democrats are alarmed at the Bill's failure to address whether academics or policy makers may access banned material for academic or policy research.

Various incidents were referred to in submissions to the senate inquiry which highlighted the need to grant academics access to banned materials for study.

Such incidents have included removal of books from university library shelves where the books were introduced by a historian and to help his students understand Jihad, and the questioning of a university student studying the prevention of terrorism by the AFP

Limiting access to books on terrorism will hinder the ability to understand and criticise the ideas expressed in them. This is a problem not only for academics and scholars, but also for the community at large, which depends upon quality research to better understand the social and security challenges facing the nation.

The Democrats oppose the restriction of materials for genuine academic or policy research and we will be moving amendments to create an exemption to allow access to banned materials for this purpose.

Senator NETTLE (New South Wales) (6.09 pm)—Freedom of expression and freedom of speech are some of our most important freedoms, and they must be defended vigorously. The Howard government has presided over many attacks on human rights in Australia, often under the guise of guise of combating terrorism. This is a government that does not tolerate different ideas, and it has jettisoned its liberal principles in the pursuit of conservative power.

Since September 11, over 50 different pieces of legislation have marked the erosion of civil rights and fundamental freedoms in Australia. This marks another step down this road to tyranny. The Classification (Publications, Films and Computer Games) Amendment (Terrorist Material) Bill 2007 will change the definitions of Australia's classification laws to ban any publications, films or computer games that advocate terrorist acts. The definition of 'advocating terrorist acts' is extremely broad and is built on the flaws of existing terrorism laws with wide definitions. The defi-

nition of 'terrorism acts' encompasses a wide range of political activities that no reasonable person would construe as terrorism. Nelson Mandela's ANC, the East Timorese resistance, Tibetan activists or citizens blocking the construction of a coal mine could all fall within the definition of terrorism in this legislation. Even the UN special rapporteur takes the view that Australia's definition of a 'terrorist act' goes beyond the UN Security Council's characterisation of terrorism and believes that it should be more limited.

The definition of 'advocacy' is equally broad, including those who directly praise the doing of such acts. Immediately, it is easy to see how those who praise in print or film the action of the West Papuan independence movement, for example, or the Iraqi insurgents could be caught by these definitions. Regardless of what political perspective one has about such things, should the professing of such views be banned?

It is concern about the depth and the breadth of this definition that meant that the Attorney-General's attempt to change the censorship laws in this way was rebuffed by the state governments. Now the Howard government is trying to ram them through in the dying days of their government. The Law Council of Australia, the Human Rights and Equal Opportunity Commission and a range of community and legal organisations have also opposed this bill, but the government is, nevertheless, persisting. The Law Council said in its submission to the Senate inquiry into this bill:

> - no need for the proposed amendments has been demonstrated;
>
> - the intended implications of the amendments are unclear and have not been plainly and consistently stated; and
>
> - the amendments seek to rely on definitions used in the Criminal Code which have already been the subject of substantial criticism because they are overly broad and vague.

They go on to highlight the important limits in international law on government attempts to squash freedom of speech.

Article 19(3) of the International Covenant on Civil and Political Rights requires that any restrictions governments impose on freedom of expression must be necessary:

> (a) For respect of the rights or reputations of others;
>
> (b) For the protection of national security or of public order ... or of public health or morals.

The Law Council says in its submission:

> With the current level of information provided by Second Reading Speech and EM about the operation of the existing classification regime and the intended effect of the proposed amendments, the Law Council believes that members of parliament could not possibly satisfy themselves that the proposed amendments are *necessary* in the manner required by international law.

They go on to say that this parliament has not been given sufficient information to answer the following critical questions:

> - are the current provisions directed at materials that promote, incite or instruct on matters of crime or violence insufficient to prohibit the distribution of materials which are likely to increase the risk of a terrorist act?
>
> - If so, in what way are the current provisions insufficient? What type of material do they allow to be published which the Government claims it is necessary to ban?
>
> - Is it in fact necessary to ban this additional material for the protection of national security and/or the respect of other rights? Would the banning of such material actually serve to decrease the risk of a terrorist act and how?
>
> - Are the proposed amendments appropriately targeted at banning this type of material—that is, are the parameters of the type of material targeted clearly defined and are those parameters as narrowly drawn as possible? Or are the proposed amendments so broad or so discretionary that they unduly burden public debate in a manner which is fundamentally incompatible with freedom of expression?

The Law Council is also concerned at the manner in which the government is undermining the cooperative approach to classification laws between the Commonwealth and state governments.

The practical scope of these proposed laws is extremely unclear. The fact that the government has attempted to claim exemptions for entertainment and academic work shows that it knows the definition is highly subjective, broad and open to abuse. Even with these entertainment and academic exemptions, it is hard to know where in practice the censor and courts would draw the line. For example, the computer game *Command and Conquer* allows a player to be an Islamic terrorist. Would it be captured by these laws? There are many other computer games with similar themes played by millions of Australians. Even the Classification Review Board, which manage the censorship laws, are concerned about the bill and the lack of an objective test. In particular, the inclusion of indirectly or directly praising a terrorist act in the definition of advocacy lowers the bar on what may be refused classification.

The reality is that there is no need for this bill, and it could make things worse. It could worsen the problem that the government purports to be trying to solve. The few publications that really do promote Islamic or other forms of terrorism in Australia will be driven underground and will circulate in secret. They may even be given greater notoriety through the classification process. The Greens believe the best antidote to dangerous ideas is the light of day and public debate, not suppression. As Justice Oliver Wendell Holmes once wrote:

… the best test of truth is the power of the thought to get itself accepted in the competition of the market, and that truth is the only ground upon which their wishes safely can be carried out.

Terrorism must be fought politically. We must show that freedom and democracy are worth their claims.

The crucial point that seems to have been lost in this debate is that the classification laws already ban the incitement of violence and that any expression that is seriously proposing attacks on Australian citizens would already be covered. Sydney journalist David Marr said it best in a *Sydney Morning Herald* article written not long after the July 2005 London bombings. He wrote:

Banning the expression of these grubby ideas is going to lead us into absurd and embarrassing tangles. While we're stripping bookshops of repugnant texts that urge the destruction of Israel, perpetual jihad against the US, and tell how to turn yourself into a human bomb, what should we do with—

parts of the Bible that—

... call for homosexuals to be put to death? And what should we do with the new edition of *Mein Kampf* that sells steadily in Australia?

Staying clear of this mess has traditionally depended on one key issue: the danger of violence. Incitement to violence is an ancient crime, against the law in every corner of Australia. Anyone who incites others to acts of violence is guilty of a criminal offence. That's also the law in Britain. Even in the US, constitutionally guaranteed freedom of speech ends at the point where speech might lead to "imminent lawless action".

This is the power we've always had to combat fanatics trying to whip secular and religious terrorists into action. At the core of the crime—for centuries—has been the provision that the threatened violence must be direct, intended and close to hand. That's how freedom of speech is protected.

This bill goes well beyond this sensible approach to limiting freedom of expression that has withstood the test of time. It is a great shame that the government has failed to see reason on this matter and that the opposition, who for many years have allowed themselves to be spooked by the government's mantra on national security, are following the government on this issue and this bill. There are many in this place who like to claim that they support liberal values, yet too often the same people give their support to attacks on the values they claim as their own.

Noam Chomsky said, in his famous study of the media and Western democracies, *Manufacturing Consent*:

Goebbels was in favor of free speech for views he liked. So was Stalin. If you're in favor of free speech, then you're in favor of freedom of speech precisely for views you despise. Otherwise, you're not in favor of free speech.

For democracy to claim freedom as its mantle, it must be able to tolerate dissenting views in its midst, no matter how hateful or unpopular. If we have confidence in the people, democracy will allow them to reject such ideas. The Greens are confident that the Australian public will not succumb to the ideas of hate and sectarian conflict. We are confident that, given freedom of expression, people will use such a right wisely and for good. This bill is a product of fear. Senators should embrace hope and freedom and show confidence in the Australian public and our democracy rather than embrace the fear that is a part of this bill.

Senator BARNETT (Tasmania) (6.20 pm)—I stand tonight to support this government's legislation and to respond to some of the comments made from the opposition benches. I note that Senator Nettle has referred to the imposition on free speech resulting from this legislation, and in one way she is right. But in another way she is wrong. She is wrong because it is important to secure the safety and security of the Australian people—that is, Australian families and Australian children. This legislation is designed to strike a balance. The government believes, and I believe, that freedom of expression and freedom of speech are maintained in this legislation in an appropriate balance. I will speak to that a little later.

The Senate Standing Committee on Legal and Constitutional Affairs report into the Classification (Publications, Films and Computer Games) Amendment (Terrorist Material) Bill 2007 is a public document and was tabled in July 2007. As chair of that committee, I want to thank the secretariat, Jackie Morris and her team, for their work in preparing the report and for their assistance. I would also like to thank Senator Crossin and the other members of the committee, including the participating member Senator Nettle. I thank her for her involvement and participation. I also wish to place on record my thanks to the witnesses who appeared at our hearing in Sydney on 17 July and to all those who presented evidence to the committee. We appreciate it.

In speaking in support of the bill, I refer to the Attorney-General's second reading speech in which he summarises the concerns as follows:

This bill will improve the ability of our laws to prevent the circulation of material which advocates the doing of terrorist acts.

… … …

Currently there is too much uncertainty around whether the existing classification laws adequately capture such material.

The Attorney-General says that the classification scheme is a cooperative national scheme and that he would prefer to see these provisions in the national code and guidelines. Importantly, the Attorney-General first sought state and territory agreement to changes to the classification laws in July 2006—over 12 months ago. In his second reading speech, he states:

To date, they have been reluctant to respond positively to my proposals. I am not prepared to wait indefinitely to address this problem.

Senator Ludwig spoke to the bill and indicated support for the bill, subject to some amendments. I broadly support the comments made by Senator Ludwig in support of the bill. But there are some aspects of his contribution which I wish to oppose and these relate to the involvement of the state and territory censorship ministers. The Attorney-General has expressed and requested a cooperative approach to this matter, starting over 12 months ago in July 2006. But the Attorney-General is rightly aggrieved and upset with their lack of action on material which advocates terrorism. Surely this has to be a top priority for all Australians no matter what level of government.

Our censorship laws through the Classification (Publications, Films and Computer Games) Amendment (Terrorist Material) Bill 2007 improves the ability of our laws to prevent the circulation of material which advocates the doing of terrorist acts. But it should be remembered that the classification review system that we have in this country has traditionally been a cooperative one. The Attorney-General, Philip Ruddock, has demonstrated leadership on this matter to ensure proper balance. In a news release issued by the Attorney-General on 27 July 2007 he expressed:

... strong disappointment that agreement could not be reached with State and Territory Censorship Ministers to toughen laws that deal with materials advocating acts of terror.

The release went on:

Mr Ruddock said the failure of the states to recognise the need to do everything possible to stop the recruitment of the impressionable and vulnerable into terrorist activity, left him with no choice but to act independently.

"Prevention is the new terrorism battleground and I am not prepared to wait indefinitely for Labor states to ensure this kind of material is removed from circulation ...

"As I have said before, should an attack happen in Australia I want to be able to look in the eyes of those affected and know I did everything I could to stop terrorism and the recruitment of the impressionable and vulnerable into terrorist activity."

Those on this side of the chamber fully support the Attorney-General in his efforts to act independently because he could not obtain the agreement and the cooperation of the relevant state and territory censorship ministers. For whatever reason—and I believe it is probably political—they did not come to the table with a cooperative and positive approach. I believe it is to their shame that they did not address this matter. It is in the public interest to protect the impressionable, the vulnerable and those who may be swayed in some way by material that is before them. This legislation, in my view, does the right thing to ensure that material promoting acts of terror will be removed from public availability.

There has been widespread community concern about the availability of books and videos which advocate terrorist acts. The government considers that such material should not be available. It is not completely clear whether this kind of material would be picked up under current classification laws. There is some doubt about that and I think all of us in this chamber accept that. So we need to act. We cannot wait any longer. The proposal is intended to get this inflammatory material advocating terrorism out of circulation to protect the vulnerable and the impressionable in our society. It is not, as Senator Nettle indicated in her contribution, about curtailing freedom of expression. We are not about that; we support freedom of expression. It is an important foundation ingredient of freedom in Australia. Freedom of expression is one of the underlying principles of Australian society. Merely holding and asserting strongly opposing views should not attract censorship. Our laws must strike an appropriate balance between freedom of expression and the need to protect the community and provide safety and security. That balance is needed. I believe the legislation before us has an appropriate balance.

The committee considered the proposed legislation in some detail—and, again, I thank all those senators involved in putting their views forward. Page 5 of the committee report states:

Proposed subsection 9A(3) provides an exemption for some material that might otherwise be considered to advocate the doing of a terrorist act as follows:

A publication, film or computer game does not advocate the doing of a terrorist act if it depicts or describes a terrorist act, but the depiction or description could reasonably be considered to be done merely as part of public discussion or debate or as entertainment or satire.

We had submissions from, for example, the Australian Library and Information Association as well as from a range of other groups—the Writers Guild and those types of groups—and this is important for them. The Attorney-General's Department, in its response to some of the questions asked at the committee hearing, noted:

The original proposal outlined in the discussion paper has been modified to address concerns expressed about its scope, and in particular a new provision, 9A(3), was introduced to make it clear that material that does no more than contribute to public discussion or debate or is no more than entertainment or satire is not material to which this provision is intended to apply. The explanatory memorandum clearly states that the provision is only intended to capture material which goes further than that and actually advocates the doing of a terrorist act.

I failed to mention this earlier, but the government has listened. A public discussion paper was put out for public consultation. Responses were received and the gov-

ernment and the Attorney-General's Department have acted on that and inserted this exemption under section 9A(3).

I am sure Senator Ludwig, and perhaps others on the other side, may refer to the reference in subsection (c) of 9A(2), which says:

... it directly praises the doing of a terrorist act in circumstances where there is a risk that such praise might have the effect of leading a person (regardless of his or her age or any mental impairment (within the meaning of section 7.3 of the *Criminal Code*) that the person might suffer) to engage in a terrorist act.

There will be some discussion about this. I am sure Senator Ludwig and others will be addressing it with an amendment, but it was the view of the committee that there could be some confusion by the inclusion of the words 'regardless of his or her age or any mental impairment', and I acknowledge that as the chairman of the committee who has signed off on the report. But the Attorney-General's Department has provided assurances with respect to the clarity of the legislation. There are more lawyers there than sitting on these benches, and greater minds than me have accepted the fact that that is not required and may, in fact, diminish the effectiveness of the legislation. All in all, the committee believes that the legislation should be passed, and I think it is well worth while.

In making some concluding comments, I want to refer to the concerns that even New South Wales Premier Morris Iemma had about Sheik Mohammed, the leader of the Global Islamic Youth Centre in Liverpool, in Sydney's west, when he was inciting terrorism. As reported by the *Daily Telegraph* and AAP on 18 January this year:

Mr Iemma said he had called on the Attorney-General (Philip Ruddock) to do whatever was necessary to have Sheik Feiz Mohammed's DVD withdrawn from sale.

'This DVD goes a lot further than vilification,' Mr Iemma said in Sydney.

'The sort of incitement that's taking place, or that the DVD encourages, is incitement to acts of violence and acts of terror.

'I will take the advice of the Attorney-General but there are specific laws in the Commonwealth jurisdiction on the sale of this material and that's why we'll be seeking the cooperation of the federal Attorney-General to take whatever steps are necessary.'

That is exactly what the Hon. Philip Ruddock is doing; he is taking the steps that are necessary to ensure the removal of this type of material. The article continues:

The sheik delivers his hateful rants on a collection of DVDs sold in Australia and overseas.

'This is just more disgusting commentary from a sheik who has no understanding of the values that we live by in this country,' Mr Iemma said.

'I've called on the Commonwealth Attorney-General to take whatever necessary steps are available to try and have this DVD withdrawn (from sale).

So there we have it. We have a Labor New South Wales Premier asking the federal Attorney-General to take whatever steps are necessary, and the steps necessary are the legislation that is before us.

Other concerns were expressed to our committee and they are set out in our report. We heard from Mr Jeremy Jones, Director of International and Community Affairs at the Australia/Israel and Jewish Affairs Council. You can understand their concerns. They invited the committee to go further by having tougher legislation to thwart that type of material being put into the public domain, and I can understand it when those types of comments are made by whoever and get into the public arena.

I think the balance is right. There has been public discussion. There has been a draft discussion paper. Feedback has been obtained from the public. We have had a Senate committee report. Sadly, the state and territory censorship ministers have been dilatory and have not cooperated, so it is important. I thank the Attorney-General, the Hon. Philip Ruddock, for his leadership.

In closing, this issue is not dissimilar to the philosophy and initiative of this government to protect children and families online with the more recent $180-plus million initiative by the Minister for Communications, Information Technology and the Arts, Senator Helen Coonan. It is a fantastic initiative to protect Australian families online with internet filtering initiatives across the board. It is consistent with this government's policy of protecting, supporting and encouraging families in every way possible. On that front, I thank Senator Coonan, her office and her department for their leadership in that arena, because it is a great initiative that is consistent with this government's philosophy of protecting, supporting and doing its best to protect the welfare of Australian families.

Senator KIRK (South Australia) (6.36 pm)—I rise today to contribute to the debate on the Classification (Publications, Films and Computer Games) Amendment (Terrorist Material) Bill 2007. Labor has indicated its support for this bill, which was the subject of an inquiry by the Senate Standing Committee on Legal and Constitutional Affairs, which Senator Barnett referred to and which he chaired and I was a member of. The committee received a number of submissions during its inquiry that raised a number of concerns about this bill, some of which I will mention in the time available to me today. Under this bill, publications, films or computer games that advocate the doing of a terrorist act are to be refused classification. When introducing the bill into the House of Representatives in June, the Attorney-General claimed:

... there is too much uncertainty around whether the existing classification laws adequately capture such material.

The Commonwealth Classification (Publications, Films and Computer Games) Act 1995 provides the basis for a cooperative national scheme to regulate classification of these materials in Australia. The act establishes the National Classification Code, which is managed and implemented on a cooperative basis by state and territory representatives. The code establishes the categories of classification to be applied to publications and may only be amended with the agreement of participating members.

When the Attorney-General first proposed amending Australia's classification laws to include a provision banning pro-terrorist related publications he did consult with the participating members—namely, the state and territory ministers responsible for censorship and classification matters. But, as Senator Barnett pointed out, the state and territory ministers were divided on this issue and as a consequence did not agree to amend the code. So what we have before us today is a bill that represents the attempt by the Commonwealth to amend the code unilaterally to implement its desired changes in the absence of agreement between the states, which still has not been secured.

As I said, a number of matters were raised by witnesses to the committee's hearings on the bill. There were concerns about specific provisions of the bill, in particular the inclusion of definitions from the Criminal Code, the adoption of a low threshold test for determining the impact of terrorist material and the limited exemptions in the bill. There were broader concerns raised at the committee hearings about the growing number of anti-terrorism laws in Australia and whether we are striking the appropriate balance between guarding against terrorism and protecting our civil liberties from encroachment.

The Classification Code currently requires that material be refused classification if it promotes, incites or instructs in matters of crime or violence. A publication which is refused classification is effectively banned. As I said, the Attorney-General has claimed that there is uncertainty surrounding the classification of material that may insidiously encourage people to commit terrorist acts. Section 9 of the principal Classification Act provides that:

... publications, films and computer games are to be classified in accordance with the Code and the classification guidelines.

The relevant amendment inserts the words 'Subject to section 9A' before section 9. The proposed section 9A provides that a publication, film or computer game that advocates the doing of a terrorist act must be refused classification. The definition of 'advocates' says that:

a) it directly or indirectly counsels or urges the doing of a terrorist act

b) it directly or indirectly provides instruction on the doing of a terrorist act, or

c) it directly praises doing a terrorist act where—

and these are the important words—

there is a risk that such praise might lead a person (regardless of his or her age or any mental impairment) to engage in a terrorist act.

In the time I have available I am going to go through some of the concerns that were raised by witnesses at the hearings of the committee, and I begin with the definition of 'terrorist act'. One of the principal concerns raised at the committee hearings was the inclusion of the existing definition of 'terrorist act' from section 100.1(1) of the Criminal Code. The legislative definition of a terrorist act in the Criminal Code includes behaviour that is otherwise considered criminal. The Criminal Code defines a terrorist act as an action which may include causing physical harm, death, damage to property, endangering life or creating a serious risk to the health or safety of the public.

In its evidence to the committee, the Law Council of Australia drew our attention to the criticism that Australia has attracted for adopting this definition. The UN Special Rapporteur has noted that Australia's definition is 'beyond the Security Council's characterisation'. The Law Council warned against adopting this definition in other legislation, particularly the bill before us, and argued that it is necessary to distinguish terrorist conduct from ordinary criminal conduct and to differentiate between the threat of doing a terrorist act and the actual taking of steps towards it.

The committee noted in its report that the definition of 'terrorist act' was the subject of considerable public debate and examination in the parliament and by the committee itself when considering the Security Legislation Amendment (Terrorism) Bill 2002 [No 2]. The committee also noted that the definition of 'terrorist act' in the Criminal Code is already relevant to classification decisions and that the Classification Board had cited this definition in two previous decisions when it refused classification to the publications *Join the Caravan* and *Defence of the Muslim Lands*. On balance, the committee was not persuaded that a narrower definition was necessary for the purposes of this bill.

I move now to the definition of 'advocates'. As I said, a number of witnesses expressed their concern about the breadth of the term 'advocating' and I read out the definition that is contained in the act. The Law Council, for example, said that the threshold test that this effectively put into place:

... appears to require decision-makers to consider the lowest societal common denominator in considering how material will be processed, comprehended and acted upon—an almost impossible test to apply.

The Classification Review Board, in its evidence, said that the definition is such that there is no scope for any

discretion to be applied and, in fact, if there is any praise of a terrorist act then the publication must necessarily be refused by the board.

The Convenor of the Classification Review Board said in her evidence that it may well be prudent to amend this bill to require that there be a substantial or a significant risk that praise will lead to a terrorist act being committed. She said that this would give those responsible for classifying material greater discretion as to whether a publication should be refused classification. A number of witnesses argued that to assess risk at the threshold of the consideration of how a minor—that is, someone under the age of 18—or a person with a mental impairment would react to material would have the potential to seriously limit the material that can be made available to the general public.

The Gilbert and Tobin Centre of Public Law described the test as unjustifiable and argued that the test 'would permit all sorts of material to be banned that no reasonable person would see as offensive or dangerous'. In its report, the Senate committee acknowledged that there was the following risk:

> ... that such a test could prevent access to material which should be available to adults, particularly those engaged in academic research of terrorism or public debate about this important matter.

The committee did recognise the difficulties that a classification decision maker would have in applying this test and acknowledged that the bill may well have an effect beyond its stated aim. We were mindful of the difficulties that writers, artists and publishers would face in determining whether their work would be caught by the provision. The committee was of the view that classification decision makers should take into account how a young person may react to such material. As a compromise, the committee recommended that the bill be amended to delete the phrase 'regardless of his or her age or any mental impairment'. I understand that there will be an amendment moved before this chamber to that effect.

Further concern was also raised at the committee inquiry about the breadth and ambiguity of the inclusion of the words 'indirectly' and 'directly' to describe what constitutes the urging or doing of a terrorist act. For example, the Australian Muslim Civil Rights Advocacy Network argued that the words were 'unreasonably vague and could potentially cover a wide range of activities'. The Australian Press Council argued that the definition could prevent the free expression of views on political issues. But, when the committee examined it, we determined that the deletion of the word 'indirectly' would have the effect of undermining the aim of the bill.

In relation to exemptions from the act, proposed section 9A(3) provides that exempted from the bill are those publications that:

> ... could reasonably be considered to be done merely as part of public discussion ... or as entertainment or satire.

We did hear evidence from a number of witnesses that the exemption does not go far enough to protect reasonable freedom of expression. For example, the Gilbert and Tobin Centre of Public Law said that it was not broad enough to cover speech such as academic research. The committee, however, concluded that the clause is broad enough to provide adequate protection for freedom of speech.

A broader concern that was raised before the committee was, as I mentioned at the outset, a concern that we now have 40 pieces of anti-terrorism legislation that have been enacted by this parliament in the six years since 2001, producing what now resembles a simmering cauldron of terror laws. Recently I was a panel member at an Amnesty International forum held in Adelaide titled 'Securing our Freedom'. On that occasion, I said that we must guard against a reactive approach to law making in this area and take care not to sacrifice the freedoms and the rule of law that sustain our democracy in our efforts to protect our national security.

So, as we today add a further ingredient to the simmering cauldron of antiterror laws, we must acknowledge that legislation of this nature has the potential to encroach on the individual freedoms that are the foundation of our democracy. My concern is how we are going to deal with this combination of laws—this simmering cauldron—if and when we ever decide that they are too oppressive and need to be wound back. No doubt this bill, like the 40-plus anti-terror laws this parliament has enacted in the past six years, will require a sturdy Mongolian soup stick to remove it from the simmering cauldron of terror laws.

Debate interrupted.

DOCUMENTS

Consideration

General business order of the day No. 18 relating to government documents was called on but no motion was moved.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Murray)—Order! There being no further consideration of government documents, I propose the question:

That the Senate do now adjourn.

Wool Industry

Senator WATSON (Tasmania) (6.51 pm)—Over recent weeks we have been made aware through various special events that this year is the 200th anniversary of the first export of a commercial bale of wool from Australia. Tonight I rise to pay tribute to this industry to which we as a nation owe so much. That historic event 200 years ago has had an immense economic effect on our nation. It has led to the establishment of one of our major wealth-producing industries

and has encouraged a rural way of life which has helped to mould the Australian character as we know it today.

Some might question why it took 19 years from first European settlement for such an obvious commercial event to occur. We must remember that, in the early days of settlement in New South Wales, times were tough. The colony had little to spare, and food and security were paramount. The challenge of exporting wool to the other side of the world was not the main goal at first, but enterprising people could see the opportunities even in those very early days. In fact, the first wool samples were sent to England in 1804; eight samples of the first wool ever grown in Australia were forwarded for the approval of King George III. They were very well received, with amazement being expressed at the quality and softness of the samples.

Those samples were the result of work by the Reverend Samuel Marsden, a clergyman, who, along with John Macarthur, a soldier, had acquired the first dozen or so Spanish merinos brought from South Africa back in 1797. So it was that in November 1807 the Reverend Samuel Marsden, the owner of the third-largest flock at the time, arrived in England with a cask of Australian wool. In the same year, Macarthur sent more than 400 pounds of his wool to England aboard HMS *Buffalo*. The wool sold for 45p a pound.

In the following year, 1808, Marsden's wool was woven into a piece of cloth, from which a black suit was tailored. Marsden proudly wore that suit when he was introduced to King George III. The demand for wool rose quickly, helped by the needs of the Napoleonic Wars and the continental trading blockades occasioned by that conflict.

By 1830, the Australian sheep population was close to two million and was multiplying with speed. It was helped by the inflow of merinos, which greatly improved the quality of the wool in many flocks. Over the 200 years that the wool industry has been so important to our economic wellbeing, the ethos of wool and merinos has ingrained itself into our way of life in so many ways. Through literature, art, language, humour and music, many aspects of the wool industry and its way of life have become part of the cultural and commercial character of Australia. Just look at our most popular song—a tale of adventure over a sheep—and the wonderful woolshed paintings of Tom Roberts and his contemporaries. From the transport infrastructure built to serve the industry, right down to Australia's love of dogs, which have softened our hearts with their clever ability to work with sheep, so much of our Australian character is closely connected to our heritage as a major wool-producing nation. The wool industry has greatly contributed to our national character and the strength of the notion of mateship. Even city dwellers feel a strong emotional link when they see people working with sheep on the land.

Minister Truss recently said in the other place that wool is still one of our major export commodities, particularly amongst our primary sector, and is making a very substantial contribution to our nation's export growth. He said:

> In commemorating 200 years of Australian exporting, it is interesting to observe that it took 190 years for Australia's exports to reach $100 billion in a year. It has only taken the 11 years of this coalition government for us to double that number to $210 billion—

a great effort.

While parts of Australia have been suffering from prolonged drought, we have still been able to keep the wool industry in a very viable state. While the number of sheep tends to vary during drought conditions, our enterprising rural Australians show their resilience by always bouncing back as soon as conditions allow.

Our wool industry has flourished over so many years because of the excellent quality of our product, its natural characteristics and the way in which innovation and technology have helped us produce the finest and softest wool, which is demanded by top fashion designers around the world. In our minds we connect the wool industry with outback shearers and the historic and romantic image that has built up over two centuries, but it must not be forgotten that the world's leading designers and fashion houses have also helped to build our wool's reputation throughout the world.

Given that my last job before entering the Senate was as the manager of a wool textile mill in Launceston in Northern Tasmania, and also acknowledging that I currently own sheep on a farm, I have a particularly personal relationship with this subject. Like so many Australians, even though I am nominally an urban dweller, I can relate closely to the image of our rural industry, which is such a significant part of our national wellbeing.

As we work our way into the new century, it is heartening to see that our wool industry is still very much a major contributor to our rural economy. To those who work in the industry, whether it be as graziers, shearers, mill workers, fashion designers or retailers, congratulations on your contribution to an industry which is so vital to Australia's growth. On this 200th anniversary of the first export of commercial wool, we are grateful to those who have done so much to provide the prosperity which we attribute to our ability to ride on the sheep's back for so long.

Heiner Affair and Lindeberg Grievance

The ACTING DEPUTY PRESIDENT (Senator Murray)—Senator Joyce, I advise you that I am prepared to call you, but only for the next three minutes.

Senator Joyce, you have the call, but bear in mind that you do not have the full 10 minutes.

Senator Joyce—It was agreed that I would get six minutes.

The ACTING DEPUTY PRESIDENT—That is what I have said: you do not have the full 10 minutes.

Senator Joyce—But I get six minutes?

The ACTING DEPUTY PRESIDENT—Yes. Please proceed.

Senator JOYCE (Queensland) (6.58 pm)—Paedophilia, child abuse and rape—these issues were discovered in the Heiner inquiry.

Senator George Campbell—Mr Acting Deputy President, on a point of order: how can he get six minutes? That means that two speakers will have 13 minutes between them. That is not a fair distribution of speaking time under the conventions of the Senate.

The ACTING DEPUTY PRESIDENT—Senator Campbell, your point of order is accurate. Senator Joyce, the situation with time is that it is allocated in 10-minute segments for this session. You cannot take the full six minutes; you have to take three minutes. Later on you can take three minutes; you are now nearly at the end of your 10 minutes.

Senator JOYCE—Paedophilia, child abuse and rape—these issues were discovered in the Heiner inquiry. Documents were shredded because of the wish to cover up crimes because certain individuals were involved. The excuse that the inquiry was supported to deal only with the management of the John Oxley Youth Detention Centre was a frail attempt to bury the crimes that became evident. The Queensland cabinet of the day could have given retrospective privilege to the matters by legislation but chose—

Senator George Campbell—Mr Acting Deputy President, I rise on a point of order. I do not want to interfere with Senator Joyce's flow but, as I have just indicated, we had a government speaker for seven minutes. Senator Joyce has three minutes. If he takes 10 minutes, we will be breaking the protocols and conventions of this Senate. If he is going to speak for 10 minutes, I am happy for him to do it, but you will need to call someone from this side of the chamber first before you give Senator Joyce the call.

Senator JOYCE—I am happy to do that.

The ACTING DEPUTY PRESIDENT—In that case, Senator Joyce, you will have to take a later spot.

Toowoomba

Senator MOORE (Queensland) (7.00 pm)—This evening I want to talk on a couple of points about my hometown, which is the city of Toowoomba. As people may or may not know, this is a very special time of year in Toowoomba because it is when we celebrate the Carnival of Flowers. This particular celebration has been going on every year since 1949 and, as can be seen through various websites and tourism manuals, it is a focus for people across our country and also across the world. Toowoomba is indeed the garden city and, as people know, we have suffered severely in that part of the world over the last few years as a result of drought. Also, in the last couple of years we have had quite divisive debates about what is going to happen with the future of our town.

Late last year there was a very difficult local plebiscite. We have heard much about local plebiscites in Queensland, but a local plebiscite was held in Toowoomba on the issue of recycled water. Whilst that was quite a straightforward discussion, the way that that plebiscite was conducted in our town caused great pain. There was great division within the community and, at the end of the process, I think there were many people, regardless of the result of the actual plebiscite, who were damaged deeply by the operation of the process, the media process and the quite serious personal attacks that contributed to a difficult time in the city.

At the end of that process, there were various discussions about what could happen locally to rebuild the town's sense of pride. We have a wonderful, long-term tradition and there were great discussions about how we could reinstate the focus in the community on unity, strength and moving forward. The mayor, Di Thorley, a friend and also a particularly strong human being, came up with an idea after much discussion and after being inspired by a group of women who were working through their own struggles post breast cancer diagnosis and treatment. Out of a series of discussions—and I wish I had been there to hear them—came the idea that, at the same time as rebuilding civic pride and civic unity, there could be a special project focusing on some of the women in Toowoomba who have been victims of breast cancer to rebuild their own sense of being and, most particularly, for them to make decisions that could help them move forward.

After a lot of discussion, there came the idea of developing a calendar—not just any calendar but one featuring the women who were part of the local breast cancer support group. When launching this calendar at the annual lord mayor's breakfast last Sunday, which is the function that launches the Carnival of Flowers celebration every year, there was a discussion about what led to the decision to develop this wonderful calendar project. There were various discussions but, in the end, what we have as an ongoing statement for the woman of Toowoomba who are survivors of breast cancer is the 2008 alchemy calendar called Le Bal des Sirenes. This particular calendar features 12 wonderful women. It was designed with the creative expertise of Richard de Chazal, a Queensland designer who is, to quote from his own website:

A member of the Australian design hall of fame and winner of numerous photographic, design and art awards, his lavish creations on the catwalks, in theatres, in the pages of magazines and calendars and on the walls of collectors globally have won him acclaim as well as outrage.

Richard brought his acclaim and sense of the outrageous to the citizens of Toowoomba and walked away as, I think, an honorary citizen of our town.

This evening I want to pay tribute to the women who were part of the creation of the calendar. I am going to name these women by month. I will not go into description of the scrumptious calendar. You need to see this calendar, because it is a work of art. I want to name the women who gave their time, effort and courage to the calendar. Janet Crompton was January. Lin Boyle, who was the spokesperson for the group, was February. Morgan Le Fay was her chosen character and the magnificent colours of purple and blue made up a piece of art that will be with Lin through what she will face in the rest of her life and in her treatment. The others were Cathy Whyte, Lyn Stafford, Jeanette Baxter, Helen King, Julie Warrington, Wendy Head, Jacqui Jorgensen, Barbara Jacobs, Margaret Mackenzie and Joanne Woodland—and Debra Howe was January 2009. These women now have something that they can hold on to. They have the experience that they shared with their friends, with their families and with Richard de Chazal and many others.

When Richard spoke on Sunday, he talked about what he brought to the project—not just his creative skills but also his commitment to work with these women to create something of beauty and his long-standing commitment to them and their families into the future. He talked about the fun that went on and the enormous amount of make-up and effort. He mentioned, as did the mayor, how close one of Toowoomba's landmark buildings came to being a fire hazard because the character of one of the women was Joan of Arc, and I believe real flames were used! I think that expresses the way that this calendar was developed.

Di Thorley, in launching the calendar, talked about the strength that she gained from working with the women and the way that this was a rebuilding exercise. She also talked about the amazing work that her PA, Lyn Smythe, did in the process and how you could sense from the rebirth, from the beauty, that something great was going to happen.

The money that was raised at the Lord Mayor's breakfast on Saturday went exclusively to the Breast Cancer Research Fund. Again, this shows the way that the community builds around helping their own and wanting to be part of wider community action. Every year that Di Thorley has been mayor there has been a Lord Mayor's breakfast on the Sunday before the Carnival of Flowers parade. Every year a strong community charity has benefited from the generosity of local sponsors, by having people pay to be part of that breakfast and also by having the charity highlighted for that time, and the amazing good work that is linked locally can be seen by others who can draw strength from that. This year it was breast cancer. We saw the symbols of that with the calendar, which is able to be purchased—and I encourage people to look at how they can purchase one of these works of art that also doubles as a calendar for 2008—from the Toowoomba City Council. So please go onto the website and find out more or talk to the Queensland Cancer Council, who were there giving out information on Sunday.

We worked out that in that room we had not only the women who were partaking in the calendar project but, sprinkled through the people there on the day, also many families who understood what it is like to work through the journey of cancer. Di spoke about how those women gave her strength. She also paid particular credit to the members of the crew of the ship named after Toowoomba—which Di has visited many times and which is the second ship named after our town and linked to the city—which is on the high seas.

Linked to the charity event, each year young people from the armed forces come, so the amazing historical link that Toowoomba and the Darling Downs have with the armed forces over generations can be reinforced and we can re-encourage people to look at joining up and being part of serving our country in that way. There is something particularly inspiring about seeing the way communities can work together. I am incredibly proud of my home town of Toowoomba and I am very proud of the work that Di Thorley has done as the mayor.

I want to add my congratulations to the women who were the works of art on our inspirational calendar. I also add my thanks to Richard de Chazal. We heard that a number of designers were approached to be part of this project. Many did not choose to take up the opportunity. It was a blessing that Richard did take up the opportunity—one that will live with him. I think that the Toowoomba 2007 project for breast cancer, and moving on to our calendar next year, will remain as yet another important element in a wonderful part of the world.

Australian Republic

Senator MURRAY (Western Australia) (7.10 pm)—On 30 August 2007, the Real Republic organisation that supports the direct election of an Australian president sent a letter to all federal politicians. The letter was from Dr Clem Jones and the solicitor David Muir, both from Queensland. It read:

There is a real prospect that the Republic issue is likely to become a key issue following the forthcoming Federal election. In these circumstances, we suggest that it is important to give urgent consideration to the process for developing the

debate and resolution of constitutional change now, in order to avoid being left behind on this issue.

There are lessons to be learnt from the Constitutional Convention of 1998 and the subsequent 1999 referendum.

One of them is that a "Yes" or "No" proposal for one only model of the Republic will be difficult to get over the line. Apart from anything else, any one model of a Republic will have its critics.

The model put to the referendum in 1999 was lost and did not even have the majority support of the delegates who attended the Constitutional Convention.

Nevertheless, we suggest that it is reasonable to expect majority support for a model in circumstances where choice is given to the people on a preferential basis.

The "no case" campaign for the 1999 referendum was in fact led by the split Republic lobby under the campaign slogan of "Say No to the Appointment of a President by our Politicians". That campaign captured the imagination of the Australian people.

We believe that the ultimate resolution of the constitutional issue will best be achieved by a multi-choice referendum representing a choice of a range of the different issues which will constitute a model based on the majority of votes on each one of those issues.

The preferential voting system is innovative, democratic and the most likely and best method of achieving an outcome in a single submission to the people.

Of course, other process will be proposed leading up to the referendum to re-instate the issue politically and to inform the debate. The Preferential Referendum proposal would deal with all questions related to the matter and ensure the model would follow simply majority wishes on all relevant questions.

If you are interested in exploring further the idea for constitutional change through a multi-choice referendum, we would be pleased to hear from you.

Fortunately, the Real Republic people have never just focused on an Australian head of state as if that were a sufficient end in itself. The populist call for an Australian head of state is dangerously jingoistic. I say 'dangerous' because too few Australians have understood the subtext, which is that too many politicians want to simply take the crown off the head of the Queen and put it on the head of the Prime Minister.

The 1999 referendum was on a Clayton's republic that proposed to give extraordinary presidential appointment and dismissal powers to the Prime Minister, further increasing the powers of an already overmighty prime ministerial office. I have a profound attachment to the separation of powers doctrine, to checks on the executive and to the distrust of excessive powers in their hands. That is why I am a direct electionist.

When Peter Andren and I leave this parliament, the strongest direct election republican proponents presently in it will be gone. For those who want an insider's picture of the direct election case and the triumph of the defeat of that awful 1999 model, I refer them to the book *Trusting the people: an elected president for an Australian republic*, edited by me, with seven distinguished authors. Sooner or later, the question of a republic will indeed be back on the political agenda. It is entirely possible that an Australian republic will again become a significant issue after the forthcoming federal election.

While I think a republic remains an important goal, also needed is a holistic reappraisal of our Constitution. When Peter Costello said last year that our federal arrangements needed drastic revision, he was certainly aware that our political compact is under strain. Some of the strain comes from a Constitution and institutions whose nineteenth century roots are challenged by the 21st century. Some of the strain comes from a sometimes unilateralist Howard government that has been accelerating a well-entrenched centralist trend. Some of the strain comes from the need for greater efficiency and rationalisation, as outlined last year by the Business Council of Australia. I agree that we do need to review and modernise our governance, but we must take great care.

The foundation of any successful nation is characterised by an enduring political compact and social contract. Australian federalism is a political system that includes checks and balances. No reform of the Australian system will be successful unless it accommodates revised checks and balances to ensure that the social and political contract is strengthened and refreshed. As part of a necessary reappraisal we need to reassess how power is acquired, used and restrained; who has power over whom and what; and how money is raised and spent and by whom. That means that a constitutional convention only focussed on the question of the head of state and presidential appointment or election, and dismissal, will be inadequate.

The full meaning of Australian constitutional republican democracy needs to be explored. In that context the call by the Real Republic organisation for a multichoice referendum might not be the right call. A referendum is the end of a process. The people need to be consulted at the beginning of the process. A referendum in Australia changes the Constitution by achieving a majority of votes in a majority of states. Australia has conducted 44 federal referenda to amend the Constitution but only eight have been successful. I would suggest what is needed is a multichoice plebiscite that would allow the people of Australia to indicate what they want a constitutional convention to consider or, indeed, if they want a constitutional convention at all. It should be the first step in a four-step process in the order of plebiscite, convention, parliament and referendum.

The task of a convention is to determine the nature of the proposal to be put before the people so as to change the Constitution by referendum. The parliament then gives legislative form and final shape to the pro-

posal to be put before the people in a referendum. Plebiscites are direct votes of qualified electors to some important public position. They are not binding and convey popular opinion. A multichoice plebiscite would for instance be able to inform the convention and parliament of the views of the people on a republic or not, on appointment or election of the head of state and on whether our federal compact should be reappraised.

With respect to the republic, I rather like the questions: 'Do you want a republic?' and 'If Australia has a president, do you want the president to be directly elected by the people?' We do have an obligation to the Australian people to provide them with choice and an opportunity to have their say. The great failing of the November 1999 referendum was that there was no prior in-depth consultation and choice—just a take it or leave it proposition. Thankfully Australia left it. The yes or no proposal for only one model of the republic was fundamentally flawed. It was also fundamentally undemocratic as it ignored the overall public preference of those republicans for a popularly elected head of state. Polls had consistently shown that there was significant support for a directly elected president.

By ignoring this, the parliament almost certainly ensured a no vote for a republic would result. I was one of those who fought hard for a 'no' vote. The duplicitous promise that if the 1999 proposal got up then the choice of direct election would be possible as a second referendum amounted to nothing more than deceitful propaganda. Herein is the largest part of the problem: members of the political elite, members of the executive, are resistant to strong public support for a popularly elected head of state. If that is the case, we are better off with the system as it is.

In August 1999 I tabled my private senator's bill, the Republic (Consultation on an Elected President) Bill 1999. This bill sought the inclusion of an additional question to be put to the people in the November referendum. Unfortunately, the Senate did not debate the bill. Item 4(2) of my bill also requires the republican model to be developed by a constitutional convention consisting entirely of delegates directly elected by a vote of the whole people. It is no good believing in the sovereignty of the people, and the power of the popular vote, if the republican model is not to be developed by the people's elected representatives.

This convention would take considerable time to set up. It would require direct and indirect consultation with voters in the states and territories, supplemented by a number of plenary sessions prior to the final resolution of the model. It would involve the preparation of discussion papers, extensive promotional advertising and educational programs, detailed voter research, and travel and assessment by a variety of trained persons. All in all, it would be a lengthy and expensive process compared to short conventions such as the 1998 one. The problem with a short convention is that it can develop into a hothouse political atmosphere, fraught with media and deadline pressures.

On balance, a convention lasting one to two years would be preferable. That would mean paid elected representatives, a full-time staff and a sizeable budget. It is quite possible that the Australian people will hold out for decades until they get the type of republic they want. The initial catalyst for this will be a change in prime minister and subsequently a change in government.

Heiner Affair and Lindeberg Grievance

Senator JOYCE (Queensland) (7.20 pm)—Paedophilia, child abuse and rape: documents concerning these issues discovered in the Heiner inquiry were shredded because of the wish to cover up crimes because of certain individuals who were involved. The excuse that the inquiry was supposed to deal with only the management of the John Oxley Youth Detention Centre was a frail attempt to bury the crimes that became evident. The cabinet of the day could have given retrospective privilege to the matters by legislation but chose not to. Issues were referred to the police commissioner and he refused to take action. Cases remained open and justice was not done. Evidence was destroyed, and that is a clear breach of section 129 of the Queensland Criminal Code. Eminent jurists, from the late Sir Harry Gibbs to Justice Meagher to Barry O'Keefe, all spoke in unison that evidence to a crime in your possession cannot be destroyed. Are all these people muckraking? Are they all complicit and working in unison for a devious political purpose or are they in the pursuit of the course of justice?

Contrary to the claims of both the current Leader of the Opposition and the former Premier of Queensland, there has been no inquiry devoted to the Heiner affair and given access to the documents necessary to bring transparency to the scandalous cover-up. No inquiry has ever summonsed either those involved in the decision to shred the documents from Magistrate Noel Heiner's inquiry or any of those who participated in this act. No archivist, secretary of the cabinet, ministerial or departmental public official—not a single minister of the Crown—has ever been questioned. Not one union official, apart from the whistleblower Kevin Lindeberg, has given evidence. Not a single person has ever testified on oath about the pack rape of a young girl, the principal victim, while she was in the care of the Queensland government. Nobody has ever been asked on oath about the extraordinary payment made to the former head of the juvenile detention centre where she and her attackers were held. No-one associated with it has been questioned, not even the audit officers.

There has never been an adequate explanation of the DPP's advice given to the Borbidge government on

6 January 1997, based on a most fundamental misinterpretation of section 129 of the Criminal Code, which has never been relied on since. The audit performed by David Rofe QC makes clear that the cover-up of this matter has been a corrupting influence on the Queensland legal system. The conceit of some that this 3,600-page report was contrived purely for them today—when it was started two years ago, when the key stakeholders in this parliament were different, and completed last Sunday—is astonishing and only gives more weight to the issue that they are very sensitive to the truth. This is Australia's Watergate, only this time Nixon goes free. The US had the power to take on their President with Kenneth Starr in the Lewinsky scandal, but we have ducked from the wish of pursuing what I believe is far worse, because of the political ramifications. The most inane excuse that is currently delivered is that it is too hard.

If you were to drive to work tomorrow and on the way take a photo of a park in which a rape was taking place, then after arriving at work discuss the photo, then shred it because the rape was not supposed to be part of the photo of the park, would you believe, without knowing anything of the law, you were doing something wrong? You would have been in breach of section 129 of the Criminal Code in Queensland. If you were concerned you may have been in breach and sought legal advice to say you were not doing something wrong, it makes it neither legal nor right. Ignorance of the law is not a defence, nor does bad legal advice make you immune from the law. If you were part of contriving the legal advice then it further enunciates your guilt. In the room with the shredder is a large group of people. The closer to the shredder, the larger the fault. The people in the room have a position of power, which makes it even more essential that the principles of justice and all being equal before the law be even more forthrightly asserted. That time has passed does not diminish the guilt of a crime that obfuscation has prevented from being tested.

Has this issue been taken to the police? Not only has it been taken to the police, but it has been there for the past 19 years. Now a writ of mandamus will be issued to bring this issue back into the light. Further issues were referred to the Queensland Commissioner of Police, who refused to take action. Parliamentary privilege could have been retrospectively given to the evidence in 1990, but this course was avoided because of the ramifications of justice.

I have crossed the floor on the legal rights of David Hicks. I was part of the reason the legal rights of the West Papuan refugees were preserved. But it is only now, when the people in a position of power are threatened, that there are those who state it is smear and muckraking. Fiat justitia ruat caelum: though heaven may fall, justice will be done. This issue has seen the attempt to use the mechanisms available in Queensland, and they have obfuscated, contrived and corrupted the process. Public ventilation of these crimes is crucial in bringing this issue out of its contrived maze and into the light of conclusion. Yes, Australia does have the right to have questions answered pertaining to the character or criminality of key future political office holders. Prima facie charges appear available for the prosecution of key members in this parliament and in Queensland. A proper investigation may dispel these. I seek leave to move that the documents in the Rofe report now be tabled.

Leave not granted.

Senate adjourned at 7.26 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 January to 30 June 2007—Statement of compliance—Department of Defence.

Tabling

The following documents were tabled by the Clerk:

[*Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number*]

Australian Bureau of Statistics Act—Proposal No. 10 of 2007—Queensland Interstate Trade Survey.

Christmas Island Act—List of applied Western Australian Acts for the period 16 March to 15 September 2007.

Cocos (Keeling) Islands Act—List of applied Western Australian Acts for the period 16 March to 15 September 2007.

Telecommunications Act—Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997 (Amendment No. 1 of 2007) [F2007L03728]*.

* Explanatory statement tabled with legislative instrument.

Tabling

The following government documents were tabled:

Australian Postal Corporation (Australia Post)—Statement of corporate intent 2007-08 to 2009-10.

Australian Radiation Protection and Nuclear Safety Agency—Quarterly report for the period 1 September to 31 December 2006—Correction.

Australian War Memorial—Report for 2006-07.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Personal identifiers 215/07 to 220/07—

Commonwealth Ombudsman's reports.

Commonwealth Ombudsman's reports—Government response.

Payments System Board—Report for 2006-07.

Reserve Bank of Australia—Equity and diversity—Report for 2006-07.

Surveillance Devices Act 2004—Commonwealth Ombudsman's report on inspections of surveillance device records for the period 1 January to 30 June 2007—Australian Federal Police, South Australia Police and New South Wales Police.

Treaties—List of multilateral treaty actions under negotiation, consideration or review by the Australian Government as at September 2007.