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SITTING DAYS—2005

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RADIO BROADCASTS

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

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

Governor-General

His Excellency Major-General Michael Jeffery, Companion in the Order of Australia, Commander of the Royal Victorian Order, Military Cross

Senate Officeholders

President—Senator the Hon. Paul Henry Calvert
Deputy President and Chairman of Committees—Senator John Joseph Hogg

Leader of the Government in the Senate—Senator the Hon. Robert Murray Hill
Deputy Leader of the Government in the Senate—Senator the Hon. Nicholas Hugh Minchin
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. Christopher Martin Ellison
Manager of Opposition Business in the Senate—Senator Joseph William Ludwig

Senate Party Leaders and Whips

Leader of the Liberal Party of Australia—Senator the Hon. Robert Murray Hill
Deputy Leader of the Liberal Party of Australia—Senator the Hon. Nicholas Hugh Minchin
Leader of The Nationals—Senator the Hon. Ronald Leslie Doyle Boswell
Deputy Leader of The Nationals—Senator John Alexander Lindsay (Sandy) Macdonald
Leader of the Australian Labor Party—Senator Christopher Vaughan Evans
Deputy Leader of the Australian Labor Party—Senator Stephen Michael Conroy
Leader of the Australian Democrats—Senator Lynette Fay Allison
Liberal Party of Australia Whips—Senators Jeannie Margaret Ferris and Alan Eggleston
Nationals Whip—Senator Julian John James McGauran
Opposition Whips—Senators George Campbell, Linda Jean Kirk and Ruth Stephanie Webber
Australian Democrats Whip—Senator Andrew John Julian Bartlett

Printed by authority of the Senate
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(1) Chosen by the Parliament of Queensland to fill a casual vacancy vice Hon. John Joseph Herron, 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.

PARTY ABBREVIATIONS
AD—Australian Democrats; AG—Australian Greens; ALP—Australian Labor Party; CLP—Country Labor Party; FF—Family First Party; LP—Liberal Party of Australia; NATS—The Nationals

Heads of Parliamentary Departments
Clerk of the Senate—H Evans
Clerk of the House of Representatives—I C Harris
Secretary, Department of Parliamentary Services—H R Penfold QC
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<td>Prime Minister</td>
<td>The Hon. John Winston Howard MP</td>
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<tr>
<td>Minister for Trade and Deputy Prime Minister</td>
<td>The Hon. Mark Anthony James Vaile MP</td>
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<tr>
<td>Treasurer</td>
<td>The Hon. Peter Howard Costello MP</td>
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<tr>
<td>Minister for Transport and Regional Services</td>
<td>The Hon. Warren Errol Truss MP</td>
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<tr>
<td>Minister for Defence and Leader of the Government in the Senate</td>
<td>Senator the Hon. Robert Murray Hill</td>
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<tr>
<td>Minister for Foreign Affairs</td>
<td>The Hon. Alexander John Gosse Downer MP</td>
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<tr>
<td>Minister for Health and Ageing and Leader of the House</td>
<td>The Hon. Anthony John Abbott MP</td>
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<td>Attorney-General</td>
<td>The Hon. Philip Maxwell Ruddock MP</td>
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<tr>
<td>Minister for Finance and Administration, Deputy Leader of the Government in the Senate and Vice-President of the Executive Council</td>
<td>Senator the Hon. Nicholas Hugh Minchin</td>
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<td>The Hon. Peter John McGauran MP</td>
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<td>Senator the Hon. Amanda Eloise Vanstone</td>
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<td>The Hon. Dr Brendan John Nelson MP</td>
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<td>Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues</td>
<td>Senator the Hon. Kay Christine Lesley Patterson</td>
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<td>Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service</td>
<td>The Hon. Kevin James Andrews MP</td>
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<td>Minister for Communications, Information Technology and the Arts</td>
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(The above ministers constitute the cabinet)
HOWARD MINISTRY—continued

Minister for Justice and Customs and Manager of Government Business in the Senate
Senator the Hon. Christopher Martin Ellison

Minister for Fisheries, Forestry and Conservation
Senator the Hon. Ian Douglas Macdonald

Minister for the Arts and Sport
Senator the Hon. Charles Roderick Kemp

Minister for Human Services
The Hon. Joseph Benedict Hockey MP

Minister for Citizenship and Multicultural Affairs
The Hon. John Kenneth Cobb MP

Minister for Revenue and Assistant Treasurer
The Hon. Malcolm Thomas Brough MP

Special Minister of State
Senator the Hon. Eric Abetz

Minister for Vocational and Technical Education
The Hon. Gary Douglas Hardgrave MP

and Minister Assisting the Prime Minister

Minister for Ageing
The Hon. Julie Isabel Bishop MP

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 Veterans’ Affairs and Minister
Assisting the Minister for Defence
The Hon. De-Anne Margaret Kelly MP

Parliamentary Secretary to the Minister for
Finance and Administration
The Hon. Peter Craig Dutton MP

Parliamentary Secretary to the Minister for
Industry, Tourism and Resources
The Hon. Dr Sharman Nancy Stone MP

Parliamentary Secretary to the Minister for
Health and Ageing
The Hon. Warren George Entsch MP

Parliamentary Secretary to the Minister for
Defence
The Hon. Christopher Maurice Pyne MP

Parliamentary Secretary (Trade)
The Hon. Teresa Gambaro MP

Parliamentary Secretary (Foreign Affairs) and
Parliamentary Secretary to the Minister for
Immigration and Multicultural and Indigenous
Affairs
Senator the Hon. John Alexander Lindsay
(Sandy) Macdonald

Parliamentary Secretary to the Prime Minister
The Hon. Bruce Fredrick Billson MP

Parliamentary Secretary to the Treasurer
The Hon. Gary Roy Nairn MP

Parliamentary Secretary to the Minister for the
Environment and Heritage
The Hon. Christopher John Pearce MP

Parliamentary Secretary (Children and Youth
Affairs)
The Hon. Gregory Andrew Hunt MP

Parliamentary Secretary to the Minister for
Education, Science and Training
The Hon. Sussan Penelope Ley MP

Parliamentary Secretary to the Minister for
Agriculture, Fisheries and Forestry
Senator the Hon. Richard Mansell Colbeck
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<td>Leader of the Opposition</td>
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<td>and Shadow Minister for International Security</td>
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(The above are shadow cabinet ministers)
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Shadow Minister for Consumer Affairs and Shadow Minister for Population Health and Health Regulation
Laurie Donald Thomas Ferguson MP

Shadow Minister for Agriculture and Fisheries Shadow Assistant Treasurer, Shadow Minister for Revenue and Shadow Minister for Small Business and Competition
Gavan Michael O’Connor MP Joel Andrew Fitzgibbon MP

Shadow Minister for Transport
Senator Kerry Williams Kelso O’Brien

Shadow Minister for Sport and Recreation
Senator Kate Alexandra Lundy

Shadow Minister for Homeland Security and Shadow Minister for Aviation and Transport Security
The Hon. Archibald Ronald Bevis MP

Shadow Minister for Veterans’ Affairs and Shadow Special Minister of State
Alan Peter Griffin MP

Shadow Minister for Defence Industry, Procurement and Personnel
Senator Thomas Mark Bishop

Shadow Minister for Immigration
Anthony Stephen Burke MP

Shadow Minister for Aged Care, Disabilities and Carers
Senator Jan Elizabeth McLucas

Shadow Minister for Justice and Customs and Manager of Opposition Business in the Senate
Senator Joseph William Ludwig

Shadow Minister for Overseas Aid and Pacific Island Affairs
Robert Charles Grant Sercombe MP

Shadow Parliamentary Secretary for Reconciliation and the Arts
Peter Robert Garrett MP

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

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

Shadow Parliamentary Secretary for Education
Kirsten Fiona Livermore MP

Shadow Parliamentary Secretary for Environment and Heritage
Jennie George MP

Shadow Parliamentary Secretary for Industry, Infrastructure and Industrial Relations
Bernard Fernando Ripoll MP

Shadow Parliamentary Secretary for Immigration
Ann Kathleen Corcoran MP

Shadow Parliamentary Secretary for Treasury
Catherine Fiona King MP

Shadow Parliamentary Secretary for Science and Water
Senator Ursula Mary Stephens

Shadow Parliamentary Secretary for Northern Australia and Indigenous Affairs
The Hon. Warren Edward Snowdon MP
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The PRESIDENT (Senator the Hon. Paul Calvert) took the chair at 9.30 am and read prayers.

ABSENCE OF THE PRESIDENT

The PRESIDENT—I inform the Senate that I will be leading the Australian parliamentary delegation to the 51st Commonwealth Parliamentary Conference in Fiji and I will be absent from the Senate from 5 September to 8 September 2005. I suggest that the Deputy President, Senator Hogg, be empowered to act as President during my absence, pursuant to standing order 13.

Senator ELLISON (Western Australia—Manager of Government Business in the Senate) (9.31 am)—by leave—I move:

(1) That, during the absence of the President, the Deputy President shall, on each sitting day, take the chair of the Senate and may, during such absence, perform the duties and exercise the authority of the President in relation to all proceedings of the Senate and proceedings of committees to which the President is appointed.

(2) That the President be granted leave of absence from 5 September to 8 September 2005.

Question agreed to.

GOVERNOR-GENERAL’S SPEECH

Address-in-Reply

The PRESIDENT—I inform the Senate that yesterday, accompanied by honourable senators, I presented to the Governor-General the address-in-reply to his speech, on the occasion of the opening of Parliament, which was agreed to on 10 February 2005. The Governor-General indicated that he would be pleased to convey the address-in-reply to Her Majesty the Queen.

NOTICES

Presentation

Senator Bartlett to move on the next day of sitting:

That the Environment, Communications, Information Technology and the Arts References Committee be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 6 September 2005, from 6 pm, to take evidence for the committee’s inquiry into the economic impact of salinity in the Australian environment.

Senator Brown to move on Wednesday, 7 September 2005:

(1) That the Senate:

(a) notes that the problem of petrol sniffing remains widespread and endemic in remote Aboriginal communities;

(b) recognises the need for an inquiry into the feasibility of a comprehensive roll out of Opal fuel in the central desert region of Australia;

(c) intends that such an inquiry would establish the basis for a staged process, of which this inquiry would be the first stage, for the eventual comprehensive roll out of Opal fuel to all regions across Australia where petrol-sniffing is an issue; and

(d) requires the specific targeting of this inquiry to the central desert region of Australia in the first instance, as a trial to establish a blueprint for developing in the future a comprehensive and multi-faceted approach to eliminating petrol sniffing throughout Australia.

(2) That the following matters be referred to the Community Affairs References Committee for inquiry and report by 9 November 2005:

(a) the identification of the means of implementing a comprehensive roll out of Opal fuel throughout the central desert region of Australia (defined for these purposes as extending from Coober Pedy in South Australia to Tennant...
(b) the recommendation of strategies to enable the comprehensive roll out of Opal fuel throughout the central desert region of Australia, including:

(i) proposals for any legislative amendments which may be required, and

(ii) the identification of and assignment of a clear delineation of Commonwealth and state responsibilities for the matter, to ensure the rapid and streamlined Commonwealth/state coordination of the roll out.

Senator Milne to move on the next day of sitting:

That the Senate—

(a) notes that Gunns Pty Ltd’s proposed pulp mill in the Tamar Valley in Tasmania, by the admission of the proponent, will:

(i) consume up to 4 million tonnes of woodchips per annum requiring at least 30 years access to native forests,

(ii) pollute the air shed of the Tamar Valley with hydrogen sulphide emissions and other gaseous emissions generated by burning 500 000 tonnes of green wood waste each year,

(iii) potentially affect the habitat of 33 threatened species, including five nationally-listed endangered and five nationally-listed vulnerable species, and

(iv) pump approximately 30 billion litres of effluent containing organo-chlorines into Bass Strait each year, thus impacting on Commonwealth waters;

(b) calls on the Prime Minister (Mr Howard) to withdraw the offer of $5 million in Commonwealth funding to Gunns Pty Ltd; and

(c) calls on the Minister for the Environment and Heritage (Senator Ian Campbell) to use his powers under the Environment Protection and Biodiversity Conservation Act 1999 to reject the new proposal.

Senator Brown to move on the next day of sitting:

That the Senate—

(a) notes the release of the report prepared by the University of Sydney’s Centre for Peace and Conflict Studies, Genocide in West Papua? The role of the Indonesian Security Services Apparatus; and

(b) calls on the Australian Government to investigate the claims in the report and report back to the Senate.

BUSINESS

Rearrangement

Senator ELLISON (Western Australia—Manager of Government Business in the Senate) (9.35 am)—I move:

That the government business order of the day relating to the National Residue Survey (Customs) Levy Amendment Bill 2005 and a related bill be considered from 12.45 pm till not later than 2 pm today.

Question agreed to.

Rearrangement

Senator ELLISON (Western Australia—Manager of Government Business in the Senate) (9.36 am)—I move:

That the order of general business for consideration today be as follows:

(1) general business notice of motion No. 222 standing in the name of Senator Ludwig relating to ministerial responsibility; and

(2) consideration of government documents.

Question agreed to.

NOTICES

Postponement

Items of business were postponed as follows:

General business notice of motion no. 221 standing in the name of Senator Stott Despoja for today, relating to genetic testing and privacy, postponed till 5 September 2005.

COMMITTEES

ASIO, ASIS and DSD Committee
Meeting

Senator FERRIS (South Australia) (9.36 am)—by leave—I move:

That the Parliamentary Joint Committee on ASIO, ASIS and DSD be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, from 11 am to noon, in relation to its inquiry on Division 3 Part 3 of the ASIO Act.

Question agreed to.

Foreign Affairs, Defence and Trade References Committee
Extension of Time

Senator GEORGE CAMPBELL (New South Wales) (9.37 am)—by leave—At the request of Senator Hutchins, the Chair of the Foreign Affairs, Defence and Trade References Committee, I move:

That the time for the presentation of the report of the Foreign Affairs, Defence and Trade References Committee on matters specified in paragraphs (a) and (b) of the terms of reference for the inquiry into the Chen Yonglin and Vivian Solon cases, and any related matters, be extended to 8 September 2005.

Question agreed to.

WORLD BREASTFEEDING WEEK

Senator STOTT DESPOJA (South Australia) (9.38 am)—I move:

That the Senate—

(a) notes that:

(i) the week beginning 1 August 2005 was World Breastfeeding Week,

(ii) the theme for the week was ‘Breastfeeding and Family Foods (feeding beyond 6 months)’,

(iii) breastfeeding is a natural and normal way of providing optimal nutrition, immunological and emotional nurturing for the growth and development of infants, and

(iv) every woman has the right to be supported and not discriminated against if they choose to breastfeed or not; and

(b) notes that breastfeeding women must be supported by allowing them to take breastfeeding breaks and breaks to express milk, encouraging workplaces to provide places for mothers to breastfeed and express milk, and encouraging workplaces to provide the necessary facilities for the storage of breast milk.

Question agreed to.

NUCLEAR WASTE FACILITY

Senator CROSSIN (Northern Territory) (9.38 am)—I move:

That the Senate—

(a) notes that:

(i) in 2004 the Northern Territory Parliament passed the Nuclear Waste, Storage and Disposal (Prohibition) Act 2004 which bans the establishment and operation of a nuclear waste management facility in the Northern Territory, and

(ii) during the 2004 Federal Election the Minister for the Environment and Heritage (Senator Ian Campbell) gave an ‘absolute categorical assurance’ to Territorians that the Commonwealth is not pursuing any options anywhere on the mainland, including the Northern Territory, for a national nuclear waste facility; and

(b) calls on the Commonwealth Government to honour its election promise not to locate a nuclear waste facility in the Northern Territory.

Question agreed to.
COMMITTEES
Mental Health Committee
Extension of Time

Senator ALLISON (Victoria—Leader of the Australian Democrats) (9.39 am)—I move:

That the time for the presentation of the report of the Select Committee on Mental Health be extended to the Thursday of the second sitting week in March 2006.

Question agreed to.

MV TAMPA: FOURTH ANNIVERSARY

Senator BARTLETT (Queensland) (9.40 am)—by leave—I, and also on behalf of Senator Nettle, move the motion as amended:

That the Senate—
(a) notes that:
(i) 26 August 2005 marks the 4th anniversary of the rescue of 433 asylum seekers by the MV *Tampa*,
(ii) this rescue was followed by the refusal of the Government to allow the ship to enter Australian waters,
(iii) the asylum seekers did not have access to adequate medical care, legal advice or sanitary conditions, particularly for the pregnant women and children who were on board,
(iv) the MV *Tampa* was boarded by Australian Special Air Services troops and the asylum seekers taken to Nauru,
(v) the unnecessary and degrading cost of the resulting Pacific Solution is estimated at close to a billion dollars which does not take into consideration the cost of human suffering, and
(vi) some of the refugees rescued by the MV *Tampa* are still on temporary protection visas and have therefore not been able to reunite with their families after more than 4 years apart;
(b) expresses the view that many of the changes made to the *Migration Act 1958* following the MV *Tampa* incident have undermined basic legal principles such as equality before the law, procedural fairness, transparent accountability of the actions of Commonwealth officers and protecting against refoulement; and
(c) calls for review and reform of the Act, and an end to the Pacific Solution, mandatory detention and temporary protection visas.
(d) further notes that four years later, 32 asylum seekers remain on Nauru as part of the government’s cruel Pacific Solution, and
(e) calls on the Government to bring the remaining asylum seekers still on Nauru to the Australian mainland.

Question negatived.

MS VIVIAN SOLON

Senator NETTLE (New South Wales) (9.40 am)—I move:

That the Senate—
(a) notes that:
(i) it has been 1 484 days since Ms Vivian Solon’s unlawful deportation by the Department of Immigration and Multicultural and Indigenous Affairs and 94 days since she was discovered in a hospice in the Philippines,
(ii) evidence suggests that numerous officers within the Department of Immigration and Multicultural and Indigenous Affairs, the Department of Foreign Affairs and Trade and the Queensland Police, knew that Ms Solon had been deported unlawfully but failed to correct the situation and bring her home, and
(iii) the Australian Government:
(A) is refusing to guarantee that it will provide more than 6 months care for Ms Solon when she returns, and
(B) refuses to agree to arbitration should mediation not result in a compensation settlement; and
(b) calls on the Government to allow Ms Solon to come home to Australia and be with her children by:

(i) extending the guarantee of care past 6 months,

(ii) offering her brother a visa which entitles him to work rights or a carers allowance and is not limited to 6 months, and

(iii) agreeing to arbitration of a compensation settlement if 6 months of mediation does not result in a settlement.

Question put.

The Senate divided. [9.45 am]

(The President—Senator the Hon. Paul Calvert)

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

AYES


NOES


Senator Ian Macdonald did not vote, to compensate for the vacancy caused by the resignation of Senator Mackay.

Question negatived.

COMMITTEES

Treaties Committee

Report

Senator SANTORO (Queensland) (9.49 am)—On behalf of the Joint Standing Committee on Treaties, I present the 66th report of the committee entitled Treaties tabled on 7 December 2004, 15 March and 11 May 2005, together with the Hansard record of proceedings and minutes of proceedings. I move:

That the Senate take note of the report.

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

Leave granted.

The statement read as follows—

Report 66: Treaties tabled on 7 December 2004 (4), 15 March and 11 May 2005:

• United Nations Convention against Corruption
• Treaty between Australia and New Zealand Establishing Certain Exclusive Economic Zone Boundaries and Continental Shelf Boundaries
• Singapore-Australia Free Trade Agreement Amendments
• Agreement concerning the Use of Shoalwater Bay Training Area and Associated Facilities in Australia
• Mutual Recognition Agreement on Conformity Assessment in Relation to Medicines Good Manufacturing Practice Inspection and Certification
• Amendments to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade
• Final Protocol and Partial Revision of the 2001 Radio Regulations, as incorporated in the International Telecommunication Union Final Acts of the World Radiocommunication Conference
• Establishment of the Antarctic Treaty Secretariat

Report 66 contains the findings and recommendations of the review conducted by the Joint Standing Committee on Treaties of nine treaty actions tabled in Parliament on 7 December 2004, 15 March and 11 May 2005. The treaty actions relate to the matters identified in the title of the report. I will comment on a selection of the treaty actions considered.

The United Nations Convention Against Corruption is a multilateral agreement designed to enhance international efforts to combat corruption. Although no changes to Commonwealth legislation are required to implement Australia’s obligations under UNCAC, the Committee raised two issues with this Treaty. The first issue was the degree to which this treaty confers additional jurisdiction on the Commonwealth through the use of the external affairs power or Section 51 (xxix) of the Constitution.

Evidence to the Committee suggested that the use of the external affairs power is limited to some extent by the Melbourne Corporation doctrine. That is, it is unlikely the Commonwealth could enact legislation which relates to corrupt conduct of members of state parliaments, states executives and state courts in the discharge of their functions as state officials.

Even so, the Committee has made 2 recommendations asking the Attorney-General to advise the Committee that there is no intention to use the external affairs power and UNCAC to pass legislation not foreshadowed in the NIA.

The Amendments to the Singapore Australia Free Trade Agreement add a further 2 Universities—Murdoch and the University of Tasmania—to the list of Australian universities which are recognised for admission as qualified lawyers in Singapore. On a parochial note, I am pleased to see Flinders University on the list of 10 and look forward to the University of Adelaide being added soon.

Since 1995, Singapore Armed Forces have used the Shoalwater Bay Training Area. The Committee supports the Agreement between Australia and Singapore which will allow the continued use of the Shoalwater Bay Training Area by the Singapore Armed Forces for five years from 31 December 2004.

This report also recommends the Treaty between Australian and New Zealand which defines maritime boundaries enter into force. This treaty serves as a model for calm bilateral cooperation on maritime boundaries.

Lastly the Committee has recommended that a Treaty which establishes a permanent and independent secretariat to administer the Antarctic Treaty Consultation Meeting enter into force. Australia has a large territorial claim and an extensive research program in Antarctica. The secretariat will be in Buenos Aires, Argentina.

In conclusion, the Committee believes it is in Australia’s national interest for the treaties considered in Report 66 to be ratified. I commend the report to the Senate.

Senator BARTLETT (Queensland) (9.49 am)—I will not speak for long on the report, but I will take the opportunity as a member of the treaties committee to once again note the importance of the work that the committee does. There is a huge range of treaties contained and examined in this report, some of which I was able to participate in the pro-
ceedings on and some of which I was not able to because of other priorities. It is important to emphasise the benefit of parliamentary scrutiny and the range of issues that are developed and entered into in regard to international treaties. I have a short additional comment of mild dissent from one component of this report, and for that reason I thought it appropriate to put that on the record in this chamber.

The general thrust of the committee’s inquiry in that aspect of the report regarded Australia ratifying a convention which dealt with corruption internationally and internally and developing and being part of international standards for addressing and preventing corruption. The committee quite rightly recommended that we sign up and ratify that. There is a fairly strong comment in the report expressing apprehension about the use of the external affairs power by the Commonwealth unilaterally to implement further legislation based upon a treaty that has been ratified without doing it in consultation with the states. I agree that doing it in consultation is desirable, but I think the committee report overstates the negative aspect of using the external affairs power. I think it is appropriate to use in some circumstances, including the circumstances detailed in the report. If it is necessary and there is not sufficient cooperation from the states, then it is an appropriate thing to do. It is appropriate for the parliament to then decide whether or not the legislation is suitable. There is a continual need to differentiate between government proposing legislation and the parliament agreeing to it.

The committee’s recommendation calls on the Attorney-General to categorically rule out that the government does not plan to do specific things with regard to passing legislation. Firstly, the government does not pass legislation; the parliament does. Secondly, if the government, on any issue—and it could well be an issue I do not agree with—does believe it is appropriate to use the external affairs power to bring in legislation then it clearly has a constitutional right to do so. It should then be up to the parliament, and particularly the Senate, operating independently of the government, to assess whether or not that is a desirable approach. It is not a major differentiation but it is a sufficiently strong expression by the committee that I felt it appropriate to clarify my own position. But both I and the wider committee certainly recommend that that treaty, along with all the others in the report, be ratified.

Question agreed to.

Public Works Committee

Senator TROETH (Victoria) (9.53 am)—On behalf of the Parliamentary Standing Committee on Public Works, I present five reports of the committee as listed at item 7 on today’s Order of Business, and move:

That the Senate take note of the reports.

I seek leave to incorporate tabling statements in Hansard.

Leave granted.

The statements read as follows—

These reports examine works representing some $336.28 million of Commonwealth expenditure.

Working Accommodation for Special Operations Forces, Holsworthy Barracks, New South Wales

The Committee’s eleventh report of 2005 addresses the construction of working accommodation for Special Operations forces, and stage one of the redevelopment of Holsworthy Barracks, New South Wales. The proposed works will facilitate the establishment of:

- Army’s Full Time Commando Capability, based upon the 4th Battalion, the Royal Australian Regiment (Commando);
- the Tactical Assault Group (East), to become an organic element of the 4th Battalion, the Royal Australian Regiment (Commando);
• the Incident Response Regiment;
• Special Operations Combat Services Support Company; and
• the first stage of the redevelopment of Holsworthy Barracks.

Having investigated the proposal, the Committee is satisfied that the works will improve amenity for, and operational efficiency of, the important army units accommodated at Holsworthy and therefore recommends that the works proceed at the estimated cost of $207.7 million.

New Entomology Bioscience Laboratory at the Commonwealth Scientific and Industrial Organisation’s (CSIRO’S) Black Mountain Campus in the ACT

The Committee’s twelfth report of 2005 examines the proposed construction of a new entomology bioscience laboratory at the Commonwealth Scientific and Industrial Organisation’s (CSIRO’S) Black Mountain Campus in the ACT.

The CSIRO reported that the Division of Entomology currently conducts scientific research in buildings that range in age from 32 to 76 years old. These buildings:

• do not meet contemporary research standards;
• have, in some instances, structural constraints which prevent them being refurbished to a level commensurate with current and evolving laboratory standards;
• do not meet current OH&S standards; and
• cannot accommodate anticipated Division growth.

To redress these deficiencies, the CSIRO proposes to:
• construct a new two-storey, 2,313 square metre Entomology Bioscience Laboratory;
• refurbish two existing buildings,
• construct covered walkways to link the new and existing buildings and
• carry out associated site works and landscaping, including demolition of redundant buildings and sheds.

Noting that some of the redundant buildings contain asbestos, the Committee recommends that the CSIRO take all necessary steps to identify and ensure the safe removal and disposal of hazardous materials from the site. The Committee also recommends that the CSIRO continue discussion with the National Capital Authority to resolve any outstanding design issues. Having considered the proposal in detail, members are satisfied that the works should proceed at the estimated cost of $12.7 million.

Operational Upgrade of the Detention Facility, Berrimah, Northern Territory

The Committee’s thirteenth report of 2005 deals with a proposal by the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) to carry out an operational upgrade of the detention facility at Berrimah, Northern Territory, at an estimated cost of $8.21 million.

The primary purpose of the proposed works is to establish a safe and secure land-based detention facility for illegal foreign fishers apprehended in Australia’s northern waters. The Department reported that illegal foreign fishing in Australia’s northern waters has been increasing in recent years and that current boat-based detention arrangements have proven unmanageable. It is envisaged that, in addition to illegal foreign fishers, the facility will accommodate Northern Territory immigration compliance cases and unauthorised air arrivals, some of whom are women and children.

The Committee notes that the Department’s proposal contains a significant number of undetermined factors which may be expected to impact upon the project cost. Whilst cognisant of the difficulties associated with estimating project budgets under modern procurement arrangements, the Committee requests that agencies supply the most robust and comprehensive costs available in order that the Committee can fulfil its statutory role as a scrutineer of public expenditure. The Committee therefore recommends that DIMIA supply regular updates on expenditure throughout the course of the project.

Having viewed both the existing facilities at the Berrimah detention centre and the plans for the
upgrade, the Committee remains unconvinced that the proposed family area represents the best use of available space, or provides a reasonable level of amenity or security for detainees. Given the inadequacy and inappropriateness of the proposed family area, the Committee recommends that families including women and children are not detained at the facility. In the event that there is a demonstrated need for the short-term detention of families at the facility, the Committee recommends that, in order to ensure appropriate provision of security, amenity and space for families, women and children, the Department better utilise the space available. The family area should be enlarged and should provide appropriate separation of all facilities, adequate indoor recreation space and a secure outdoor area of a suitable size to accommodate play equipment relocated from the existing large, grassed recreation area.

The Committee also wishes to ensure the reliability of DIMIA’s project delivery strategy and recommends that the Department supply the Committee with an update on the chosen delivery methodology and the application of Commonwealth Procurement Guidelines to this process, when this information becomes available.

Further, in the interest of transparency and good community relations, the Committee recommends that DIMIA consult with the local community and with relevant Northern Territory Government agencies in respect of the proposed works. In particular, the Committee wishes DIMIA to consult with the office of the Northern Territory Chief Minister to find an appropriate name for the facility.

Having given careful consideration to the proposal, the Committee recommends that the works proceed at the estimated cost of $8.21 million.

Proposed Redevelopment of Kokoda Barracks, Canungra, Queensland

The fifteenth report of 2005 presents the Committee’s findings in relation to the proposed redevelopment of Kokoda Barracks at Canungra, Queensland, for the Department of Defence. The purpose of the proposed work is to provide the working and domestic accommodation, and engineering services infrastructure required, for the ongoing delivery of effective training at the Canungra Military Training Area.

The redevelopment entails:

- correction of working and training accommodation deficiencies;
- rationalisation of messing facilities;
- improvements to living-in accommodation for trainees;
- upgrade of the engineering services infrastructure; and
- disposal of redundant, high maintenance facilities.

During the course of its inquiry, the Committee investigated a range of barracks services; the design of the proposed new facilities; the removal of asbestos; heritage issues; and traffic management.
The Committee recommends that the works proceed at the estimated cost of $86.7 million and requests that Defence continue consultation with the Department of Environment and Heritage regarding any heritage issues that may arise from the redevelopment project.

I would like to take the opportunity to thank my Committee colleagues and all those involved in the five inquiries. I commend the reports to the Senate.

Also, Mr President, this is my first opportunity to congratulate you on your re-election as President, and I would like to do so.

The PRESIDENT—Thank you.

Question agreed to.

Scrutiny of Bills Committee Report

Senator GEORGE CAMPBELL (New South Wales) (9.54 am)—On behalf of the chair of the committee, I present the eighth report of 2005 of the Senate Standing Committee for the Scrutiny of Bills. I also lay on the table Scrutiny of Bills Alert Digest No. 9 of 2005, dated 17 August 2005.

Ordered that the report be printed.

Publications Committee Report

Senator FERRIS (South Australia) (9.54 am)—On behalf of the chair of the committee, Senator Watson, I present the fifth report of the Publications Committee.

Ordered that the report be adopted.

Foreign Affairs, Defence and Trade References Committee Report

Senator HOGG (Queensland) (9.54 am)—On behalf of the Chair of the Foreign Affairs, Defence and Trade References Committee, I present the report of the committee entitled Duties of Australian personnel in Iraq, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator HOGG—I move:

That the Senate take note of the report.

I would like to thank the secretariat and those who appeared before the committee. I will leave the bulk of comments on the report to Senator Faulkner.

Senator FAULKNER (New South Wales) (9.55 am)—Unfortunately too rarely in this parliament do we have an opportunity to examine Australia’s role in the war in Iraq. I am pleased that some important issues about Iraq are examined in this report. Despite the best efforts of the government to deceive the Australian people about the Iraq war and cover up the truth, some things are crystal clear. The first is that Australia went to war in Iraq on the basis of the need to eliminate weapons of mass destruction. Whatever fine-sounding claims Mr Howard and Mr Downer make now, they told the Australian people that the reason for war was the danger of WMD. It is also clear that this was a fraud on the Australian people. The Howard government made fraudulent claims about the existence of WMD and used sexed-up intelligence reports, doctored intelligence reports, as the basis of those claims.

The facts are that the international community attempted to establish whether Iraq really had WMD through the establishment of the Iraq Survey Group and, if they had them, would attempt to get rid of them. The ISG’s main objectives after the 2003 war was to verify if Iraq had WMD, to find them, if that was the case, and to destroy them, if they existed. Eminent scientists and weapons experts were engaged to participate in the work of the ISG. Mr Rod Barton and Dr John Gee were two such experts who worked for the ISG, off and on, until their resignation. Rod Barton was so well regarded that he was employed as the command leader of the Iraqi WMD elimination team of the ISG. Rod Bar-
ton had earlier been seconded from DIO to work for Richard Butler in the UN special commission, UNSCOM, and for the UN’s chief weapons inspector, Hans Blix, from 1991 after the first Gulf War.

Barton’s experience of working with Blix led him to the conclusion that Iraq did not pose a WMD threat to the Western world. Blix, of course, had publicly declared that Iraq posed no WMD threat. Barton was convinced that Iraq had neither a delivery means nor a WMD capability. We know that Rod Barton advised the Howard government of this in January 2003 and we now know, without any contradiction, that Saddam Hussein’s Iraq had neither the capacity nor capability to use WMD. It was not surprising that the ISG never found any evidence of WMD. There were not any. According to Mr Barton’s evidence in 2004, Dr John Gee had also reached the conclusion that Iraq did not possess and had not possessed WMD.

What comes next in this sorry saga? Both Barton and Gee resign from the ISG, apparently for the same reason. They made that reason clear in their letters of resignation. In effect, both Barton and Gee resigned in protest over the politicisation and censorship of the ISG’s interim report which Charles Duelfer presented to the US congress. The report was a fix; the fixer was the CIA. When Barton and Gee returned separately into Australia, they briefed officials from DIO, ONA and Defence. In the case of Gee, he additionally briefed Mr Downer for some 20 minutes. Mr Downer later described this discussion as ‘personal’. In this personal discussion, surely John Gee mentioned his reasons for resigning.

WMD was the hot political topic at the time. It went to the major reason that our Prime Minister committed Australian combat units to Iraq. We know for certain that when Rod Barton returned to Australia he briefed Ms Myra Rowling, First Assistant Secretary, International Policy, and an Air Force group captain on his concerns not just about the WMD issue but also about the fact that prisoners in Iraq were being mistreated during interrogation.

That is where things get murky. It seems that at the time neither Barton’s nor Gee’s protests over the misuse of the ISG’s work, nor Barton’s reporting of prisoner mistreatment, went one step further. That is hard to believe, of course. It is the usual story from the Howard government: the responsible minister’s claim that somehow, for some reason, they were never told. It is the ‘kids overboard’ defence that we hear time and again. It is the usual excuse, but it does not get any more plausible with time.

It is very hard to believe that when two senior WMD experts resigned in protest over the distortion and politicisation of their work neither ONA nor DIO thought this worth noting in any of the ongoing WMD assessments that those agencies provided to the Howard government from that time on. They had not kept their assessment of ‘no WMD’ a secret. They had both at separate times communicated their views to Australia’s representative in Iraq and on separate occasions briefed the Head of the Iraq Task Force, a special working group that was set up in DFAT to coordinate Australia’s efforts in Iraq. Yet throughout this period the Howard government continued to preach the line of justifiable war on the basis that Iraq had and still could have WMD.

John Gee could have cleared some of this up for the committee. He is a crucial figure in this story. He failed to respond to two invitations of the committee to appear before it, which is very disappointing indeed. I note that Dr Gee is currently a contracted consultant to ONA, but there is in my view no excuse for Dr Gee’s failure to attend before the
committee and provide evidence. Dr Gee suggests that he has nothing of interest—no interesting information and no new information—to provide to the committee. That is a judgment that the committee should make, and I think it is very disappointing that Dr Gee would not respond to the proper invitations that were issued to him by the committee.

I want to say, because it is true, that Dr Gee’s failure to appear before the committee stymied the work of the committee, stymied the inquiry and of course meant that it was even more difficult to report on our terms of reference. That is very significant, because it meant that we were simply unable to get closer to the truth of the Australian participation in the interrogation of Iraqi prisoners.

Mr Acting Deputy President, you would recall the government’s pathetic and transparent defence on this question of prisoner treatment. The government’s defence rests on a dictionary definition. People look to all kinds of guides and reasons to judge right from wrong. Some people look to the law, some look to religion, some look to philosophy, but the Howard government resorts to a dictionary—the dictionary definition of ‘interrogation’ versus that of ‘interview’. And what a grand defence it is! Decent people are still laughing at Senator Hill’s efforts to squirm away from Australia’s role in the interrogation of Iraqi prisoners of war. There are still many unanswered questions in relation to this issue, including why Mr Downer has refused to confirm what was discussed between Dr Gee and himself. For my part and for the opposition’s part, we intend to pursue these issues relentlessly.

Senator JOHNSTON (Western Australia) (10.05 am)—This report, as accurately as it can, goes towards explaining and discovering the actual facts surrounding this matter. If I may, I will go straight to the report, which talks about all of the matters surrounding the context of the question of whether we were involved in interrogating any prisoners in Iraq. The Department of Defence became aware and concerned that there may have been some involvement. Accordingly, as would be good practice, they commissioned a survey of every known person to have served in Iraq at the time. That is set out in paragraph 3.30 of the report. The report states:

A list of 302 Australian personnel who might have had some exposure to Iraqi prisoners was refined down to 60 and then to 15. The final 15 were contacted by a small team of senior lawyers who asked targeted questions relating to dealings with prisoners and visits to prisoners.

To paraphrase: we surveyed the important people who could possibly shed any light upon this important issue. The report goes on:

A third country deployment questionnaire went to 106 third country deployment people, that is personnel who were deployed with third countries, the US and the UK. Of those 106 personnel, 23 were sent the survey.

We not only surveyed our own people in the ADF serving under the ADF; we surveyed anybody who might have been embedded in either the UK or the USA forces. Mr Barton filled out the questionnaire. We distilled it down to just one person out of those 302 plus the 106 personnel: Mr Barton. The report says:

On 25 May 2004, Mr Barton filled out the questionnaire. In answer to whether he had visited any coalition PW—

that is, prisoner of war—or detainees detention centres, holding facilities, prisons or interrogation cells he wrote that he had two visits only as part of his duties with the ISG:

• 30 December 2003, to interview a former Iraqi senior government official …

Let me underline the word ‘interview’—he did not say ‘interrogate’. He had the oppor-
tunity to tell the world, including his employer and his government, that he was involved in interrogation. He did not. He said, ‘I interviewed an Iraqi government official.’ On 10 January, he conducted a familiarisation inspection of Camp Cropper. As to questions about whether he had heard or observed any mistreatment of Iraqi PWs or civilian detainees whilst he was in the Middle East, he responded:

I did not observe any mistreatment of detainees at Camp Cropper. However I was concerned about the size of the cells many detainees were kept in ... the amount of exercise permitted ... and the solitary confinement of some detainees. I expressed these concerns to the officer in charge of the facility.

Let me restate that the one person distilled down in the inquiry by the Australian Defence Force’s due process of examining these allegations said—and I requote this for the benefit of senators:

I did not observe any mistreatment at Camp Cropper.

Further, at paragraph 232, in reply to questions regarding what he did and who, if anyone, he reported to, he stated:

I expressed my concerns—and those were concerns about cell sizes and—

about the possible abuse of detainees to Australian government officials on my return to Australia at the end of March 2004 and recommended that Australia should not be involved in the interview process.

It was borne out that no Australian was involved in the interview process or the interrogation process, other than as set out by me and by the report. It is absolutely clear from all the evidence and the facts. May I say that the attack this morning on Dr Gee is understandable. There is substantial disappointment and frustration on the part of the opposition in this place because they have no smoking gun—no evidence, nothing, not a feather to fly with—in this allegation against ADF personnel or any Australians serving in Iraq at the time of the realisation of what was happening at Abu Ghraib.

I come back to the one witness who could and did bring the facts to the committee: Mr Rod Barton. He said, ‘I did not observe any mistreatment.’ His evidence in his transcripts is clear. He was in no capacity an observer of, or a person who brings actual factual evidence of any tangible sort about, interrogation or mistreatment of prisoners by Australians in Iraq. This report gives the ADF a clean bill of health.

As an aside to all this, I say that, when an Australian citizen, for whatever reason, decides not to attend and make himself available for a Senate inquiry, he is—and thank goodness he is—absolutely entitled so to do. He is under no constraint, no compulsion whatsoever, to come before a Senate inquiry. The Senate has the power to bring him, should it so resolve. No such application, no such motion, was directed from the committee to the Senate. For Senator Faulkner to now want to heap the blame for his disappointment at the feet of Dr Gee is outrageous. I have no doubt that Dr Gee is a person of outstanding and high reputation in the community, and I for one support him, knowing as I do the witch-hunt factors that are involved in some of these inquiries put on, by virtue of the former construction of the numbers of this place, by the opposition.

Dr Gee was right, and I stand to defend him and his right not to appear before the Senate committee. If the committee had wanted him to appear and if he was considered by any member of the committee to have knowledge and the capacity to provide evidence to assist in the terms of reference, the committee should have passed a resolution that he be subpoenaed to attend. It did not do so. I for one will never, ever condone
the condemning of an Australian citizen for exercising his right not to appear before a Senate committee.

I commend this report to the Senate. It was an important reference. It absolves absolutely the minister and the Australian Defence Force. I am very proud of them at all times, as they well know.

Senator BARTLETT (Queensland) (10.14 am)—As the Democrats representative on this committee and someone who signed off on this report, I would like to affirm the comments of both speakers. It is an important report. One might not have picked it up from the differing tenors of the comments from the Labor and Liberal speakers, but it is actually a unanimous report. I think that is always desirable. It gives a report extra weight when it can be unanimous.

It does contain one recommendation, which is that the ADF review its procedures for instructing personnel about the ADF’s various codes of conduct and instructions or concepts of operations governing the conduct of Australian personnel while they are engaged in overseas operations, especially where Australian personnel are deployed in third-country operations. That recommendation was made and supported by all on the committee because it was quite clear from the evidence, particularly from the key witness, Mr Barton, that that was not being done. There was an ADF perception that everybody was informed and fully briefed about all aspects of the concepts of operations, but Mr Barton’s evidence indicated that he did not believe that he had been given full details of them and he suspected that others had not as well. Given the immense importance of ensuring that everything is above board and everybody is clearly aware of their responsibilities and obligations, particularly under the Geneva convention, it is absolutely essential that absolutely everybody knows about the concepts of operations. It is clear that that may well have not been the case.

I emphasise why this is so important. There is a tendency—and it was reflected a bit in Senator Johnston’s comments—for those of us who express great concern about the potential mistreatment of prisoners in Iraq and the activities or actions of some of the army personnel from the so-called coalition of the willing to be continually attacked for besmirching the integrity of Australian troops or attacking the actions of Australians. That is a common tactic of trying to turn around and play the patriotic card by saying, ‘You’re just attacking our brave troops over there by raising these concerns.’ It is also clearly false. At no stage—certainly not in this chamber—did anybody allege that Australian troops or personnel were involved in committing acts of mistreatment or torture, but the clear issue is that there was a gross disparity between what the government was saying Australian personnel were involved in and what some of the personnel themselves were saying they were involved in. When you get that situation in which the government say, ‘Our people aren’t doing interrogations or such things,’ and you have people who were there on the ground—people with immense experience, like Mr Barton—saying, ‘Yes, we are,’ then of course the Senate and the Australian people are right to question what the truth is and what is going on. That is why this inquiry was so valuable and important.

I emphasise that, while the report did give a clean bill of health to the actions of Australian personnel and the ADF, it certainly did not give a clean bill of health to the government, as the report reflects, and, sadly, it did not give a clean bill of health to the actions of some of the personnel from other countries. The world knows about the actions in Abu Ghraib. Clearly, that is recognised and established. I have to say that the United
States should be congratulated for confronting that and punishing some of the people involved. Whether they would have done so if it had not become public knowledge, I do not know, but they have clearly done so and not all countries do. The UK has done the same with some of their personnel who had been involved in clear abuses of international law and the mistreatment of prisoners, and they should be congratulated when that happens because many countries do not do that.

The fact is that Mr Barton raised serious concerns about the treatment of prisoners in the place where he was. He also raised concerns about one prisoner in particular and whether mistreatment may have led to the death of that person. The details of that are in this report. That is a serious matter. Nobody is saying Australians were involved in committing those offences but, if we are working with people who are doing that—if we are in the same facility, working side by side with them—we are potentially complicit in those offences. I draw the Senate’s attention to the comments of the former chief of the ADF, General Cosgrove, during his recent appearance on Andrew Denton’s show. He made it clear that those sorts of abuses, such as those that became clear happened at Abu Ghraib, are completely unacceptable and that, once you stoop to that level, you have lost a core part of what you are trying to defend. Those are the words of General Cosgrove, and I support them entirely because he is right.

It is not acceptable to say, ‘These things happen in a war and it is to be expected.’ The Geneva convention was put in place as a clear benchmark to send a strong signal throughout the world that it is not acceptable. It is not just a nice, feel-good convention that you aspire to when it is convenient; it is when it is not convenient that these things need to be tested and when we need to stand firm on them, particularly in the context where we are talking about undertaking these actions to defend and promote liberal democracy. However much we may disagree or agree about the validity of the action that is happening there—and we all have different views about that—you cannot be putting out a message saying we are doing this to promote democracy and liberal democratic standards on the one hand and then have your personnel involved in clear breaches of basic human rights and standards that have been developed over a long period of time and promoted most strongly by those liberal democracies.

Whilst the Australian personnel were clearly not involved in any breaches, it is still a serious matter that we are working with and aware of, and have people like Mr Barton raising concerns about, yet the government does nothing. That is what has happened. There seemed to be no interest in knowing what is happening about these things and certainly no interest in telling it straight to the Australian people.

That leads me to the final point I want to make, which is that this report is valuable, as Senator Johnston said, but the government did not support this inquiry being set up. If the Senate had proposed it today, there is a good possibility that it would not have been set up because the government did not support it. A lot of the information here came from Senate estimates as well. Senate estimates will still happen for a while but, if the government has its way, as Senator Hill has been musing, the scope of Senate estimates will be narrowed so that it is solely expenditure under the appropriations bills, and they could well have ruled out of order all of those questions about what Australian personnel were doing in Iraq. There is a very real danger that reports like this one, which government member Senator Johnston himself has said is valuable, will not happen. I congratulate Senator Johnston on his constructive approach in this and other inquiries.
We need to make sure that we can continue to do these things, and that is seriously at risk.

I will make a final comment about Dr Gee. I was also disappointed that he did not accept the committee’s invitations. I have said in this place before that I respect Senator Faulkner’s aversion to issuing subpoenas. I have been on record as saying that if I believe it is serious enough then I am willing to issue a subpoena. Whether or not it was appropriate in this case, I do not know. Clearly, Dr Gee does have the right not to attend. He was invited. If he did not want to attend for whatever reason, he had that right, and I support him in that, but it was also very disappointing and less than helpful that he did not attend. Whether or not it would have been an idea for the committee to consider subpoenaing him, I am not sure. I was not able to be fully involved in the day-to-day activities of the committee in order to make a judgment, but I do flag that I have a different view from Senator Faulkner. I do think that, on occasions, it is appropriate for committees to subpoena people and, indeed, I might say that it is sometimes helpful to the witness to have that compulsion. The Scrapperton affair coming out of the children overboard incident is one example that I point to in which it would clearly have been helpful if he had had that subpoena a couple of years earlier, but I will not rehash all that. I think this is a valuable report and I commend it to the Senate.

Senator BROWN (Tasmania) (10.23 am)—At 3.68, the committee reports that it is:

... concerned that communication and the reporting processes within the Department of Defence are falling short of that expected of a highly-skilled and professional organisation.

Let me put that in its context. This government has fallen short of the standard of responsible government, in that it ordered the Department of Defence to take part in the invasion and occupation of Iraq, but does not want to share the responsibility for events which have occurred there, including breaches of international conventions including those which protect prisoners who are taken in the course of a war.

What is clearly written into this report, and what comes from the evidence of Mr Barton and others, is that there is indisputable evidence of mistreatment of prisoners by the US occupying forces: interrogation, which includes what can only be described as torture—beatings to soften people up for interrogation and so on—that became known to the Australian command. In fact, at Abu Ghraib an Australian officer was very clearly involved in misleading the Red Cross by making sure that the Red Cross was not able to attend Abu Ghraib, unannounced, when it wanted to, so that things could be set up to mislead the Red Cross about what was actually going on there.

Mr Barton clearly was of the view that prisoners were being abused, against international laws, and that was communicated. But when you get to the Minister for Defence, Senator Hill, and the Prime Minister, Mr Howard, there is this ‘no knowledge, no responsibility; we are not involved’ cover-up attitude. That is what this whole report reeks of, and the responsibility must lie with the Prime Minister and the Minister for Defence. It was not this parliament that voted to have this nation involved in Iraq. It was not this parliament that set the conditions. That right, which should be a parliamentary right, was taken by the executive. The executive, yet again, is involved in this business of closing its eyes to clear evidence of misbehaviour and then saying, ‘We are not involved.’ It is duplicitous. It is falsifying responsibility. It is ducking responsibility when difficult matters are involved. It is failing to back up re-
sponsible people in the defence forces, in Australian employment, who are led to resignation as a matter of conscience.

Mr Barton made it clear that, in his view, interrogation was taking place with abuse of prisoners. But it has changed to ‘interviews’. There is a denial process going on here for political purposes, and that is a failure of responsibility at the top level of the Australian government. That is what has been uncovered here and, of course, key witnesses failed to appear.

Senator Johnston says he will always stand by anybody’s right not to appear before a Senate committee. I hope Senator Johnston is here for a long time to come and that that will be sorely tested. I believe it is an obligation of anybody involved in the delivery of any service in Australia at the direction of government to appear before a Senate committee when it is inquiring into a matter. If there is no problem, there should be no problem in coming before a committee. And if there is a problem with coming before a committee, one is right to assume that that is because the committee is being denied information that might change both its deliberations and its findings.

This committee has found that there has been a failure of communication, but I would weigh it differently. The failure of communication is because, at prime ministerial level and at ministerial level, there is an attitude of: ‘Don’t tell us. We don’t want to know. You deal with it. We want to be squeaky clean by a denial of knowledge.’ In other words: ‘We won’t back you up. We will not stand by you honest, fearless, decent people who are employed by us if your information is going to be an embarrassment to us.’

That is a very, very poor level of leadership in this country. In fact, it is a failure of leadership. It is appalling. Yet the Prime Minister gets away with it. This debate today is not going to go into the public arena. This debate is not going to be challenging the Prime Minister or the Minister for Defence, the Leader of the Government in the Senate, Senator Hill, who should be here leading the response to this committee and its findings, but is absent. This is not accident; it is design. It is designed obfuscation. At the end of the day, the Howard government is failing to stand by its people, good and true—the best of them, the most fearless, the most honest. They are the people who get chomped in this repeated process, which goes back to the children overboard affair and beyond. Repeatedly, when people come forward to put the truth, to put the uncomfortable truth, the Prime Minister, the Minister for Defence and others, have their hands to their ears because it is not convenient for them politically to hear. That is a monumental failure of leadership. The problem is, it is very often left to history to clarify the clouds, the diversion, that can be thrown up by the current government in power, against the analysis that should be brought to the matter.

Let us hope that this does lead to the government taking greater responsibility. However, one has to look at its form directly and be sensible about this. The fear must be that it will simply lead this government to become cleverer in its covering up, to become sneakier in shedding responsibility, to become more sophisticated at the prime ministerial level in not knowing anything that is uncomfortable and to not stand by decent people who come forward with uncomfortable information which needs action at the highest level. That is not going to happen with this government. There has been a failure by this government and that has been written into this report. I seek leave to continue my remarks later.

Leave granted; debate adjourned.
NATIONAL RESIDUE SURVEY (CUSTOMS) LEVY AMENDMENT BILL 2005

NATIONAL RESIDUE SURVEY (EXCISE) LEVY AMENDMENT BILL 2005

First Reading

Bills received from the House of Representatives.

Senator MINCHIN (South Australia—Minister for Finance and Administration) (10.31 am)—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 MINCHIN (South Australia—Minister for Finance and Administration) (10.32 am)—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—

NATIONAL RESIDUE SURVEY (CUSTOMS) LEVY AMENDMENT BILL 2005

The purpose of this bill is to amend the National Residue Survey (Customs) Levy Act 1998.

The amendments to the National Residue Survey (Customs) Levy Act 1998 (the Act) will raise the maximum levy rate allowable to 0.10 of a cent per kilogram and to increase the operative levy rate for the purposes of residue monitoring on fresh apples and pears exported from Australia from the present rate of 0.060 of a cent per kilogram to 0.075 of a cent per kilogram. The current operative rate of the National Residue Survey levy is set in the regulations at the maximum allowable rate of 0.060 of a cent per kilogram.

The levy recovers the cost of the Apple and Pear Industry’s residue monitoring program that is required for access to lucrative export markets.

The amendments are part of a package of strategies being put in place on behalf of the Apple and Pear Industry and the increase in the maximum allowable levy rate will allow the Industry further scope to expand its operative rate of levy by subordinate legislation where access to further funding for residue monitoring programs may be required at short notice.

The amendments will commence on or after the first day of the quarter following Royal Assent. If the first quarter starts less than 30 days after Royal Assent the start date will be the second quarter after Royal Assent. This will allow levy payers to be given one month’s notice of the start date of the new levy.

NATIONAL RESIDUE SURVEY (EXCISE) LEVY AMENDMENT BILL 2005

The purpose of this bill is to amend the National Residue Survey (Excise) Levy Act 1998.

The amendments to the National Residue Survey (Excise) Levy Act 1998 (the Act) will raise the maximum levy rate allowable to 0.10 of a cent per kilogram and increase the operative levy rate for the purposes of residue monitoring on all apples and pears, including fresh, juicing and processing fruit, produced in Australia that are sold or used in the production of other goods from the present rate of 0.060 of a cent per kilogram to 0.075 of a cent per kilogram. The current operative rate of the National Residue Survey levy is set in the regulations at the maximum allowable rate of 0.060 of a cent per kilogram.

The levy recovers the cost of the Apple and Pear Industry’s domestic residue monitoring program.

The amendments are part of a package of strategies being put in place on behalf of the Apple and Pear Industry and the increase in the maximum allowable levy rate will allow the Industry further scope to expand its operative rate of levy by subordinate legislation where access to further funding for residue monitoring programs may be required at short notice.
The amendments will commence on or after the first day of the quarter following Royal Assent. If the first quarter starts less than 30 days after Royal Assent the start date will be the second quarter after Royal Assent. This will allow levy payers to be given one month’s notice of the start date of the new levy.

Debate (on motion by Senator Minchin) adjourned.

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

AUSTRALIAN WORKPLACE SAFETY STANDARDS BILL 2005
NATIONAL OCCUPATIONAL HEALTH AND SAFETY COMMISSION (REPEAL, CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2005
HIGHER EDUCATION LEGISLATION AMENDMENT (2005 BUDGET MEASURES) BILL 2005
HEALTH INSURANCE AMENDMENT (MEDICAL SPECIALISTS) BILL 2005
SUPERRUPTION LEGISLATION AMENDMENT (SUPERANNUATION SAFETY AND OTHER MEASURES) BILL 2005

First Reading

Bills received from the House of Representatives.

Senator MINCHIN (South Australia—Minister for Finance and Administration) (10.33 am)—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 MINCHIN (South Australia—Minister for Finance and Administration) (10.34 am)—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—

AUSTRALIAN WORKPLACE SAFETY STANDARDS BILL 2005

The Australian Safety and Compensation Council is a new body to be established by the Government to replace the National Occupational Health and Safety Commission.

The Council is an advisory body which, through a partnership of governments, employers and employees, will lead and coordinate national efforts to prevent workplace death, injury and disease and improve workers’ compensation arrangements and the rehabilitation and return to work of injured employees.

The Council will establish a national approach to workplace safety and workers compensation which currently does not exist in Australia. Most importantly the Council will provide the perfect setting for the promotion of greater consistency and uniformity amongst the various jurisdictions.

Although the Council is to be established administratively, however, as a result of representations from stakeholders, and in particular from the Australian Chamber of Commerce and Industry and the ACTU, the Government has agreed to provide the power to declare national standards or codes of practice in legislation.

This bill, therefore, enables the new Council to continue this important task previously undertaken by the National Occupational Health and Safety Commission.

Declaration of national standards and codes of practice is essential to ensuring workplace safety in Australia. Standards and codes declared by the Council provide nationally consistent frameworks in which safety can be managed by employers and employees in certain industries or in relation to certain hazards. It also means that jurisdictions
can adopt the standards in their legislation, thereby ensuring that there are appropriate sanctions and penalties for failing to comply with certain workplace safety obligations.

The process of declaring standards which are suitable for adoption in legislation by jurisdictions assists in improving uniformity of occupational health and safety regulation in Australia. We are often told by employers that they have to operate within a myriad of different regulatory frameworks in Australia. Accordingly, the declaration of occupational health and safety standards and codes, which can be adopted in state and territory legislation, is an important step in reducing duplication and inconsistent regulation.

The Australian Government is committed to ensuring that Australian workplaces are as safe as possible, and that injured workers are assisted with their rehabilitation and return to work. This bill will allow the new Council to continue to work in partnership with state and territory governments, employer groups and employee organizations, to promote national consistency in occupational health and safety for workers in Australia.

NATIONAL OCCUPATIONAL HEALTH AND SAFETY COMMISSION (REPEAL, CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2005

This bill implements the Australian Government’s decision to abolish the National Occupational Health and Safety Commission.

In its response to the Productivity Commission’s Report on National Workers Compensation and Occupational Health and Safety Frameworks, the Government announced its intention to pursue the goal of greater national consistency in these areas through the establishment of a new body.

The National Occupational Health and Safety Commission will be replaced by the Australian Safety and Compensation Council. The Council’s functions will include the declaration of national standards and/or codes of practice relating to occupational health and safety.

The bill provides for the transfer of the Commission’s assets to the Commonwealth and contains provisions that will ensure continuity between the two standard setting bodies.

This bill provides for National Standards and Codes of Practice that have been issued by NOHSC, to be read as if issued by the ASCC. It also preserves the effect of any public consultations that are underway and allows for these to be treated as if they had been undertaken by the ASCC.

The National OHS Strategy 2002-2012 and the Business Plan underpinning it, are also important components of the work of NOHSC that will be transferred to the ASCC.

The Government sees the Australian Safety and Compensation Council as a way of revitalising the approaches to occupational health and safety and workers compensation.

HIGHER EDUCATION LEGISLATION AMENDMENT (2005 BUDGET MEASURES) BILL 2005

Australia’s higher education sector will benefit from a record $7.8 billion investment from the Australian Government in this year’s 2005-06 Budget.

The Government’s continuing commitment to the university sector will provide students with better facilities and more course options across a range of campuses.

This bill now before the Senate is a clear expression of that commitment to higher education, as it will honour two important election commitments for new places and capital funding.

As part of a range of new initiatives and to reflect Australia’s global expertise in many academic fields—such as tropical sciences—this bill contains additional funding to ensure that our universities remain at the forefront of new skills developments.

Recognising the importance of tropical sciences, the Australian Government is providing $26 million to James Cook University for veterinary science and tropical agriculture.

Earlier this year the Government allocated infrastructure funding of $12 million over two years towards a new veterinary science school at James Cook University’s Townsville campus with a link
to the Cairns campus. The new facility will fulfil all of the normal functions of a veterinary school, but in addition will provide a unique focus on tropical animal husbandry and diseases. The new school will play a role in developing preventative measures and early detection of diseases in livestock.

This bill now before us also provides funding for 50 new places to establish a new undergraduate degree programme in veterinary science at the school from 2006. These places will provide opportunities to students, particularly in rural and regional Australia, and ensure that Australia has veterinarians with expertise in tropical animal diseases.

Funding for 50 new places will also be allocated to create a new undergraduate degree programme in tropical agriculture, giving graduates expertise in tropical plants and exposure to vital research in areas such as sugar cane production.

These 100 new places in veterinary science and tropical agriculture commence in 2006 and will rise to 274 places by 2009, at a cost of $13.9 million.

Expert understanding in tropical animal diseases and in tropical agriculture is vital to Australia’s national prosperity. New diseases can have devastating consequences across the nation. Equally, breakthroughs in the production of plants that thrive in a tropical climate can boost crop production and the livelihoods of many Australians, particularly those in rural and regional communities.

It is essential that Australia continues to develop expertise in these fields. The new veterinary science school and undergraduate courses will help position James Cook University as a leader in teaching and research in veterinary science and tropical agriculture and will further enhance Australia’s international reputation in these fields.

These measures are a reflection of the Australian Government’s commitment to providing the communities of North Queensland with greater opportunities in education and research.

The other vital election commitment delivered through this bill relates to new capital infrastructure funding for the University of Western Sydney. Teaching, research and student facilities at the University will be enhanced through an additional $25 million over the next three years.

In 2006, $7 million will be provided for the development of a medical training facility at the Campbelltown campus. The new medical training facility will complement the existing wide range of health science disciplines offered at the Campbelltown campus, including occupational therapy, and medical science.

The facility will also complement the University’s proposed new medical school to which the Government committed $18 million in the 2004-05 Budget. This brings the Government’s total contribution to the medical school to $25 million. The new medical school will enhance and improve the teaching hospital capacity and the delivery of health and medical services in Western and South Western Sydney. It will also provide opportunities for local students to study medicine in their own region.

In addition to the medical training facility, $2 million will be provided to the University of Western Sydney for an upgrade of research and training facilities at the Hawkesbury campus. The Hawkesbury campus is a national leader in plant, agricultural and food systems research, and in the teaching of courses related to these activities. The funds will assist the University to purchase a state-of-the-art environmental electron microscope, which will be uniquely adapted for agricultural and food systems research and which will significantly enhance the University’s capacity for performing high-level biological analysis. The funds will also help to upgrade critical teaching infrastructure with particular emphasis on horticulture, food science and agricultural sciences.

The Government will also provide $9 million towards the establishment of a new building for teaching at the University’s Parramatta campus. The University also has a strong record in teaching health and human service professionals, including at the Parramatta campus. The new teaching building will greatly expand the current capacity of the Parramatta campus.

A further investment of $7 million will assist with construction of a new library at the University’s Penrith campus. The funding will provide library services for staff and students, and expand the library services available for the benefit of the
broader Penrith community. A library will also enable the University to use existing space to consolidate its visual and performing arts into a new creative arts precinct on the campus.

Mr Speaker these initiatives reflect the Australian Government’s ongoing commitment to building better communities and providing education opportunities in Western Sydney.

This bill will also amend the maximum funding amounts under the Higher Education Support Act 2003 and maximum amounts for transition funding under the Higher Education Funding Act 1988, to reflect indexation increases.

This bill will enhance the quality of our higher education system and the choices available to students. It reflects the Australian Government’s strong commitment to ensuring that Australia’s higher education sector continues to play a vital role in our economic, cultural and social development.

Full details of the measures in the bill are contained in the Explanatory Memorandum circulated to honourable Senators.

I commend the bill to the Senate.

HEALTH INSURANCE AMENDMENT (MEDICAL SPECIALISTS) BILL 2005

The purpose of this bill is to reduce unnecessary red tape for medical practitioners seeking to provide specialist or consultant physician services under Medicare.

This legislative amendment does not bestow specialist or consultant physician status on medical practitioners. Medical practitioners are identified as specialists or consultant physicians by Medical Boards when they are registered, on the advice of specialist medical colleges.

With Australia experiencing shortages in the medical workforce, it is important that the administrative processes are made more efficient and timely, to ensure that appropriately qualified specialists and consultant physicians enter the workforce as quickly as possible.

Currently, a medical practitioner can be recognised as a specialist for Medicare rebate purposes in three ways.

The first is Fellowship of a specialist medical college.

The second is application to my Delegate, who refers applications to State or Territory Specialist Recognition Advisory Committee (SRAC).

The third for medical practitioners not domiciled in Australia at the time of application is application to the Health Minister to make a determination to recognise a medical practitioner as a specialist or consultant physician.

Referrals to SRACs may have been effective in the past by providing a structure for the assessment of specialists who were not eligible for automatic recognition. However, since these committees were established, specialist medical colleges and Medical Registration Boards have developed and implemented assessment processes which are now used by the SRACs in making their determinations. Because SRACs rely on the assessment advice of specialist medical colleges and Medical Registration Boards in making their decision, the Committees now add a redundant administrative layer to processing applications. This unnecessarily extends the period of time between the registration of specialists and when they can provide services which attract Medicare rebates.

It is proposed to disband the SRACs. The amendment proposes to make provision for my Delegate to act directly on my behalf, without referral to a SRAC. Under the new process, registered medical practitioners will apply in writing directly to me through my Delegate in the HIC for recognition as specialists or consultant physicians for the purposes of the Act.

Transitional arrangements have been provided to ensure the continued recognition of specialists and consultant physicians previously recognised by SRACs. Provision has also been made for the Delegate to immediately consider applications currently with SRACs at the time they are disbanded.

Those sections of the Health Insurance Act 1973 relating to the provision of Medicare provider numbers remain in effect.

This Bill represents a minor procedural change. The objective of the change is to reduce the complexity currently involved in the recognition of
medical specialists and consultant physicians under the Medicare system. It is anticipated that this amendment will significantly reduce the time between the receipt of an application from a medical practitioner and recognition.

SUPERANNUATION LEGISLATION AMENDMENT (SUPERANNUATION SAFETY AND OTHER MEASURES) BILL 2005

The Superannuation Legislation Amendment (Superannuation Safety and Other Measures) Bill 2005 will amend the Superannuation Act 1976; the Superannuation Act 1990; and the Superannuation Act 2005. Following the passage of legislation similar amendments will be made to the PSS Trust Deed and Rules under the Superannuation Act 1990. The bill makes amendment to the Superannuation Act 1976 to provide for the application to the CSS Board of the new fitness and propriety operating standard under the Superannuation Industry (Supervision) Act 1993, to provide for reduced reliance on acting members of the CSS Board, and for the use of proxies at Board meetings. The bill also allows the CSS and PSS Boards to delegate certain functions to its staff, broadens the type of information that can be provided to members via their employers, allows negative crediting rates to be applied to amounts held in the CSS and authorises certain payments made incorrectly to a small number of CSS members.

The bill amends the Superannuation Act 1976 to provide that persons appointed as substantive and acting CSS Board members have to meet the new fitness and propriety operating standard under the Superannuation Industry (Supervision) Act 1993 and that the Minister for Finance and Administration may terminate the appointment of any Board member who does not meet the standard. These amendments will place the same obligations on the CSS Board as for other trustees of superannuation funds in relation to having to comply with fitness and propriety requirements.

The proposed changes in Schedule 1 include amending existing provisions of the Superannuation Act 1976; the Superannuation Act 1990; and the Superannuation Act 2005 to allow the CSS and PSS Boards to delegate certain functions to their staff which will improve the administrative efficiency of the Boards.

The bill also makes minor amendments to the Superannuation Act 1976 and the Superannuation Act 1990 to broaden the type of information that can be provided to scheme members via their employers, provided that this would not breach the Corporations Act 2001 or any other Act.

The bill will also amend the Superannuation Act 1976 to allow negative crediting rates (negative earnings) to be applied to amounts held by members in the CSS. This will ensure members bear the investment risk relating to their account balances in the CSS Fund and follows on from the announcement by the CSS Board of the introduction of member investment choice. Similar changes will be made to the Public Sector Superannuation Scheme through a PSS Amending Trust Deed.

Under current arrangements it is difficult for the CSS and PSS Boards to equitably distribute Fund earnings between members who leave the scheme and those who stay, especially when market conditions have led to negative fund reserves.

Allowing negative crediting rates brings the CSS and PSS into line with usual arrangements for funded accumulation components of superannuation benefits in that members will bear the risk of their investment choice.

The bill will also amend the Superannuation Act 1976 to authorize a small number of CSS benefit payments that were incorrectly paid.

Debate (on motion by Senator Minchin) adjourned.

Ordered that the Australian Workplace Safety Standards Bill 2005 and the National Occupational Health and Safety Commission (Repeal, Consequential and Transitional Provisions) Bill 2005 be listed on the Notice Paper as one order of the day, and the remaining bills be listed as separate orders of the day.
WORKPLACE RELATIONS AMENDMENT (SMALL BUSINESS EMPLOYMENT PROTECTION) BILL 2005

First Reading

Bill received from the House of Representatives.

Senator MINCHIN (South Australia—Minister for Finance and Administration) (10.35 am)—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 MINCHIN (South Australia—Minister for Finance and Administration) (10.35 am)—I table a revised explanatory memorandum relating to the bill and move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

This bill proposes to amend the Workplace Relations Act 1996 to maintain the exemption for small business from redundancy pay by overturning the decision made by the Australian Industrial Relations Commission (AIRC) on 26 March 2004 to impose redundancy pay obligations on small businesses.

This legislation is necessary because it is the only option available to rectify a flawed decision of the AIRC. Under the current industrial relations system there is no review or appeal process to reconsider the merits of test case decisions made by a Full Bench of the AIRC.

The Government strongly believes it is Parliament’s responsibility to use its legislative power and authority to shield small businesses from the AIRC’s decision. In fact, the Government sought and obtained a mandate for this legislative proposal at last year’s election.

If this bill is not passed, the vast majority of small businesses covered by federal awards will eventually be subject to redundancy payments for their employees in accordance with the AIRC’s decision. If this bill is not passed, small businesses that are constitutional corporations and that are covered by State awards in States to which the AIRC’s decision flows, will become subject to redundancy payments.

The bill has four effects. First, it will preserve the exemption from redundancy pay obligations for small businesses with fewer than 15 employees. Second, it will cancel the effect of any award variations made by the AIRC from 26 March 2004, the date of its decision, until the legislation commences, that impose redundancy pay obligations on employers of fewer than 15 employees. It will not, however, affect any redundancy pay provisions that were in awards prior to the AIRC’s decision. It will also not affect any actual entitlement that arises before the legislation commences. The Government’s objective is not to take away something that employees already have.

Third, the bill will prevent a small business redundancy pay obligation that was in a State law, State award or State authority order prior to the AIRC’s decision, and that would normally be suppressed by a federal award, ‘springing up’ to impose an obligation on a constitutional corporation that employs fewer than 15 employees and that is bound by a federal award now or in the future.

And fourth, the bill will also exclude constitutional corporations with fewer than 15 employees from redundancy pay obligations that may be imposed by State laws, State awards or State authority orders that are made after the date of the AIRC decision. The bill will also exclude all businesses with fewer than 15 employees in the Territories from any redundancy pay obligations that may be imposed by a Territory law.

This bill is integral to the first tranche of the Government’s two-pronged approach to protect all small businesses from the AIRC’s decision. The second tranche involves the Government also working to protect small businesses that are not constitutional corporations and that are covered...
by State awards from any flow-on of the AIRC’s decision.

The Government intervened in test cases in the Western Australian and Queensland jurisdictions to oppose the flow-on of the AIRC’s decision to impose redundancy pay on small businesses; and it will similarly seek to intervene in any other relevant proceedings before State workplace relations tribunals to oppose any flow-on.

Notably, both the Western Australian and Queensland governments agreed with the Government and also opposed the flow-on of redundancy pay to small businesses in their States. Even more notable is the fact that both the Queensland and Western Australian Industrial Relations Commissions similarly agreed, rejecting union applications to flow-on the AIRC’s decision to remove the small business exemption.

In addition, the Government has called on State governments to legislate to maintain the exemption of small businesses from redundancy pay.

It is vital that opportunities for continued growth and job creation for the 1.1 million non-agricultural small businesses in Australia be maximised. It is even more essential for the 3.3 million people employed by these businesses. This is nearly half of private sector, non-agricultural employment.

Small businesses are central to employment and economic prosperity in Australia. The small business sector is often referred to, and rightly so, as the engine room of the economy.

The small business sector is performing very well—and is very much the engine room of the continued growth and strength that our economy is enjoying. And without doubt many small businesses are profitable.

But we can’t afford to confuse this profitability with an ability to afford redundancy payments. Small businesses tend to be chronically undercapitalised and in general don’t have the financial resources to cope with large, unpredicted commitments such as redundancy payments. Small businesses are twice as likely as larger businesses to go out of business in the earlier years of operation. Even after 15 years of operation they are still 1.7 times more likely to cease than larger businesses.

In the Government’s view, the AIRC’s decision seriously underestimates the impact that redundancy pay would have on small businesses. For instance, a retail small business with seven employees, each with four years’ continuous employment, would face a contingent liability for redundancy pay of nearly $30,000 once the redundancy pay obligation established by the AIRC’s decision takes into account the full period of employment of the employees.

An obligation on small businesses to make redundancy payments will result in a cost impost that is unaffordable for many small businesses. The end result will of course be a significant decline in job growth in the small business sector and likely small business insolvencies. Clearly, employees of small businesses will not gain anything from the AIRC’s decision if they no longer have a job to go to.

The undesirability of removing the small business exemption is widely recognised. None of the four State governments that participated in the AIRC test case supported the removal of the exemption—the Queensland and Western Australian governments opposed the removal, while the NSW and Victorian governments neither supported nor opposed it. And as I’ve already noted, the Western Australian and Queensland governments continued their opposition to the removal of the small business exemption in recent test cases in their own jurisdictions.

Late last year the Queensland Industrial Relations Commission reaffirmed its original decision of August 2003 that small businesses are in a more financially constrained and precarious position compared to larger business. The Queensland Commission unanimously decided that the exemption for small business from redundancy pay obligations under the Queensland workplace relations system ought to remain in place. The Queensland Commission concluded that many small businesses operate in marginal circumstances and that their lack of financial resilience had not changed since 1994 when the New South Wales Industrial Commission also reaffirmed the need for the small business exemption.

The Queensland Commission also accepted that small businesses would generally have smaller cash reserves to meet redundancy pay require-
ments and that redundancies occurring would represent a greater proportion of the overall labour costs of the business.

In short, the Queensland Commission found that to impose redundancy pay obligations on small businesses had “the very real potential to result in the insolvency of a number of small businesses”.

In April this year, the Western Australian Commission rejected an application by the Trades and Labour Council of Western Australia to remove the small business exemption, stating that they are “required to evaluate the evidence according to its weight and not merely adopt the conclusion of the AIRC”. The decision particularly relied on witness evidence that “small business as a whole is inherently riskier than larger business” and that small businesses have more difficulty in obtaining finance when required.

This Government agrees with the conclusions of the Queensland and Western Australian Commissions. We think it is imperative that the small business sector continue to be supported and encouraged to further grow and create new jobs for our economy and for all Australians. This legislation will lift from small businesses the additional cost burden imposed by the AIRC’s decision.

Of course, we are not saying that by introducing this legislation small businesses can’t reach agreement with their employees to make redundancy payments where they can afford it and where it is a priority for employees.

The Government has a strong history of encouraging employers and employees to reach agreement on a wide range of issues at the workplace. In our view, this is preferable to imposing an “across the board” obligation on small businesses which cannot afford redundancy pay.

In introducing this bill the Government is demonstrating its ongoing commitment to the small business sector and its recognition of the vital and essential role it plays in ensuring Australia has a strong, thriving economy capable of employing all those who want jobs.

Debate (on motion by Senator Minchin) adjourned.

COMMITTEES
Public Accounts and Audit Committee
Membership

Message received from the House of Representatives notifying the Senate of the appointment of Mrs BK Bishop to the Joint Committee of Public Accounts and Audit in place of Mr Somlyay.

PARLIAMENTARY BEHAVIOUR
Debate resumed from 16 August, on motion by Senator Allison:

That the ruling of the President (that the conduct of Senator McGauran in making a gesture following a division on 11 August 2005 was unseemly but not unparliamentary) be dissented from.

Question put:

That the motion (Senator Allison’s) be agreed to.

The Senate divided. [10.40 am]

(The President—Senator the Hon. Paul Calvert)

Ayes............ 8
Noes............ 54
Majority........ 46

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

NOES
Abetz, E. Adams, J.
Barnett, G. Bishop, T.M.
Boswell, R.L.D. Brandis, G.H.
Calvert, P.H. Carr, K.J.
Chapman, H.G.P. Colbeck, R.
Conroy, S.M. Coonan, H.L.
Crossin, P.M. Eggleston, A.
Ferguson, A.B. Ferris, J.M. *
Fierravanti-Wells, C. Fifield, M.P.
Forshaw, M.G. Heffernan, W.
Hogg, J.J. Humphries, G.
Hurley, A. Hutchins, S.P.
Johnston, D. Joyce, B.
Question negatived.

**MIGRATION AMENDMENT REGULATIONS 2005 (No. 6)**

**Motion for Disallowance**

Debate resumed from 11 August, on motion by Senator Bartlett:

That the Migration Amendment Regulations 2005 (No. 6), as contained in Select Legislative Instrument 2005 No. 171 and made under the Migration Act 1958, be disallowed.

**Senator KIRK** (South Australia) (10.44 am)—I rise to continue my remarks in relation to the Migration Amendment Regulations 2005 (No. 6) and the motion moved by Senator Bartlett. As I was saying when I spoke last week on this motion, the Labor opposition opposes this decision by the government to excise a large number of Australia’s islands from its migration zone, this time by way of regulation. The government enacted these regulations on 21 July 2005—in other words, shortly after assuming control of the Senate—in the knowledge that this time its regulations would be able to stay in place and that it would be very difficult for the Senate to disallow them.

I, and many others, find it quite astounding that the government continues to dig in its heels on this issue, stubbornly refusing to let go of its unduly harsh, punitive and heartless approach to immigration matters and to the plight of asylum seekers generally. The Palmer report, which we are all familiar with, made it very clear that DIMIA is due for a complete overhaul. Mr Palmer said that ‘reform needs to come from the top’. These regulations that we are looking at today are an indication that the current Minister for Immigration and Multicultural and Indigenous Affairs, Senator Vannstone, and the department are in serious need of a shake-up. It really is time now for the Prime Minister to remove Minister Vannstone, ditch these regulations and implement a complete cultural change in the department—the cultural change that Mr Palmer advocates.

Turning in detail to the regulations, they are designed to amend the Migration Regulations 1994 and prescribe that certain islands that form part of Queensland, Western Australia and the Northern Territory, as well as the Coral Sea Islands Territory, be made excised offshore places as defined in paragraphs (d) and (e) in section 5(1) of the act. The government initially sought to excise over 3,000 islands from Australia’s migration zone by way of regulations made on 7 June 2002. Quite rightly, these regulations were disallowed in the Senate at that time. The government then tried again, this time by way of a bill in 2002 and a further bill in 2003 but, again, on both occasions, these bills were defeated in the Senate.

The regulations that we have before us today are similar to those contained in the previous bills. As I said in my speech in 2003—and I repeat it today—these regulations are self-defeating, will do much harm to Australia’s international reputation and will show the government’s defiance of international law, conventions and proper practice. These regulations will do very little to achieve the government’s stated aim of border protection. The regulations seek to extend the definition of ‘excised offshore place’ under the Migration Act so that any person arriving on
these excised islands would be deemed an offshore entry person. As a result, they could not make a valid application for a visa.

Some of these thousands of islands are so close to the Australian mainland that they can be seen by the naked eye. In some cases, you can even walk to them. We have to ask ourselves why asylum seekers, after a dangerous journey, often in a leaky boat, would land on an island with mainland Australia in sight. In my view, this is beyond comprehension. The effect of the regulations will be to establish mainland Australia as the goal for asylum seekers arriving by boat. They will not stop asylum seekers from coming to Australia. Desperate people who are fleeing their countries will do whatever they can, and there is no doubt that asylum seekers are desperate people. These ill-conceived regulations in this form will not form any part of a long-term solution to border security.

What I have just said was the conclusion that was reached by the Senate Legal and Constitutional References Committee, of which I was a member at the time, and still am. The committee inquired into the bills and reported to the Senate in October 2003. We received a number of submissions to that Senate inquiry. In the submission made by the Australian Federal Police, it was acknowledged that the then bill would ‘draw people towards the mainland’. The department, DIMIA, told the committee that the bill would require people smugglers to bring their vessels closer to mainland Australia. In answer to a question on notice, DIMIA acknowledged this when they stated:

The Bill, by extending excised offshore places to islands off the northern coast of Australia, and therefore requiring people smugglers to bring their vessels closer to mainland Australia ...

In other words, they were recognising that the effect of the bills for the people smugglers who bring asylum seekers to our country will be that they will be required to bring them closer to the Australian mainland. Not only will these people smugglers bring their human cargo closer to the mainland if these restrictions are in place but they will also put those people in greater danger than at present. The International Commission of Jurists argued before our committee:

... by forcing refugees fleeing persecution by sea to push on for the mainland in order to activate their rights under the [Refugee] Convention, Australia is placing them in a more perilous situation with further grave risk to their health and safety, particularly in areas with coral reefs.

After hearing evidence given to the Senate inquiry into the 2003 bill, I was left wondering when the government would begin excising parts of the Australian mainland from the migration zone. The Prime Minister has claimed that excising parts of the Australian mainland is an absolutely ludicrous proposition, and I agree. But does that mean that he never, ever will seek to introduce either a bill or regulations into this place that would have that very effect?

The Senate committee that I referred to earlier heard a number of concerns during the course of its inquiry. Many witnesses warned that potential breaches of Australia’s international obligations would be brought about by the bills and the regulations that we have before us today. The committee heard of significant concerns in this regard from the United Nations High Commissioner for Refugees, from international law experts, and from legal and human rights groups—as well as from many other individuals and organisations.

It was made clear to us during the course of the committee’s hearings that the refugee convention applies to all of sovereign Australia, and this is based on our signing of the Vienna Convention on the Law of Treaties 1969. Article 27 of the treaty provides:
… a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.

Much of the evidence that the committee received did concern Australia’s international obligations, particularly the obligation of non-refoulement of refugees under the refugee convention. When Australia signed the refugee convention, it committed this country, through article 33(1), to the non-refoulement of refugees. This article prohibits Australia from returning a refugee ‘in any manner whatsoever to the frontiers of territories where his or her life or freedom would be threatened’. This article also extends to chain refoulement, whereby Australia shall not send a refugee to a country where he or she will be returned to the place of persecution. Similar obligations are imposed under the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights, and the Convention on the Rights of the Child, to which Australia is also a party.

There were serious concerns expressed to the committee that offshore entry persons could remain on an excised island and be left, in effect, in a legal limbo, having no recourse or responsibility to apply for a visa and also no right to judicial review. Such persons may be unable to apply for a visa while still in Australia, yet be barred from initiating any legal proceedings. As a consequence, the individual would be left, as the committee heard, in legal limbo—in no man’s land, so to speak.

Under section 494AA of the 2003 act, certain legal proceedings relating to offshore entry persons are barred. These include proceedings relating to an offshore entry, to the status of an offshore entry person, and to the taking of a person to a declared country. Although this provision recognises the jurisdiction of the High Court under section 75 of the Constitution, this would be of little practical benefit to an asylum seeker.

The committee also heard submissions that article 31 of the refugee convention is another international obligation which is not complied with in the terms of the then bill. Article 31 deals specifically with people coming directly from a country where their freedom is threatened and states that no penalties shall be placed upon them for their illegal presence.

As has been emphasised many times before in this chamber, these regulations and the bills which were before the Senate in 2002 and 2003 are simply a short-sighted attempt at border protection. The minister, Senator Vanstone, has not taken on board the recommendations of Mr Palmer, and she is continuing to pursue the same old stunts. These regulations will do absolutely nothing to address the need for reform in the area of immigration, and they will do absolutely nothing to address the complete cultural overhaul of immigration detention in this country which Mr Palmer recommended. I urge senators to vote to disallow these regulations.

Senator LUDWIG (Queensland) (10.57 am)—Senator Kirk is right. The Minister for Immigration and Multicultural and Indigenous Affairs brought these regulations forward when the Senate was not sitting. Think of the gall of it all: you have a department that is in complete disarray because of her mismanagement. You would imagine that, after 9½ long years, this government would have got the management of the migration area right. We have seen failure upon failure by the government in this area, and it still does not stop. Here they are again, serving up another failed piece of legislation and using regulations to do it. You would really start to wonder, but there is no longer time to wonder.
This minister should take responsibility and do the right thing. Rather than that, she serves this up as a way of saying, ‘Here is another fiasco to add to all the other fiascos, failures and mismanagement.’ I am referring, of course, to Migration Amendment Regulations 2005 (No. 6). These regulations prescribe islands that form part of Queensland, Western Australia, the Northern Territory and the Coral Sea Islands Territory as excised offshore places under the Migration Act 1958. This decision by the minister for immigration is to excise a number of islands from Australia’s migration zone. It is again indicative of a government that is not willing to implement cultural change. It is a government that fails to recognise what it needs to do. This minister simply will not take responsibility, will not manage her department, and uses this as a cloak to try to take her other issues off the boil. They are not going to go off the boil, and this just adds one more to them.

This latest attempt to excise these islands raises alarm bells about whether the government has any intention of changing the culture of the immigration department at all. The latest excision is an appalling example of the government’s surrendering the full rights of territory as a stunt. It is another attempt by the Liberal government to divert attention away from the minister’s lazy mismanagement of the immigration portfolio instead of doing what needs to be done. Sideling the minister for immigration would be a good start.

The government is again attempting to excise a few thousand Australian islands from the migration zone. The Howard government seems to have abandoned the concept of border protection and replaced it with border surrender. The excision does not strengthen Australia’s border protection; it weakens it. How does writing off parts of Australia strengthen border protection? That is not the way to do it. Border protection does not just involve people smuggling; it also requires stopping firearms, drugs, plants, animals and diseases.

What has the government done to address the real problem of border protection? Mr Philip Ruddock, in his capacity then as the minister for immigration, admitted that none of the government policies had any effect on the number of unauthorised arrivals in Australia. The removal of even more islands from Australia’s migration zone is not a step towards tougher border protection policy; it is a step back.

The Howard government initially excised or removed over 3,000 islands from Australia’s migration zone by regulations made in 2002. These regulations were rightly disallowed in the Senate. The Howard government then introduced the Migration Legislation Amendment (Further Border Protection Measures) Bill—to which I would add the words ‘not true’—into the House. The Senate rightly rejected that bill on 9 December 2002. On 26 March 2003 Mr Philip Ruddock, the then minister, tried again and introduced the Migration Legislation Amendment (Further Border Protection Measures) Bill 2002 [No. 2] into the House of Representatives. Again, and appropriately, the Senate rejected that bill.

Here we are, a couple of days into the sitting of the new Senate, where the government has a majority, and this bill has turned up again—another stunt by this government. All the platitudes and assurances that it was softening its hardline administration of immigration have been forgotten. The minister seems to think we have moved on and it is old news. It is not old news; it is still current. The minister has not addressed it. She has done nothing to correct the record, to ensure proper administration in the migration area.
and her department and to take responsibility.

These regulations are similar to the previous bills. The regulations excise or remove from the Australian migration zone the following: all islands that are part of Queensland and are north of latitude 21 degrees south, all islands that are part of Western Australia and are north of latitude 23 degrees south, all islands that are part of the Northern Territory and are north of latitude 16 degrees south, and the Coral Islands territory. They are seeking to make all of these islands not part of Australia. They are excising them for the purposes of the migration legislation.

Many of the islands in the proposed expanded excision zone are small and uninhabited. It should be noted that in any event many of them lie very close to the Australian mainland. Many of the islands which are caught in the excision or removal are not in the direct path of the likely border interdiction or where the people smugglers and boat people are going to come. This is an unnecessary carte blanche excision of 3,000 islands, and it can only be a stunt.

It is important to look at the legal effect of the excision as well. Let us assume that these regulations are passed. With the government majority, I am sure they are going to crunch it through. What would happen if a boat reached the islands? Excision is not a stop sign; it does not turn a boat around. It is a different processing regime in a different place. Presumably, the asylum seekers involved would be taken to Nauru for processing, which the government cites as being in line with the UNHCR standards. People would get processed there and sorted into refugees and non-refugees, but they would not have access to medical care, including mental health care, which is so desperately required by many people caught up in the government’s policy of indefinite detention.

Let us not forget that four years on there are still people left on Nauru. In 2001, 1,547 asylum seekers were taken to Nauru and PNG, with almost 1,000 being resettled. Just fewer than 600 refugees have been granted visas to settle in Australia, while New Zealand was quick to respond by resettling around 360 refugees. The Nauru experience has been that Australia generally takes the refugees and resettles them here, despite the government’s rhetoric time and time again leading the Australian people to believe that this would not happen.

We remember the Prime Minister carrying on about the asylum seekers on the *Tampa*. He said that not one of them would set foot on Australian soil. Remember the Prime Minister saying that the asylum seekers involved in the ‘children overboard’ web of lies were not the sort of people he wanted in Australia? He was not being honest with Australian people then—and he is still not being honest today—about the ‘children overboard’ affair or about what would happen to asylum seekers caught up in the so-called Pacific solution. So much for the Prime Minister’s claim that not one refugee would be allowed to set foot in Australia.

The Senator Vanstone express is moving through, but it is not only about these regulations that came before us in the break; it is about other things that happened in the break which should be being addressed and are not. If you were going to look at regulations that should be brought forward, why not look at regulations to deal with one of the other issues that occurred that the minister still has not come into this parliament and provided a cogent ministerial statement about?

A couple of those issues are worth reiterating. One is the GSL debacle. How could you end up with the GSL operated van tour of Australia? Those unfortunate travelling detainees under the minister’s responsibility
ended up in what can only be described as a horror ride. Detainees were locked in the back of a van for 10 hours, apparently with no food and certainly not sufficient water and without toilet breaks for an extraordinary length of time. These issues should be addressed by the minister, but they are not. What we find is another stunt in terms of the excision. In its management of migration centres and of contracts in the migration field this government can only be described as morally bankrupt.

Rather than punish GSL for their appalling record, it appears the government is planning in fact to reward them. The Financial Review of 14 August 2005 said that the outcome of the Palmer report may deliver a ‘handsome financial windfall to the owners of private detention centres’. If that is not right, then the minister should correct the record. The minister should come down here and say, ‘This is not going to happen. I am the responsible minister and I am going to fix it.’ She should not leave it to the departmental secretary to come out and say, ‘It is my job now to fix it.’ It is another sidelining of these issues by this minister. She is not prepared to tackle them head-on and deal with them. It is a clear case of government rewarding incompetence when it should be punishing it.

At the same time we heard the minister argue that the fact that 56 people were detained was old news. Let me say that I think they would have had a different view about having been detained for 21 days plus. That is how the answer to my question came back—21 days plus, not 21 days for X number, or 30, 40 or 50. We do not know how long they were detained. We do not know what nationalities they were, whether they were Australians or whether they have been returned or whether they have been provided with a clear explanation. It might be the case that at the point of detention it might have been reasonable. But after 21 days plus how can she say it continued to be reasonable to detain these people without explanation?

We do not know the full story yet, because the minister has not been able to provide the answer. I am hopeful that she will provide it today. Certainly she has got the opportunity before we rise today to come down and tell us what went on and how long those people were there. She has the opportunity to inform us so that we can then ask what she has done about it. It is not sustainable to argue that at the point of detention it may have been reasonable. After 21 days plus how can she say it has continued to be reasonable to detain these people without explaining to them what she is doing and how she is working through the issue?

These people were subsequently released as people who should not have been detained, as far as I can tell from the record. At some point the minister has failed to recognise that you have to ask the question not once at the point of detention; you have to continue to ask the question every day at every point to ascertain whether or not it continues to be reasonable to detain people. At 21 days plus the big question mark would have to rise in the mind of bureaucracy and in the minister’s mind whether it was still reasonable to continue detention. You cannot detain people just because you do not know who they are or because you are trying to resolve their identity. You have to say that they are unlawful noncitizens or they are not. That is the point of it all, and in these instances the minister has not provided the explanation about their detention—what efforts were made to determine their identity and at what point she determined they were not unlawfully detained and what happened to them after that.

It is indicative of a government not committed to openness and accountability. That
is what it is about and that is what the minister needs to address. She has failed to address it by all accounts when you look at the record. Instead, we have a willingness to deny, hide, obfuscate, misdirect, fudge, distract, mislead and probably cover up and distort as well. Rather, the minister should confront the truth in this. This culture of concealment keeps coming up. But it does not stop with the department. It seems to go right up the chain and the minister must be part of it. You ask whether the culture started in the department and crept upwards or whether it started with the government and the minister and crept downwards. I suspect it is a top-down outcome rather than a bottom-up one.

The so-called Pacific solution is nothing more than an expensive detour sign. It is not a stop sign. When you look at excision with this regulation, it is not going to affect the outcome that the minister wants. It can only be a way of taking the parliament and using a regulation to say, ‘What I would rather you argue about is excision over here,’ rather than the minister accounting for her department, for the Palmer inquiry, for the GSL contract, for the Wang children, for the 201 people who were—as far as we can make out—detained, and for those 56 who were detained for more than 21 days. Those are the things that the minister needs to come and account for. The minister also needs to account for the ANAO report and the contracts which indicate some god-awful failings within the department. That is what the minister needs to come and account for. We have not heard her account for any of that. A ministerial statement would be nice. We could at least take note of that and argue about those issues. Instead, we have to argue about the delegated legislation, this regulation. It is not even a bill. She is not even game to put a bill back in here so that we can argue about that. She had to use the cover of recess to sneak the regulation through.

Labor understands the concerns of Australians and shares their view that unauthorised boat arrivals are the worst of all possible outcomes both from the Australian point of view as a nation managing its borders and from the point of view of the asylum seekers who risk, and all too often lose, their lives on the journey. Australians rightly all want a managed and fair system. But are we going to get that from this government? I think not when you look at the minister’s ability to run the immigration detention system.

Labor would run a quick, fair and transparent processing regime on Christmas Island and on mainland Australia that would determine 90 per cent of refugee claims in 90 days. Genuine refugees would be quickly identified and released, while failed claimants would be quickly returned to their place of origin. Labor would administer better health and security checks. More importantly, Labor would initiate ASIO security checks on the lodgment of a claim for asylum, rather than the steps this government takes.

We have GSL as well. Labor would immediately end the contracts with Global Solutions and it would seek not to have a profit motivated private company running Australian detention centres. The operation and management of these facilities would be immediately returned to public hands under a Labor government. That is where they should sit. The minister still has not looked at that other than, as I said earlier, coming back down to this parliament and saying: ‘We’ve had a look at the contracts. We might penalise them over that horror journey those detention persons were in. We might take a bit of money off GSL for that but, in the scheme of things, we are going to reward GSL with a bigger slice of the pie.’ Not to
pick on the particular company—they are motivated by profit—but what we really need is people who are going to look after a detention system, care about a detention system, who have administration and are able to be publicly checked as to how things go on, with clear lines of accountability back to the minister. That is what is required. Instead, we have the minister serving up another piece of delegated legislation seeking to excise 3,000 islands. It is a shame that this minister will not take responsibility for her portfolio.

Senator CROSSIN (Northern Territory) (11.16 am)—I rise to speak in this debate about the Migration Amendment Regulations 2005 (No. 6) which the Democrats have sought to disallow. I think this is another case of, ‘Honey, I’ve shrunk the borders again.’ This is not the first time I have spoken on this matter in this chamber. Of course, we have had this issue come before us a number of times now and it has been disallowed by the Senate for a very good reason: the policy is illogical. The policy to excise quite a number of islands from the northern region of this country has no logic behind it. The government has simply chosen to do this again because it can—because it has the numbers—without any explanation, discussion or consultation and without any clear plan about where the handling of migration policy in this country is going. So, in the still of the night, towards the end of July, we notice on DIMIA’s web site the regulations are up and running again. This is our attempt to bring some balance and a sense of cohesion and logic to the policy debate about migration in this country, something that this minister clearly does not have a handle on.

This, of course, is not the first portfolio she has not had a handle on. I remember that in 1998, when I first came into this chamber, the minister in charge of immigration matters these days was the then minister for higher education and totally responsible for gutting from that sector of education billions of dollars. So we are now dealing with a minister who has a track record of being totally hands-off and for not providing any direction or assistance to the department, managing the migration portfolio by regulation rather than substantive changes to the act. These regulations go to some 4,891 islands, which range from places as large as Groote Eylandt, Elcho Island or Bathurst and Melville islands off the tip of Northern Australia to rather large sandbars.

On those islands we have a total of about 20,629 people living. I know they were not consulted about this. In fact, they were not consulted about this the time before or the time before that. You may well remember that in 2002 when this came before us as legislation there was an attempt to quickly run around the islands and release some information package about what this legislation was to mean—before, of course, the legislation was even introduced. We had a situation where this government made an announcement and then ran around to Indigenous communities trying to sell this proposition. A certain senator on the other side, who I will not name, involved in a Senate inquiry at the time was known, and was seen on Elcho Island, to be encouraging Indigenous people as to what to say to that inquiry. He now quotes back those words from those Indigenous people in support of why these regulations should be maintained. But those Indigenous people were never given an opportunity to have the effect of these regulations clearly explained to them. There was an information kit and a CD produced and sent out to all these communities, and then the legislation did not get through the Senate. So when I go out to Indigenous communities they now say to me: ‘What happened with that legislation? I thought we’d been excised for two years. What’s going on? The government, on the
one hand, gets these information kits out there and, on the other hand, you're telling us the legislation did not go through the Senate. And now we have regulations again.

I was on the Tiwi Islands just two weeks ago. People out there are totally confused about what all this means. Why is that? Because we do not have a minister that is in control of the portfolio. We have a minister that wants to dump this mess on people in the immigration department and get them to sort it out. What are Indigenous people actually saying? 'Don't you care about our islands? Does this mean that the federal government can just strike them off the migration map whenever they like?' Yes, it does. That is exactly what they have just done. They have excised them for purposes of the migration area. 'What does this mean?' they say to me. 'Does this mean that if we now get a boat here anyway, no-one will come? Does it mean we should still get these people on board if they need assistance? What exactly does it mean for these people and when is this government going to be very clear and precise about where this policy direction is going?'

Indigenous people say to me, 'It doesn't make sense to us,' and I raised this in my speech in 2002. At Croker and Goulburn islands, Indigenous people do not actually see water as an obstacle. They are attached to the land. People at Goulburn and Croker islands actually have connections with Oenpelli and Maningrida. It is a huge triangle out there. The fact that the sea runs through the middle of that land does not mean the same to Indigenous people that it does to you and me. So they are totally confused by this.

It has never been clearly explained to these people. Even now, the implications have not been explained to these people. That is because we have a minister who seeks to regulate the migration area that she is responsible for by regulations, not by legislation introduced into this parliament, so we cannot actually have another full and proper inquiry into this matter. When that does happen, the minister wants to simply walk away from the mess. That is exactly what Mick Palmer has highlighted in his report.

I know this is not a debate about the Palmer report, but this is a debate about the mess that the immigration department is in—not because of the hardworking officials that I come across on a day-to-day basis, who answer my many queries about sponsoring people, visa applications and migration matters and who are trying their darnedest to make some sense of the act that they have to work under, but because there is no direction from the top. The minister must take responsibility here and provide very clear and concise opportunities for her officials in the government to be able to put in place what this government’s policy is—but I am not really sure what this government’s policy is, in some respects.

The Palmer report clearly showed that, after nine long years of the Howard government, the department of immigration is in a total mess. It has developed a culture of assumption and cover-up where departmental officers have minimal training and understanding of the act they are supposedly administering. If you read the Palmer report you will see that Mick Palmer makes it very clear that there need to be massive cultural changes within the department. The answer to that, as far as I have seen, is that the minister has just thrown a couple of million dollars at it. We have not actually seen any cultural change emanate from the minister or the minister’s office. In his report, Mr Palmer acknowledged that the speed of change in the immigration and detention environment had put pressure on staff but he also said that it had led to policy procedures
and enabling structures being developed on the run. This is a very clear example of that, isn’t it?

I note that Senator Scullion, in his speech, said that this is an essential piece of legislation to ensure that the environment is protected. I do not actually understand where you are coming from there, Senator Scullion. If you are actually talking about the fact that the government assumes it will now be able to stop boats coming through the waters—boats that may have all sorts of substances on them—this legislation does not guarantee that. This legislation does not guarantee those boats will not continue to come. I might add it has been many years since a boat has come through those waters. But it does not guarantee that even legal boats coming through those waters will not bring with them substances that will be harmful to the environment.

What about the illegal fishermen we found up the creek at Maningrida a couple of weeks ago? The silly thing about these regulations is that the Tiwi Islands are less than 20 kilometres from Darwin and we have had illegal fishermen up the rivers at Maningrida. So is this a deterrent? I think not. If I were in a leaky boat and I got as far as Goulburn Island, I am pretty sure I would not get off there. I would keep going until I saw the big lights of Darwin city. The group of Vietnamese people who arrived a couple of years ago made it to the Western Australian border. They were not silly enough to head for an island; they made it to the mainland. So there is no evidence that this will be a deterrent. What it is evidence of, though, is that this is a department that is having to cope with policy on the run.

Let me give you another example of that. I am amazed at the way in which this minister controls or tries to control where and when detention centres are built and placed in this country. We have detention centres at Maribyrnong, Villawood and Baxter. About four years ago we had an announcement that a detention centre at Christmas Island would be built at a cost, which is rising every month because the costs are escalating there, of $220 million. The detention centre was going to be built in one year. There was a huge flurry of activity. We had to have this centre built within a year. Four or five years on, it has still not been completed. So I suspect the cost of $220 million is rising.

At the same time in Darwin, we had this temporary processing centre built on the corner of the Stuart Highway and Amy Johnson Avenue. That cost $7.4 million. It consists of about 100 demountables and it is alleged it could house up to 450 people. In the time that I have been asking questions at estimates about this temporary processing centre, we have had razor wire on the top of the fences moved to the bottom of the fence, at a cost of $48,000, and additional fencing and shrubs and palm trees put around it because we want to hide it as it is an eyesore, at a cost of $16,000 and $32,000. I now read that it is costing around $118,000 a year to maintain. But not one person has ever stayed in that processing centre.

Then last year we saw it suddenly renamed and become the Coonawarra detention centre. We were told it is now going to be used for illegal fishing people. It is about time illegal fishing people were taken off their boats and put on land, but now we are told the Coonawarra detention centre is actually going to become the Darwin detention centre and it will house illegal immigrants as well as illegal fishing people.

Minister, where is the clear policy direction here? You have got Baxter, Villawood and Maribyrnong operating, you are trying to build a Taj Mahal on Christmas Island, but at the same time you want to extend the
Coonawarra detention centre to become the Darwin detention centre and you say you will be putting illegal asylum seekers in there as well. I would have thought it is a bit of overkill here. We have not had these people coming to this country for many years. At the very least, I would have thought that Maribyrnong, Villawood and Baxter would cope with the numbers. I have never been convinced that there was a need for a detention centre on Christmas Island. I am even less convinced that there is a need to continue with the one in Darwin.

I notice that yesterday the Public Works Committee presented a report revealing that, lo and behold, this government has now asked for a further $8.125 million for the Darwin detention centre. Yet we have been told for five years it was ready to house people at the drop of a hat. Obviously that was not the case. So, Minister, what is really happening in your portfolio? Where are you really going with all of this? The representation from the Public Works Committee is that women and children should not be housed there. The Northern Territory government and the Darwin City Council are very angry that there is a detention centre on the Stuart Highway as you drive into town that is now going to be called the Darwin detention centre. At the very least, people are saying, ‘Don’t call it that.’ We try to promote Darwin as the tourist destination of the Top End of Australia, and as you drive in along the Stuart Highway you are confronted with an eyesore that has never been used.

The government has also announced that it wants to sell the Coonawarra base on which this detention centre sits. Well, there is a little problem: I do not think anyone would want to buy the base. What would they use it for: an industrial estate, a housing estate? Why would you want to buy an estate that sits right next door—and I am talking about less than 10 feet next door—to a detention centre? I noticed as I drove to the airport on Monday that the washing line of the very last house on the Coonawarra base is probably only five steps from the fence of the detention centre. I would have thought the best way to go would be to remove that facility from there and relocate it or at least create another smaller facility just for illegal fishermen.

Darwin does not want that detention centre. I suspect that Senator Hill has had quite a few headaches in trying to decide who is going to buy his base when Senator Vanstone’s detention centre is right next door to it. But we have heard no comment from the minister about that. There has not been any view expressed by Senator Vanstone about this detention centre in Darwin: why it is needed, why it has now been renamed three times or why the boundaries of the detention centre keep changing. It was for emergency purposes; now it is for fishermen; now it is for asylum seekers; now the Public Works Committee is saying, ‘Don’t put women and children in there.’ Senator Vanstone, what is happening? What is your clear policy direction in this instance? What is the direction for the people of Darwin, for the people in the immigration department who are trying to deal with this, or even for your colleague Senator Hill, who is trying to sell off the land? This is just another example of a minister who has no handle on what is happening in her portfolio and seeks to ensure that her poor departmental officials have to carry the load for her ineptitude and incompetence in trying to have a clear and succinct policy. The Darwin detention centre is one example. The excision of these islands is another example.

When I was overseas in Vietnam this year at the invitation of the World Bank, I spent the time with about 12 other people from around the world—politicians from Korea, India, Pakistan, Sweden, Germany, France
and Italy. All of them—even the politician from Sweden and the politician from France, who were elected under conservative governments—said to me: ‘Australia ought to be ashamed of the way it is treating its people over there, you know—ashamed of the way it treats refugees and asylum seekers.’ They cannot understand why it is, given our vast resources, our land, our opportunity and what they believed was a country of some social justice, that we do not take these people in and try to solve the problems for them and then, if they are not refugees, send them home—no-one is resiling from that.

Instead we act like bully boys in the South-East Asia region. Without a proper dialogue with South-East Asian countries and without any discussion with Indigenous people as to why we are doing this, in the still of the night we just excise the islands. And we somehow pretend that this is going to further fix up the flow of refugees around the world who want to come to this country. I do not believe it will do that. I do not believe that is at all what will happen. I think that, if there are people out there who want to trade in human misery and encourage people to come to this country on a leaky boat, the asylum seekers will now simply attempt to get to the mainland, as the Vietnamese people have done. Mind you, all of those Vietnamese people have now been seen to be genuine asylum seekers. So what are we actually proving here? I also note that nearly 90 per cent of those people who were taken to Nauru have now been assessed as genuine asylum seekers. We may have quite a number of people trying to get to this country, but at the end of the day they turn out to be people who have genuine cases and are accepted by this country.

This is another example, I believe, of an illogical policy—a policy that does nothing to assist our status and image internationally as a nation that cares about asylum seekers and refugees. It does nothing to improve our relationship with Indigenous people, who are even more confused about what they would say is ‘white man’s law’. It does absolutely nothing to ensure that officials working in Immigration, Customs and Quarantine are assisted by the policies of this government and particularly by the policies this minister purports to have control over.

The immigration department is in a mess. We are about to start an inquiry into the administration of the Migration Act, which will almost become a Mick Palmer report II, I would say. This is a minister who clearly needs to get some control over her portfolio. She needs to provide that portfolio with strong and clear directions and policy guidelines so that not only her department knows what they are doing but the rest of this country can clearly get a handle on where this government is going, and so the government does not continue to make policy on the run. (Time expired)

Senator MARSHALL (Victoria) (11.36 am)—I too rise to join the debate on the motion for disallowance of the Migration Amendment Regulations 2005 (No. 6). In doing so, I think my contribution to the debate needs to be in context of the competence of the department that administers the regulations that we are moving to disallow today. Nothing does this better than the Palmer report itself, so I want to spend some of the early part of my contribution going through some of the key points identified by the Palmer report.

Having read the Palmer report, what I can say is that it is explosive—an utter indictment of the highest order of this government, its immigration ministers and their maladministration. It is a sad report on an immigration detention regime that is completely out of control. It highlights a department of immigration in a shambles and totally incapable
of delivering correct and just outcomes: it is beset by incompetence, poor training and, it would seem, many hopeless personnel. The report paints a picture where totally inadequate health care is afforded to people whose liberties have been taken away from them and who are in the care and responsibility of the state. It is a depiction of an awful incarceration environment dressed up as an administrative process. It really is a terrible read all over.

The circumstances surrounding Cornelia Rau’s illegal and wrongful 10-month-long immigration detention are a national disgrace and can easily be put into the context of this debate. So too are the circumstances surrounding the deportation of Australian citizen Vivian Alvarez Solon. While we knew these facts before the inquiry and examination took place, the Palmer report vindicates them. While it does vindicate them and shed light on a number of problems within the immigration department, the inquiry and examination leading to it simply could not, with the terms of reference and powers given to it, get to the bottom of every problem that exists in this department. What the Palmer report does is skim the surface. On any reading of the report, that is clearly obvious.

Mr Acting Deputy President, so that you understand the gravity of the situation I speak of, let me inform you of a number of the issues raised by Mr Mick Palmer in his report. In terms of the training and skills of DIMIA officers in relation to detention matters, Palmer found that many DIMIA officers who use the detention powers under section 189(1) of the Migration Act 1958 had little understanding of what, in legal terms, constitutes ‘reasonable suspicion’ when applying it to factual situations. He noted:

In particular, there appeared to be a general lack of understanding on the part of officers of their legislative responsibilities under the Act.

... the level of knowledge and training of many officers is inadequate.

What is obvious, and Mr Palmer noted it, is that operational experience in these circumstances may exacerbate problems rather than add value. With regard to Compliance, this is what he had to say in the report:

Many current compliance officers have had very little or no formal training for their role. As a consequence, they have only a limited understanding of the legislation they are required to enforce, the powers they are authorised to exercise, and the implications of those powers.

He went on:

In a recent formal interview a senior DIMIA executive asserted that the power to remove from Australia a person reasonably suspected of being an unlawful non-citizen ‘does not require a decision’ because it is required by the Act. Even when questioned about the importance of review and supervision to ensuring the propriety of any action to remove a person, the interviewee seemed reluctant to accept that supervision and review of
decisions to detain and remove are crucial to good governance and operational integrity.

Such an attitude is very worrying.

It is also interesting to note, as Mr Palmer did himself, that his concerns were ’overwhelmingly based on the statements of field and operational staff’ themselves. The Palmer report, notwithstanding its inadequate powers, still manages to bring to light, on the evidence it obtained, total and utter incompetence within DIMIA.

The report also highlights the poor detainee identification investigation processes employed by DIMIA. Mr Palmer found that inquiries about detainees’ identifications were assumption based, narrowly focused, unplanned and not subject to any review, and he noted in the report:

These are fundamental flaws in the inquiry process—not only as they affected Cornelia Rau but also, in their wider application, as they relate to detainee identification more generally.

Case management was also revealed as being ‘disjointed, fragmented and poorly coordinated’. The report notes that, each time Cornelia Rau was moved, a new case manager was appointed to her case and started with very limited knowledge of her history. It also noted that she had two case managers while at Baxter. According to the report, it is apparently normal DIMIA practice not to send a detainee’s file with them to Baxter when they are transferred from interstate. Instead, the file is forwarded to the removals policy and operations section in Canberra. As such, Ms Rau’s file did not accompany her to Baxter. Mr Palmer noted:

This is not only bad practice: it defies common-sense. Good decisions can only be made on the basis of accurate and complete information.

It was also revealed that detainees’ health and general records are not kept together. Mr Palmer noted:

Had Anna’s case management linked her general and medical health records, contacts and observations (as recorded in daily incident sheets and other records) and had this collected information been objectively assessed and reviewed as part of developing a comprehensive and evolving personal profile, Anna would have received more appropriate care and been transferred much sooner to an immigration detention facility. It is also possible that, had wider avenues of inquiry been pursued within the first few weeks of her detention, Anna might have been identified as Cornelia Rau and been released.

The fact that these avenues were denied to Anna is an indictment of the system.

Indeed, it was.

Cornelia Rau’s six-month long detention in Brisbane Women’s Correctional Centre, where she was treated like any other prisoner, was also examined in some depth. Mr Palmer noted:

The basis on which Anna was detained and managed in BWCC was flawed. DIMIA has ultimate responsibility for the health and welfare of immigration detainees, but the current processes for monitoring and managing immigration detainees in BWCC are ineffective and do not enable DIMIA to properly discharge its responsibility. Competent management and oversight of Anna, conducted in accordance with DIMIA’s own instructions, would have resulted in her being removed from BWCC much sooner than she was.

It was also noted that no concerns were expressed about the appropriateness of Anna’s detention in prison and, despite a requirement to visit her monthly, a DIMIA officer visited her on only three occasions during her six months detention there.

The report noted:

During interviews with the Inquiry, a DIMIA officer with direct responsibility for this area expressed the view that DIMIA paid Queensland Corrective Services $95 a day for each detainee and therefore Queensland Corrective Services had total responsibility for the care and management of detainees in its custody. The executive did not see DIMIA as having any day-to-day responsibil-
ity in this area. Such a lack of understanding—and, indeed, the attitude that would underpin it—is of serious concern to the Inquiry and it is indicative of the level of operational oversight that occurred during the time Anna was in prison in Brisbane Women’s Correctional Centre.

This is simply unbelievable.

Moreover, the entire agreement between DIMIA and the Queensland government over immigration detention was found to be totally inadequate. The inquiry found that arrangements made under the 1992 agreement are still in place despite no official agreement having been signed between the departments since 1995. Mr Palmer noted:

Even at the executive level, there is an inadequate understanding of the separate and joint responsibilities and accountabilities of the parties to these arrangements.

These are examples of the incredible maladministration that the Palmer report uncovers.

I understand that a new or renewed formal agreement has now been signed by the two governments and I welcome that. However, the agreement does not address a number of the more problematic aspects of detaining immigration detainees in jails. Let me go to the underpinning culture of DIMIA. The report states:

... although the Inquiry became aware of a number of inappropriate or defective agreements, arrangements and instructions, it is the strength of the immigration detention culture that is of greatest concern. The deficiencies in practices and procedures can be remedied, and many instructions are being amended. But the attitudes of the people who have responsibility for managing these instructions will take much longer to change. Old values and attitudes must be removed, and a new, enabling culture must be fostered.

... ... ...

The present culture seems to have operated to stifle original thought, inhibit individual action, and discourage wider consultation or referral. This must be changed. In particular, dramatic changes to the behaviour of executive management in the immigration compliance and detention areas will be necessary. If the required attitudinal improvements are to be achieved at the operational level, change will need to be embraced at the executive level and be led by the executive. The precondition to effectiveness is fundamental cultural change.

They are not my words; they are a direct quote from the report. And similar comments depicting an appalling and totally unacceptable culture within DIMIA pervade the entire report.

Here are a few other examples. Page 166 of the report states:

Despite the best efforts of what is generally a highly committed workforce, DIMIA has struggled to do justice to the onerous responsibilities it has to government, immigration detainees and the Australian people. The Inquiry formed the view that many of the weaknesses and deficiencies it identified are the consequence of poor structure and a culture preoccupied with process and quantitative, rule-driven operational practice.

Page 168 of the report states:

Within the DIMIA immigration detention function there is clear evidence of an ‘assumption culture’—sometimes bordering on denial—that generally allows matters to go unquestioned when, on any examination, a number of the assumptions are flawed. For example, the following is assumed:

- Section 189 of the Migration Act is a mandatory detention section and there is consequently no capacity and—perhaps more disturbingly—no requirement to review the validity of the exercise of ‘reasonable suspicion’ where it is formed or the basis on which the detention is made.
- Depression is simply a normal part of detention life, which consequently normalises abnormal behaviour in the assessment of medical and mental health.
- Organisational practice and levels of service are ‘about as good as could be expected’, and any deficiencies are essentially a reflection of the difficulty of the task.
• Criticism of the processes or systems is generally voiced by people who do not understand the complexity of the business or have their own agendas and therefore do not need to be considered seriously.

Such perspectives reflect a culture of denial and self-justification that the Inquiry found to be at the heart of the problem.

All those previous assumptions cannot on any logical reading be assumptions that should not have been challenged throughout the department.

Page 169 of the report states:

The Inquiry found that these attitudes and perspectives were not, as some believed, confined to operational levels but were pervasive at senior executive management level. Executive managers, including Assistant Secretaries, should be in the vanguard of corporate leadership and should not be shackled by process-driven thinking and unable or unwilling to question existing structures, processes and procedures.

There is a management attitude that does not question the instructions and processes and seems to attach little value to explaining to staff the operating context and the purpose of the instructions and processes. The attitude emphasises process and is silent on outcomes. This is dangerous in a volatile portfolio.

On pages 171-172, the report notes that the combination of the pressures just discussed ‘has given rise to a culture that is overly self-protective and defensive’ and which presents itself as ‘largely unwilling to challenge organisational norms or to engage in genuine self-criticism or analysis.’

From page 193, we see that:

In the Inquiry’s view, change seems to be crisis generated and not initiated by self-criticism of departmental actions, processes and outcomes.

At page 194 the report says:

Throughout all aspects of both the Inquiry and the Examination there was, with few exceptions, ... consistent evidence of reluctance at middle management and senior executive management levels to accept responsibility and acknowledge fault.

Put quite simply, as Mr Palmer does on page 160:

The Inquiry’s investigations and its discussions with independent expert bodies, detention facility operators, medical services providers, Baxter immigration detainees, advocates, visitors and other interested parties led it to conclude that there are serious problems with the handling of immigration cases. These stem from a deep-seated culture and attitudes and a failure of executive leadership in the compliance and detention areas.

What an indictment indeed Mr Palmer has made on this department.

The report identified many more problems with the health services and mental health services afforded to immigration detainees, including Cornelia Rau. While I do not intend to go through every detail of the mismanagement of Cornelia Rau’s personal health issues while she was in DIMIA’s care, I do wish to address the wider issues that became apparent because of it.

In terms of DIMIA delivering poor health care to detainees in its care, the report notes that:

At issue are the prevailing culture, lack of assertive leadership, uncertainty about roles and responsibilities, lack of appropriate training, lack of arrangements for effective communication, poor coordination and consultation, and a failure of management responsibility and oversight.

At Baxter, the report notes:

The adequacy of health care falls short because the ‘standards’ set in the contract [between DIMIA and the private contractor managing Baxter] through the Immigration Detention Standards are neither measurable nor clear statements of requirement. The performance measures are exception based and not supported by any quality assurance mechanisms.
Terms used in the standards include ‘timely and effective’ with regard to access to primary health care, and for that to be conducted in a ‘culturally responsive framework’, whatever that means. There is no effective quantifiable way to assess the performance of these requirements. They are completely and totally inadequate. And, as the report notes, ‘the Standards do not take account of the quality of care or how that should be measured.’

It was also noted that a health advisory panel, made mention throughout the so-called standards, was not even yet established. The report noted with reference to Rau, and I quote:

With a performance management regime that does not manage performance or service quality or risks in any meaningful way, it is not surprising DIMIA was caught unaware. The system did not ‘fail’: it was ill-conceived and could never deliver to the Commonwealth the information on performance, service quality and risk management that DIMIA was confident it would.

Having noted that:

... repeated studies of national prison and refugee populations have found that incarcerated people have a much higher incidence of psychological and psychiatric morbidity than the general community—anything up to 50 per cent higher—

the report found that there are totally inadequate psychiatric services available at Baxter. The report noted that in the four months that Cornelia Rau was detained at Baxter, the consultant psychiatrist from New South Wales who attended Baxter on a fly-in, fly-out basis had visited the centre only once. It noted that, and I quote—(Time expired)

Senator BARTLETT (Queensland) (11.57 am)—in reply—this debate is actually about the Democrat motion to disallow regulations that excise thousands of Australians from Australia’s migration zone. Senator Marshall’s contribution perhaps went a bit wider than that, but there is some relevance there. Obviously there must have been, or else someone would have raised a point of order. The relevance is that Senator Marshall outlined details of the Palmer report and the debacle in the immigration department around the Cornelia Rau issue but, much wider than that, the intrinsic failures and massive flaws in the way the immigration department currently operates and has been operating for a long period of time under this government and this minister under the Migration Act.

These regulations allow the immigration department to operate totally outside that act altogether for people who are not in the migration zone. Senator Marshall has outlined a damning indictment of how badly this government and this department fail in treating people with even basic decency and duty of care, let alone legal rights. While they are operating under the law as it stands with all its flaws, what this regulation will allow if it is not disallowed is for them to just disregard that law altogether for anybody who arrives here in those areas that are excised from the migration zone.

While the government and the minister say, ‘Yes, we have got a real problem in the immigration department, there is a real culture problem, a management problem, all of those things; we are going to change the culture; we’re going to make it more responsive, more accountable, less mistakes,’ at the same time they bring in a regulation that removes any sort of accountability—that removes the whole law. How can you possibly say that the government is genuine about changing the culture of the department and the people in it and how they operate when the minister is saying, ‘Here you go, if you can catch people in this part of Australia, you have got free rein; no law at all; nothing to worry about’? It is farcical and it puts squarely, front and centre, that any suggestion that there is a genuine culture change
being driven by this minister and this government is a joke.

That is why this disallowance motion is so important: it sends a clear signal that we are not going to go back to the bad old days of these farcical, ridiculous, quasi-legal fictions that have led to the sorry situation that we now have with our immigration department. Let me emphasise that, when our immigration department is as dysfunctional as it is now, it is not just a problem for a few thousand refugees and asylum seekers. Our immigration department directly deals with millions of applications and people each year. It directly affects the lives of huge numbers of Australians in all sorts of ways into the future. For that department, in such a key public policy area, to be so dysfunctional is a serious problem for all of us. Yet at the same time we are putting in place something that says, ‘We’re still going to allow you to operate in this legal shadow land where there are no rules at all.’

Let me take this opportunity to remind the Senate and the public that there are still 32 people suffering enormously on Nauru. I last saw them earlier this year and they were suffering hugely then. Some of them were in a terrible state. It is now many months later; the fourth anniversary of the *Tampa* rescue is coming up in a week’s time. A small number of those people were on Nauru from the very start—they were not on the *Tampa* but on the *Manoora*, the Navy vessel that dropped them off. It needs to be said that, while it is pleasing that Labor is supporting this disallowance motion and has supported previous disallowance motions, the regulation itself is only possible because the Labor Party supported the government’s legislation in 2001 in response to the *Tampa* incident, and it is my understanding that it is still Labor policy to support Christmas Island being excised from the migration zone.

So whilst Labor’s position is clearly an improvement on the government’s—and I always welcome and am keen to encourage improvements, not just expect all or nothing overnight—it does need to be pointed out that until the policy shifts to remove this whole concept of some parts of Australia being allowed to operate outside the law then we will still have this significant problem and that principle will still be there. There is nothing special about islands; they do not have any special legal status that means that they have a different application of the law from anywhere else and we should not be running any suggestion that there is. Once we allow such a precedent to stand—that in parts of Australia the law does not matter—then obviously it can be expanded to other areas. The government can point to it and say: ‘We’ve been doing it here. Let’s do it with something else.’

I see Senator Scullion is in the chamber, fleetingly; it looks like he is going out the door again. He has been the only member of the government to come in and defend these regulations. The minister has not come in to put the government’s case. These are regulations gazetted through the minister, who put them forward. It is delegated legislation, so it is equivalent to the minister bringing legislation into this Senate. Where is the minister? No disrespect to Senator Scullion, but why is he the only one who has come in to defend the case? Why can’t the minister come in and put the case?

The minister has not responded to the Palmer report. The minister has not responded to so many of these other crucial issues in migration. One thing I will say for the previous minister, Minister Ruddock, is that at least he would be on the front foot and very strongly defend the rationale and the legality of various things. I strongly disagreed with him, obviously, many times, but at least he would take up the fight, not have a
bit of bluster and a press conference and then disappear. Having said that, given that Senator Scullion’s contribution was the only one putting the case opposing the motion for disallowance I need to respond to some of the points that he put forward.

Senator Scullion said that border protection is a very sophisticated challenge and needs very sophisticated answers. I agree: it is a sophisticated issue. It is far wider than just asylum seekers; in fact, I really do not see asylum seekers as a border protection issue at all because they are always detected, they always were detected and they always want to be detected. There are no people coming into this country who are more consistently detected and more thoroughly assessed and examined. So I do not see asylum seekers as a border protection issue. But how we deal with unauthorised arrivals is a sophisticated and difficult issue. It is a hard issue. It does need sophisticated answers.

That is why this regulation is a joke: it is not a sophisticated answer; it is a farce. The principle behind it subverts the rule of law. There is no legal logic behind why different law is applied in some parts of Australia and not others. It tries to reinforce a subconscious message—that we need a barrier of islands around the top of Australia to protect us from this so-called threat. However, history shows that the vast number of those islands are not ones that will attract asylum seekers first; the mainland is much closer than most of those excised islands. It is basically a stunt to send a political message to the Australian people.

Senator Scullion said that these regulations very clearly impact on only one group of people: people smugglers. I have spoken out, as have many others, against people smugglers. All of us in this chamber, I believe, want to discourage people from arriving here on boats. As Senator Scullion rightly said, it is very dangerous. They are dealing with criminals, they are putting their lives at risk and they are the subject of extortion. But the fact is that if people have no other option when they are fleeing persecution—as we have seen and as history shows going back to 1945, which led to the refugee convention—then people will take whatever options are available to them.

This government has done some good things. For example, getting people assessed by the UNHCR and overseen and assisted by the International Organisation for Migration in Indonesia is a positive thing, as long as the people who are assessed as refugees can find a place where they have viable protection. That has not always happened. They can be found to be a refugee by the UNHCR but then be stuck. Some of the people who drowned on the SIEVX had actually been assessed as being refugees by UNHCR in Indonesia, but no other country could be found for them in the foreseeable future so they made the tragic choice to go on that boat.

To suggest that the only people who are impacted are people smugglers is simply wrong. Firstly, the vast majority of people smugglers get away with it scot-free. It was only due to enormous public and political pressure that a couple of the people involved in the SIEVX tragedy bore some legal responsibility, one of whom was sentenced in Brisbane last month to, I think, nine years jail. Only a very small number of people smugglers have been impacted. The people who have been impacted in a very severe way have been refugees. I mention again, as one example, the 32 who have been imprisoned on Nauru for four years now—almost as long a sentence as the person seen as the mastermind behind the whole SIEVX tragedy got in Egypt.
It is simply not true to say this only impacts on the people smugglers; it is impacting on refugees. Immense suffering, harm and misery were caused to those refugees because of the measure passed by the Senate in 2001 and, if we expand it now, we clearly run the risk of it impacting on other people. They are the ones who will be hurt. To suggest it is only going to harm people smugglers is a furphy.

Senator Scullion drew a very long bow when he said it was a necessary quarantine measure because terrible invasive species can be on board these boats. That is true. But these boats, more than any others, are detected whenever they arrive because they want to be detected. We can actually check them for quarantine purposes. The risk is with the boats that come here and we do not get to see what is on them. It is drawing an extremely long bow to say that we need this as a quarantine measure. That would be the case anyway, even without examining how poor this government’s commitment is to quarantine. Senator Heffernan from the government has done a good job during a Senate committee by putting a spotlight on the continuing decline in the strength of the government’s commitment to genuine quarantine provisions. It is even the case that plants that are on the quarantine alert list are allowed to be sold in nurseries to gardeners throughout Australia. So much for commitment to quarantine!

The government representative stated that we have never refouled a refugee in the history of this government. To be polite, I think that is very much in dispute. The Edmund Rice Centre has done a lot of work in this regard, because nobody else from the government could be bothered to do it. The Edmund Rice Centre has explored statements like the one made by the government, and I think it would strongly question such statements. At the moment, a Senate committee is inquiring into some of those issues. I invite senators and others to read the book Following them home that was recently released—I cannot remember the name of the author off the top of my head, I am sorry. The book follows some of the people sent back from Australia. Again, I think we need to question this blanket statement that we have never sent anybody back to danger.

We had the final furphy when the government said: ‘If we disallow these regulations then it will send the message back that we are open for business. It will open the floodgates. There will be an open door policy. People will pour in if we disallow this.’ The obvious counter to that is: the Senate has disallowed these regulations, I think, four times before and no floodgates opened and no people poured in. I think it is quite clear that it did not happen then and it will continue to not happen.

We then had the unfortunate but, nonetheless, instinctive response from the government that the people who support this disallowance motion support people smugglers; you are either with us or against us. Anybody who disagrees with this appalling undermining of the rule of law, this massive infliction of enormous suffering on refugees, actually supports people smugglers. So much for a sophisticated argument and a sophisticated position from the government! I do not think it helps the debate to descend into that sort of thing.

If we are going to be talking about attacking people who traffic in human misery—and of course people smugglers traffic in human misery—frankly, this government has generated a lot of human misery, and the Senate has assisted the government by passing some legislation that allows it to do it, I might say. But the human misery is out there; it is out there in the Australian community now with thousands of refugees. The human
misery is there on Nauru, with 32 totally traumatised and massively damaged people—probably, irreparably damaged. There is human misery. The cost has been met by the Australian taxpayer—hundreds and hundreds of millions of dollars—and more is needed. I think it will cost $330 million to build another 800-capacity facility on Christmas Island. It is an extraordinary waste of money. There is the human misery and there is the cost to the taxpayer.

I call on all government senators to consider this issue. I know there are some within the government who are not comfortable with the continuing direction of this government and the continuing state of our Migration Act and how it impacts on many people. I do not want to play politics and criticise them if none will vote with the Democrats and the opposition parties on this motion. I recognise you have to choose your moment as to when you take that walk across the floor. You cannot be doing it every day of the week. I do signal that there are occasions when there are important matters of principle and important signals to send in a range of different ways. I urge them to think about it on this occasion. If they cannot on this occasion, I urge them to recognise that this area is one that still needs ongoing action.

The fact is that the government has proceeded with these regulations after the debacle of the Palmer report, after all the pledges about a change of culture and after the agreements that were reached between the Prime Minister and those Liberal Party MPs—Mr Georgiou and others—who stood up to make a point on these matters. They do need to recognise that more needs to be done. Whether this is the right time for them to take that stand is for them to say. This issue will undoubtedly continue to result in other votes being taken in the Senate into the future. At some stage, we do need to start winding back some of the incredibly unjust and legally tenuous aspects that are still entrenched within the Migration Act and its regulations. Voting for this Democrat motion for disallowance is one opportunity to do that.

Question put:
That the motion (Senator Bartlett’s) be agreed to.

The Senate divided. [12.19 pm]

(The President—Senator the Hon. Paul Calvert)

Ayes............. 32
Noes............. 36
Majority........ 4

AYES

Allison, L.F. Bartlett, A.J.J.
Bishop, T.M. Brown, B.J.
Campbell, G. Carr, K.J.
Conroy, S.M. Crossin, P.M.
Faulkner, J.P. Forshaw, M.G.
Hogg, J.J. Hurley, A.
Hutchins, S.P. Ludwig, J.W.
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.
Stephens, U. Sterle, G.
Stott Despoja, N. Webber, R. *
Wong, P. Wortley, D.

NOES

Abetz, E. Adams, J.
Barnett, G. Boswell, R.L.D.
Brandis, G.H. Calvert, P.H.
Campbell, I.G. Chapman, H.G.P.
Colbeck, R. Coonan, H.L.
Eggleston, A. Ellison, C.M.
Ferguson, A.B. Ferris, J.M. *
Fielding, S. Fierravanti-Wells, C.
Fifield, M.P. Heffernan, W.
Johnston, D. Joyce, B.
Kenp, C.R. Lightfoot, P.R.
Macdonald, I. Macdonald, J.A.L.
McGauran, J.J.J. Minchin, N.H.
Nash, F. Parry, S.
Senator Vanstone did not vote, to compensate for the vacancy caused by the resignation of Senator Mackay.

Question negatived.

**INDIGENOUS EDUCATION (TARGETED ASSISTANCE) AMENDMENT BILL 2005**

Report of Employment, Workplace Relations and Education Legislation Committee

Senator Scullion (Northern Territory) (12.24 pm)—On behalf of the Chair of the Employment, Workplace Relations and Education Legislation Committee, Senator Troeth, I present the report of the committee on the provisions of the Indigenous Education (Targeted Assistance) Amendment Bill 2005 together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

**HUMAN SERVICES LEGISLATION AMENDMENT BILL 2005**

Second Reading

Debate resumed from 10 August, on motion by Senator Coonan:

That this bill be now read a second time.

Senator Stephens (New South Wales) (12.26 pm)—The Human Services Legislation Amendment Bill 2005 is in response to the Uhrig report and review of statutory authorities and organisations. Those which concern us in this legislation are Centrelink and the Health Insurance Commission. The Auditor-General has reported several times on Centrelink’s shortcomings. In Audit Report No. 34 of 2001, it was found that 49.1 per cent of claim forms were not fully completed in accordance with the legislative requirements. It seems to me that it is the job of Centrelink to make sure that its legislation is implemented. So how can we not be surprised that there are so many mistakes in payments if the information collected at the first interview or application is incomplete?

In light of the new debate on a possible Australian identity card, proof of identity is a critical issue, just as it was in Audit Report No. 26 of 2001-02. That report identified that 22 per cent of Centrelink applications for payments contained errors in the proof of identity process. Nothing much has changed. This year the Audit Office found that, under the watch of the Health Insurance Commission, up to 500,000 Medicare cards were probably held by dead people. A subsequent report, Audit Report No. 54, was critical of the commission for the poor administration of health cards. This is not exactly a show-
case model for a national identity card. It does not engender public confidence that such a card could even be administered appropriately or that this government is on top of its responsibility to protect the integrity of fundamental systems of government.

The Health Insurance Commission is directly affected by this legislation, and serious questions about the future of the HIC were asked by Mr Kelvin Thomson, the shadow minister for human services, in the House of Representatives on Tuesday last week. I might add that those questions have not been answered, nine days later, despite assurances by the minister’s parliamentary secretary, Dr Stone, that: ‘We will make sure that you have those responses quite urgently.’ Yesterday, Labor once again requested that Minister Hockey’s office respond urgently to those questions, and still there has been nothing.

There may be a very good reason why these questions have not been answered. This government is attempting to hide, very poorly, some devastating news; that is, rumours are running rampant in the agency and around Canberra that hundreds of Health Insurance Commission jobs are about to be cut. People are living with the stress of uncertainty and yet nothing is forthcoming from this government about their circumstances. So I ask again: can the government confirm or deny that hundreds of jobs in the Health Insurance Commission are going to be cut? And is this part of the restructure currently in process? What is apparent is that these cuts are not confined to the current freeze on recruitment in the national office or to the review of all employment arrangements and natural attrition of staff, or to the finalisation of the implementation of the new computer system—all explanations of the minister.

People who trusted that they had permanent jobs and very likely have HECS and mortgages to pay and families to provide for are preparing to be dumped. Is this an example of the famous Howard government management style? Rumours have overrun the agency concerning how many and just who will be going, because they cannot get a straight answer from anyone. In this respect, on this side of the chamber we know exactly how they feel.

This bill is the precursor for the government’s rebadging of the Health Insurance Commission as Medicare Australia. Is this yet another opportunity for the government to spend millions of unnecessary dollars on advertising? It was revealed last week that an old friend of the Liberal Party, Mr Ted Horton, a man who has been working on Liberal Party election campaigns for 10 years, has the lucrative contract to complete the current industrial relations advertising campaign that the government is running—a campaign about which respected Sydney Morning Herald economics editor, Ross Gittins, said, ‘Far from admitting the truth, it is seeking to conceal it.’ That campaign will be under scrutiny in the Senate inquiry into government advertising.

It is obvious that the government’s 1997 changes have been a failure for Centrelink, and they now have to be rolled back. Labor supports the legislation as a means of improving the governance of Centrelink and the Health Insurance Commission-cum-Medicare Australia, and improving the accountability of the Howard government in important service delivery agencies. The governance boards of Centrelink and the Health Insurance Commission have not been able to provide solutions to the real failures in management systems and service delivery. But, having provided a buffer in accountability for the minister in the past, their abolition and the new institutional arrangements outlined in the bill will ensure that the minister can no longer shuffle or shift the blame, be-
cause his ministerial control equates to ministerial accountability.

I acknowledge that Senator Siewert’s observation yesterday about diminishing community consultations is an important one. It is clearly a decision of a government that is out of touch and out of step and that does not want to know about or acknowledge the importance of public participation in the political process and policy development. If the bill being debated today delivers significant improvements to the services provided to Australian citizens by the Health Insurance Commission and Centrelink, that will certainly be a positive step. The minister will be beholden to ensure that such improvements are delivered and resourced appropriately. He could begin by coming clean to HIC employees about their future.

Senator ABETZ (Tasmania—Special Minister of State) (12.32 pm)—I thank honourable senators for their contributions to this debate and for the cross-party support that I understand this legislation is going to receive.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (12.33 pm)—by leave—I move the Democrats amendments on sheet 4638:

(1) Schedule 1, page 9 (after line 24), after item 30, insert:

30A Subsection 29(2)
After “Minister”, insert “and in accordance with the merit selection process required by subsections (5) to (9)”

(2) Schedule 1, page 9 (after line 28), after item 31, insert:

31A At the end of section 29
Add:

(5) The Minister must by writing determine a code of practice for selecting and appointing the Chief Executive Officer and any acting Chief Executive Officer which sets out general principles on which selection and appointment is to be made, including but not limited to:
(a) merit;
(b) independent scrutiny of appointments;
(c) probity;
(d) openness and transparency.
(6) After determining a code of practice under subsection (5), the Minister must publish the code in the Gazette.
(7) Not later than every fifth anniversary after a code of practice has been determined, the Minister must review the code.
(8) In reviewing a code of practice, the Minister must invite the public to comment on the code.
(9) A code of practice determined under subsection (5) is a legislative instrument.

As senators will realise, these are standard amendments that the Democrats have put up to many such bills. They require that appointment be on the basis of merit. I note that the Human Services Legislation Amendment Bill 2005 is supposed to be about improvement of corporate governance. The second reading speech says so and it also talks about increasing accountability and ensuring high levels of performance of government agencies. Those agencies, as has been said already, are Centrelink, Medicare Australia and the HIC. I understand that this is a result of the Uhrig model, which has been taken up by government, and that there will not be boards but instead government appointed CEOs. This is very relevant to the amendments that I am putting.
We have spoken out on many occasions about the need for an end to the system of jobs for the boys that has been so apparent in recent years and for a long time—well before even your government, Senator Abetz. Wherever appointments are made to the governing organs of public authorities, whether they are institutions set up by legislation, independent statutory authorities or quasi-government agencies, the processes by which these appointments are made should be transparent, accountable, open and honest. That applies to appointments of CEOs just as it does to board members.

One of the main failings of the present system is that there is no empirical evidence to determine whether the public perception of jobs for the boys is correct, as these appointments are not open to sufficient public scrutiny or analysis. Again we have government putting in place processes for appointments to statutory authorities which will be left to the discretion of the minister. There is no umbrella legislation that sets out a standard procedure regulating the making of appointments. Perhaps most importantly, there is no external scrutiny of the procedure and merits of appointments by an independent body.

In the past we have put up amendments in this parliament designed to compel ministers to make appointment on merit. This must be about the 25th occasion we have done so. Every single time, both major parties have opposed it for some reason which has never quite been explained. I ask the government to seriously consider moving down this path. I think it would be to the benefit of the objectives of this bill, which is supposedly, as I said, to improve the corporate governance of these agencies and to increase accountability. This is one very important measure that might go some way to achieving that.

Before moving to further discussion about these amendments, I wonder if I could raise a question for the minister, if he is intending to respond. I understand that yesterday a question was asked about whether a family impact statement had been made on this legislation. I think that the minister undertook to find out whether that was the case. I am not sure whether an offer was made to provide it to the Senate, but I ask whether this could be the case.

Senator ABETZ (Tasmania—Special Minister of State) (12.37 pm)—I understand there are no other speakers on this amendment, so, to quickly sum up on behalf of the government, as I understand it, there was no family impact statement in relation to this piece of legislation and therefore no statement as a result can be provided. Senator Allison was quite honest with the Senate when she said that this is the 25th time, or whatever it is. I think that the arguments about this have been dealt with on numerous occasions in the Senate previously. The Democrats do seem to have a tendency to want to legislate on absolutely everything. We think that is a bit bureaucratic, and it would be a bit unkind of me to remind the Democrats that their name suggests they are democrats, not bureaucrats. I would think that the sort of extra legislation that the Democrats always come up with and the extra work that it would entail is just extra bureaucracy which will possibly be of benefit one day to a lawyer or somebody else but not really of great benefit to the administration of the department.

I think that in general terms people would accept that the vast number of appointments that this government have made have been on merit and, whilst Senator Allison makes comments about jobs for boys, I would remind the Senate that this government in fact have the proud record of having the most women as heads of departments and, might I
say, not on any quota or system other than merit. We as a government are very much merit-based and any appointments will of course be made on merit, because as a government we want to ensure that the government departments we run are for the benefit of the Australian community, and therefore we will be appointing on merit.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (12.40 pm)—It is good to know that we have women heading up those departments and if the minister is correct in saying that those appointments are based on merit then why not support this amendment? If it is already happening, there is nothing to lose on the part of government. I suggest to you that it would protect government from those inevitable accusations that here is yet another job for the boys. However, my question is about the family impact statements. Could you indicate to the Senate what it is that determines when a family impact statement will be made and when it will not?

Senator ABETZ (Tasmania—Special Minister of State) (12.40 pm)—Undoubtedly, it will be when the government determines that such a statement is necessary. I am not sure that I necessarily have responsibility for the area; somebody somewhat higher in the food chain in government ultimately determines that question. I do not think that we have set out a blueprint—or I am not aware of one—or a document which says that in these particular circumstances we will have a family impact statement. I think that it is a situation that is judged on the basis of need on each occasion. If I am wrong as to that, I will make sure that appropriate information is provided to Senator Allison’s office.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (12.41 pm)—It would be useful if the Senate were provided with a set of the criteria used in assessing whether a family impact statement is necessary or not. As I asked yesterday on another piece of legislation, it would be useful to know what the process is for this. The answer given by a minister was that this was a cabinet document and not something which could be made available to senators outside the cabinet room. So if the minister is able to indicate what the process is—who the recipients are of this impact statement and, if not everybody in this place, why that is the case—that would be useful.

Senator MOORE (Queensland) (12.42 pm)—Whilst we are giving support to this piece of legislation, we have a number of questions and we would like to seek some answers to clarify some positions. Most of them were raised in the speeches made on the legislation. I would like to start by saying that we share the concern about the family impact statements, Senator Allison, and we also seek to know the process and how that will be done.

Minister, one of the things that has been mentioned is that this particular piece of legislation is cost neutral, that there is no real cost in the process. We are interested in the issue of the advertising around the changes to the name HIC, which is now going to be Medicare Australia. We would like to have some information about what the expected cost would be of any advertising campaign and also those all-too-often and necessary changes to the whole rebadging aspect of a significant change with a rename in an organisation. It is a significant cost in terms of stationery, process, advertising—even the signage that goes up outside offices. We know that there are far too few current offices—we hope that there could even be some more offices out of this process. What indication is there of the budgetary impact of those changes?
Senator ABETZ (Tasmania—Special Minister of State) (12.43 pm)—I am advised that the cost of the name change for HIC is to be absorbed by HIC as part of their operating costs—and that is about $2 million. HIC are absorbing the administrative costs and adopting an incremental and progressive roll-out of materials relating to the name change in order to minimise costs. Was there anything else on that?

Senator MOORE (Queensland) (12.44 pm)—We will gratefully take that answer, Minister, and have a closer look at it, because there are a number of cost impacts in terms of the process. You said it was $2 million and that it would be absorbed by normal operating costs, so as we question through the estimates process we will find out which particular groups that would go through.

Another series of questions that came out in the discussion was about staffing and budget changes under the guise of governance in terms of the board. We are going to concentrate on HIC in this particular range of questions. I think Senator Stephens itemised—

Senator Abetz—Just before we run out of time, if you have a list of questions and pass them over, we can try and get answers.

Senator MOORE—Minister, I will take advice on this. It seems to be a sensible approach.

Progress reported.

NATIONAL RESIDUE SURVEY (CUSTOMS) LEVY AMENDMENT BILL 2005
NATIONAL RESIDUE SURVEY (EXCISE) LEVY AMENDMENT BILL 2005

Second Reading

Debate resumed.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (12.46 pm)—I thank the Senate for its support and commend the bills to the Senate.

Question agreed to.

Bills read a second time.

Third Reading

Bills passed through their remaining stages without amendment or debate.

BUSINESS

Rearrangement

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (12.46 pm)—I move:

That consideration of government business order of the day No. 2 (Building and Construction Industry Improvement Bill 2005 and a related bill) be called on to enable second reading speeches to be made till not later than 2 pm.

Question agreed to.

BUILDING AND CONSTRUCTION INDUSTRY IMPROVEMENT BILL 2005
BUILDING AND CONSTRUCTION INDUSTRY IMPROVEMENT (CONSEQUENTIAL AND TRANSITIONAL) BILL 2005

Second Reading

Debate resumed from 16 August, on motion by Senator Abetz:

That these bills be now read a second time.

Senator WONG (South Australia) (12.47 pm)—The Building and Construction Industry Improvement Bill 2005 and the Building and Construction Industry Improvement (Consequential and Transitional) Bill 2005 reintroduce in part the Building and Construction Industry Improvement Bill 2003, which was the subject of some lengthy debate in this chamber. It reintroduces that legislation with some significant modifications, which I will speak about later. Labor opposed the substantively similar legislation in
2003 and will also oppose this legislation. This is fundamentally flawed legislation. It will not assist in the satisfactory resolution of industrial issues in the building and construction industry. In fact, it will have the opposite effect.

As a general proposition, Labor are opposed to creating specific jurisdictions for specific industries. It is far better to have a sensible regulatory system across a number of industries. But the government’s blind zealotry in targeting the construction industry unions requires them to introduce this legislation, which specifically targets this union and these workers. More specifically, this bill also changes the rules retrospectively and provides substantial new penalties. As a matter of general principle, Labor are opposed to retrospective legislation unless there are very good grounds for demanding retrospectivity, and in our view those grounds are not the government’s political desire to target particular trade unions and particular workers in the building and construction industry. We are particularly opposed to the retrospective penalties which exist in this legislation.

The Building and Construction Industry Improvement Bill 2005 defines ‘construction industry’ so broadly that employers and employees never previously considered as part of this industry will now, should the bill be passed, be covered by the provisions of the legislation. It will expose both employers and employees in this industry to prosecution and penalties for participating in what is currently legal bargaining activity under the government’s Workplace Relations Act. The bill places further restrictions upon employees and their unions from exercising their right to strike, which brings Australia into further breach of the relevant International Labour Organisation convention. These are the reasons that Labor is opposed to this bill.

As I said at the outset, this legislation has a somewhat torrid past. The then minister for workplace relations introduced the bills which are currently before us into the House in March 2005 and announced that they would operate retrospectively from this date. The Building and Construction Industry Improvement Bill 2005 reintroduces in large part the government’s 2003 legislation. That bill was developed as part of the government’s legislative response to the Cole royal commission. The 2003 bill lapsed when the parliament was prorogued for the 2004 federal election. In essence, senators in this chamber will recall there was substantial debate in relation to the 2003 building and construction industry legislation, which also sought to establish an Australian building and construction commission. On that occasion, the Senate refused to pass that legislation and the government got around the will of the Senate by essentially introducing a similar body by administrative and executive means. It bypassed the Senate and set up the Building Industry Taskforce. However, it had the issue of what powers it would provide to the task force. That obviously was an issue that had to come before this chamber. We therefore saw what was then called the codifying contempt act, in which powers associated with the work of the Building Industry Taskforce were put in place. That was a fairly lengthy debate in this chamber.

Those powers were substantially ameliorated and mitigated by Labor and the Democrats in the Senate. They were very substantial coercive powers—powers that Labor still says are inappropriate. They certainly give very substantial rights to the task force, arguably rights far greater than police have, so you have the bizarre situation where building union officials and employees in the construction industry actually have fewer rights in relation to investigation by the task force than a criminal might have in relation
to investigation by police. However, there were ameliorating provisions put in place by this chamber by Labor and the Democrats. What we have before us is a bill which simply does not include any of those ameliorative mechanisms or any of the protections that were put in place and insisted on by the Senate in relation to the previous legislation.

The Building and Construction Industry Improvement (Consequential and Transitional) Bill 2005 provides for machinery amendments relating to the Building and Construction Industry Improvement Bill 2005. On 8 August this year, government amendments in the other place reintroduced additional provisions from the 2003 bill. These amendments create the Australian Building and Construction Commissioner, the ABCC, and provide this body with coercive powers to gather information and prosecute people associated with a very broadly defined building industry.

As I said at the outset, there are a number of measures which are to be applied, should this legislation be passed retrospectively, from 9 March 2005. Firstly, there will be an increase in the maximum penalties, to $110,000 for a body corporate and $22,000 for an individual, where unlawful industrial action is taken. Secondly, the bill makes certain forms of industrial action unlawful and provides access to sanctions against unlawful industrial action in the form of injunctions, pecuniary penalties and compensation for loss. Thirdly, in particular the bill makes industrial action taken by unions prior to the nominal expiry date of certified agreements unprotected and unlawful. That is an extraordinary shift in terms of the provisions which apply to other unions and workers in other industries under the government’s own Workplace Relations Act.

Fourthly, if a union takes industrial action in support of its negotiations, it may be exposed retrospectively to fines of up to $110,000 and uncapped damages. Individuals may face fines of up to $22,000. This is intended to severely limit the ability to negotiate bargaining outcomes. Finally, the bill also shifts the onus onto employees to prove that a reasonable concern exists where action is taken based on an imminent occupational health and safety risk. This is a significant safety issue, given the particularly hazardous nature of building and construction work. Over the last 10 years, there have been an average of 50 workplace fatalities each year. This bill potentially puts the health and safety of employees in this industry at risk by imposing financial penalties upon employees who cease to work in what they regard as an unsafe environment.

I turn now to the coercive powers which the government is proposing to provide to the ABCC. Provisions introduced into the House in August of this year provide this body with coercive powers to gather information and prosecute people associated with the building industry. As I said at the outset, the role of the proposed commissioner is currently undertaken by the Building Industry Taskforce, with powers provided under the Workplace Relations Amendment (Codifying Contempt Offences) Act 2004. Once this bill has been passed, the task force will convert to the ABCC and the provisions of the codifying contempt act referring to the Building Industry Taskforce will no longer be effective.

As I said previously, Labor, with the minor parties, amended the codifying contempt act to mitigate the worst elements of the coercive powers provided to the Building Industry Taskforce. It is interesting to note that all of these amendments have not been included in the government’s bill. Essentially, the government is proposing to provide the new building commission with all the coercive powers proposed and not previously
passed under the codifying contempt bill and without any of the associated checks and balances that Labor and the Democrats inserted into that legislation.

In essence, the bill empowers the commission to demand answers to such questions as: ‘Are you or have you at any time been a member of a trade union or a political party?’ To be subjected to such questioning, a building industry employee need have done nothing wrong nor have been suspected of doing anything wrong. The investigator can also demand the production of phone records, bank account records and any other document. An employee who fails to cooperate fully will have committed a criminal offence, and the punishment will automatically be a prison term. Our amendments to the previous legislation ensured that there was an alternative financial penalty available to the courts rather than a mandatory prison sentence for employees in this situation. Whilst we clearly deplore any criminal behaviour, whether it is in the building industry or elsewhere, we do not support the denial of civil liberties to innocent Australians simply because they work in the building industry and simply because this government wants to target these workers.

This bill will enable the ABCC to use coercive powers in investigating any breach of the Workplace Relations Act, award or agreement, including investigating ordinary industrial activities of unions, such as meetings with members, not just investigating alleged criminal activity. Labor are committed to removing any criminality that may exist in any workplace, including in the building industry, but we do not believe that the task force or the ABCC is the right body to investigate such matters. Criminal matters ought to be investigated by the police. We are also substantially concerned about giving this body coercive powers in respect of an almost unlimited range of industrial relations matters.

Previously, Labor also moved an amendment that required the approval of a Federal Court judge to use coercive powers. This inserted a truly independent element into this process. Federal Court judges routinely deal with industrial relations matters and are well placed to determine whether coercive powers are appropriate or necessary in any particular case. Requiring a warrant from the Federal Court also went a long way to ensuring that building workers do not have lesser civil liberties than those people being questioned by ASIO about terrorism. Senators will recall the ASIO legislation that was previously debated in this chamber. There was much discussion about the importance of ensuring that there was some judicial oversight of the additional powers to be granted to our security organisations to question persons who may have some knowledge of terrorist activities. Labor’s amendment to the previous building and construction industry legislation, which is not reflected in the current legislation, was to ensure that there was some independent oversight of the coercive powers to be initiated and utilised by the ABCC.

A third amendment that Labor moved to the codifying contempt bill was to amend the mandatory jail term in order to give the court the capacity to either fine or imprison an individual who does not comply with a warrant. Clearly, it makes sense to give a court the capacity to impose a monetary penalty instead of jail time if a judge thinks this is appropriate in the circumstances. In fact, imprisonment has the potential to make a martyr of the person who defies a warrant. It may be that in some cases a high financial penalty is more of a burden on an individual than simply a short term of imprisonment.
A fourth amendment that Labor previously moved to that similar legislation, and which indicates our position on this legislation, deleted the requirement that a person provide information when this might be contrary to another law or might incriminate that person. In our system of justice, the protection against self-incrimination is one of the most fundamental principles of natural justice—a point highlighted in a number of High Court cases, most notably by Justice Lionel Murphy in the case of Pyneboard Pty Ltd v Trade Practices Commission.

It is also worth noting that the Democrats amended the previous legislation to place a limit on investigations so as to ensure they were not minor or petty. Notwithstanding our concerns that the definition of that might be in the eye of the beholder, we note that this provision has not been retained in the bill that is currently before this chamber. Accordingly, the concern correctly identified by the Democrats that these coercive powers could be utilised for minor or petty offences and therefore would not be appropriate has not been picked up in this legislation. Coercive powers would be able to be used under this act, if passed, to investigate trivial offences.

Had the Labor and Democrats amendments been retained, Labor would still be extremely concerned about giving the ABCC coercive powers to gather information. Frankly, the Building Industry Taskforce, which is the predecessor of the ABCC, has had an entirely anti-union focus since it was established in 2002. It has shown minimal interest in important issues in the industry, such as non-payment of employee entitlements, sham corporate structures and health and safety concerns. In light of this track record, Labor do not believe that the task force’s successor, the ABCC, should receive additional coercive powers. Our amendments to the codifying contempt act restricted the scope of these coercive powers to criminal offences and inserted some semblance of fair process by requiring the approval of Federal Court judges. As I said, these amendments are not included in the government’s bill.

Finally, as part of the amendments to the codifying contempt act, guidelines in the form of a disallowable instrument were enacted about the use of the Building Industry Taskforce’s coercive powers. This bill provides greater powers to the ABCC than those previously granted by the government and the parliament to the Building Industry Taskforce and unfortunately contains no guidelines to constrain their use.

I turn now to the issue of the Building Code. The bill provides some legislative basis for the current Building Code which requires employers to comply or else fail to win Commonwealth construction contracts, but otherwise the bill provides little detail. This effectively provides a blank cheque to the minister to impose conditions upon construction employers without requiring an appropriate level of transparency and exacerbates the current high level of uncertainty among employers about their compliance with the Commonwealth’s Building Code.

The legislation was referred to the relevant Senate legislative committee, which reported in May 2005. The Australian Industry Group made a submission supporting the bill but called for amendments to narrow the definition of ‘building work’ and thus the application of the bill. The New South Wales government opposed the bill because: it is industry specific; it adds unnecessary complexity; its provisions are punitive, heavy handed and unbalanced; and it promotes a litigious, adversarial and costly approach to industrial relations which would hinder rather than assist good faith bargaining. The New South Wales government also raised concerns about the retrospecitivity of the leg-
islation, which had no demonstrated justifica-
tion.

The Australian Democrats have also ar-

gued against the need for specific industry

legislation and noted with concern the con-
fusing nature of the definition of ‘building

and construction industry’ in the bill. I note

that Senator Murray has circulated some

amendments to deal with that issue. The

Democrats also opposed the retrospectivity

of the bill. While I will wait until the com-

mittee stage to indicate more clearly Labor’s

view about the Democrats’ amendments, in
general we are supportive of them as they do
direct some of our concerns. But they do
not ameliorate the bill sufficiently for Labor
to support the legislation.

The minister argues that the bill aims to

promote respect for the rule of law in the

building and construction industry, yet this

bill, if enacted, will compound Australia’s
ongoing disrespect for international labour
law. Australia has repeatedly reaffirmed its
obligations as a member of the International
Labour Organisation and its commitment to
ensure that its domestic laws provide for la-

bour standards consistent with internation-
ally recognised labour principles. The ILO
Committee of Experts has repeatedly found
that the government’s Workplace Relations
Act 1996 contravenes fundamental Interna-
tional Labour Organisation conventions on
freedom of association and the right to col-
lectively bargain.

This bill selectively and unfairly targets
building industry workers and excludes them
from basic and universally applicable labour
standards. All employees should have the
rights and protections afforded by interna-
tional labour law, irrespective of the industry
in which they work. The building and con-
struction industry should not be exempt from
compliance with the fundamental rights to
collective bargaining and freedom of asso-
ciation that are embodied in the relevant ILO
conventions.

This is a poorly drafted, excessively puni-
tive and unfair bill. It is divisive in its appli-
cation and will not assist in the satisfactory
resolution of industrial issues in the building
and construction industry. Labor do not sup-
port unreasonable and unlawful conduct, but
we also do not support the creation of laws
which will effectively prohibit the taking of
industrial action. This is a contravention of
the fundamental rights to which I have re-
ferred.

The retrospectivity of this bill potentially

and substantially penalises employees, un-
ions and employers currently participating in
making enterprise bargains in a legal and
reasonable way. The bill also adds complex-
ity to resolving occupational health and
safety issues in the industry and thus poten-
tially endangers employees. The definition of
‘the construction industry’ in this bill is so
broad that employers and employees who
have never considered themselves part of the
industry are encompassed by the legislation.
Consequently, they will be exposed to prose-
cution and penalties for participating in what
is currently legal bargaining activity, and
substantial litigation will be necessary to
accurately understand exactly what is en-
compassed by the definition.

In the remaining minutes I have, I want to
make a brief point about some of the activi-
ties of the Building Industry Taskforce to
tdate, a body which the government essen-
tially wants to reconstitute and give more
powers to. This week a decision was handed
down by the Australian Industrial Relations
Commission in which the Building Industry
Taskforce sought to revoke a right of entry of
a particular organiser in the CFMEU. The

The task force request to revoke was not granted
by the commission. The commission found
that legitimate safety concerns were involved
in the inspection that was the matter of dispute. The Deputy Industrial Registrar stated: ‘I am satisfied that this particular official has had a genuine and longstanding concern for and interest in maintaining appropriate occupational health and safety standards. He conducted himself with the consent of management and I am not satisfied that his conduct was unreasonable.’ That is what the predecessor to the ABCC has been doing to date. (Time expired)

Senator MURRAY (Western Australia) (1.07 pm)—Today marks the legislative beginning of the coalition’s ideological triumph on workplace relations, possible because they now have the Senate numbers. If you are a Queenslander who did not give your first or second preference to John Cherry, this is the effect. I use the word ‘ideology’ deliberately, in the sense that it represents a belief system, a manner of thinking of the conservative class. In responding to ideology or belief driven legislation, a legislator has to ask basic questions: does the proposed law improve society and improve the economy? Is it fair and just? Does it advance the rule of law?

Workplace law in Australia is born of passion and belief. It has been forged on the anvil of the Australian demand for a fair go. To date, Australian workplace law has consciously responded to the social demand that the mark of a civilised First World country is the advancement of our living standards, that wealth creation is not incompatible with good working conditions. I have been astonished that some conservatives have been condemning the fact that our minimum wage is 58 per cent relative to the average wage, in contrast to the United Kingdom and the United States, for instance, where it is about one-third. We should be proud of the fact that our poor are less poor than the poor in the United Kingdom and the United States. I have been equally amazed at the coalition hauling out Germany and New Zealand as examples: the former as an example of over-regulation and no reform in workplace law and the latter given coalition praise for greater inequality, resulting from a lowering of workplace standards. Why do they not look at the Scandinavian countries instead? Those countries are wealthier on average measures than we are, with greater regulation than we have and with lower long-term unemployment.

Our present industrial relations system is not broken. It makes a very positive contribution to Australia’s economy and society. Australia now has lower unemployment, lower interest rates, higher productivity, higher real wages and very significantly lower levels of industrial disputation than it did in the past. No economic case has been made for changing this system radically—and it is going to be very difficult to construct one—but the social case for the damage is extremely possible.

I have spent the past nine years—or nine-plus years now—working hard to find a balance between the ideologies and allegiances of the Liberal and Labor parties. The Democrats are not beholden to the unions or to business, but we do respect both. I was the Democrat portfolio holder responsible for negotiating on the coalition’s extensive 1996 amendments to Labor’s Industrial Relations Act 1993, creating the Workplace Relations Act 1996. I always refer to Labor’s brave 1993 act as the first wave—brave because it broke with a tradition and introduced far better productivity and flexibility measures. I always refer to the coalition’s 1996 act as the second wave in that process. The Democrats put 176 amendments to that coalition 1996 bill before passing it. Those amendments kept that bill economically effective but made it socially acceptable, and the reason the sky did not fall in at that time was that we did that. Most importantly, we made that
Many hundreds of pages—perhaps over 1,000—of workplace relations law have been passed, in 18 separate workplace relations bills, since the Howard government first came to office. You will find that, of the 18 workplace relations bills passed since the Howard government came into power, the Democrats have negotiated the passage of 12 of them—two-thirds—after amendment. Of those 18 bills, one bill was passed by the coalition and Labor and opposed by the Democrats; five bills were passed by all parties; and 12 bills were passed by the coalition and the Democrats after amendment and opposed by Labor.

The coalition have poured out the propaganda of Senate obstruction, dutifully repeated by the media. Two years ago, as far back as 8 October 2003, I asked the Manager of Government Business in the Senate, in a question on notice, whether he was aware of the following statement made by the Minister for Small Business and Tourism, Mr Hockey, in a Meet the Press interview aired on 14 September 2003:

What I do know is the Labor Party and the Democrats are holding up a vast amount of legislation that the Government has put in place in the Senate.

I asked: ‘Does the minister accept the Australian Concise Oxford Dictionary’s definition of ‘vast’ as ‘immense, huge, very great’?’ I also asked: ‘Can the minister: (a) provide a list for the Senate of any bill that could conceivably be regarded as being held up, as described by Mr Hockey; and (b) give his reasons for making that judgment?’ They have not answered the question. They cannot answer the question because it requires fact, not assertion. Two years later their non-reply exposes the rhetoric and propaganda for what it was.

We Democrats have rejected bad legislation, such as the coalition’s attempt to allow employers to dismiss workers unfairly. I remind you that, out of 10 million employees in Australia, the total number of unfair dismissal applications, both state and federal, is 15,000-plus and that unfair dismissal applications under federal law have dropped by 60 per cent, whilst employment has risen by 1.6 million. So the facts stand in the way of the argument that they have been putting.

However, in the spirit of continuous improvement, the Democrats have supported workplace bills with amendments and many coalition initiatives and in the process have consulted with unions, industry, governments and experts along the way.

Today that ends, and instead we will see the government pass the first of what we think are ideologically driven bills. They will be untroubled by the Democrats, who no longer hold the balance of power. The value of us holding the balance of power is that we have never been tied to a particular set of people in the community. We have never had a ‘just say no’ or oppositionist attitude, and that has been the value of our balanced and moderate approach. The Building and Construction Industry Improvement Bill 2005 and the Building and Construction Industry Improvement (Consequential and Transitional) Bill 2005 were originally short bills that replicated the enforcement and penalty provisions, and some of the provisions making certain forms of industrial action unlawful, of the very detailed Building and Construction Industry Improvement Bill 2003.

The government last week added to these bills by moving a very large number of amendments, which will establish the Australian Building and Construction Commission and the attendant powers that it will
have. As the parliament knows, the Democrats made a comprehensive contribution to the Senate Employment, Workplace Relations and Education References Committee report, *Beyond Cole—The future of the construction industry: confrontation or cooperation?*, which amongst other things examined the 2003 bills. In that report the Democrats made the following supplementary remarks:

With the exception of targeted action needed in areas such as occupational health and safety and possibly in the area of agreement making with respect to project/site agreements, there was no evidence that convinced us that industry specific legislation was necessary. We did however identify some areas of the law that could be amended, but we saw no reasons why this should not and could not occur across and benefit all industries.

... ...

The Democrats strongly support the need for greater compliance with the law and more effective law enforcement. The Royal Commission identified weaknesses in the current mechanisms of enforcing laws of general application, including criminal law, industrial relations law, civil law, tax law and state law. Therefore another question we considered during this inquiry was that if one of the key findings of the Commission was a weakness in current enforcement mechanisms, then how will creating new workplace relations laws solve a problem that has been identified as failure of the market regulators across these fields of law?

... ...

The Democrats support one central proposition behind the Bills, that greater regulation and enforcement of workplace relations law is necessary. We do not support the second central proposition behind the Bills, that industry specific legislation and sweeping new WRA provisions are necessary to achieve this aim.

... ...

[Because of fundamental philosophical and policy issues] the Building and Construction Industry Improvement Bills will be opposed outright by the Australian Democrats. They cannot be salvaged or amended. The problems in the industry and in other industries would be far better addressed by enforcement of existing law and the creation of a well-resourced independent National Workplace Relations Regulator.

So the Democrats opposed the 2003 legislation outright. Our belief was that those bills could not be salvaged or amended. For this we were applauded by some unions but were damned by some industry groups. Australia as a whole probably never even noticed.

However, we could not ignore our obligations to address problems identified in the Senate inquiry. Through the Workplace Relations Amendment (Codifying Contempt) Bill 2003, passed in 2004, we supported a threefold increase of key penalty provisions across all industries. The government had sought a tenfold increase. We also supported a limited increase in the powers of the Building Industry Taskforce as an interim measure until a national industrial relations regulator could be developed. Note that we support a national industrial relations regulator; we do not support an industry specific regulator. Those interested can refer to my speech on 22 June 2005 to the disallowance motion on building industry guidelines for more information on our position. It is notable that in that debate we and the coalition were opposed by Labor and the Greens. For our position on that bill we were damned by the CFMEU and the ACTU for supporting increased powers, and again damned by some industry groups for not going far enough. Once again, Australia as a whole probably never even noticed.

And here we are today—the Democrats, Labor and the Greens—all powerless to oppose the very provisions we all previously publicly opposed. Despite the new laws, the circumstances in the building and construction industry have not changed much since the previous Senate inquiry. They have not changed much because the regulators, the
enforcers, are not on the case. If they were on the case and the law were applied we would not have the problems that the government think need to be addressed by legislative change. The weakness in our system is not law; it is enforcement and regulation. The government need to address those but they will not. If anything, except for Western Australia, where a peculiar sickness is apparent, there appears to have been less disputation. By the way, when I say the government should address those matters but they will not, do not think this bill will cure them. Remember what the Royal Commission said: the problems are in criminal law, tax law and state law as well as in workplace relations law.

The Democrats position on disputation is that it is part of the bargaining process. But we do not support breaches of the law and we do not support the sort of behaviour that we have seen in Western Australia, where a peculiar sickness is apparent in the way in which health and safety issues are being used as an excuse for workplace confrontation. But overall we should remember—and this is the point that was made by Senator Wong—that mostly unions address workplace health and safety measures on a practical and necessary basis. Overall in Australia there is not that much disputation, although as I have said it is a bit higher in Western Australia at present. The Democrats position on the appropriateness of reforms to BCI practices remains. We continue to argue that the problems in this and other industries would be far better addressed by the enforcement of existing law and the creation of a well-resourced independent national workplace relations regulator. The establishment of the industry specific regulator proposed in this bill has major weaknesses, not least that it sets up different rights and obligations for citizens who work in one part of one industry.

It is also in complete contrast to other sectors, where the national interest is paralleled by national laws with a national regulator, such as finance, where there is APRA and the Reserve Bank; Corporations Law, where there is ASIC; competition law, where there is the ACCC; and tax, where there is the ATO. The evidence we get is that by and large the Workplace Relations Act is sound. I could easily take another 20 minutes to argue the case against the government’s proposed IR changes to the current act, but that would be sidetracking and I should probably save it for another day. The problem in key industries, as we see it, is that good IR law is often poorly enforced.

I will, however, repeat arguments I have made before that are apposite. What we currently have are fragmented, dispersed and therefore ineffective federal and state departmental inspectorates, including the Employment Advocate, task forces and other bodies. They need to be swept up into a single independent statutory authority—and note the word ‘independent’. Competition law, tax law, finance law and Corporations Law each have their own national regulator, and employment law should too. The unions need help in making sure that entitlements are paid, that wages and conditions are observed, and that health and safety are looked after. Unions and employers need help to ensure that people do not defy court and commission orders and other principles. The employers need help with regulators on call when faced with unreasonable or thuggish people perverting the law’s intent.

The Industrial Relations Commission has limitations as to what it can do. It is primarily a conciliator and arbitrator. It cannot be present in workplaces. The police are the wrong agents to use for what are essentially civil matters. The police do not like to get involved. They also lack knowledge and training in industrial relations law, which is
often complicated further because both a state and federal system operates in the same workplace. As everyone knows, the Democrats support a unitary system, subject of course to state agreement. The OEA is under-resourced and has limited powers and scope. What a national regulator would look like would obviously require wide consultation and examination. Importantly, the regulator would have to be independent, act as an even-handed enforcer on both the employer and the union sides and have the ability to investigate and work side by side with other national regulators like ASIC, the ATO and the ACCC. In our view, the establishment of an industry specific regulator is flawed and a waste of resources, and we will not be supporting those provisions.

There are several elements of these bills that we believe the government have a responsibility to amend. The first is the definition of ‘building and construction industry’. If the government are going to impose draconian legislation on an industry because they claim that that industry has problems, they should at the very least get the definition right so as to not draw in others. Concerns were raised both by unions, such as the CEPU and the TWU, and industry groups, such as AiG, that the definition was too broad and would capture large segments of the manufacturing and services industries within the coverage of the bills. AiG argue that the bills’ very broad definition of building work could lead to construction industry terms and conditions flowing into other industry sectors, such as the fabrication and supply of building materials and products, which in turn would drive up the cost of construction through higher input costs. The Democrats will be moving an amendment to narrow the definition of ‘building and construction industry’.

The other element that should be amended relates to the retrospective nature of the bills.

As noted in my minority report to these bills, there are four main types of retrospectivity, the first being practical and necessary, the next two being positive and the last being negative. It is often practical or necessary for some new tax law to take effect from the date of announcement, subsequently confirmed by legislation. Remedial retrospectivity that corrects mistakes or that is technical is usually beneficial. Retrospectivity that is benign or beneficial to individuals or entities should be supported. Retrospectivity which is adverse to those affected should generally be opposed. There are two elements of retrospectivity that the Democrats have concerns about. The first is that retrospective legislation offends against the principles of natural justice and trespasses upon the basic tenet of our legal system that those subject to the law are entitled to be treated according to what the law says and means at the relevant time, subject to the court’s interpretation. The second area is that retrospective legislation brings uncertainty to the environment in which the community and business operate.

As a general principle, the Democrats do not support the use of retrospective legislation that acts to overturn existing contractual arrangements, makes previously lawful activity unlawful or acts to the detriment of individuals or organisations. This is not a party but a cross-party principle. It has long been a Senate and a parliamentary principle not to approve retrospectivity except in instances of fraud, illegality or exceptional circumstances. So we are disappointed that the government insists on pursuing this provision, and we will be moving an amendment to remove it. We are particularly disappointed that the party that bears ‘liberal’ in its name should pursue such a course of action. It is contrary to the Liberal Party tradition and it is contrary to the small L liberal philosophy which is well established in the
Anglo-Celtic circles from which our law is largely driven.

Senator SIEWERT (Western Australia) (1.27 pm)—If you were to ask someone to guess which country you were talking about when you described a place where the right to silence was being removed and workers could be thrown in jail for failing to incriminate themselves or dob in a mate, where unions were being locked out of workplaces and could only inspect conditions and safety at the boss’s discretion, where workers could be told to sign up to unfair contracts or not get a job and could be dismissed with no comeback because somebody was having a bad day, what kind of country would you think we were talking about? A proud nation with a long tradition of workplace organisation, a supposed commitment to a fair go, a commitment to site safety and an atmosphere relatively free of industrial turmoil? No, you would think of some despotic dictatorship where workers worked for next to nothing in sweatshops or on building sites and were treated as mere commodities and where the real cost could be measured not in wages but in human lives. And this could be Australia. This is the brave new world of workplace relations under the Howard government.

I find it unbelievable that we are being asked to consider legislation such as the Building and Construction Industry Improvement Bill 2005 and the Building and Construction Industry Improvement (Consequential and Transitional) Bill 2005. We are a well-off country and we have a way of life that is the envy of many in the world, yet our government thinks that it needs to attack workers, remove their rights, break unions and lower working wages. Why? So that corporate Australia can make more money and pay its executives even more ridiculous salaries at a cost to workers. This is the second time the Senate has debated such legislation. These bills have been recycled without the amendments previously agreed to by the Senate—sensible safeguards which addressed significant flaws in the legislation. This is yet another indication of the contempt in which this government holds this chamber. Where is the respect for the critical analysis and healthy debate applied to the original legislation? It has been tossed out in the ideological drive. These bills are yet another part of the government’s antiworker agenda, and its audacity is breathtaking.

At the black heart of this bill is the intention to remove the basic civil rights of workers in the building and construction industry. This bill provides that witnesses cannot avoid answering questions or producing documents on the basis that they will incriminate themselves or breach other laws, denying them the right to silence, one of the fundamental tenets of natural justice on which our system of law is based. Not only is that right removed but the penalty for non-compliance in this amended legislation is six months jail—that is, six months jail for doing what should be your fundamental right. This heavy-handed penalty is a clear demonstration of the government’s use of its majority in the Senate to bring about draconian legislation, knowing that the Senate cannot or will not make amendments to safeguard workers’ rights.

At the same time that we are being told that a worker could get six months jail for refusing to say which of his mates attended a stop-work meeting, we are seeing a high-profile personality exercising his right to refuse to incriminate himself in relation to tax fraud charges. Clearly we are developing one law for workers and another law for the rich.

Taking away the right to silence sends a sad message to this nation; that is, that the Senate is prepared to stand by and watch basic human rights and civil liberties being
taken away. Those rights and conditions are the result of the struggle of ordinary working Australians over many years. They are the soul of the nation that our great-grandparents and grandparents fought so hard to create and defend—the foundation of our democracy. I believe that as senators we are entrusted with a serious responsibility as the custodians of our democratic traditions. We need to keep this firmly in mind in all that we do and be vigilant and rigorous in defending the fundamental civil rights and liberties that underpin our democracy. Whatever gains in productivity and economic growth we may imagine will arise from these changes, I do not believe that they can be worth selling out the core values of our nation.

This bill singles out a group of people—one class of citizens; in this case, our building and construction workers—and then systematically undermines and removes their rights. Their right to silence, their freedom of speech, their right to privacy, their right to take considered industrial action and their right to be treated as innocent until proven guilty are all undermined or removed by this bill.

This amended legislation establishes the Australian Building and Construction Commission, the ABCC, which has already been provided with $23 million in its first year of operation to roll out the government’s union-busting program—taking over the role of the Building Industry Taskforce. The legislation outlines the watchdog role of the Australian Building and Construction Commissioner and gives this watchdog teeth through what are clearly coercive powers. The way in which the governance of the ABCC and the commissioner are set out in this legislation is of real concern, as there is a very clear concentration of executive power, with the minister able to direct the ABCC at his or her discretion. The legislation also hands the minister the power to issue a construction industry code of practice, as opposed to the current situation where the code is enforced only by regulation. We should be very wary of moves to grant ministers carte blanche to determine industry codes and standards.

Yesterday, it was reported that the Office of Workplace Services will be given an expanded role in protecting workers against ‘inappropriate conduct by employers’. Will this watchdog be given the ability to compel bosses to give evidence? Will employers have their right to silence removed? Will the office be able to send recalcitrant employers to jail for not complying with its directions? Will it be able to fine them up to $110,000? I think that we can make an educated guess on the answers. On the basis of what we have seen so far we can expect that the same provisions will not apply to bosses as apply to their workers; we can expect that this watchdog will be toothless.

The next issue of concern to me is workplace safety. Yet again we are seeing workplace safety being compromised in this union-bashing exercise. It will be the workers that suffer. Just as we have heard that the IR changes affecting independent contractors are undermining safety in the trucking industry, so too will these changes in the bill undermine the safety of our work sites. Let me remind you that safety is a big issue on our work sites. While the situation has improved, this industry accounts for an average of 50 deaths per year—that is, almost one death a week on our building sites. And these are good numbers by world standards. How many lives are an extra percentage point of growth worth? Are you really prepared to trade away workers’ lives on the chance, on unproven speculation, that these ideologically driven changes will make our economy a little stronger?
The rates of death and serious injury used to be much higher. This reduction is something that our workers have fought hard for. When they believe that unsafe equipment or work practices are putting their lives and limbs at risk it is important that they have the right to do something about it to protect their lives and those of their workmates. Now the right to safety stoppages is being undermined. The onus is on each worker to prove that they believe that their safety is at risk; it is not on the employer to prove that it is not.

The bill proposes the setting up of the new Federal Safety Commissioner. This will be yet another mechanism by which the government will be able to coercively control the building and construction industry, by ensuring that only organisations that are accredited by it for occupational health and safety purposes will be able to obtain federal construction contracts. This issue will remove workers’ involvement in the safety of their workplaces. Those in the best place to spot safety problems, those most directly affected by the consequences of unsafe practices, will no longer have a voice in the process.

Another issue of concern to the nation and one that is particularly close to my heart is green bans. Green bans have been extremely important in the past in helping the nation to protect its heritage, and they have saved hundreds of important sites. If it were not for green bans by New South Wales unions we would have lost Kelly’s bush, the Rocks district and Centennial Park. Green bans have also played a crucial role in making companies accountable for the environmental and public health consequences of their actions—like the recent bans on James Hardie products in relation to mesothelioma and asbestosis.

Green bans are extremely important to my constituents in the west, who are concerned about regional bushland, coastal development and resorts proposed for environmentally sensitive areas. Now green bans could be outlawed, in a move that breaches Australia’s commitment to workers’ rights enshrined in International Labour Organisation conventions to which Australia is a signatory. Workers will no longer be able to take industrial action in support of environmental, social or safety concerns.

Why is the government singling out and demonising one particular group of workers? Why is one set of citizens having its rights removed? We all know the government’s agenda—it is embarking on a concerted attack on unions. It has begun this attack by singling out one of the strongest unions. In this case, it is attacking a union that has a history of showing solidarity with other workers and ensuring that support for safety and collective bargaining in their workplace is strong. It is designed to slow down, frustrate and disempower a group of workers that it knows will oppose its wider antiworker agenda.

Just like the government’s previous attack on the waterfront workers, this action is designed to break the back of a strong and vocal union. It is part of a strategy to divide and conquer, dismantle the unions one by one and take away the rights of working families piece by piece. The Cole royal commission has been used as a justification for this draconian legislation. Millions of dollars were spent on it. Yet none of the allegations of standover tactics, corruption and violence have been upheld in a court of law. In fact, I would assert that the reason that none of these allegations have been prosecuted, despite the government’s clear desire to undermine construction workers, is that the government are well aware that they would lose because they have no hard evidence to back these assertions.
The Greens believe that workplace laws should be fair, protect all workers from unjust treatment, promote industrial harmony and enable us to organise collectively to negotiate fair pay and conditions. This bill will increase the coercive powers of the government’s industrial police force, the ABCC—a task force that will ruthlessly pursue the government’s agenda of destroying building unions across the country. To add insult to injury, this legislation does not come into force at the time that this bill is passed. The government has made the legislation retrospective from 9 March this year. This is another attack on fundamental civil rights and an attempt to intimidate unions across the country.

This bill is an attack on the basic civil rights of building workers in this country. It is part of the government’s campaign to undermine the wages and conditions of ordinary workers, destroy trade unionism and stop them from having a say in their future and the future of this nation. The measures proposed in this bill have no proper place in a fair and equitable system of industrial relations or in a civilised democracy and they should not be allowed. The proposed bill and the wider industrial relations ‘deform’ agenda, as I call it, are not in the interest of working Australians, families or small businesses.

Senator Barnett (Tasmania) (1.39 pm)—I stand in support of the Building and Construction Industry Improvement Bill 2005, the Building and Construction Industry Improvement (Consequential and Transitional) Bill 2005 and the government’s workplace relations reforms. I congratulate the Prime Minister and Mr Kevin Andrews, the minister who has been leading the fight and the reforms to the building and construction industry and workplace relations more generally. I will speak on both of those issues, but I do want to say right upfront that, in terms of the building and construction industry reforms, they are part of a package to force cultural change. They will encourage fair play and create a far more efficient and decent building and construction industry in this country.

The Australian Labor Party have acknowledged to some extent the problems of the building and construction industry, but their challenge now is what they will do about it. Are they prepared to separate themselves from the lawlessness of this industry or will they bow to the thuggery of the well-known and vocal elements in the industry? I refer specifically to some elements of the union movement. I refer to the CFMEU. I note upfront in this debate that, since 1996, the CFMEU has contributed a shade under $5 million to the Australian Labor Party. I note for public attention that the ACTU and the unions generally in this country have contributed $47 million since 1996 to the Australian Labor Party. That is not a small amount of money; that is a large amount of money. As the saying goes, ‘He who pays the piper calls the tune.’ I believe it is payback time for the Labor Party. I believe it is payback time in terms of their opposition, which they have announced. They are opposing this legislation, our building and construction industry reforms and our workplace relations reforms. I believe their opposition is consistent with the fact that it is payback time.

It is also consistent with the fact that they support the ACTU’s consistently misleading and deceptive campaign that is being waged and foisted on the Australian people, particularly the vulnerable working men and women of Australia. They have a campaign of fear being foisted on them at the moment. I can give you no better example than one from a transcript I have, I did not actually see the program. It is from Lateline of 10 August. This is a demonstration of the campaign of fear, the extent to which they
Sharan Burrow, the ACTU president, said:

I need a mum or a dad of someone who’s been seriously injured or killed. That would be fantastic.

She was answering a question from Maxine McKew on Lateline, the ABC program, and that is what she said. She will go to any extent whatsoever to feed on the vulnerable and on the fears of Australian men and women. Do you know that, since that statement that she made on Lateline just a few days ago, she has not apologised to the Australian people and she has not withdrawn that statement! This is consistent with the ACTU’s campaign, which is misleading and deceptive. There are no bounds in terms of the extent of that campaign. This is consistent with the Labor Party’s opposition to our bills, which try to fix the building and construction industry and make it better, fairer, right and honest.

The Labor Party has a choice of acting for the benefit of all Australians, especially those workers and their families, or protecting behaviour, particularly in the building and construction industry, which is unlawful, harmful and costly to us all. The government has made its choice. It has said, ‘Yes, there will be reform of the building and construction industry,’—and this is what the legislation is on about. Let us make it clear that the Leader of the Opposition, Kim Beazley, has said: ‘The lemon has been squeezed dry,’ in terms of workplace relations and industrial relations reform. He does not want any further reforms. We will ensure that this legislation dealing with the building and construction industry will be successful, because this is very important legislation.

I will go back to some of the reasons for this legislation. It emanates from the Cole Royal Commission into the Building and Construction Industry, which found that the industry was beset with corruption and unlawful practices. The government has acted on the recommendations of that commission. There were 210 recommendations, and already 170 have been implemented.

This industry is worth $50 billion to the Australian economy. There are 700,000 people employed in the building and construction industry across the country. It comprises seven per cent of our gross domestic product. It is a very important part of the Australian economy today. Independent, objective economic research undertaken by Econtech in their report, Economic analysis of the building and construction sector, concluded that, if productivity in the construction sector matched that in the more efficient residential building sector, the level of gross domestic product would rise by 1.1 per cent, the CPI would fall by one per cent and consumers would benefit by $2.3 billion. This is a huge industry, and the implications of further reform are incredible, as are the benefits that can flow through.

The Cole royal commission found that the commercial construction industry was characterised by illegal and improper payments, chronic failure to honour legally-binding agreements, regular flouting of court and industrial tribunal orders, and a culture of coercion and intimidation. Volume 1, page 6 of the commission report says:

At the heart of the findings is lawlessness. It is exhibited in many ways. There are breaches of the criminal law. There are breaches of laws of general application to all Australians where the sanction is a penalty rather than possible imprisonment. There are breaches of many provisions of the Workplace Relations Act 1996.

Frankly, the community and the economy cannot continue to bear the costs of such conduct. The laws of this country must apply equally, across the board, to all citizens, whether they are union officials, employers
or employees. The commission also noted in volume 1, page 6, paragraph 16:

These findings demonstrate an industry which departs from the standards of commercial and industrial conduct exhibited in the rest of the Australian economy.

They are saying that it is a special one-off. The commission continued:

They mark the industry as singular. They indicate an urgent need for structural and cultural reform.

It is that clear. That is what the royal commission said—and that is what we are doing.

We are acting on the recommendations of the commission.

The Building and Construction Industry Improvement Bill 2003 was the Australian government’s response to the recommendations of that commission. As indicated earlier today, that bill lapsed prior to the 2004 election and then the Building and Construction Industry Improvement Bill 2005 was introduced to the House on 9 March 2005. There have been references to retrospectivity, but let us make it clear that this bill was introduced and made public on that day. It was made clear at that time, in a media release by the honourable minister, Kevin Andrews, that the provisions of that legislation would apply from that day. Union officials, employers and employees became aware of it on that day. The bill was introduced in response to the intense industrial pressure being applied by the building industry unions to force contractors to sign up to union-friendly agreements. That was the motivation for the bill.

The government now seeks to introduce amendments to establish the Australian Building and Construction Commission and other key parts of the bill. I will outline some of the reasons for and elements of the bill. As I said, the commission provided a compelling and unassailable case for the need to reform the $50 billion building and construction industry. The amendments will enhance our response to the Cole royal commission. This legislation is of course part of a package of reform. The bill will establish the Australian Building and Construction Commission and the Federal Safety Commission. The bill will improve the bargaining framework by prohibiting certain coercive and discriminatory conduct and will improve the compliance regime by increasing penalties—and I notice that there has been discussion today on the fact that those penalties are so high. I have no hesitation in supporting these increased penalties. The bill will also enhance access to damages for unlawful conduct.

The Australian Building and Construction Commission will be a new statutory agency responsible for enforcing federal workplace relations laws on building sites. It will operate as a one-stop shop for the building and construction industry by dealing with matters itself or referring them to relevant agencies for action. The commission will improve current arrangements by being able to act promptly on unlawful industrial action and strategically intervene on behalf of parties to provide cost-effective relief when federal workplace relations laws have been breached.

The bill provides specific statutory powers for the commissioner, such as appropriate investigatory, compliance and enforcement powers, including the appointment of Australian building and construction industry inspectors. In terms of our financial commitment, proper and adequate funding has been made available to establish and perform the functions, as I have indicated, of the office of the Federal Safety Commissioner. The initial establishment funding allocated was $2.63 million in the 2004-05 financial year. The allocation to the Building Industry and Construction Commission is $123.93 million to cover the establishment and operating costs until June 2009. We make no apologies about
that very significant commitment to the commission. It is a large amount of money and we are proud of that investment.

I was a member of the Senate Employment, Workplace Relations and Education Legislation Committee looking into these bills. We reported in May 2005. It was made clear in that report that the immediate spur to the legislation was the actions of unions, particularly in Victoria, in threatening industrial action aimed at coercing employers to sign enterprise agreements before the current round of enterprise agreements expired. The committee received 11 submissions. We had a public hearing on 4 May with the AiG, the Master Builders, CFMEU, Transport Workers Union, CEPU and the ACTU, and we heard all of their submissions. The AiG gave unequivocal support for the government’s legislation and its endeavours to legislate for peace and stability in the industry. Senator Murray referred to the definition of the building industry and there is a clear answer to that in the merit of the legislation. Yes, there is a broad definition of the building work so it can effectively bring about the structural and cultural change the industry requires. The definition is intended to ensure that the problems endemic in the industry are not shifted further down the contractual chain. An important fact that has not been referred to in the debate today is that the definition of building work is able to be modified by regulation. That has not been noted today. It will ensure that any minor adjustments that can be made, will be made.

What else did the committee resolve, or conclude? I can assure you that the committee noted the CFMEU Victorian branch secretary—from the report in the Age on 13 October 2004 that promised employers that they had a choice—saying they could ‘negotiate industry wide pattern bargaining agreements in 2005 in a peaceful climate or, following the government urgings, in a climate of crippling dispute.’ These are the threats that are being made. This comment was punctuated by language of the kind which deliberately scorns the decency of civilised discourse. Government party senators note this language of class warfare and the proclamation of an image of thuggery and contempt. It highlights the need for cultural change in this industry.

**Senator Kemp**—Good point.

**Senator Barnett**—Thank you very much, Senator Kemp, for that interjection. It is appreciated. The report also made it clear that the Master Builders submission was supportive of the reforms and their submission to the committee included a large amount of evidence of union intimidation, particularly in Western Australia, Victoria and Queensland, and there has been no diminution in the level of industrial action. Unions in the building and construction industry are responsible for about 30 per cent of the total work days lost around the country, even though the industry employs only about 8 per cent of the total work force. Our report provides statistics to support the view that this is a one-off that needs attention. The Australian Industry Group was very supportive of the government’s reforms and, more broadly, of the workplace relations reforms of our government. Heather Ridout and the Australian Industry Group made that clear only a couple of days ago in this Parliament House when they met for their national annual general meeting, and those comments have been well noted. The report is worth a read, but I want to make it clear that the behaviour of the Western Australian and Victorian branches of the CFMEU, in particular, have been noted, targeted and they have been characterised by a confrontational culture which sees industrial relations as a theatre of class warfare.

**Senator George Campbell** interjecting—
Senator BARNETT—I see Senator Campbell is interjecting and I can understand his reasons for interjecting. But I note that the committee said that, as a consequence, the building costs in Perth and Melbourne are significantly higher than in other cities. The economic and social benefits likely to flow from the reform of the building industry will be quickly apparent and will result in a benefit not only for those cities but also for the whole nation—the whole of Australia. This is why we so strongly support the bill.

We want to note that the Labor Party’s opposition is in response to the CFMEU donations of $5 million to that party since 1996 and $47 million from the ACTU. Let me say that there are examples of inappropriate and unlawful conduct in the building industry. There is a litany, in fact, and I could go through all of those but I will just mention a couple. Recently 200 CFMEU members of the Perth to Mandurah railway all took sickies on the same day—it was the so-called ‘blue flu’. This is a common tactic on Western Australian construction sites.

Opposition senators interjecting—

Senator BARNETT—The Labor Party is defending this type of action—listen to them crow! That is taxpayers money down the tubes, as Senator Johnston has indicated. The response of the Western Australian IR minister was to say that they would talk to the CFMEU and hopefully they would have a change of heart. The Cole Royal Commission heard evidence of numerous small contractors being coerced into union pattern agreements by representatives of the CFMEU. This often involved violence, or the threat of violence. This is not on in Australia. This is why we have this legislation—to fix the problem. (Time expired)

QUESTIONS WITHOUT NOTICE

Immigration Detention

Senator O’BRIEN (2.00 pm)—My question is to Senator Vanstone, the Minister for Immigration and Multicultural and Indigenous Affairs. I refer the minister to the damning report by Mr Keith Hamburger which found there were ‘serious violations of the immigration detention standards’ by the detention centre contractor Global Solutions Ltd. Has the immigration department evaluated the report and reported to the minister? Why wasn’t the minister’s department adequately supervising the contract with GSL? If the department was adequately supervising the contract with GSL, how did it allow five detainees to be locked up in the back of a van for a 10-hour drive with no toilet breaks, food or water?

Senator VANSTONE—I thank Senator O’Brien for the question. I recognise that it is Senator O’Brien and not Senator Evans—I am a bit more with the program today, Senator. Neither I, the department, the government nor anybody condones mistreatment of human beings, whether they are detainees or otherwise. That has been made clear. I can confirm for you that the independent investigation requested by me into aspects of the transfer of five detainees from Maribyrnong has now been finalised. I can confirm the investigator has established that most of the allegations made by the detainees were correct or have been substantiated—I think that is a better way to put it. I can confirm what I said before, when the report became available, that it is an extremely regrettable incident. I feel extreme sympathy for the people involved.

I accept one aspect of what has been put to me, and that is that there may be inadequate training. But I will make this crystal clear: it is not my view that any human being should need to be trained to let another hu-
man being go to the bathroom or have a drink of water. These seem to me to be basic civil courtesies in how we should each treat each other in whatever circumstance we are in.

I can confirm for you, Senator O’Brien, that both HREOC and the Commonwealth Ombudsman have been provided with a full copy of the report. The detention services provider has accepted that some of the officers did not follow the operational procedures, which resulted in these violations of the contractual requirements. You say: ‘Why wasn’t it being monitored?’ The only way you could make sure that did not happen would be if you had someone travelling with every person to make sure. The monitoring is such that, when the allegations are received, a proper independent person is given the task of coming up with an explanation of what actually happened.

Yet again you can see in this report that there has been no attempt to cover up what have been serious violations of the contractual requirements. The department has notified GSL of substantial sanctions valued at over—and I stress the word ‘over’—half a million dollars. I leave it at that point because the contractor is entitled to dispute the assessment of what the penalty should be. That is an assessment of what it may well come out at, which is over half a million dollars. The matter has been referred to the Victoria Police for investigation into whether any criminal offences were committed by the officers. I can confirm that the department will be implementing all of the recommendations.

Senator O’BRIEN—Mr President, I ask a supplementary question. I note that the minister has referred to substantial breaches of GSL’s contract and a penalty regime which may involve penalties exceeding $500,000. Will the minister now categorically rule out any renegotiation of the contract with GSL that will result in the company being rewarded with a more lucrative contract? Does the minister concede that supervision of the contract is more than just responding to complaints of events after they have occurred and has a lot to do with looking at the culture of the contractor?

Senator VANSTONE—Senator O’Brien, you ask what you may not have intended to be a tricky question. I will not attribute bad faith to you in this respect. But you know, if you are interested in this area, and I know that if a contract is to be renegotiated—if, for example, as a consequence of the Palmer inquiry more services are required—then we may contract out for more services to whomsoever any additional contract goes. It does not mean that it will be more lucrative as in more profitable, but it may mean a larger contract. I will just draw that distinction. Palmer made it very clear about a number of changes that have to be made. Thank you for your question pointing out what the Palmer report made clear, and that is that the contract does need to be reviewed. We have indicated that it is going to be.

Afghanistan

Senator JOHNSTON (2.05 pm)—My question is to the Minister for Defence and Leader of the Government in the Senate, Senator Robert Hill. Will the minister update the Senate on the visit to Australia of His Excellency Dr Abdullah Abdullah, Minister for Foreign Affairs of the Islamic Republic of Afghanistan? Will the minister also advise the Senate of progress in the forthcoming deployment of Australian troops to Afghanistan?

Senator HILL—I thank Senator Johnston for his question. The government is pleased to welcome to Australia His Excellency Dr Abdullah Abdullah, Minister for Foreign Affairs of Afghanistan. His visit anticipates the
critical national assembly elections which will take place in his country on 18 September. His visit also reflects the growing significance of our relationship with Afghanistan’s growing democracy. The Australian government is proud of the role Australia has played in helping remove the Taliban from power in Afghanistan and in denying a sanctuary to al-Qaeda.

Although many security challenges remain, Afghanistan has made remarkable progress since its liberation. Some 26,000 Afghan security personnel have been trained and are engaged in combating terrorism in their country. Registrations for the upcoming elections are particularly strong. It is notable that large numbers of women will vote for the first time. Afghanistan is now a significant recipient of Australian foreign aid. We have committed more than $110 million in aid to Afghanistan since September 2001. This commitment supports the heroic part that the Afghan people are playing in resisting fundamentalist terrorism and reflects the geostrategic significance of Afghanistan in this global conflict.

Afghanistan has long been one of those countries that, by the accident of geography, has been blighted by invasion, civil war and fundamentalist ideology. We have a strong shared interest in defeating al-Qaeda and in promoting a healthy and stable democracy in Afghanistan. The Senate will recall that, on 13 July, the Prime Minister announced that in the next month Australia would be committing a special forces task group to Afghanistan and that the government would also explore the possibility of making a contribution to a provincial reconstruction team. I can advise the Senate that planning and preparation for the first of those deployments is well advanced. The advice that the government has received from Defence is that the special forces contingent will need to be approximately 190 personnel to provide appropriate mobility, force protection and adequate logistics support. This represents some increase over our initial planning assessment but the challenge of logistically sustaining a small force so far from home required the commitment of additional support personnel.

The challenge in Afghanistan remains twofold. Whilst contributing to a national reconstruction is a major focus, there is nevertheless an ongoing combat challenge. It is essential that the international community assist Afghan forces to defeat those who, through force of arms, remain determined to defeat the progress of democracy and return Afghanistan to the appalling theological dictatorship under which it had for so long laboured. It is this dangerous but vital role in which our troops will be engaged.

The government is planning a farewell function before the Senate returns, at which we expect the Prime Minister and the Leader of the Opposition will address the troops. I am sure that all honourable senators will join me in thanking our forces for their service, in wishing them well in their deployment and obviously in wishing them a safe return.

Immigration

Senator CHIRS EVANS (2.10 pm)—My question is directed to Senator Vanstone, the Minister for Immigration and Multicultural and Indigenous Affairs. Apart from Mr Farmer and his two deputy secretaries, can the minister detail what other immigration officers have been dismissed or shifted sideways or have moved departments as a result of Mr Palmer’s scathing report and the associated problems in the immigration department? Aside from the cost of Mr Farmer’s sinecure to Indonesia, what are the additional costs as a result of the massive changes to the departmental executive as a result of the Palmer report? Were any of the officers that have stepped aside, been shifted or been
dismissed the beneficiaries of performance pay in the last 18 months?

Senator VANSTONE—Thank you for the question, Senator. Let me put on record my disdain for your reference to Mr Farmer's acceptance of the job of being our ambassador in Indonesia as being a sinecure. Given the incident of the bombing at the embassy a few years ago, when the current ambassador was sitting at his word processor only to find a paling from the fence come clean through the window about a foot above his head, for you to refer to someone taking up that position as a sinecure says more about you than it does about Mr Farmer.

Government senators—Shame!

The PRESIDENT—Order! Senators on my right, your colleague is trying to answer a question.

Senator VANSTONE—I notice Senator Carr chuckling at the back.

Senator Carr interjecting—

Senator VANSTONE—I am not sure whether he is chuckling at his own joke. He is a bit prepossessed with himself.

Senator Chris Evans—Mr President, I rise on a point of order regarding relevance. This is a very serious issue. It is a direct question going to the minister’s responsibility. She has showed total disdain for critics, addressed Senator Carr across the chamber, sought to criticise him and sought to criticise me. Could you please bring her to order and ask her to answer the question for which she is responsible to this chamber.

The PRESIDENT—I am not going to repeat other rulings that I have made, but I will say this: Senator Vanstone, ignore the interjections, address your remarks through the chair and return to the question.

Senator VANSTONE—I take the opportunity to reinforce the point that, with respect to the security of the post in Indonesia, the senators opposite may not be aware that the Immigration officers were in fact at the front of the embassy at the time and took the greatest brunt of that, which Mr Farmer was responsible for dealing with. He understood very clearly the consequence of that bomb as it affected the Immigration people more than others.

The question that I was asked related to changes that might have been made in addition to those of the movement of Mr Farmer and two dep secs. I have been asked about the cost of that. I have not seen any figures in relation to the cost. We will make such changes as need to be made, both in personnel if that is required and in policy and practice. The Prime Minister and I have given a clear indication that we accept in full the thrust of the Palmer report. We are already in the business of implementing that. I am satisfied that what the public will see and what parliament will see when we report back is not in any way a begrudging implementation of the Palmer report—quite the opposite. In fact, you might be looking at ‘Palmer-plus’ because we are determined to do whatever needs to be done.

As to changes under that level, I know of a couple of changes where there have been some rearrangements of place. For good reason, I am not prepared to go into why that has been done at this point. I think that when the Solon inquiry reports there will be a greater opportunity to indicate some changes that have been made. They have not been made at this point because of an assumption of guilt on anybody’s part but for other reasons. I will explain that to the Senate at an appropriate time. But this is not the appropriate time. When the Solon inquiry reports, I believe we will be able to look in particular at the Brisbane office in full, and I will be able to report back to you then.
Senator CHRIS EVANS—Mr President, I ask a supplementary question. I note that the minister did not provide any detail about what moves have been taken. I would appreciate it if she took that part of the question on notice because, while a promise of a report back sometime in the future is helpful, we have no information. As part of my supplementary question, I ask whether or not the minister is confident that, given Mr Palmer’s concern about the culture and his doubts about the capacity of existing personnel to lead the change, the new secretary of the department, who has spent more than 15 years in the department and inside that culture, will have the capacity to fix the culture that he was part of for such a long period of time.

Senator VANSTONE—As I said yesterday, I thought it was me that had the hearing problem. For Senator Evans’ benefit, I did indicate in my answer to him that I would report back to the Senate when appropriate changes had been made and also indicated why I am not giving you the very limited detail that I have at this point anyway. I did indicate that. If it is a requirement because Senator Evans is not capable of understanding that simple English, I will give a shorter version of it, which is that I will take your question on notice. As to the culture and the suggestion that Mr Metcalfe cannot do this job, I completely disagree. I think it needs someone with some experience and understanding—not completely new hands—but with a fresh outlook. Mr Metcalfe brings that. I have used the example before to say that Mr Abbott was my parliamentary secretary once. It is well known that he and I do not always agree on a whole range of things, and it is does not mean that simply because he worked for me that he thinks the same way I do.

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Senator COONAN—The government’s package also strengthens the customer service guarantee and includes measures to ensure consumers are aware of their rights under the guarantee. The regulator’s powers to do with breaches of regulatory obligations have been increased. In short, the Connect Australia package of targeted funding and future-proofing income from the communications fund will combine with the guaranteed safeguards and a competitive environment to meet the needs of consumers now and into the future.

I was asked about alternative policies. Despite a search, in 8½ years in opposition, Labor has not demonstrated that it has a plan for telecommunications and protecting consumers, so where does Labor’s spokesperson on communications, Senator Conroy, actually stand on these issues? First he says there is a massive conflict of interest in the government owning Telstra and then he says there is a massive conflict of interest in the government selling Telstra. So you cannot own it and you cannot sell it. Where does that leave the Labor Party? We are criticised for committing to a roll out of regional infrastructure at the same time as Labor says services to the bush should improve. We hear Labor’s only policy. Its fundamental plank is to own Telstra. Then Senator Conroy says a couple of days ago on the Jon Faine show that most Australians do not care about Telstra’s ownership structure; they care about services. At last Senator Conroy agrees with the government. Labor should now come clean and support the sale of Telstra to deliver better services for all Australians, irrespective of where they live.

Palmer Inquiry

Senator FAULKNER (2.20 pm)—My question is directed to Senator Vanstone, the Minister for Immigration and Multicultural and Indigenous Affairs. Did the cultural problems in the Department of Immigration and Multicultural and Indigenous Affairs, as identified by Mr Palmer and, indeed, the minister, emerge only after Senator Vanstone took charge of the portfolio, or did she inherit them from her predecessor? When did the current minister conclude that there was a problem in the culture of the immigration department? Was it only when she sought to shift blame for failures from herself to her public servants? In retrospect, wouldn’t it have been better to take a hands-on approach to the administration of your department rather than just bask in the dividend of grubby wedge politics?

Senator VANSTONE—I have to tell you that I am not at all sure what Senator Faulkner means by ‘bask in the dividend of grubby wedge politics’. But I do accept that Senator Faulkner would understand very well about grubby politics, and probably understands very clearly what he means.

Nonetheless, I am asked a question about the culture within DIMIA. I am quite confident that it is not possible with any degree of precise particularity to nominate a point at which a culture changes. That takes time in an organisation, whether you are changing for the better or for the worse. So I cannot give you a date on which the culture of DIMIA became a problem. I can tell you that I raised with the secretary, sometime last year, a cultural problem with DIMIA, which I outlined I think at estimates. I think this has been covered there; it has certainly been covered in some doorstops and press conferences which related particularly to a customer-friendly approach. I have taken the opportunity when asked about that to describe what I mean, and what I mean by that is that it is appropriate that officers make decisions within the law, obviously; in fact I have said that in here before. But it is not appropriate that they only consider the law and do not also look at whether, within the
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law, they can find a suitable, fair and appropriate immigration outcome.

An example would be the following. Someone puts in with their form a credit card to pay the application fee, and by the time it comes to be considered the credit card has expired. So the officer decides that it is not a valid application because it does not have a suitable application fee payment with it, when it is perfectly possible to ring up and say, ‘Your credit card has expired; can you give us a new number?’

I have never suggested that things should be done outside the law. But, within the law, Immigration should be looking not just to whether they can justify their decision at law but to whether it is a good immigration outcome. That was identified last year. I cannot give you a precise date. I think an awareness of a culture that needs changing is not something of which you can say that it occurred on a particular date. If you kept a diary you could, I suppose, but I do not do that. I do not have discussions with people on the basis that I am going to take down what they have said and write some grubby little book later. All I can tell you is that it was last year and I think you would find that Mr Farmer would confirm that for you.

Senator FAULKNER—Mr President, I ask a supplementary question. Whilst we have a plethora of inquiries into the past failures of the immigration department, what processes has the minister now put in place to monitor the performance of the department in order to satisfy herself that they have not reverted to their past cultural practices? In other words, Minister, what are you doing to ensure that your department’s ongoing performance and activities meet the highest standard required of the department?

Senator VANSTONE—It would not be appropriate for me to leave the substantive question, or the supplementary question for that matter, without pointing out that, while there are, in my view, some cultural issues within the immigration department, I make the point that I made in the estimates committee, in an opening statement which Senator Faulkner may have been there to hear: immigration is very much a can-do department. This is the department which, when Kosovars arrived, found accommodation for thousands of them in a very short period of time—

Senator Patterson—And East Timorese on top.

Senator VANSTONE—and East Timorese on top, as Senator Patterson reminds me. This is the department which, when faced with thousands of unauthorised boat arrivals, managed to set up accommodation arrangements and processing arrangements to deal with that when it was a most unexpected workload that was put on them. So, while there might be, and there are, cultural problems, as to the things that have already been done, Senator, I will refer you to some of the things that have been indicated very clearly in the estimates committees that you have been at, including— (Time expired)

Workplace Relations

Senator BRANDIS (2.26 pm)—My question is directed to the Special Minister of State, Senator Abetz, representing the Minister for Employment and Workplace Relations. Is the minister aware of new data confirming the continued increases in both wages and employment in Australia? What actions is the government taking to ensure this wage and employment growth continues for the benefit of all Australian workers? Is the minister aware of any alternative policies?

Senator ABETZ—Can I thank Senator Brandis for his important question and for drawing our attention to figures which reveal the great news of continued real wage in-
creases for Australian workers. Figures released yesterday revealed that wages for Australian workers have risen by an average of four per cent over the past year—well above the inflation rate and the largest yearly increase since the ABS started its price index on wages.

That is not all. Today those figures were backed up by the latest ABS full-time adult ordinary time earnings figures, which show an increase in wages of 6.5 per cent this year. All this has occurred on the back of Labor falsely asserting job losses and wage cuts in the face of our surplus budgets, our tax reform, our waterfront reform and our industrial relations reform.

How many of those opposite, either as Labor senators or as trade union officials—and I am not sure if there is a difference—addressed rallies condemning our surplus budget, saying it would cut jobs and wages? How many of those opposite addressed GST rallies, saying it would drive down wages and cost jobs? And, I ask rhetorically, how many of those opposite have since apologised to the Australian workforce for misleading them? Of course, the answer is none.

Could I invite those senators opposite, when they are addressing these anti-industrial relations reforms rallies during the coming fortnight break from parliament, to tell them that it is a national disgrace that they have all kept their jobs and, what is more, been paid more for their jobs, with the lowest level of industrial disputation ever. That is the sort of thing that people can expect from the anti-worker Howard government.

Unemployment has come down to five per cent. Real wages have increased. There is the lowest rate of industrial disputation ever, despite a nine-year campaign from those opposite, standing in the way of every reform that has delivered these wonderful outcomes for workers. I do not know why those opposite are going to the rallies, because all they have got to do is send along a tape recording of their speeches from all the previous rallies: all the same empty rhetoric, all the same empty doom and gloom, all the same propaganda which has been shown to be false. Indeed, I do not know why they are issuing new press releases. All they have got to do is change the names and the dates to protect the guilty—except Mr Beazley, of course; he only has to change the date on his. I say to those opposite: our pay packets are speaking so much louder than Labor’s pointless pickets.

Film Classification

Senator FIELDING (2.30 pm)—My question is to Senator Ellison, the Minister representing the Attorney-General. Following reports that cinemas are ignoring new film classification laws and that the chief censor has little interest in pursuing prosecution, what is the government going to do to require the Office of Film and Literature Classification to protect children by enforcing guidelines and ensuring that operators who breach them are prosecuted?

Senator ELLISON—The government takes a very strong line in relation to the protection of children from material that could be harmful to them, be it in the print media or in the electronic media. Firstly, I might say that in relation to television there are provisions of the Broadcasting Services Act in which there are standards. In fact, programming on commercial free-to-air networks must be in line with the Commercial Television Industry Code of Practice. I understand that there have been recent complaints about a particular program which went to air on Channel 10. Of course, that is television. In relation to films, we have the Classification (Publications, Films and Computer Games) Act 1995. That is a regime
which does set a standard and we will see as a government that that standard is enforced.

I understand that there have been a number of recent film classifications—and I am not sure if Senator Fielding’s reference is to those—and I can provide him with the detail on those. But if he has any information on someone who contravenes those classification rules then I would very much like to know about it so that we can enforce them. We do not have these classifications merely to pay lip-service. I understand that there have been strict classifications imposed on some recent films, such as Mysterious Skin, Grand Theft Auto: San Andreas, I think, was a game that was included in one, and there are some others. Certainly, I would say to anyone who is concerned about this area that the government is deadly serious about enforcing these classification rules, and if there is any evidence of those being breached then certainly we would want them to be enforced.

Senator FIELDING—Mr President, I have a supplementary question. There were recent reports in the papers about this issue. What confidence can parents have in the sincerity of government statements about protecting children from the impact of such material when its own agency, the Office of Film and Literature Classification, turns a blind eye to what really is happening?

Senator ELLISON—I understand the Office of Film and Literature Classification has indeed been monitoring the situation and I do not necessarily accept that it has turned a blind eye to the situation. But of course, if it deliberately did that, that would be wrong and the government would certainly investigate that. So again I would say: if Senator Fielding has some information where he can point to a deliberate ignoring of those classifications, we would very much like to know about it. But, certainly, as a government we want those classifications to be observed and we will take action to see that they are.

**Sex Trafficking**

Senator HUMPHRIES (2.34 pm)—My question is also to the Minister for Justice and Customs, Senator Ellison. Will the minister update the Senate on the Howard government’s efforts to combat the abhorrent crime of sex trafficking?

Senator ELLISON—This is indeed a very important question and one of increasing concern, I think, across Australia. It is timely, because on 3 August this year we implemented our Criminal Code Amendment (Trafficking in Persons Offences) Bill. At that time there was an article—indeed, headlines—in the Australian which dealt with reports of young girls being sent overseas from Australia for forced marriages. At the time I issued a press release urging anyone who had information on this practice to bring it to the attention of the Australian Federal Police and it would be prosecuted.

The relevance is that in our amendment which came into effect on 3 August we included trafficking of people both into Australia and out of Australia. Previously, we had laws dealing with the trafficking of persons into Australia, but we expanded the legislation to include the trafficking of persons, particularly women and children, out of Australia. This practice of taking young girls out of Australia for the purposes of a forced marriage will not be tolerated. In relation to the trafficking of a child you could face a penalty of up to 25 years in gaol. As well as that, we expanded the definition of debt bondage offences and we also expanded the deceptive recruiting offences. We found this as a result of prosecutions which are pending; we have some 15 people facing the courts for sex trafficking offences and I think it is very important to keep our legislation up to date.
We have put in place very strong measures to fight this despicable trade. We have a task force in the Australian Federal Police. We have work being done in the region. Indeed, the Australian Crime Commission recently pointed to a reduction in the number of Thai women being trafficked, and I would put that down to the very good cooperation we are getting from the Thai authorities and the fact that we have an official from the Department of Immigration and Multicultural and Indigenous Affairs posted in Bangkok. But an alarming feature of that intelligence from the Australian Crime Commission was that there has been an increase in the number of Korean women being trafficked. The Howard government will not tolerate this in any shape or form. Recently there were reports that up to 1,000 women have been trafficked into Australia. I have said publicly that we do not have any intelligence or forensic evidence which would back that up.

Can I say to the Senate that just one woman being trafficked is one woman too many. That is our approach to this subject, and it requires a whole-of-government approach. I have raised this at the Australian Police Ministers Council and I am pleased to say that we are getting cooperation from the states and territories. But we need that cooperation across the board, including from local government, because prostitution in some jurisdictions is regulated on a local basis. That is why we need the local authorities to work with us. This is not just a problem that can be dealt with by the Australian government. We will continue our fight against this despicable trade. We urge all the other governments in Australia to join with us in the fight against people trafficking, particularly the sex trafficking of women and children where it applies. I think our law enforcement authorities across the board have been doing an excellent job, and we will continue to fight this evil trade.

Senator CONROY (2.38 pm)—My question is to Senator Coonan, the Minister for Communications, Information Technology and the Arts. Can the minister confirm that appropriations from the communications fund announced by the government yesterday will be made on the basis of recommendations of independent reviews of service levels in rural and regional Australia? Can the minister also confirm that similar arrangements are in place to ensure that the funding being provided under the Connect Australia program will be allocated based on need and as such will provide no guaranteed money for any specific regions or particular states? If this is the case, can the minister explain to the chamber whether these arrangements are consistent with Senator Joyce’s statements that he is ‘happy’ for the government’s plan to be described as a ‘slush fund’?

Senator COONAN—The communications fund arrangements will depend on the regular reviews and will be in response to those regular reviews and, yes, the Connect Australia $1.1 billion fund will be allocated based on need.

Senator CONROY—Mr President, I ask a supplementary question. Is the minister aware of Senator Joyce’s claims last night that he had ‘extracted’ more money for Queensland in exchange for his support of the Telstra sale than Senator Harradine got for his support of the first two sales? Can the minister confirm that Senator Harradine extracted more than $333 million in direct guaranteed funding from the government for spending exclusively in Tasmania? Can the minister inform the chamber of the guaranteed value of the funding to be received by Queensland under the package released yesterday by the government?
**Senator COONAN**—As I said, the funding from the communications fund will be allocated in response to regular reviews, and the money for Connect Australia will be allocated based on need.

**Telstra**

**Senator ALLISON** (2.41 pm)—My question is to the Minister for Communications, Information Technology and the Arts. The Competition Principles Agreement at sub-clause 4(3) says that, before a government introduces competition to a market traditionally supplied by a public monopoly or privatises a monopoly, it will review amongst other things:

(b) the merits of separating any natural monopoly elements from potentially competitive elements of the public monopoly;

Can the minister explain why the government did not do this before heading down the path of privatising Telstra? Why hasn’t the government explored the option of keeping core telecommunications infrastructure in public hands?

**Senator COONAN**—I thank Senator Allison for the question. The government’s approach to the sale of Telstra was to look at what was needed to provide a good competitive environment under the telecommunications specific rules, as Senator Allison would be aware, that operate under the Trade Practices Act, in particular parts 11B and 11C. It looked at whether the competitive environment needed any reforms prior to Telstra being privatised and, even if it was not privatised, whether it was time, because of the operation of competition—which has been very successful in the telecommunications sector, as Senator Allison would be aware—to see whether any adjustments were needed to encourage new investment, new entrants and new players given the state of maturity of the market.

Senator Allison would be aware that there have been calls from time to time for Telstra in particular, as the dominant telecommunications provider, to be operationally separated. Telstra has been accused by some of being too big to regulate and by others of needing some better regulatory framework. We have gone down the path of looking at whether there should be operational separation of Telstra. That has been developed in consultation with Telstra to respond to Telstra’s particular business model and that will, in fact, provide greater transparency, efficiency and enforceability regarding the principle that Telstra’s operations need to be more transparent and not unfairly favour its retail customers over its wholesale customers.

In response to Senator Allison’s question, I am confident that these arrangements will continue to deliver competitive outcomes. Indeed, I understand that they have been warmly welcomed by Telstra’s competitors. In fact, Telstra has squealed a bit and that surely means that the balance is probably right. When you look at getting the balance right, you clearly have to balance the legitimate needs of Telstra as it moves to a competitive model with pressure on its traditional network and ensure the rights and needs of consumers are being met in a more competitive environment. I am very confident that in the arrangements taken by the government we have looked very critically at what will deliver a competitive model. We have certainly considered the drawbacks to the consumer more broadly as well as to the telecommunications industry, in particular, of continuing to retain a monopoly telecommunications provider largely in government hands.

The prospect of the government continuing to be the majority shareholder in the largest company in Australia simply defies logic. This government has had a consistent
policy that, when it is proper and when the conditions are met, it will proceed with the sale of Telstra. I recommend that Senator Allison has a look at the package. The conditions are there to ensure that no Australian will be left behind in telecommunications.

Senator ALLISON—Mr President, I ask a supplementary question. Isn’t it true, Minister, that the government could have separated Telstra structurally as opposed to operationally—in other words, kept the core infrastructure 100 per cent in public hands, sold off the retail businesses and used the funds to roll out fibre and wireless to the many Australians who do not currently have it? Wouldn’t this solve what the government calls its ‘half pregnant dilemma’? Wouldn’t this solve access to broadband issues and public anxiety about that vital, nationally important infrastructure being entirely in private hands, and provide an ongoing revenue stream that would fund investment in new infrastructure technology? Why wasn’t structural separation considered?

Senator COONAN—Senator Allison, it was considered and it has been rejected.

Palmer Report

Senator LUDWIG (2.46 pm)—My question is to Senator Vanstone, the Minister for Immigration and Multicultural and Indigenous Affairs. I refer specifically to appendix B of the Palmer report, and ask the minister whether Mr Palmer has forgotten to interview a few people. How is it that Cornelia Rau wrote to the minister while in detention, yet the minister and her office were not questioned about the handling of that application? How is it that the minister’s chief of staff, Dr Nation, acted as the contact between Immigration and Ms Vivian Solon’s ex-husband, yet was not questioned by Mr Palmer about why he decided to hide the fact that Ms Solon had been deported from the public? How can the minister stand here and tell the Senate there has been a full inquiry when half the players in the drama have not been investigated?

Senator VANSTONE—I thank the senator for the question. I do not have appendix B with me. Senator, you make the suggestion that Mr Palmer has interviewed a few people and not others. I have yet to hear someone put forward the suggestion that Mr Palmer did not do a thorough job and that the recommendations in the Palmer report do not very, very clearly highlight what the difficulties are and what needs to be done about them. I am not aware of any request by Mr Palmer to interview my chief of staff but I will have something to say about this at a later date. My chief of staff has been on sick leave for four weeks and is not expected back for another two. I may leave it until he returns to clear the air. It has been cleared in estimates—I thought very clearly—for Senator Faulkner’s benefit.

To make a small point with respect to that, one of Ms Alvarez’s partners rang my office to make inquiries about what had happened and indicated that what he wanted to do was find out where she was and that he did not want the media involved. I have said before in this place that there was a specific reason for that—not that the media or anyone else cared. That information was passed on to the department. I will have more to say about that, because the proposition you put now—and it has been put by Senator Faulkner in this place—has already been answered in the Hansard. It is just another example of Labor seeking to traduce the good character of people who work with ministers or public servants, and I will come back to that.

As to people who were not interviewed, I have had occasion to reflect on whether I have got the time to go through appendix B and see who put submissions forward. It has occurred to me that I would be very inter-
ested to see whether Mr John Harley, who is the Public Advocate in South Australia, did. Senators on this side will know that Mr Harley appeared on The 7.30 Report. It was through Mr Harley’s comments that the nation was led to believe that Ms Rau was kept under lights, badly mistreated and a whole range of things that, for the benefit of Ms Rau and her family, I will not repeat. But they were salaciously repeated around Australia by the media.

The proposition put by Mr Harley was that he had been arguing for two months to get Immigration to listen to the plight of this woman. Mr Harley privately admitted to me the next day, by way of a faxed letter, that he never raised the matter with my office. I wrote to him and asked him: given that he is the Public Advocate in South Australia, did he raise it with South Australian mental health authorities, because the Palmer report indicates there were some problems there? I received no reply on that issue. I did receive a reply but not on that issue. I was interested to read in the paper the other day that Mr Harley now says that he did raise it with South Australian mental health authorities and that he was happy with their response. So I would have welcomed Mr Harley detailing his role and the exercise of his responsibility in South Australia or otherwise. But what Mr Harley did or did not do is not material regarding what Immigration did or did not do, and matters, frankly, very little. But I would personally be very interested.

Senator Ludwig—Mr President, I ask a supplementary question. I would appreciate it if the minister would come back to the question and answer it or, if not, take it on notice. I remind Senator Vanstone that the question goes to whether any of her staff have been interviewed, whether she has been interviewed, whether Mr Ruddock has been interviewed or whether Mr Ruddock’s staff have been interviewed by the Palmer inquiry. The minister can answer that.

Senator Hill—Mr President, I rise on a point of order. This is not the occasion for the honourable senator to be reminding the minister of anything. This is his opportunity to ask a supplementary question arising out of her answer, and he has not even attempted to do so as yet.

Senator Chris Evans—On the point of order: what Senator Ludwig was attempting to do was remind the minister of the original question.

Honourable senators interjecting—

Senator Chris Evans—that is right. In the form of the supplementary question he has been forced to ask it again, because again the minister was allowed to meander, tell her little anecdotes, reflect on the culture that has so concerned Australians and not answer the key questions that were put to her. Senator Ludwig, in his supplementary question, has been forced to re-ask the question that the minister refused to answer.

The President—I ask Senator Ludwig to ask his supplementary question.

Senator Ludwig—Can the minister tell the Senate whether she has been interviewed, whether her staff have been interviewed, and whether she is aware of whether Mr Ruddock has been interviewed? If she cannot do that, how can anyone have any confidence in the government’s secretive inquiry processes? Can the minister now explain to Australians the full facts about the dimensions of the public administration fiasco in the immigration department overseen by both her and Mr Ruddock?

Senator Vanstone—the short answer as to who was interviewed is: have a look at the report. There is an appendix that indicates who was interviewed.

Senator Ludwig—you haven’t read it!
The PRESIDENT—Order! Senator Ludwig, you asked a question. Have the manners to listen to the answer.

Senator VANSTONE—I have in fact read the report, and I have read the appendix. But it is apparent that either Senator Ludwig has not or he has some trumped-up question about whether someone was interviewed when the information is clearly available for him. As to the administration of the immigration department, at present and in the past, I might have something more to say about that during the next sittings.

AgQuip Field Days

Senator JOYCE (2.53 pm)—My question is to Senator Ian Macdonald, the Minister representing the Minister for Agriculture, Fisheries and Forestry. Will the minister inform the Senate how visitors next week to AgQuip—which are the largest field days in Australia, attracting over 100,000 visitors and in excess of 2,500 businesses—can learn about the benefits flowing from Australia’s free trade agreement with the US?

Senator IAN MACDONALD—I thank Senator Joyce for what I think might be his first question. I acknowledge Senator Joyce’s very keen interest in rural matters, particularly in opportunities for Australian agricultural exporters. The AgQuip field days in Gunnedah next week are a classic opportunity for Australian agricultural exporters to learn more about opportunities overseas. I acknowledge that they are very large field days, with over 100,000 visitors and some 2½ thousand businesses exhibiting there. I understand that the Parliamentary Secretary for Trade, Senator Sandy Macdonald, new Senator Fiona Nash, and not-so-new Senator Bill Heffernan will all be at the field days.

Rural and regional communities are a major source of our export strength and economic wealth. Indeed, country Australia generates about half of Australia’s export revenue and employs more than one-third of the nation’s work force. Exporters generate skills, infrastructure and social capital that build and strengthen local communities. The free trade agreement that Senator Joyce mentioned is certainly crucial for Australian exporters, and I want to congratulate Deputy Prime Minister Mark Vaile for the work that he did as trade minister on the AUSFTA, and also the Minister for Foreign Affairs, Alexander Downer. Under that free trade agreement, 66 per cent of agricultural tariff lines have been eliminated, and a further nine per cent will be reduced over the next four years.

Joining our colleagues from this side at the AgQuip field days in Gunnedah will be more than 10 trade commissioners and business development managers visiting from Austrade offices right around the world. They will be talking to businesses about export opportunities. This is, as I understand it, the first time Austrade staff have attended an agricultural field day.

Whilst the coalition is, through these sorts of initiatives, working on free trade agreements to bring jobs to rural Australia, Labor are working hard on losing jobs from rural Australia. I know that Senator Joyce shares my concern about jobs in rural Queensland. It is very difficult for me, for Senator Joyce and for my other Senate colleagues from Queensland to understand Labor Premier Peter Beattie’s decision to slash 400 jobs from the western hardwoods industry in Queensland. This is particularly embarrassing in Queensland, because Queensland forests have just been granted an AFS certification by the new minister recognising their sustainability. Whilst one arm of the Queensland government is saying they are well-managed forests, Mr Beattie, who seems to run everything in Queensland, is slashing 400 jobs from the western hardwoods industry. I cannot understand why Senator Ludwig, whose father is a very significant
person in the workers union in Queensland, is not continually asking about this and hammering Labor Premier Beattie about those sorts of things. Four hundred jobs are being lost and we do not hear a squeak from Senator Ludwig or any of his colleagues from Queensland.

The Howard government are determined to save jobs in country Australia. We did it in Tasmania. Had we followed the Labor plan, 10,000 jobs in the timber industry would have gone in Tasmania. The Howard government saved those jobs. We want to save jobs for the timber industry in Queensland, and we need a bit of support from the Labor senators to pull Mr Beattie into line.

**Minister for Immigration and Multicultural and Indigenous Affairs**

**Senator CARR** (2.58 pm)—My question is to Senator Vanstone, the Minister for Immigration and Multicultural and Indigenous Affairs. Was Senator Vanstone the responsible minister when an Australian resident was wrongfully detained for 10 months; when an Australian citizen was wrongfully deported; when two children were removed from the Stanmore primary school and wrongfully detained in the Villawood Detention Centre; when five detainees were locked in the back of a van for a 10-hour road trip without toilet breaks, food or water; and when a judicial decision was handed down saying that the immigration department was responsible for culpable neglect and for breaching the duty of care in relation to the refusal of psychiatric treatment for two detainees at Baxter detention centre? Under the Westminster system of government, isn’t the minister responsible for these repeated failures? What is more important to the minister: good governance or keeping her job?

**Senator VANSTONE**—Senator, you list a number of matters and ask whether I was the responsible minister in relation to each of those. The short answer to that is no. You then go on to ask, according to your version of Westminster responsibility, whether I am more interested in good governance than in my job. Frankly, I am interested in both. I love my job and I am also interested in good governance. That is why, having been confronted with the Cornelia Rau case, the obvious problems associated with that and the difficulties of dealing with someone with a mental illness of the sort that Ms Rau apparently has, I asked for an inquiry to be made and for the department to go back and find every other problem that could have possibly fitted into that category.

I do not know of a previous occasion when a minister has not only dealt with the problems at hand—and had them dealt with swiftly, unlike, as I indicated, the Midford Paramount case, which took three years to get to the bottom of—but has also said: ‘Go back and look for more problems. Find them so that we can be accountable to the public for what we have done.’ I have not seen that happen before. I happen to think that it is a minister’s responsibility when there is a problem to see if there are any more and set about fixing them.

**Senator CARR**—Mr President, I ask a supplementary question. Given that long list of items I read out for which the minister said she was not responsible, does she take the view that as minister she is responsible for the actions of her own department? If she does not, what does she actually do within the immigration department?

**Senator VANSTONE**—I answered the senator’s question by saying he had asked me whether I was the responsible minister when all of these happened, and the proper answer to that is no.

**Senator Chris Evans**—You were, for a number of them.
Senator VANSTONE—Apparently Senator Evans knows more. He is welcome to have a go at getting elected at the next election if he wants to. But, given that he voted for the current leader, it is not looking that good.

Senator Chris Evans—I didn’t have an ice pack on my head worrying, though.

Senator VANSTONE—You ought to have now. I see senators behind Senator Evans who do not only blame Mr Beazley for the poor state of the opposition’s standing; they look at the whole leadership group. My view is that ministers are responsible for getting their departments on track when they get off track and for fixing problems that come about. As to direct responsibility for matters, I think that is a question better referred to the Prime Minister. I refer the questioner to the Prime Minister’s remarks on that matter.

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

QUESTIONS WITHOUT NOTICE:

Immigration

Senator CARR (Victoria) (3.03 pm)—I move:

That the Senate take note of the answers given by the Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Indigenous Affairs (Senator Vanstone) to questions without notice asked today.

Today we have heard the minister seek to blame as many people as possible other than herself. She has sought to blame public servants and she has sought to blame her predecessors. She has sought to essentially sheet home to anyone else responsibility for the long list of cultural failures and administrative bungles in the department of immigration, many of which have been identified as occurring while she was directly there as the minister. We have seen no ministerial statement on these matters. We have seen no explanation to this chamber by this minister as to why these administrative bungles have occurred. We have seen nothing but a litany of blame-shifting exercises designed to shift attention away from her failures and onto other people. Of course, it is not the first time such a proposition has occurred, and I will come back to that in a moment.

We have a situation where, as a result of the Palmer report, we now have some 201 cases of people who have had to be released from detention as a result of being unlawfully detained. Fifty-six of those cases were for periods greater than three months. The minister’s response? To remove the executive of the department and to try to suggest that this is the culture created by her predecessor. At no point does she say, ‘I am responsible under the Westminster tradition, or under the Prime Minister’s code of conduct.’ At no point does she come forward and say, ‘I will take responsibility for what’s occurred.’

This is not the first time events like these have occurred. I can recall back in 1997, at the beginning of her ministerial career, a similar pattern occurring. I can recall a Senate estimates committee where she brought forward the bogus case of the Wright family. She said, in order to justify the policy position she had taken, the culture of the department at the time was to bring forward a bogus millionaire family and claim that they were on welfare and that they had two homes of $1.6 million in value, they had flash cars, they sent their kids to private schools and they had a declared income, according to the minister, of only $12,000. These things were all completely false. The ministerial code of conduct at the time said that ministers should be honest in their public dealings and should not intentionally mislead the parliament or the public, and that any misconception inad-
The pattern was established in 1997.

Who got the blame for that? I remind the minister of Ms Mary Lovett, who was the First Assistant Secretary of the Youth, Students and Social Policy Division of the department at that time. That officer was removed. Just as we see today, the minister seeks to blame her public servants for the political climate which is created by this government seeking to use the dog whistle of politics to press the hot-button issue of racism and xenophobia—a policy position which starts at the very top in this government.

This minister ought to take responsibility for her actions. But back in 1997 she did not do that. I can recall another occasion, the so-called ship of fools case, where very large sums of money were paid to the South Pacific Cruise Line, which collapsed. The government public policy was once again brought into disrepute. Two thousand apprentices, if I recall rightly, were very badly treated. Hundreds of new apprentices were badly abused. Again, what was the minister’s response? Blame the Public Service, blame anybody else and blame the situation that she is good at directing to other people. When it comes to her own actions, she is a bit like Bronwyn Bishop without the charm.

The minister ought to resign. She ought to take responsibility for the actions of her department, she ought to take responsibility under the Westminster traditions of this parliament and she ought to take responsibility in regard to the Prime Minister’s code of conduct. She ought to resign. But what we have is a litany of her blame-shifting and attempts to redirect attention to other people. We have seen a pattern emerge where this minister has failed in her public duty. She has failed—(Time expired)

Senator SANTORO (Queensland) (3.07 pm)—Again we have today a cynical motion trying to shoot somebody who, together with the government—in fact, representing the government—has acted with total propriety in relation to the issues that are being covered by this cynical motion to take note. It is instructive just to remind the Senate why this government and the minister have acted with great propriety. The government established the Palmer inquiry. It acknowledged that there was a prima facie case for procedures to be reviewed. Subsequently the government referred the Vivian Alvarez Solon matter to the Palmer inquiry. The government, also entirely of its own volition and without any particular pressure from senators opposite, ordered the Department of Immigration and Multicultural and Indigenous Affairs to review all cases of people being released from detention because they were found to be, or later became, lawful. As a consequence, 200 cases were referred to the Palmer inquiry and are now being examined by the Ombudsman.

As the minister clearly explained in the Senate yesterday, they are not necessarily cases of wrongful detention. They cover a broad range of circumstances, including people detained for very short periods while their identity was being established. They will also include people who are detained and are subsequently released because they have been granted a visa. It does not mean that their detention was wrongful or indeed unlawful. It is not a technical point and there is no presumption involved. Labor, during question time today in this place and in the other place and through this motion, are deliberately misleading the public and the parliament on this point.

The ‘released not unlawful’ scenario is the natural and indeed inevitable consequence of detention provisions in the Migration Act. I have not heard the Labor Party seek to move
a motion or to amend any law to change that. In the way that the act is supposed to operate, people may be detained on the basis of reasonable suspicion of being unlawful non-citizens and, after further inquiry, released if they are found to have lawful status or further detained if their unlawful status is confirmed. Furthermore, it is not a case of presuming that a person is an unlawful non-citizen. What is required under section 189 of the act is a reasonable suspicion, which means a suspicion grounded in objective facts. The suspicion that a person is an unlawful non-citizen must be justifiable upon an objective examination of relevant material. But because, by its very nature, a suspicion involves a degree of uncertainty, it is inevitable—and those opposite simply cannot deny it—that in some cases of detention under section 189 the suspicion, albeit reasonably held at the time, will turn out to be incorrect upon further inquiry. That simply does not make the detention unlawful.

Senator O’Brien interjecting—

Senator SANTORO—Senator O’Brien understands that, but again cynical politics are at play here. We have the playing out of cynical political point-scoring that seeks to besmirch, belittle and bring down a minister. That is not going to work because right is on the side of the minister. The opposition parties know that but they constantly try to imply otherwise.

The referral of all these matters to the Palmer inquiry and subsequently to the Ombudsman for independent examination is the action of a government who accept their responsibilities. We did not need to be prompted by senators opposite. We did not need to be encouraged to do the right thing, which is what we did when we established the Palmer inquiry and referred matters to it. We did not need a lecture in morality. We did not need any moral compass that the other side pretends to represent. We established the inquiry and referred serious matters to it because that was the correct thing to do.

I have participated in many taking-note debates on the same issue in this place because, day after day, opposition senators come in here and cynically seek to denigrate and besmirch the reputation of a minister and that of the government. I am very proud to rise in the defence of a minister and a government who have done the right thing—a government that recognise that when problems arise the source of the problem needs to be identified and fixes made. That is precisely what the government are doing in this case. Trying to bring down officers of the department, as opposition senators constantly try to do, trying to bring down a minister and trying to besmirch the reputation of a government in relation to these matters simply do not wash with the public. Clearly, that is reflected in the opinion polls that all opposition senators take particularly close notice of. They are just not getting the message across. (Time expired)

Senator FAULKNER (New South Wales) (3.12 pm)—In no other government in the Western world would a minister with the record of Senator Vanstone survive. Not just the Westminster conventions of ministerial responsibility but also sheer, plain commonsense dictate that this level of incompetence means that Senator Vanstone should resign. Senator Vanstone has presided over the greatest public administration debacle in the history of the Commonwealth of Australia. We know that from the government’s own report. If the government’s own report is so critical, just imagine what the real, unvarnished truth must be like.

Neither Philip Ruddock nor Amanda Vanstone did one single thing to address the pervasive cultural problems, even the cultural crisis, in the department until all the
publicity surrounding the wrongful detention of Cornelia Rau prodded Senator Vanstone into some very belated action. Of course it is no wonder that neither Minister Ruddock nor Minister Vanstone acted to address the culture of the Department of Immigration and Multicultural and Indigenous Affairs. They are both part of the cultural problem. The Howard government’s posturing on border protection and asylum seekers has seeped right through the immigration department, which now acts as though its job is to detain and deport as many people as possible.

The department, in its approach, took its lead from the government. The department, in its approach, took its lead from the ministers, Mr Ruddock and Senator Vanstone. The department believed it knew what the government wanted and it tried to deliver it. Of course, when it got too hot, it was the department and the officials of the department who copped all the blame; and it was Mr Ruddock and Senator Vanstone who accepted none of it. The Cornelia Rau case, the Vivian Alvarez Solon case and the scores of other cases of Australian citizens and residents wrongly detained by the immigration department highlight an obsession with detention and deportation in the department, an obsession that grew and was fostered under the ministerial responsibility of Mr Ruddock and Senator Vanstone. Something is rotten in the state of DIMIA, but no-one has stepped up to the plate to take responsibility.

We have senior executives of the department being shifted sideways. We have some duckshoved into other departments. We have some promoted. One has ever become the ambassador to Indonesia. And the minister—what has happened with the minister? She just sails on with no care and no responsibility. You have to wonder what it would actually take for the Prime Minister, Mr Howard, to sack a minister these days. If stealing kids out of a schoolyard and wrongfully tossing those kids behind barbed wire in a detention centre is not enough, what does it take to sack a minister in the Howard government? Where are we left with the Westminster conventions of ministerial responsibility? There is an open and shut case that the minister for immigration in the Australian government should resign. She should have resigned a long time ago. She should go and she should go now.

**Senator FIERRAVANTI-WELLS** (New South Wales) (3.17 pm)—It is somewhat hypocritical of Senator Faulkner to stand there and talk about the decisions of this government. I was a government lawyer for 20 years and I oversaw some decisions and acted for DIMIA in certain circumstances, and perhaps Senator Faulkner ought to go back and look at his own government’s record in the past. But I would like to focus on the Palmer report. The government has accepted the thrust and findings of the Palmer report. The Prime Minister announced on 14 July that the government accepts, on the basis of the Palmer report, that mistakes were made in relation to Cornelia Rau and Vivian Alvarez Solon. Both women have been apologised to by the government and changes have already been made within DIMIA as a result of the report. And more changes are on the way.

The government is demanding, and the new leadership of the department is delivering, real change that will make a difference in the future. This should not overshadow the fact that Mr Palmer also found considerable evidence of highly committed DIMIA staff. Even before Mr Palmer presented his report, the minister acted to change policy and procedures to improve the impact of detention on individuals. These measures included the establishment of the national verification and advice unit, the creation of the detention review manager positions within the department to ensure constant revisiting of individ-
ual cases and improvement to mental health services at the Baxter immigration detention facility.

I remind the Senate that the Prime Minister also announced changes, including an additional non-compellable power for the minister to specify alternative arrangements for persons’ detention, the result being that there are now no children in immigration detention centres, and an additional non-compellable power for the minister acting personally to grant a visa to a person in detention. He also announced the revision of the ‘removal pending’ bridging visa to broaden its application and allow more detainees to be released and six-monthly reporting to the Ombudsman on persons in detention for two years or more. Further, he announced a legislative requirement time frame of three months for the processing of refugee claims at primary stage and three months at review, and a requirement on the department to complete all primary assessments of applications for permanent protection visas from the existing case load of temporary protection visa holders by 31 October.

The minister herself also announced further changes, including steps to bring down razor wire from immigration detention centres, beginning with Villawood in Sydney. This was not a recommendation of the Palmer report, but it reflects the government’s recognition that appropriate measures, even beyond those recommended by Mr Palmer, can and will be put into place. Right now there is a new team at the top of DIMIA that has already begun implementing changes recommended by Palmer. These changes include: releasing a framework for the way forward for the department, focusing on it becoming a more open and accountable organisation ensuring fair and reasonable dealings with clients and with greater emphasis on well-trained and supported staff; recruiting people from outside the department; and releasing a new draft client service charter and strategy for public comment. This significant change agenda is occurring against a backdrop of strong public support in general terms for the government’s approach to immigrating. It is worth noting that it has been possible for the government to significantly increase the migration intake over the past years and that this is a positive reflection on the administration of the program.

In summary, these are the actions of a government that recognises its responsibilities. But what would the Labor Party have done? What would be their approach? Would Labor have willingly sought someone of the calibre of Mick Palmer, former Australian Federal Police Commissioner—and, later, Neil Comrie, former chief commissioner of Victorian police and the Ombudsman—to independently and thoroughly examine these issues? Would Labor have ordered the department to go back and check all cases of people released from detention? Labor have a history of ducking and weaving. In stark contrast, the coalition government is willing to recognise where problems are and do something about them.

Senator O’Brien (Tasmania) (3.22 pm)—We have just heard the defence of the indefensible but one has to expect that from coalition senators when they stand up here and try to defend a minister whose administration has been so demonstrably abjectly appalling. The fact of the matter is that, nine long years ago, the Prime Minister promised Australia that he would raise the standards of parliament and he would raise the standards of parliamentary accountability. Initially when offences were discovered, he required those ministers or parliamentary secretaries to resign. If you look at what happened to Senator Gibson in this place and his resignation, compared with the actions, or inactions, and the dereliction of duty of this minister,
one has to feel terribly sorry for Senator Gibson. The Prime Minister and this government have completely abandoned the promise to Australia that they would observe new standards for parliamentary and ministerial accountability. Those standards are clearly gone.

Yesterday we saw Minister Vanstone, when answering questions, try to shift the blame to someone else, because that is the modus operandi. It is always someone else’s fault, not the minister’s fault. She tried to shift the blame. We talked about the problems but it was the public servants who were at fault. It was someone in the department who was at fault. It was the contractor who was at fault. It was never the minister, not according to Senator Vanstone.

Yesterday in question time the minister ducked and weaved. She was asked whether or not the Hwang children were part of the 201 cases referred to the Palmer inquiry. She did not answer that. The minister was asked if there had been any other cases of wrongful detention since April 2005. She did not answer that. The minister was asked how many of the 201 were citizens or residents and about the longest period of detention. She did not answer that. The minister refuses to answer these questions because, frankly, there is something to hide and because, if the minister answers those questions and puts the facts on the table, her lack of performance and the decline in her credibility will be highlighted.

What are we seeing today? We talk about Orwellian politics; we are now seeing terminology change. What did we hear defended by Senator Santoro today? The use of the term ‘released not unlawful’ instead of ‘wrongful detention’. We have been talking about the 201 people who have been held by the immigration department. According to an article in the Courier-Mail today, 56 of those had been held for more than three weeks, but there was nothing wrongful, according to Senator Santoro, about those 201 people being detained. That is a typical defence of the minister’s inaction. This was, in a typically Orwellian phrase, ‘released not unlawful’. Say anything and do anything but do not accept responsibility. That is the standard that this government now accepts for all of its ministers.

For this government, after nine long years, to be talking about standards and about being fit for government, is laughable. This government is no longer fit for government. This government is showing that it is totally arrogant. It is out of touch with the people of Australia and the standards they expect. If this government were in touch, the minister would have resigned or the Prime Minister would have sacked her because the litany of wrongful events that have been conducted by her department—including deporting an Australian citizen and locking up an Australian citizen for months and denying her proper psychiatric attention—and all of the events that have been referred to in the Palmer inquiry and all of the events that the Ombudsman has referred to indicate that this department is out of control.

But what do we see? We saw some people promoted out of the department and other people moved sideways out of the department. But the person responsible, the person who occupies a place at which the buck stops, says, ‘Not me. It’s somebody else. We’ve got the inquiries going’—inquiries which were commissioned because of public pressure, not because of the conscience of the government—(Time expired)

Question agreed to.
MATTERS OF PUBLIC IMPORTANCE
Immigration and Multicultural and Indigenous Affairs

The DEPUTY PRESIDENT—The President has received a letter from the Leader of the Opposition in the Senate, Senator Evans, proposing that a definite matter of public importance be submitted to the Senate for discussion, namely:

Dear Mr President
Pursuant to standing order 75, I propose that the following matter of public importance be submitted to the Senate for discussion:

“The need for Senator Vanstone to accept ministerial responsibility for the serious and systemic failures of administration at the Department of Immigration and Multicultural and Indigenous Affairs that has caused such injustice and misery.”

Yours sincerely
Chris Evans

I call upon those senators who approve of the proposed discussion to rise in their places.

More than the number of senators required by the standing orders having risen in their places—

The DEPUTY PRESIDENT—I understand that informal arrangements have been made to allocate specific times to each of the speakers in today’s debate. With the concurrence of the Senate, I shall ask the clerks to set the clocks accordingly.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (3.28 pm)—I have sought to bring on this debate today, partly because there has been no attempt from the government to table and speak to the Palmer inquiry. Since the parliament last sat, we have had a range of reports and inquiries which have pointed to the complete breakdown of proper process inside Senator Vanstone’s Department of Immigration and Multicultural and Indigenous Affairs. We have had the Palmer inquiry, court decisions, the Hamburger report and a whole range of evidence about the complete failure of administration and about the abuse and mistreatment of people under that administration, and yet the government have not had the courage or have not treated the matter seriously enough to come into this parliament to table a ministerial statement in reply. All we have had is an apology in the face of an estimates inquiry. We have had no attempt by the government to come in and explain their position.

When asking questions of the minister we have had further evidence that she maintains the culture of denial, the culture of denigrating critics, the culture that Mr Palmer so strongly criticised that had permeated the immigration department. The minister, Senator Vanstone, is living proof that that culture persists. She refuses to answer questions. She refuses to take responsibility. She is in denial about essential facts. She seeks to use legal language to hide the misery that has been imposed on people who have been taken into custody inside her department. She had the brazenness to say yesterday: ‘Oh, it’s old news.’ The government’s position is: ‘It’s old news. Australians will forget. We’ll move on. We’ll brazen this out.’ The minister knows the Prime Minister has no standards. His only standard is when the stench gets bad enough he might have to drop a minister, but until then there are no standards.

This debate is important because I think Australians do care. They are seriously concerned by the Palmer report. Despite the limited terms of reference and despite the limited powers, Mr Palmer did a good job as far as he could in revealing the departmental culture and the abuse that occurred under that culture of Australian citizens and those who have sought to come to this country.
It is important that we take a step back. We all follow the newspapers, we all follow the debate, and it allows the minister to say it is old news. But I invite senators to think about it in another way. Think about it in terms of how people outside Australia might see what is going on in Australia today. In 1988 when I was in London studying, there was a protest march down the Strand. Thousands of people were protesting. They were protesting about the treatment of Aboriginal people in Australia. I was shocked to my core, because I had never had that perspective that people in Britain had about the Australians’ treatment of their Indigenous people. These were people motivated to protest about our treatment of Indigenous Australians. There I was organising the beers and pies for the Australia Day celebration, and there were these thousands of people marching. It shook me very seriously, because it said: ‘This is how other people view us.’

I invite senators and others listening today to look at the report from outside. Pretend it was a report from another country. Pretend that you read a report in which a government department in a foreign country threw people into vans and trucked them across the country for hours without food or water, sitting in their own urine—people who had to sit for seven hours amid the stench of urine and fear. What about hearing reports about a department that sends government officials out to primary schools to march in, drag children out of their classrooms, take them to a detention centre and lock them behind razor wire—in front of their own school friends, drag them out of the class and incarcerate them? What about reports of a department where a sad, vulnerable young woman was left eating dirt and left to be humiliated at every turn as she was incarcerated—her medical care was neglected and she was left scarred, anguished and alone? What about reports of a department where one of that country’s own citizens had been picked up in an injured, confused state and deported—her child left at a child-care centre waiting for her mother to return—and taken into custody in an injured and confused state and eventually deported because she looked foreign, she did not look as the rest of the citizens of that country did?

What would we make of that if that report came in about a foreign country? We would be shocked. We would be appalled. We would be writing letters. We would be in outrage that a country could treat its citizens like that. But, no, in Australia the government say: ‘There were a few mistakes made. Don’t worry about it.’ They figure they can brazen it out, that the person who has run this system can stay in place without penalty because Australians will move on, the new cycle will move on, and it is all okay. No-one has to take responsibility. We would be outraged if that sort of action took place in another country, but the Prime Minister expects Australians to see that happen in Australia and to say: ‘It doesn’t really matter. We shouldn’t be concerned about it.’ That is not the sort of Australia I want to live in. I do not want to see that happen. I want to see people accept that it is wrong and demand change. People must demand responsibility be taken. We cannot just move on. We cannot see Australian citizens and people who come to this country treated like that and just move on. It is not good enough. There has to be some accountability.

Mr Palmer was tasked not as I would have tasked him, but he did a commendable job. He got a lot of the truth out. I have some quibbles about witnesses who were not interviewed et cetera, but he revealed the deep-seated departmental culture, and for that he ought to be congratulated. And yet this stinging indictment of our immigration system is not even the subject of a ministerial statement to the parliament. No-one has come
into this place to say anything about that. It is quietly tabled and left on the documents list: ‘It’s all over. We’ll move on. They’ll forget about it.’ It is not good enough.

We waited for Senator Vanstone to come. Unfortunately she was ill last week—I accept that. She came this week. We have sought to ask her questions. We have not got answers. We have had the culture of denial again as she has been brazenly trying to blame the critics and everybody else but take no responsibility herself. And that is the key issue here: who is going to take responsibility? What we now know is that under the Howard government a damning indictment of a department—a report which says that Australians have been treated appallingly, that people taken into custody have been treated appallingly and that children have been locked up, snatched from schools and treated in an inhumane way—is acceptable because no-one is responsible.

The two senior persons responsible for that state of affairs in that department are whom? The minister and the secretary of the department. Well, what has happened there? The secretary of the department has been promoted to the position of Ambassador to Indonesia. That is his accountability; that is the responsibility he has taken—the Prime Minister has promoted him and sent him overseas. The Prime Minister has said that the minister, Amanda Vanstone, is doing a great job: ‘I’m going to leave her where she is because she’s now starting to fix up the problems that she’s been responsible for for the last two or three years.’ And that is it. That is the arrogance. That is the concern. That is the government’s attitude to responsibility.

Today the minister was in here again saying, ‘It’s old news,’ and ‘I’m not responsible.’ She was asked directly about incidents that occurred in the last few months. She said, ‘I’m not responsible.’ Who is responsible under the Howard government? Nobody. No-one is accountable. A few senior public servants have been shifted sideways to create a sense of reform and we have had a senior former Immigration official brought back as secretary, but no-one has taken responsibility for what has occurred.

I think the government stands condemned because it has failed to take responsibility. We all know the Prime Minister walked away from his code of conduct for ministers years ago. After losing five or six because they were so clumsy that they could not meet the most basic of parliamentary standards, he said, ‘We’ll have to change the rules; we’ll have to abandon that.’ But any quick look at that code of conduct would show that Amanda Vanstone should have gone. She had to go. Under the most limited interpretation of the Westminster system of ministerial accountability, under the slimmest definition of that concept, Amanda Vanstone should have taken responsibility. But no: no-one takes responsibility in this government.

Australians are deported because they look foreign. People are locked up. Children are snatched from school. But no-one takes responsibility. It is all okay. The media focus will move on. It is ‘old news’. Well, it is not old news as far as I am concerned. The minister has to be held accountable by the chamber. She knows we do not have the numbers to force her out. Even in the previous Senate we could not do that. But the brazen disregard for taking any responsibility is breathtaking and, quite frankly, it is highly hypocritical.

I ask senators to think of two of the other issues that are currently being espoused by the government. Think about shared responsibility. Think about how the Prime Minister and the minister go out to Aboriginal communities, to people living in some of the
worst Third-World conditions, inside our country. The minister lectures them about the need for them to take responsibility—for them to take responsibility for their condition, for their children, for their health care—and not to rely on the government and not to rely on others but to take personal responsibility. She lectures people living in poverty about personal responsibility, and she comes in here and says, ‘Nothing to do with me. I take no responsibility for my actions.’ What abject hypocrisy! She has to take personal responsibility, and she has taken none. She lectures poor, unemployed Aboriginals living in terrible conditions about responsibilities but takes no responsibility herself.

And there is the other big issue of the day: unfair dismissal laws. The government says, ‘We don’t want people to have rights to protect themselves from unfair dismissal.’ I can understand why. The minister wants to talk to us about how terrible it is that people might have a right to protect themselves against unfair dismissal. What hypocrisy! If ever a minister deserved dismissal, it is Senator Amanda Vanstone. What else would you have to be responsible for that was more serious than what she has overseen—and yet the Prime Minister will not sack her.

When the government want to talk hypocritically about shared responsibility, mutual obligation or industrial relations laws, I will be reminding them of their failure to take responsibility. They have no moral authority any longer. As long as Amanda Vanstone is allowed to stay minister, the stench that surrounds her and the government will continue. The government may think that, with their Senate numbers and their total control, that sort of arrogant disregard for the processes that have served Australia and our democracy so well is okay. I do not think it is. I do not think Australians will think it is either. They know she should go. They know she has failed in her job and they know that the government are just going to try to brazen it out. They will not take responsibility.

It is not just the Palmer report. Since the Senate rose in June, there have been a whole series of developments that reinforce the point that Mr Palmer made about the deep malaise inside Immigration, about the culture. Culture comes from the top. Leadership sets the culture. The culture of this government is to take no responsibility. The culture of DIMIA was driven by the political decisions of the Howard government. They knew they were doing the government’s bidding. They knew, when they acted in the way that they did, that they were in tune with government policy. But now, no. The government seeks to take no responsibility for the actions of its public servants. It seeks to shift the blame, to deny and to have an esoteric legal discussion about whether someone has been unlawfully detained or not. This is actually talking about someone locked up in a jail, even though they are an Australian citizen, because the immigration department decided that they looked a bit foreign. But we have an esoteric debate, with people saying that legally they have the right to do that. That is the defence. There is some sort of legal argument that says, ‘Under the immigration law we have the capacity and the ability to do that, so what’s your problem?’

I am morally outraged about it. I actually think it is frightening. A Greek friend sent me an email. He gave me his Medicare number and his passport number because he said that after a couple of beers he has been known to talk Greek, and he is a bit worried about getting picked up! He wanted me to be able to vouch for him in the case of him being picked up by DIMIA.

This is a really serious matter that has not been treated seriously by the government. They have not taken their responsibilities seriously. I think it is the height of hypocrisy.
that the government continue to defend a minister who has so appalling failed in her duty to Australian citizens and her duty to this parliament. It is just not acceptable that that be allowed to occur. This is a test for the government. It is a test about whether they have any moral fibre at all, whether they have any ability to respond to the serious concern.

I know you have the numbers. I know you have the capacity to try to ride it out but, if we are to initiate change and reform in DIMIA, you cannot do that by leaving the minister in charge. It is a typical response when these things occur to just sack a few juniors. I am sure we will find that a couple of low-level public servants will be tossed out on their ear in months to come. The minister will sit up there saying, ‘It is not my responsibility; it has nothing to do with me.’ It will be another blustering performance that we have seen time and time again from her which seeks to blame the critics, to argue the minor technical points, to say, ‘You don’t understand,’ to try to degrade and attack anyone who says: ‘Surely this is morally corrupt. Surely this is not right. Surely someone ought to take responsibility.’ But, no; this minister will seek to argue that she is fixing the problems, that she is not responsible for the problems and that all the things that occurred under her watch—as recently as in the last couple of months—are not her problem.

We have had the Hamberger report, we have had the Palmer report and we have Federal Court judges concerned about a Bangladeshi student who had his visa wrongly cancelled and had been restrained while in his home and searched without a warrant. We have a whole range of cases still occurring. The culture has not changed and, until the minister goes, there will be no signal to the Australian community that the culture is going to change. You cannot leave the boss there and say, ‘We’ve changed.’ It does not happen in a private organisation. In the end, in our system of government, the minister is responsible, not for every action inside the department but for the culture and for the general systems.

The problems inside DIMIA are systemic. Palmer found that. The minister has to take responsibility. There is just no sign at all of this government taking any responsibility for those problems. The stench, the moral failure of this government will continue to haunt Senator Vanstone. She will be a dead woman walking, because she has no moral authority. She will have no moral authority with anyone so, when she goes to lecture people about responsibility, they will laugh in her face.

Senator Brandis—You have already said that.

Senator CHRIS EVANS—I am sorry, Senator Brandis. I know you do not like Senate process, inquiries and things like that. Your colours have been shown. I am looking forward to your legal defence of Senator Vanstone. It will not be a moral defence.

Senator Vanstone sits at the head of a rotten system. She sits at the head of a system which needs radical and urgent change at the most profound level. The catalogue of mismanagement and inhumane treatment carried out by her department is a terrible reflection on this government and it shames our country. Senator Vanstone absolutely refuses to take responsibility for any of it. She has pleaded ignorance, she has passed the buck, and she has sat on her hands. That is just not good enough. Her performance has been a disgrace and an embarrassment, and Australia and Australian democracy is poorer for allowing it to occur. If we as a community do not hold her to account, what moral authority will we have? What ability will we have to argue proper behaviour? What lessons will
we teach our children if we say, ‘You can behave like this; you can preside over a system that treats other human beings in this way, but you do not pay a penalty or take responsibility’? How are we to speak to our children to try to teach them proper values when this is the signal that the government of the day sends to children? The signal it sends to public servants is that they will be the ones to carry the can for the government’s failures. Senator Vanstone must resign. If she will not resign, Mr Howard must sack her. Anything less is a disgrace. (Time expired)

Senator BRANDIS (Queensland) (3.48 pm)—Far from refusing to take responsibility for what happened in DIMIA, Senator Vanstone has assumed responsibility in the most obvious and practical way. On 8 February, she commissioned former Commissioner Palmer to undertake a searching inquiry into DIMIA to find out where the problems were, to rip the covers off the department’s processes and to come up with recommendations to fix them. That report was published, and here it is. What an absurd argument from Senator Evans and what a humiliating, demeaning performance from Senator Faulkner earlier on in the afternoon who, as a former cabinet minister, one would expect more from. What a humiliating performance, Senator Evans, because every argument you raise and every charge you make against Senator Vanstone comes from the very report—the Palmer report—which she herself commissioned.

The government and Senator Vanstone did not have to commission the Palmer inquiry, but they did. They did not have to give Commissioner Palmer the broadest imaginable terms of reference, but they did. They did not have to extend the Palmer inquiry’s terms of reference not once but twice, yet they did. When they received the recommendations—critical recommendations on which Senator Evans bases his whole case against the government—what did the minister do? She said: ‘We accept these recommendations. We publish the report and we will act upon them.’ That is accepting responsibility in the most practical way—that is, by getting to the bottom of the problem and moving swiftly to fix it.

What did Senator Evans, Senator O’Brien—and it was all a bit beyond Senator O’Brien—and Senator Faulkner not say? Nobody alleges that these mistakes, with terrible consequences for Mrs Solon and Ms Rau, and this misconduct which has come to light were personally the mistakes of Senator Vanstone, the minister.

Senator Wong—That is not the principle of ministerial accountability.

Senator BRANDIS—I will come to that, Senator Wong. Nor do they say that Senator Vanstone knew of those mistakes at the time they were made or that she ought to have done so. These were mistakes. Nobody has denied that grave mistakes with serious consequences for the individuals involved were made. Nobody says that the minister was personally responsible for those mistakes or aware of them. What they say is that somehow ministerial responsibility means that a minister should assume a personal culpability for the mistakes made at the most junior levels of the department by officers making decisions of which she was unaware. That is a bizarre notion of what ministerial responsibility means and it is unsupported by anyone who could speak with authority on what ministerial responsibility means.

There are two Australian academics who have written at great length about what ministerial responsibility means in our system. One is Professor Hugh Emy and the other is Professor Patrick Weller, the latter of whom has devoted a long and distinguished career to studying ministerial conduct and ministe-
Is it reasonable to hold the minister personally responsible for administrative errors occurring at organizational levels far beneath him? Ministerial responsibility assumes that the minister has enough contact and familiarity with routine administration for it to be feasible to hold him personally responsible for the actions of his public servants. This is no longer true. In large departments, the chains of command and communication are usually too long to insist on holding the man at the top personally responsible for the sins of his subordinates.

There are common-sense reasons therefore for qualifying the minister’s overall or blanket responsibility for administrative error. Today, in the majority of cases where error occurs, ministerial responsibility means ministerial answerability: the minister is constitutionally responsible for informing parliament of the matter and assuring MPs that the error will be corrected. He is unlikely to be held personally liable for the error. It is even less likely that, when the officials are recognizably at fault themselves, he will be expected to resign.

And Professor Emy writes that there has been no precedent in the whole of Australian constitutional history of a minister being expected to resign on the basis of mistakes made by officials within his department of which he was neither aware nor ought reasonably to have been aware.

The leading study of the responsibility of ministers, though, was written by Professor Patrick Weller in 1980, and co-authored by a journalist known to all of us in this chamber—a very distinguished journalist—Michelle Grattan. What Patrick Weller and Michelle Grattan had to say about ministerial responsibility was this:

Acknowledging that the minister can no longer know everything that his officials are doing, it is now asserted that ministerial responsibility means simply that a minister must explain how mistakes were made by his officials and undertake to correct them.

‘Undertake to correct them’—and that is precisely what Senator Vanstone did, in a situation where nobody can honestly assert that the minister was personally responsible for the errors and nobody can honestly assert that the minister knew that the errors had been made at the time they were made.

Senator Vanstone, with all the authority of the Prime Minister and the rest of the government, commissioned the Palmer report to get to the bottom of it. Unlike opposition senators who have spoken in this debate I have actually been through the Palmer report, and I cannot immediately think of a precedent of a minister, made aware of a grave mistake made by junior officers of their department, of which not only did they not know, but in the routine of administration could not possibly be expected to know, commissioning such a searching inquiry into their department.

It certainly did not happen during the Keating government. If it did, if I am mistaken about that, Senator Wong, when you speak in the debate perhaps you would be good enough to inform us of the occasions during the term of the Keating government when a minister, made aware of problems within their department, commissioned such a searching inquiry into the department’s processes, routines and procedures as did Senator Vanstone when she commissioned the Palmer inquiry. And, Senator Wong, when you speak, perhaps you would be good enough to tell us—because I am not aware of it—of any precedent of the Hawke government doing it, or of the Whitlam government doing it or, indeed, of any non-Labor governments doing it. To my knowledge, it is unprecedented in Australian constitutional history for a minister, made aware of serious administrative errors at a low level of decision-making within their department, commissioning an inquiry as searching as this.
Why is Senator Vanstone being chastised by the Labor Party today? The reason is that Senator Vanstone set in place a process, on 8 February this year when she announced the Palmer inquiry, whereby she knew or could reasonably have expected that Mr Palmer would come back to her with a report that would expose nakedly, rawly, candidly, bluntly, the errors being made in the department. How in God’s name is that a minister running away from responsibility? How is that a minister refusing to be answerable when she herself commissions an investigation and then puts it in the public arena, knowing that, by the very fact of doing so, she is making bullets for the opposition to shoot at her, as they have done in an unworthy and intellectually dishonest fashion this afternoon?

In a case where the impugned decisions happened so low down the ministerial chain of command that the minister is not aware, and could not reasonably be aware, of them, the first step in ministerial responsibility is to identify what the problem is. And, as I have said, by commissioning as searching an inquiry as this country has ever seen into departmental processes, and thereby opening herself up to political criticism by those who do not descend below the level of rhetoric, Senator Vanstone has certainly fulfilled the first of those requirements.

But the second thing that ministerial responsibility means is that, when made aware by the report set in train by the minister of what the problems are, you fix them. When Senator Vanstone received the Palmer report, she did three things. First of all she released it. That might seem to senators something that she ought to have done, but more commonly than not, as you know Mr Deputy President, in governments of both political persuasions, when inquiries into departmental processes are made, they are not publicly released. So the first thing Senator Vanstone did was to release the report.

Let the point be made, lest it be missed in the fog of rhetoric from the opposition, who do not want to condescend to the facts—or, as Senator Evans rather precisely said, let us not have the legalities here; and I can understand, Senator Evans, why you are not interested in the legalities—that there is not one word in the Palmer report that is a criticism of Senator Vanstone. That is not because the terms of reference are too narrow. It is acknowledged that they are very wide. It is not because Mr Palmer was not a tenacious and thorough investigator—because by common acclaim and reputation he is. It is not for any reason other than there was no personal criticism of the minister to be offered, because Senator Vanstone neither knew nor could reasonably have been aware of the decisions made by junior officials in the department.

So this report was published, containing not a breath of criticism of Senator Vanstone. The second thing Senator Vanstone did after authorising its publication—and I acknowledge that it is a report critical of the culture of the department; we all know that—was to apologise, along with the Prime Minister, to the people concerned, as they ought and as they did without any hesitancy. The third thing Senator Vanstone did—and I think in terms of taking responsibility it was the most important thing she could have done—was to take responsibility for fixing the problems. She took responsibility for identifying them, she took responsibility for exhaustively and thoroughly investigating them, and she took responsibility for fixing them.

The measures that the Palmer report recommended, which Senator Vanstone has moved swiftly to implement, include: the establishment of a national verification and advice unit within the department to improve
the process of identifying individuals who cannot be positively identified; the creation of detention review manager positions in the department to ensure constant revisiting of individual cases; improvements to the mental health services at Baxter immigration detention facility; additional non-compellable power for the minister to specify alternative arrangements for a person’s detention, with the result that there are now no children in immigration detention centres—a measure that arose not merely from Palmer but from a debate driven within the government parties; the addition of non-compellable powers for the minister acting personally to grant a visa to a person in detention; revision of the removal pending bridging visas to broaden their application and allow more detainees to be released; six-monthly reporting to the Ombudsman on persons in detention for two years or more; a legislative requirement time frame of three months for the processing of refugee claims at primary stage and of three-monthly review intervals; and a requirement on the department to complete all primary assessments of applications for permanent protection visas from the existing caseload of temporary protection visa holders by 31 October 2005. The minister has also announced more detailed changes in the detention centres, particularly at Baxter and Villawood.

Mr Deputy President, you could have heard the cheap rhetoric from Senator Faulkner, Senator O’Brien and Senator Evans—the demeaning, humiliating, rhetorical flourishes we have heard from the opposition—and been unaware that all of those decisions were made as a result of the Palmer report. You would have been unaware that the Palmer report contained not a breath of criticism of Senator Vanstone. You would have been unaware that this is as exhaustive a review of departmental processes as exists in Australia’s constitutional history. And you would have been unaware, listening to the Labor Party, that all that happened because Senator Vanstone, having been made aware of these mistakes, rolled up her sleeves and said, ‘Even though this might embarrass the government and it might make bullets for the opposition to fire at us, let’s get to the bottom of these problems and let us fix them.’

(Time expired)

Senator BARTLETT (Queensland) (4.03 pm)—The Senate is debating the need for Senator Vanstone, as minister for immigration, to accept ministerial responsibility for the serious and systemic failures of administration at the department of immigration that have caused such injustice and misery. It has to be said that a lot so far has focused on the Palmer report and the fact is that it did not have the broadest imaginable terms of reference, as Senator Brandis might suggest. The terms of reference were actually extremely narrow and the inquiry had limited powers. It is quite clear that people across the spectrum had been calling for a much stronger and broader inquiry and are still calling for it. To suggest that it was the most comprehensive investigation in history into the administration of a department is absurd. Perhaps it is also a bit over the top to say that this is the most incompetent and horrendous display of ministerial and departmental failure since Federation, as I think one of the Labor speakers said at some stage this afternoon.

To pull it back to somewhere in the middle ground of reality, an extremely serious failure has occurred in the immigration department—not just in one case, two cases or 200 cases. The failure is widespread, systemic and comprehensive, and that is a serious problem for all of us, because this is a key area of public policy. Despite the fact that I and the Democrats have been very critical of this minister, the previous minister, this government’s immigration policies and the administration of the department, I do
accept that it is a very difficult area of public policy, but unless you have a minister who is willing to front up and go on the front foot about these things—and to his credit, at least Minister Ruddock did that to some extent—then I think you do not even have a hope of getting to first base.

We have all this talk about a change of culture. I will not revisit the debate we had earlier about disallowance, but the fact is, as Senator Evans said, that the system needs radical and urgent change. We cannot do that by shuffling a few people around and changing the secretary—and, frankly, much as I think the minister must bear more responsibility, you cannot do that just by changing the minister, because it is government policy and the Migration Act that is driving this. I have to say that the Migration Act, in most of its problematic aspects, has been supported by the Labor Party. It has been the bipartisan policy of the two major parties to support most of these things that have given public servants and ministers extraordinary powers, as Mr Palmer described them.

It is my view that while ever you have public servants or a politician who has individual, unappealable power to lock people up at their discretion, indefinitely, you will get injustices. We have all of these systems of checks and balances that have developed over a very long period of time—going back into our British legal heritage—to try to protect against these sorts of injustices and even they fail from time to time. So what can we do but expect that people will inevitably be wrongfully detained or wrongfully deported, when there is such power concentrated in unaccountable public servants and in the minister, who has total discretion in a whole range of areas?

If you are looking at this issue from the point of view that the minister cannot be blamed because the minister could not reasonably know, I would say that, in some cases, I accept that but I do not accept that it is true in all cases and I do not accept that it is true in a holistic sense. The immigration department has quite deliberately put in place so many structures that people do not know and do not want to know—and the minister does not want to know. You cannot say that the minister should be absolved of responsibility for not knowing, when she does not want to know.

I have seen massive injustice. I categorically guarantee to this Senate massive injustice and incompetence in decision making with regard to some people on Nauru. The minister has not even gone to Nauru since she has been minister and says that it is not our problem, even though we put that system in place. There are a clear number of cases where the issues have been brought to the attention of officials in the minister’s office and they have just flicked them back to the department. You cannot keep doing that time after time when there is such widespread evidence of major problems and then beg to be excused by saying, ‘I didn’t know, so you can’t blame me.’

Once things get to this stage, you have to be willing to take responsibility and you have to look at reforming the laws and the policies that will inevitably lead to this injustice. That is a challenge for all of us, not just the minister or the government. I hope that, through the Senate inquiry that is under way, we can, in a constructive way across all parties, try to make the legislative and policy changes that are needed. (Time expired)

Senator WONG (South Australia) (4.09 pm)—The story of Senator Vanstone’s period as Minister for Immigration and Multicultural and Indigenous Affairs is a story of incompetence. It is a story of incompetence with sad and tragic consequences for people such as Vivian Solon, an Australian citizen
wrongfully deported by the Department of Immigration and Multicultural and Indigenous Affairs; the five detainees who were locked in the back of a van for a 10-hour road trip without toilet breaks, food or water; and the children who were removed from the Stanmore Primary School and then wrongfully detained.

But this is more than a story of an incompetent minister; it is also the story of a minister who refuses to take responsibility for the incompetence that has occurred on her watch. Today we have had Senator Brandis picking up some academic text and talking about the legal reason that all these mistakes are not the minister’s fault and she does not have to take responsibility. That shows just how out of touch this government is. The Australian people understand what responsibility means and they understand what they want—that is, a minister who actually takes responsibility for the mistakes her department makes, including things such as deporting an Australian citizen and not returning her to Australia after they realised that she was an Australian citizen. It shows how out of touch this government is.

What have we seen from Senator Vanstone? From the defence on the other side, you would think that she has been a pillar of moral virtue in this process. Have we seen her come in here and make a ministerial statement on the Palmer report? Have we seen her come into this chamber, to which she is responsible and through which—through this parliament—she is responsible to the Australian people, and have the courage to debate the Palmer report, make a ministerial statement and debate the opposition and the minor parties in this chamber on the contents of that report? No we have not.

Have we seen the minister come in here in question time willing to give answers to questions about the serious failings in her department? Have we seen her willing to answer questions competently and clearly? No, we have not. We have seen a minister who comes into question time, often late, blustering and blundering her way through question time—ducking and weaving, not wanting to give the information and not wanting to answer the question. Instead of answering the question, what do we get from the minister? We get a lot of vitriol, attacking senators on this side, and we get sarcastic jokes such as, ‘I’m hard of hearing today. I thought it was me, but I think it is you who is hard of hearing because you haven’t heard my answer.’ How many times did we hear that in the last two question times? We see her personally attacking senators on this side so that she does not have to answer that question and we see her, over and over again, blaming everybody else instead of taking responsibility. Even today she had the gall to attack the Public Advocate in South Australia.

It appears that it is always someone else’s fault when it comes to Minister Vanstone and it is never her responsibility, despite the fact that she is the responsible minister. Unlike Senator Brandis and those on the other side, we on this side think there is a principle of ministerial accountability—accountability to the parliament and accountability to the Australian people through the parliament. Unfortunately, we do not see that from Senator Vanstone. We do not see her come in here and demonstrate her accountability by being able to clearly answer questions that are put on serious issues by the opposition.

What we see is a range of technical, facile, legal defences. Amongst the most extraordinary is the one that appeared today in various papers, including the Courier-Mail, where it was reported that 201 people had been held by the immigration department but then were found to be in Australia lawfully and 56 had
been held for more than three weeks. And now we find that the minister and her department do not like the phrase ‘wrongful detention’ and are now using the phrase ‘released not unlawful’—a bit more Orwellian speak, a bit more language change, a bit more ducking and weaving so that she does not have to take responsibility for wrongfully detaining 56 persons. ‘Wrongful detention’ is out and ‘released not unlawful’ is in. In the same article, Minister Vanstone is quoted as saying that she and the department have been practising open, transparent and good government. What a joke! (Time expired)

Senator SCULLION (Northern Territory) (4.14 pm)—I rise to speak on this matter of public importance and I have to touch on another matter of public importance. I always thought that this place had the very important role in informing Australians of the facts. I have to say that I have not heard too many facts from the other side. I think it is a preposterous, personal attack on a leader and minister who is credible, has transparent leadership and has always being accountable. I have watched very carefully through this whole process and I think the minister has acted in the most appropriate manner and she should be the envy of other governments. Of our own volition, not only did we call upon Mr Palmer—one the most credible individuals in Australia—to go and have a look at these processes and asked that the Palmer inquiry be released on 8 August and but also the minister decided to extend that—Palmer plus. We are actually going to review all cases of people that have been released because they were found to be lawful or later became lawful. That is an extension—quite an honest, transparent and accountable process from a leader who is determined to make sure that any of these things that happened within the department would not happen again. That is ministerial responsibility: responsible for the department, taking on board the issues and challenges and making sure that they fix them. This is a government that is all about fixing things. We are a government about reform and this matter is no different.

After looking at over 200 cases, and these are not cases of wrongful or unlawful detention that some people on the other side have suggested, this is a carefully crafted, highly confusing legal case. Perhaps I can just simplify it. When a policeman sees a young chap walking down an alleyway with a television when a television has recently been stolen, he is quite within his rights to say, ‘Excuse me, sir, I would like to question you about where you got the television.’ That is not being unlawful; it is quite lawful. In the same way, when someone has a reasonable suspicion that a person may be an unlawful citizen he may hold them until such time as he can sort the facts out and make sure that that is the case or otherwise. It happens throughout the globe, let alone throughout Australia. It is an ordinary process to establish whether or not someone has the bona fides to stand up to the supposition that they are putting. This is no mystery of law. Even a simple fisherman like me can understand that.
As to whether or not we are a government that is characterised by a minister who is not accountable, I cannot think of anything more ridiculous. I know that Senator Brandis spoke about a number of issues under which we would improve the circumstances. The minister herself had decided, even before Mr Palmer presented his report, to act to change a number of policies in a whole range of ways to improve the impact of detention on individuals. We made that decision even before the Palmer inquiry report came out, because this is a minister who listened and looked carefully at what was happening and decided immediately not only to depend on the very significant Palmer inquiry but also to go out, on her own cognisance, and do something about this. That is leadership, transparency and credibility.

There are initiatives like the establishment of the National Identity Verification and Advice Unit, which of course deals with identifying of individuals and issues—we have to make sure we get that right—and the creation of detention review manager positions to make sure that the department constantly revisits individual cases. We knew that was a bit of an issue so we immediately put something into place that would make sure that that was ameliorated. There have been improvements to the mental health services at Baxter, and the Prime Minister announced some changes that included additional non-compelling power over the ministers. I have to say that it does not end there. There is such a comprehensive range of changes that this minister brought to bear even before the Palmer inquiry had been completed. Senator Brandis reminded us that the minister had announced changes including steps to bring down the razor wire from the detention centres, beginning with Villawood in Sydney. That was not even a part of the Palmer inquiry.

The minister recognises that she has a ministerial responsibility to bring in changes on these issues. She has acted on them, she has acted very well and she has represented the best interests of Australians, which is what this government is about. She went on to say, ‘We’ve obviously got to have some changes.’ There is now a new team at the top of DIMIA to implement the changes that have been recommended by the Palmer inquiry. We have made sure that we not only have the facts and the bits and pieces of content but we also have the process right. We put in a framework to ensure that all of these recommendations can actually be implemented. We have the release of the framework for the way forward for the department, focusing on becoming more open and accountable. Remember those words—more open and accountable—because that is what this government is about. The significant change of this agenda is occurring against the backdrop of very strong public support. The public understand that there have been some mistakes made. Quite genuinely this government has said, ‘Look, this has been a mistake; this has been an error.’ On 14 February Prime Minister John Howard personally and publicly apologised to those two individuals.

It is worth noting that it has been possible for the government to significantly increase the migrant intake over the past few years and it is a positive reflection of the administration of this entire program. I have to say that those on the other side should take note of how it is done. What has been done here has been a government acting responsibly and accountably in a transparent and credible manner. We should be lauding the efforts of this wonderful minister who has brought wonderful administration and great outcomes to so many new Australians.

Senator Lundy—I can’t believe you said that with a straight face!
Senator SCULLION—We have some interjections from the other side, Mr Acting Deputy President. What would their approach have been? Do you think their approach would have been completely transparent in this manner? Do you think they would have immediately gone out and commissioned a report by one of the most credible individuals in this country? Do you think they would have gone out and extended that report on their own volition? Do you think that would have happened? Sadly, I think not.

Would they have said to the department, ‘Go back and check all the other cases; we want you to make extra special effort to go back beyond what we had first thought and checked every single case out there to make sure that there is nothing else wrong’? Do you think that is what would be happening on the other side? I think not. They have a history of ducking and weaving on this issue. I have to say I am offended—as I know Senator Vanstone very well personally—by the personal attacks on her about her apparent lack of caring. I have been with her to Indigenous communities; I have been with her to see migrants. She is someone who has a deep and passionate understanding of the issues she is responsible for and, every day, really demonstrates what ministerial responsibility is all about. The Labor Party’s ducking and weaving is in stark contrast. Our coalition government, of course, is willing to recognise where there are problems and decide what to do about that. It simply recognises those problems, goes and fixes them: transparent, accountable, credible government.

Senator NETTLE (New South Wales) (4.23 pm)—The Australian Greens welcome this debate about ministerial responsibility because it is a critical issue for this new Senate. The Australian people are watching this new Senate very closely to see if this government will respect our institutions of democracy or be arrogant with its increased numbers. One of the most important aspects of our system of democracy is the concept of ministerial responsibility. An encyclopedia I consulted gave the following definition of ministerial responsibility:

Ministerial responsibility or Individual ministerial responsibility is a constitutional convention in governments using the Westminster System that a cabinet minister bears the ultimate responsibility for the actions of their ministry.

This responsibility means that if waste, corruption, or any other misbehaviour is found to have occurred within a ministry, the minister is responsible even if the minister had no knowledge of the actions.

If misdeeds are found to have occurred in a ministry the minister is expected to resign.

The principle is considered essential as it is seen to guarantee that an elected official is answerable for every single government decision. It is also important to motivate ministers to closely scrutinize the activities within their departments.

The Prime Minister has turned the meaning of ministerial responsibility on its head. At a press conference on 14 July, the Prime Minister said:

I indicated last weekend that Ministers should go if they are directly responsible for significant failings, or mistakes or if their continued presence in the Government is damaging to the Government.

A journalist then asked the Prime Minister:

Didn’t Ministerial responsibility used to mean that if something went seriously wrong on a Minister’s watch it was the Minister’s responsibility?

To which the Prime Minister replied:

Well different people have asserted different things. I’ve given you my view of it and the view that has I think, been more consistently adopted over time.
It certainly has been consistently adopted by this Prime Minister. Now that the government has the numbers in the Senate it is quite willing to trash what the encyclopedia tells us is a longstanding and important convention of our democracy. Mr Howard’s criterion for ministerial responsibility is that ministers do not have to take responsibility for their departments. The new criterion is that a minister will only be removed if they are damaging the government. No longer do we have ministers serving the people of Australia; they serve the government and the political purposes of the Liberal Party of Australia.

The prioritising of the Liberal Party’s political purposes extends beyond government ministers. The politicisation of the Public Service is such that public servants are now rewarded for failing the public and being scapegoats for this government. Bill Farmer, the former Secretary of the Department of Immigration and Multicultural and Indigenous Affairs, was not punished or reprimanded for his department’s failings—no, he was rewarded with an Order of Australia and a prestigious diplomatic post as the Ambassador to Indonesia.

Scapegoating and shirking responsibility are the orders of the day under Minister Vanstone and the Prime Minister. Minister Vanstone has set up a system where it is hard to pin responsibility and it is easy to pass the buck. The minister blames her department. The secretaries blame junior officers. The department blames the private company that runs the detention centres. The detention centre provider blames the subcontractors—and they all blame the contracts, the detainees, the advocates, the media and the voices of opposition. No-one is prepared to stand up and take responsibility.

The minister has the opportunity to take some responsibility and make up for the massive failings and negligence of her department in the case of Vivian Solon. The minister should be doing everything she can to ensure that Ms Solon is returned home as soon as possible and that all her needs are provided for. The Minister’s arrogance and failure affect real people. Right now, Vivian Solon is languishing in the Philippines, away from her two children. What the minister and the government could and should be doing is giving clear instructions to the government lawyers to agree to the reasonable terms put forward by Ms Solon’s lawyers: guaranteed long-term care and arbitration for her case if mediation fails. The minister has failed and the minister should resign or be sacked.

The ACTING DEPUTY PRESIDENT (Senator Chapman)—Order! The time for the discussion has expired.

BUSINESS
Rearrangement

The ACTING DEPUTY PRESIDENT (Senator Chapman)—I remind the Senate that the standing orders provide for general business to be called on at this time. Before I call on general business, is leave granted for documents to be tabled in accordance with items 15(a) and 15(d) on today’s order of business, except for the tabling of the presiding officer’s and clerk’s conference report and for a motion to be moved with respect to committee memberships?

Leave granted.

DOCUMENTS
Responses to Senate Resolutions

The ACTING DEPUTY PRESIDENT (Senator Chapman)—I present a response from the Premier of Victoria (Mr Bracks) to a resolution of the Senate of 21 June 2005 concerning the Earth Charter.
Department of the Senate: Travelling Allowance

The ACTING DEPUTY PRESIDENT (Senator Chapman)—I table documents providing details of travelling allowance payments made by the Department of the Senate to senators and members during the period 1 July 2004 to 30 June 2005, and travel expenditure for the Department of the Senate during the period 1 July 2004 to 30 June 2005.

AUDITOR-GENERAL’S REPORTS

Report No. 6 of 2005-06


COMMITTEES

Membership

The ACTING DEPUTY PRESIDENT (Senator Chapman)—The President has received letters from party leaders seeking variations to the membership of certain committees.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (4.30 pm)—by leave—I move:

That senators be discharged from and appointed to committees as follows:

Employment, Workplace Relations and Education Legislation Committee—

Appointed: Senator Crossin as a substitute member to replace Senator George Campbell for the committee’s inquiry into the provisions of the Higher Education Legislation Amendment (Workplace Relations Requirements) Bill 2005

Appointed, as a participating member: Senator Brandis

Environment, Communications, Information Technology and the Arts References Committee—

Appointed, as a participating member: Senator Siewert

Rural and Regional Affairs and Transport Legislation Committee—

Appointed, as a participating member: Senator Brandis

Rural and Regional Affairs and Transport References Committee—

Appointed, as participating members: Senators Brandis, Milne and Siewert.

Question agreed to.

MINISTERIAL RESPONSIBILITY

Senator LUDWIG (Queensland) (4.30 pm)—I move:

That the Senate expresses its deep concern that the Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone) has failed to take responsibility for the Department of Immigration and Multicultural and Indigenous Affairs despite the ongoing revelations and rising financial and human cost of the portfolio mismanagement.

What we have had up to now is a minister who has been incapable of accepting responsibility, let alone taking responsibility for her actions in the immigration area. It is more than a case of simply saying, ‘I’m not responsible.’ This is about accepting responsibility. We have to consider the litany of failures by the department. We can go through the litany of the department’s failures and itemise cases like those of Cornelia Rau, Vivian Solon, GSL, the Hwang children and all the others. But we also have to add to them the range of committee reports about the department that date back to the first committee that I joined when I came to the Senate, the Legal and Constitutional Refer-
ences Committee, and its report *A sanctuary under review*. Then there was the Senate Select Committee on Ministerial Discretion. During that inquiry the department decided not to provide any information to the committee. It just said, ‘We’re not going to assist you at all.’

Then there was the attempt by the Human Rights and Equal Opportunity Commission to penetrate the department by saying, ‘Children should not be in detention,’ and the government’s response at the time was to ignore it completely. We can then go to the Australian National Audit Office and ask what they have said about the department. They had made a number of statements about the department, including in relation to contracts part B, which dealt with the failings of GSL and how the department has been unable to ensure close scrutiny of the contracts.

You then come to the latest round of inquiries and you still find the minister incapable of accepting responsibility and taking the course that she should take. Instead, we find the minister hanging on by her nails, saying: ‘I’m not going; I’m not going to leave this place. I’m not going to let myself slide to the chair behind me. I want to stay on the front bench. I want to stay in charge of the department. I’ll let my undersecretary and some of the other departmental officials go. By the way, how many more do I have to let go to keep me hanging on here?’

It is unacceptable that the minister can preside over this fiasco that she has inherited from Mr Ruddock and not take the blame and responsibility that goes with it. The minister described the latest outrage herself. She described how the government locked up 56 people. Of course the phrase was used: ‘They were released; not unlawful’. It seemed impossible for the department, with the minister’s concurrence, to come up with more ways to describe fiascos and outrages until we saw the gem from the current minister when she described it as ‘old news’. I am certain that it was not old news to those people who were locked up in detention for 21-plus days. This is not old news, Minister, because it is the first time that it has come out.

This is another example of the extremist cultural attitude of the minister and the Liberal Party. They think they can just detain anyone off the street for more than 21 days and not bat an eyelid. The Liberal Party is out of touch with the rule of law and with community standards. That is who is out of touch. Senator Vanstone says the news that the Liberal Party locked up 56 people for at least three weeks for no good reason is ‘old news’. It may be old news, as I have said to the minister; it may be old news to the minister’s staff or it may be old news to the department, but it is not old news to the Prime Minister or his office. It is not old news to us.

We have been to estimates and getting the information out of DIMIA and the minister is like pulling teeth slowly, painfully and usually only one at a time. What was missing was the department and the minister saying up front, ‘Not only did the Cornelia Rau case happen but so did Vivian Solon and, by the way, we’ll provide a chronology of how it happened, what our responsibility was and what we did about it.’ We had to use estimates to flush it out, and it was like pulling teeth.

Getting the facts out of this minister has been a hard row to hoe. It is clear now that the Palmer inquiry that she set up was totally inadequate and unable to get to the bottom of the whole deal. What we find is that it did not interview Minister Ruddock, his staff, the current minister or her staff. It was not a full inquiry. What the minister was offered and what she could have bit the bullet on was a
royal commission. She could have taken that path, which would have been the responsible thing for a minister thing to do. It has been done before by this government and by us when we were in government. She should have bitten the bullet and taken the right course.

Today we have seen the Commonwealth Ombudsman come out and claim he has all the powers of a royal commission. With due respect to Professor McMillan, he is wrong. Section 5(2)(a) of the Ombudsman Act 1976 says that the Ombudsman is not authorised to investigate action by a minister. It makes it clear that the Ombudsman is powerless to investigate the minister and her office.

By contrast, the powers of a royal commission are detailed in the Royal Commissions Act 1902. Among those powers, penalties and consequences enumerated are: the power to summon witnesses and take evidence on oath—something Palmer never had; a $1,000 fine or six months imprisonment for witnesses who fail to attend or produce documents—a power Palmer never had; power to apply for search warrants, including power to apply by telephone in urgent cases—a power Palmer never had; the ability to ensure evidence given by a witness may not be used against the witness in civil or criminal proceedings; in other words, the ability to provide protection—a power that Palmer never had; and a power to retain for as long as necessary or to copy documents or other things produced in evidence—a power that Palmer never had. And the list of the powers that royal commissions have that the Palmer inquiry never had goes on. The Ombudsman does not have all of those powers, either. That is clear from the case.

Since the Palmer inquiry was set up by an administrative action rather than under the Royal Commissions Act, it had, as I have said, none of those powers. The terms of reference of the inquiry were structured by the minister, not by an independent royal commission which could then expand on them and look into other areas if need be. We find that Mr Palmer reported only on those terms that were enumerated by the minister—to examine and make findings. But none of the additional means afforded to royal commissions was afforded to Palmer.

What have we now? We have another 201 cases with the Ombudsman, and that report has yet to come. The way forward for the minister is to accept responsibility and resign. That is what the minister should do. She should take it on the chin and say, ‘I need to step aside and let a clean broom into this place and into the department,’ to ensure that not only the culture in the department changes but also the culture at the top changes.

What we have, unfortunately, is a case where the minister refuses to accept responsibility. We have had Senator Brandis tell us that ministerial responsibility does not include taking responsibility for the fiasco that has occurred. That is a neat way of describing it. We have heard Senator Scullion also attach himself to that argument. However, the government also have the difficulty wherein the department is administered by the minister. The minister has to take responsibility for the way the department has been administered and the way the ministerial series of instructions have been issued. If the minister does not do that, who is to take responsibility? Perhaps you would like the cleaner or the domestic—anyone other than the minister—to accept responsibility for the position she has put the department in. (Time expired)

Senator SCULLION (Northern Territory) (4.41 pm)—It is probably rare in this place that within the same hour you give pretty much the same speech. But in view of this
personal attack on a very fine minister—which is using much of this Senate’s time, not only during the discussion on matters of public importance but now, with pretty much exactly the same issue being put forward—I hope the Senate forgives me if I have to repeat some of the issues in defence of not only this minister but also the government’s absolutely excellent record on this matter.

We need to deal with some facts about this matter. We have had all sorts of ridiculous allegations from the other side. The government and the minister did what I thought was the most transparent, reasonable and credible thing. She instantly demonstrated leadership by saying: ‘I’m responsible for this department. That’s a bit out of line. So what I’m going to do is have a transparent inquiry, headed by someone with the credibility of Mr Palmer.’

Senator Ludwig—It was not transparent. I do not know what the witness list was.

Senator SCULLION—Senator Ludwig, you can interject as much as you like but you will not change the facts of the matter: this was a tremendously credible way to deal with it. It has a great deal of public support. You may not accept Mr Palmer’s credibility, Senator Ludwig, but I can tell you that the public of Australia do.

I must say, Senator Ludwig, that there was some confusion in your previous comments. I know that you believe that the Ombudsman is somehow confused about this matter. The Ombudsman, when he makes the statement that he has powers that are similar to those of a royal commission, has obviously got it completely wrong! What would an Ombudsman know about an inquiry? You are really drawing a long bow here, and we need to show a little bit more respect to people. The office of the Ombudsman does not only inquire when the government wants it to; the office of the Ombudsman is the most transparent, the most credible and the most accountable office in this place.

Senator Ludwig—Then why didn’t you refer it there first?

Senator SCULLION—Let me go on. It is not just that we selected the Palmer inquiry; we have deliberately selected a suite of options. The Palmer inquiry had different powers from those of the Ombudsman. There was no suggestion that we could only go this far and that we had run out of power in this inquiry. It was quite a simple process. People looked into the facts. We looked into the circumstances surrounding the Cornelia Rau case and we decided there needed to be an inquiry and we acknowledged that a review into these processes needed to be made—not in the sense of a criminal investigation but an investigation by Mr Palmer, who would make positive recommendations that would assist good governance. That is what this government is about, and that is why we couched the inquiry in that way. The inquiry has come back with an excellent report by Mr Palmer.

Of course, we did not stop there, Senator Ludwig. Any sort of assertion that you are making that we are not credible or transparent is absolute and arrant nonsense. It flies in the face of the facts of the matter—that we said, ‘Look, we’re going to go beyond that.’ We mentioned the other 210 cases. We said: ‘For any case at all, if there is any suggestion of any unlawful detention, we want that looked into. We want them added to the list.’ That is the sort of leadership, accountability and ministerial responsibility that I am very proud of in this minister. I think she has done an outstanding job. It is very difficult to sit on this side and have people decide it is so depressing on that side that they need to find something to focus on. They say: ‘What are we going to do on Thursday afternoon? We’ve got absolutely nothing else going for
us; we’ll pick on the minister.’ I can tell you today that you have got the wrong minister. In fact, you could pick on any one of them and you are not going to get there, because they are excellent performers and they have done an excellent job. If you read the Palmer inquiry, Senator Ludwig, you will understand that that has been the case.

Much has been made of this issue of lawful entanglement and that it is all very difficult. As I explained a little earlier in this place, the issue concerning the 200 or so people who we want to ensure have been treated appropriately—and we will take action when we get that part of the report—is whether they have apparently been detained unlawfully, and we have gone to great lengths to ensure that the Australian public are not misled on this matter. As I have said previously in this place, it is quite reasonable to expect a police officer or any other person with powers to detain someone until such time as their bona fides have been established. It is just a basic principle about compliance and enforcement. We have it in Fisheries, we have it in Family and Community Services, we have it in the Australian Federal Police and we have it in the state and territory police. It is just an ordinary, average thing, and so any scaremongering about a very sophisticated and well-educated Australian public is not going to cut it—not here and not with the public. That is why there is so much support from the public for this government.

We talk about the review and what is happening. We do not need people to say: ‘You’ve done the review. What’s going to happen next?’ We have already started the process of reform. That process has of course been instigated by a minister that is keen to be on the front foot on these issues. She has been on the front foot about petrol sniffing. I was delighted the other day—and we have had the debate in the chamber—to hear that she is working with the Western Australian, Northern Territory and South Australian governments to ensure that we have a coordinated response to that issue. She is on the front foot, showing leadership, showing accountability and showing credibility. That is what this minister is about and that is what this government is about.

We have referred the detention matter to the Ombudsman, and that is the action of a government that accepts responsibility and is going to fix this. When the Prime Minister, on 14 July, recognised that there had been mischief done—and they were terrible circumstances that Cornelia Rau and Vivian Solon found themselves in—the Prime Minister apologised. He said, ‘We’re going to make changes’—and we made changes. We already have made changes, and there are more on the way. Change is part of a reform government, and this government is absolutely committed to ensuring that we do expedite our ministerial responsibilities in a proper, correct and transparent way.

This debate today has been another example of how those on the other side are so blinded by their internal rhetoric and depression that they cannot see that this is an exemplary government and an exemplary minister who has done a fantastic job. We should not be sitting here, along with those people who are listening to the proceedings today, and hearing the sort of rhetoric we have had from the other side—the bitching and the carping—about somebody who has done an absolutely outstanding job, not only for people in detention but also for all Australians.

We continue to look at a considerable amount of evidence that we are making changes—reasonable and responsible changes. We have established a national verification advice system within the department, we have created the detention review manager positions and we have improved
mental health services in the Baxter detention facility. The Prime Minister also announced some changes, including an additional non-compellable power for the minister to specify alternative arrangements. That is why we do not have any children in detention. It does not happen at the flick of a finger; it needs good administration, good leadership and exercising correctly your ministerial responsibility.

We have also established an additional non-compellable power for the minister to act personally to grant a visa to someone who is already in detention, we have revised and removed the removal pending bridging visas to broaden the application to allow more detainees to be released, we have six-monthly reporting to the Ombudsman on persons in detention for two years or more—and the list goes on. It is a list that I am particularly proud of—and to be a member of a government that is a reformist government and that can respond not only swiftly and transparently, both through the Palmer inquiry and the Ombudsman, but in a way that makes some real changes.

In his dissertation earlier, Senator Ludwig asked: ‘What are we going to do about the culture?’ I can tell you what we are doing about the culture. We have a new team at the top of DIMIA. They are implementing changes that have been recommended by Mr Palmer. They are on the job now, Senator Ludwig. The new team are already working to implement those changes as we sit here today. There is no pontificating on this: the job is getting done. Ministerial responsibility—out there, getting things done. Action—that is what this government is about. It is about reform and action. We have released a framework and a way forward for the department. There are people on the other side who criticise those changes. The ducking and weaving that happened in previous Labor governments, I have to say, Senator Ludwig, really is in stark contrast to the actions of this coalition government, which is willing to recognise where the problems are and to do something about them.

Senator KIRK (South Australia) (4.51 pm)—I rise to speak in relation to the motion moved by Senator Ludwig, to focus attention on what we have been discussing here this afternoon in the Senate; namely, the failures by Senator Vanstone to take responsibility for what has gone on in her department—the incompetence that we have all witnessed over the last few months. Today, I wish to focus my words on the findings of the Palmer report, which has been mentioned by a number of speakers this afternoon. We know that Mr Palmer was given terms of reference to report on the circumstances of the detention of the Australian citizen Cornelia Rau. I have spoken about this on numerous occasions. Then of course his terms of reference were extended so as to include reporting on the deportation to the Philippines of another Australian citizen, Vivian Alvarez Solon.

Mr Palmer’s report was given to Senator Vanstone on 6 July, and it was released publicly on 14 July. Those of us who have considered the report know that it was highly critical of the Department of Immigration and Multicultural and Indigenous Affairs, highlighting systemic departmental and administrative failures and the need for a complete cultural overhaul. Mr Palmer’s report slams the culture of cover-up and denial that is so prevalent in DIMIA and also criticises the department for, to use his words, ‘developing policy, procedures and enabling structures on the run’.

How has this government reacted to this damning report? Predictably, Senator Vanstone, the minister, has been largely silent. Her big fix was simply to shift a few deckchairs, transferring former departmental
head, Bill Farmer, to an ambassadorship to Indonesia and some of the deputies in the department to other Public Service jobs outside of DIMIA. As we know, Mr Farmer was the secretary of the department during the Tampa incident. Despite this, despite what can only be described as his appalling record over many years, he was given a promotion and made Ambassador to Indonesia.

What has the Prime Minister done in relation to this? He has refused to criticise Senator Vanstone, and also he has refused to lay any blame at the feet of the former minister, Mr Ruddock, who, of course, was the immigration minister at the time that Vivian Alvarez was deported. Mr Ruddock, too, must come forward and accept some responsibility. Not surprisingly, Ministers Vanstone and Ruddock have not accepted any of the blame, and the Prime Minister continues to claim that he has full confidence in the minister and also in Global Solutions Ltd, which are also criticised significantly by Mr Palmer in his report. Yet, despite this, they are still managing a DIMIA contract worth $90 million a year.

Today I am calling on the government to do four things: firstly, to set up a royal commission into immigration failures in this country; secondly, for Senator Vanstone to accept responsibility for the failures of her own department and to step down as minister; thirdly, for Mr Ruddock to make a public statement apologising and accepting responsibility for the many debacles that happened on his watch; and, fourthly, for a complete overhaul of the culture, policies and administration of DIMIA, including the sacking of all top level managers in the immigration compliance and detention areas.

Labor’s concern is that the government has not given any guarantees that there will be an end to the mistreatment of asylum seekers in Australia’s detention centres. We are also worried that the Palmer report will simply allow DIMIA to make cosmetic changes and avoid the complete overhaul that is required. Looking a bit more closely at Mr Palmer’s report, I will start with finding No. 10 on page 14, which says:

During Ms Rau’s detention—

bearing in mind, of course, that she was an Australian citizen—

the DIMIA management approach to the complexities of implementing immigration detention policy appeared to be ‘process rich’ and ‘outcomes poor’, with the predominant, and often sole, emphasis being on the achievement of quantitative yardsticks rather than qualitative performance. The organisational structure and arrangements fail to deliver the outcomes required by the Government in a way that is firm but fair and respects human dignity.

Pretty damning, I would say. In the report, Mr Palmer also says:

There is a serious cultural problem within DIMIA’s compliance and detention areas: urgent reform is necessary.

This is the reason for the things that I am calling on the government to do today. Mr Palmer describes DIMIA as operating in a culture that is ‘overly self-protective and defensive, a culture largely unwilling to challenge organisational norms or to engage in genuine self-criticism or analysis’.

I could go on about the findings of Mr Palmer, but I will read just a few more words. He says:

Within the DIMIA immigration detention function there is clear evidence of an ‘assumption culture’—sometimes bordering on denial—that generally allows matters to go unquestioned when, on any examination, a number of the assumptions are flawed.

What does the minister say about this? Today in question time she said that it is a ‘can-do department’. This is clearly not the finding of Mr Palmer. Mr Palmer goes on to say:
Such perspectives reflect a culture of denial and self-justification that the Inquiry found to be at the heart of the problem. Rigid, narrow thinking stymies initiative and limits the ability to deal successfully with new and complex situations. A wider, questioning and enabling culture is required.

The Palmer report makes a large number of detailed recommendations, but time does not permit me to touch on all of them. However, one of his key findings is on page 172, and it states: ‘Reform must come from the top’. Mr Palmer does not spell out that the minister and top level management must go, but this is what Labor believe must happen.

Mr Palmer’s recommendations also include the need for adequate staff training and better recruitment processes, including giving more emphasis to recruiting staff with health and welfare skills rather than simply security backgrounds. I want to make it very clear here that neither I nor the Labor opposition have any criticisms of Mr Palmer himself. We believe that his inquiry was as extensive as it could possibly have been, given the limited terms of reference that he was given by the government.

What we have highlighted here today is that DIMIA really is a shambles. It needs a major overhaul. I congratulate Mr Palmer on his thorough report, but this very limited inquiry does not give us or the Australian people any assurances that there will be an end to mistakes and mistreatment of asylum seekers and Australian citizens by this government. We know that at least another 200 cases are being investigated, but how many more are there that have not yet come to light? As I said, some of Mr Palmer’s recommendations were directly aimed at creating a more humane detention environment, including that detainees be able to make regular trips outside to engage with the community. We welcome all of these recommendations, and we very much look forward to seeing them implemented.

We know that there are more than simply two cases that have been investigated by Mr Palmer. We know that there are many more. These have been mentioned here in the chamber today. On many occasions, we—and I in particular—have spoken out about keeping children in detention. Fortunately, now that policy has changed, and not before time. But there are still outrageous examples of immigration policy being used in an inhumane and uncaring manner. Today we heard about the two children who were taken from their primary school classrooms and wrongly detained in Villawood for four months. I call on the government to set up a royal commission. I call on Mr Ruddock, Senator Vanstone and Prime Minister Howard to accept responsibility for the many DIMIA stuff-ups and make a public apology. It is not nearly enough to shunt Bill Farmer off to Indonesia and reshuffle a few deputies. It is time for a complete overhaul of DIMIA, starting from the top. Senator Vanstone, it is time to go.

Debate interrupted.

FIRST SPEECH

The PRESIDENT—Before I call Senator Nash, I remind honourable senators that this is her first speech. I therefore ask that the usual courtesies be extended to her.

Senator NASH (New South Wales) (5.01 pm)—Thank you, Mr President. I am incredibly humbled and honoured that this is her first speech. I therefore ask that the usual courtesies be extended to her.
hard work mean that we can shape our future and build the paths on which we want to walk, both as individuals and as a people.

Australia is a nation that recognises its place in the world. As Australians, we recognise our responsibility to contribute to improving circumstances in the world. We do not shrink from that responsibility. It often takes great courage to stand up as individuals, as it takes great courage for us to stand up as a nation for the things in which we believe—democracy; the freedom of the individual; the right to free speech; the right to live without fear; the opportunity to pursue those ideals in which we believe without fear or favour; and the right to live together in happiness, harmony and safety. We should never forget how fortunate we are to live in this wonderful country of ours and how fortunate we are that we call ourselves Australians.

Australia is a nation of great economic strength and stability. I applaud the coalition government for delivering a strong and dynamic economy for all Australians. But for this nation to reach its full potential, I believe we must ensure we are a nation that encourages intellectual growth and rigour. We applaud economic success in this nation, but we also need to mature in our capacity to applaud intellectual achievement. Without intellectual contribution and respect for that contribution, I do not believe we can reach our real potential. Economic prosperity is the core of Australia’s growth. Ensuring intellectual prosperity will allow our country to grow and develop even further.

Australia is a young nation. In many ways we are a blank page on which we can write our own future. When creating that future, let us all be optimistic, ambitious and prepared to take risks. I believe we must ensure that those who have vision for this nation are allowed to prosper and grow. We do not have the philosophical history of many other nations—nations that were home to the likes of Aristotle, Plato and Descartes. Australia is a place that has the excitement and opportunity that being a young and fledgling society brings. A young society, I believe, should encourage the development of ideas, philosophy and vision from everyone in the community.

My role as a senator for The Nationals is as a champion of the bush. While I represent the people of New South Wales, my focus will be on those who live outside our major cities—those people in our rural and regional communities, whose set of circumstances and lifestyle are often markedly different from those who live in our urban areas. My role is to be an advocate for them and to ensure that we bridge the divide that we so often see between city and country. Make no mistake: I am not one who sees the negatives in our rural and regional communities. I focus on the positives—the many great and abiding things that combine to make those communities such wonderful places to live. But we need to recognise the potential social dislocation that may occur if we allow the divide between city and country to become a chasm.

We are fortunate to be blessed with a nation of stability. Our society is multicultural in nature. Although that sometimes brings complex challenges, I believe that we are a people who in the main are imbued with the essence of what it is to be Australian. We must appreciate the stability of this country as we compare ourselves with those countries around the world that are less fortunate. We cannot allow the peace and stability of our nation to be eroded by the tearing of the fabric of our society.

In 1999 the former Nationals leader and Deputy Prime Minister, John Anderson,
talked about the possibility of Australia becoming two nations. He said:

The sense of alienation, of being left behind, of no longer being recognised and respected for the contribution to the nation being made, is deep and palpable in much of rural and regional Australia today.

While there are areas and industries that are doing very well, there are many that are not.

This issue must be addressed by all of us who collectively make up Australia, if we are to be a whole nation, because we can and must do everything we can to draw alongside those facing great challenge.

Although those comments were made six years ago, they still hold true today. As a wife, mother and farmer from a rural area and as a senator for The Nationals, I am concerned about the divide between city and country.

Over the past decades, rural Australia has been affected by a revolution in technology, in much the same way, it must be said, that the Industrial Revolution affected British society. The shift we have seen away from dependence on manual labour, with advances in technology, has resulted in a significant demographic change in our regions. The population drift away from our smaller towns has impacted greatly on our rural communities, while our coastal communities feel the pressure of booming populations. That population decline has changed the balance in our rural communities, and the critical mass needed for the sustainable delivery of services and infrastructure has ceased to exist in many areas. I believe the challenge for our communities and government is to work together and find opportunity in change.

Mr President, we should never underestimate the importance of rural society to the stability of Australia. Primary production creates real wealth for this nation. We feed the nation. We clothe the nation. And we export about $25½ billion a year worth of farm products that contribute significantly to our strong economic growth. The farm sector itself accounts for 3.2 per cent of Australia’s GDP but its true importance becomes clear when you include the industries that support agriculture and the industries that depend on it. The farm sector supports 1.6 million jobs, or 17 per cent of the labour force. And, Mr President, 781,000 of those jobs are in our major cities. Many of the men and women who work in cafes and restaurants, the truckies and the waterside workers and the hospitality workers in the bars, clubs and pubs across Australia owe their jobs to the agricultural sector—a sector that produces many of the things that people in the city take for granted.

John Anderson was right to raise his concerns about the divide between city and country. We need to ensure that the imbalance is recognised and addressed, and government has a role to play in ensuring that happens. This is not to advocate a handout mentality for rural and regional communities—far from it. I am advocating policies that ensure that there is fair and equitable opportunity for all Australians regardless of where we live. As legislators, we must always be aware of the consequences of our actions, of how the decisions we make affect the 20 million people who live in this nation. As Atticus says in To Kill a Mockingbird:

If you can learn a simple trick Scout, you’ll get along a lot better with all kinds of folks. You never really understand a person until you consider things from his point of view—until you climb into his skin and walk around in it.

We must be able to ‘put ourselves in another man’s skin’ to ensure we make decisions in the best interests of those we represent.

The constituency that The Nationals represents has changed dramatically over the years. We represent those seven million people outside our capital cities: people from the
coast, regional towns, and rural and remote parts of this great nation—small business people, workers, battlers and achievers who are all under the wing of The Nationals because we deliver them a strong voice in this building. We are the only party in the federal parliament that exists solely to champion the cause of rural and regional people.

It is important to note that it is The Nationals who represent the poorest electorates in the country. It is often those communities who need the greatest support, and The Nationals make no apology for fighting as hard as we possibly can for them and making decisions accordingly. I will never be distracted by city interests, and I will be completely focused on having the best interests of our rural and regional communities at heart.

Mr President, there are many issues that affect the lives of those in our rural and regional communities. As a wife and mother in a regional community who has spent time in the workforce, I am keenly aware of how difficult it can be to strike a balance when you are a working family. We see, in many instances these days, families where both parents are working and trying to juggle the competing demands of work and family. That juggle can be particularly difficult in the regions, where families are often affected by the tyranny of distance and a lack of services. We need to address issues like child care availability, in-home care for children, the provision of adequate medical services and education facilities, flexible workplaces and a recognition of the changing nature of society—all of which will contribute to getting the balance right between work and family.

I would also like to take the opportunity to acknowledge the increasing role that grandparents play in the lives of their grandchildren, and certainly I would have found my role in politics much more difficult if I did not have the wonderful support of my children’s grandparents, Joy Morton and Rob and Dorothy Nash.

Mr President, there is no doubt that the issue of health is a priority for people in our rural and regional communities, indeed for people right across Australia. Ensuring we have enough health professionals in our regions is an ongoing challenge and one we must continue to address. Encouraging rural students to attend university to study not only medicine but also other health vocations is something we must continue to do. And it is important that we recognise that general practitioners in rural areas are actually performing a specialised form of medicine in itself, and we need to make policy reflecting that.

I would like to take this opportunity to raise the issue of Indigenous health and the health related problems that we see in those communities. The life expectancy for Indigenous people is reported as 56 years for males and 63 years for females, compared to 76 years and 82 years for Australian males and females generally. To say that another way, an Aboriginal boy born today has only a 45 per cent chance of living to age 65 and an Aboriginal girl a 54 per cent chance. Despite the enormous gains in medical expertise of the last 20 years, their health remains at an unacceptable level. Regardless of our background, we are all entitled in this nation to the best health outcomes possible.

Mr President, I am acutely aware of the lack of support services provided for those who suffer mental illness and also the difficulties faced by their families and carers. There is not enough support in country areas for people suffering from social and economic stresses, and this can in turn lead to mental health illness and problems. There are fewer mental health services being provided in the regions as compared to the cities, and
we need to address this. There needs to be
greater acknowledgement of the problems
being faced in this area and the effects on
people and families and indeed whole com-
munities. The high level of unresolved men-
tal health issues is unacceptable and we need
to accept that there are significant problems
and look to find some solutions.

As a champion of the bush I will always
seek to find ways to improve the viability of
our rural communities. One such way is the
development of a sustainable domestic bio-
fuels industry. For many years I have been,
and I will continue to be, a passionate adva-
cate for a domestic ethanol industry. There is
no doubt that the development of an ethanol
industry would create jobs and opportunities
in our regions. I will do all I can to support
industries that will deliver real benefits to
rural and regional Australia. An ethanol in-
dustry would provide significant environ-
mental and health benefits and would reduce
our reliance on fossil fuel. It would give
grain and sugar farmers another market, and
it would develop business opportunities in
our regions.

The government currently has in place a
policy target of 350 million litres of biofuel
production by 2010. The effect of vehicle
emissions, particularly in our cities, cannot
be ignored. Given that the introduction of
ethanol into our fuel mix would lower vehi-
cle emission pollutants, it stands to reason
that it is simply commonsense that, for the
improved health of Australians, we as legis-
lators support the development of an ethanol
industry in this nation. Indeed, the AMA re-
cently put forward their view to the Prime
Minister’s Biofuels Taskforce that they
strongly support the use of ethanol in our
fuel mix as part of the solution to improving
the health outcomes of Australians.

Many countries around the world pursue
the use of ethanol—indeed, they not only use
it but actively embrace it. In the United
States alone, last year 13 billion litres of ethanol was used. The list of countries using
ethanol is ever growing, including the US,
Brazil, Thailand, the Philippines, India,
China, Japan, Colombia and the EU. Gov-
ernments in all of those nations have recog-
nised the importance of this industry. Aus-
tralia is lagging behind, and it is not good
enough.

I would like to acknowledge the support
that The Nationals leader, Mark Vaile, has
shown for this innovative industry for many
years and congratulate him for his vision
with regard to the development of the biofuel
industry. To date, the four major oil compa-
nies have done very little to embrace the use
of ethanol, to the detriment of this nation. I
believe the time has come, for the benefit of
all Australians, for a mandatory target to be
put in place to ensure that the 2010 biofuels
target is met.

There is no doubt that the issue of tele-
communications is a vital one not only for
our rural and regional communities but for
all Australians. Earlier this year I chaired The
Nationals Page Research Centre’s inquiry
into regional telecommunications. I would
like to acknowledge Troy Whitford, the cen-
tre’s executive director, for the comprehen-
sive work he did in preparing the report. I
believe the telecommunications package put
forward yesterday by the government ad-
dresses those issues of competition, service
delivery and infrastructure funding that the
Page Research Centre identified earlier this
year. One of the most important aspects of
the package is the requirement for opera-
tional separation of Telstra, which will allow
greater transparency and competition and
will ultimately deliver better services to the
bush.

In spite of what some might say, just say-
ing, ‘Don’t sell Telstra,’ or ‘Do sell Telstra,’
will not fix services in the bush. What will fix services is ensuring competition, ensuring that business can invest in telecommunications in the regions and ensuring that there is ongoing government funding to assist in the event of market failure. We need to ensure that a solid platform is in place to deliver the technology that will take us into the future. The Copper Age was 5,300 years ago, and that is where copper belongs. We need to embrace optic fibre, wireless and satellite so that we have the right mix of infrastructure to take us into the future.

The Nationals led the debate on the need for comparable levels of telecommunications services, pricing and infrastructure to be provided across the country. Through the hard work of The Nationals, especially Mark Vaile, and John Anderson before him, we have again delivered for rural and regional communities through the $3.1 billion regional telecommunications plan announced yesterday.

There are so many people I would like to thank, but there just is not time to thank them all. They know who they are, those people who are so special and who have helped me so much on my political journey. There are a few people, though, I would especially like to thank. Kay Martin, Kel Harpley, Ian McColl and Owen Parker, I thank you all so much for your belief in me and your unwavering support. Ian Armstrong, thank you for your wise and very honest advice and your friendship for many years now. I cannot let the moment pass without acknowledging the role you are playing in making the road over the Blue Mountains in New South Wales a reality. You have my total support for that. To two people I would not be here without, Michael Priebe and Kris Henderson: what a road we have travelled. Thank you both so much. I would also like to thank my mother, Joy, who is an inspiration, my sisters, Sara and Trudy, and my boys, Will and Henry, who are not just wonderful children; they are my great mates. Finally, to my husband, David, whose unfailing support and belief in me has made it possible for me to walk the path of political life: thank you so very, very much.

Australia’s economic strength not only enables us to take our place on the world stage as a strong and viable nation; it is what enables government to deliver for those who need support. Without a strong productive sector in this nation, there is no capacity for government to deliver the necessary health, education and social requirements of our society. It is quite a moment to stand here and deliver my first speech. I am incredibly proud to be in this place, and I am committed to doing all I can in my role as a senator to ensure a strong and prosperous future for our rural and regional communities—indeed, a strong and prosperous future for all Australians.

FIRST SPEECH

The PRESIDENT—Before I call Senator Wortley, I remind honourable senators that this is her first speech. I therefore ask that the usual courtesies be extended to her.

Senator WORTLEY (South Australia) (5.25 pm)—Growing up in Adelaide’s northern suburbs in the 1960s and 1970s, I could not have imagined that one day I would stand in this chamber as a representative of the Australian Labor Party, elected by the people of South Australia to the Australian Senate. It is an honour, and one that I will treat with the greatest respect.

South Australia was the first state to give women the right to vote in state parliament, in 1895, and, along with Western Australia in 1901, the right to vote in a federal election. Today I stand with my Labor colleagues South Australian senators Annette Hurley, Penny Wong, Linda Kirk and Anne McEwen as, together with Democrat Senator Natasha
Stott Despoja and Liberal senators Jeannie Ferris and Amanda Vanstone, South Australia becomes the first state to have a majority of women in one parliament in the Senate. In this, the 41st Parliament of Australia, eight of the 12 South Australian senators are women. We have indeed come a long way since the passing of the Commonwealth Franchise Act in 1902, when Australia became the first country in the world to give women the right to vote and to stand for federal parliament. However, it was another 41 years before the first woman was to be elected.

Unfortunately, it was not until 1962 that Australia bestowed the same rights on all of our Indigenous men and women. Today I acknowledge the traditional owners of this land where we stand, the Ngunnawal people, and I pay tribute to all Indigenous people of Australia. For the tragedy suffered by them and their ancestors I am truly sorry, as are the 55,000 people with whom I marched in Adelaide on that long weekend in June 2000. More than 240,000 people around Australia walked for reconciliation with our Aboriginal and Torres Strait Islander people. It is a shame that reconciliation has not progressed as it could have, and we now know that as a nation it will not reflect kindly on us in the history books. The problems facing our Indigenous people are generational, and the sorrow immense.

As a young girl living in the working-class northern suburbs of Adelaide, I was not aware of the suffering of our own Indigenous people. I thought life was pretty good. I cannot remember ever thinking that some had more rights than others or that the colour of your skin could determine your value in society, because I was living in a community where everyone was born equal. After all, we had these feelings expressed when our parish priest came to dinner every second Friday night. We had no reason to doubt that his words were not reflected in the actions of our government, our society or our own community. It was not long before I learnt about the injustices in our world: people starving in famine stricken countries; people persecuted for their beliefs and the colour of their skin; people in despair suffering from the tragedies of wars that should never have been fought; people having returned from wars, all but forgotten; people, including young children, detained behind barbed wire fences; people discriminated against because of cultural differences, gender differences, sexual preferences and physical differences; and people in our community battling to have their culture recognised and valued, make ends meet, pay the bills, put food on the table and keep a roof over their head. How the innocence of childhood quietly fades away.

Along with my sisters and brothers I attended the local state primary school, where there was a diversity of cultural backgrounds. From here, we went on to the local state high school, at the completion of which I benefited from the Whitlam government’s policy to broaden access to the tertiary education system. The Whitlam Labor government’s abolition of tuition fees and the introduction of the means-tested tertiary education scheme enabled many in our community to access higher education. The reduction of the financial disincentives on students recognised the importance of education for all for the future growth of Australia as an economy and as a society, and it was a system by which many in this chamber benefited. It is a long way from today’s full-fee cost of up to $65,000 for an education degree, $114,000 for a law degree and $208,000 for a degree in medicine. Access to education should be for all, not just the wealthy. Without the initiatives of the Whitlam Labor government, tertiary education would have been beyond my reach as, coming from a family of six children, we just would not have been able to afford it.
Education really is a window to the world. Through education comes knowledge and opportunity, and all people should have the opportunity to access good quality education at all levels—as children, as youth and as adults—to enable them to develop and fully realise their potential throughout their lifetime. It is for these reasons I chose a career as a teacher, where I thought I could make a difference, where I could impact in a positive way on the lives of others. So, at the age of 20, I began my teaching career and became a member of the South Australian Institute of Teachers, now known as the Australian Education Union. I soon learnt that teachers commit to their students in providing the best education possible, often against an adverse background of social, physical and time obstacles. It was my view that, in facing the reality of where and who we are, our place in the world and what we believe in, we are able to gather round us those people who share our ideals and together work towards a common goal. For me, that was to work towards achieving a society where there is justice, fairness and equity: a just and tolerant society which protects the rights and freedoms of all.

For these reasons, at the age of 21 I joined the Australian Labor Party. I was elected a sub-branch delegate to the ALP state convention, enrolled in the newly credited labour studies course at Adelaide College of Advanced Education, became the teachers union delegate at my school and was elected to the teachers delegation of the United Trades and Labour Council. Seven years on, sitting in the staff room of an Adelaide north-eastern suburbs school, I opened my letter of transfer from the state education department only to be notified that my new appointment would be at the very same state primary school I had attended as child. I had gone full circle; maybe it was time for a career change.

I had long believed in the importance of literacy levels being a barrier to opportunity for many, particularly for those in disadvantaged groups. With this as catalyst, I applied for, and was successful in being granted, a special secondment by the education department to the Advertiser, the new Murdoch acquired South Australia daily newspaper. Newspapers were concerned that with new technology children would stop reading and rely only on visual and audio news presentations. They wanted to secure newspaper readers for the future. The education department was concerned about literacy levels in our schools, particularly through the high school years, and saw newspapers as an adult means of getting our young people in schools to read as well as keeping them informed about what was going on in the world and up-to-date with media education.

With the support of newspaper editors and the department, I developed a number of education initiatives targeting those in primary school through to university years. In the evenings I attended the University of South Australia, where I completed a Bachelor of Education majoring in communication studies. As my role in the media developed, I resigned from the education department, was employed by the Advertiser and joined the Australian Journalists Association, which now forms part of the Media, Entertainment and Arts Alliance. As a member of the house committee I became involved in issues affecting our daily working lives, including the fight against News Ltd’s introduction of the controversial non-union contracts. With encouragement from my journalist colleagues and the leadership of the union, I filled the journalist industrial officer vacancy in the South Australian and Northern Territory branch of the alliance. Within a couple of years I was elected as the branch assistant secretary and then branch secretary of the union, where I worked representing the pro-
fessional and industrial interests of my members until I was elected last year as a Labor senator for South Australia. This is just a glimpse of the experiences that I bring with me to this chamber.

Now, in my new position, I continue to acknowledge the important role of a diverse media in a healthy democracy. The media, as the fourth estate, has many responsibilities—the responsibility to report, to question, to scrutinise and to investigate. Quality journalism is vital to preserve and enhance the values of democracy. In a parliament where the government holds the majority in both houses, where the usual practices of scrutiny and investigation are under threat, the media, as the defender of public interest, must be vigilant. The media plays a crucial role by ensuring that many voices and opinions can be heard by the Australian community. Experience suggests that diversity of opinion, comment and news sources is better delivered through diversity of media ownership.

In Australia, the rules currently in place, although not perfect, serve their purpose of preventing further concentration of what many already consider to be a highly concentrated media industry. For these reasons, any future changes to government policy should protect and promote diversity of media ownership in Australia.

This brings me to another issue of great importance to many Australians—that of our national broadcaster. For close to two-thirds of the budget of the average Australian commercial television station, the ABC manages and produces content for two television stations, four national radio networks, 60 local radio stations, three digital internet radio services, Radio Australia and ABC Online. In recent years, the people’s ABC has seen a significant reduction in the delivery of locally produced news and current affairs programs in both radio and television in city and regional areas. The current review of the funding adequacy and efficiency of the ABC must not be a wasted opportunity to make things right. With the exception of Friday nights, weeknight locally produced and presented current affairs programs have disappeared. In some regional areas, locally produced radio bulletins have been dropped. In some major cities, locally produced weekend radio news after 1 pm has been dropped and replaced by a national bulletin. The end result is reduced local coverage and content.

The Australian content obligations currently in place for commercial television stations is 55 per cent Australian content between 6 am and midnight. This includes drama, news and current affairs. ABC television is currently broadcasting only 29 per cent of Australian content across all genres. For the commercial stations, the obligation to broadcast new Australian drama is close to 200 hours per year. Last year, ABC television broadcast only 43 hours and is this year tracking somewhere between 14 and 20 hours of new Australian adult drama for the year.

Adequate funding would go some way to addressing this issue. It would enable the Australian Broadcasting Corporation to deliver sufficient first release Australian television drama, documentaries and children’s programs. It would enable it to deliver enhanced levels of local television and radio news, current affairs and sports coverage for people living in metropolitan, rural and remote areas. In its charter, the ABC is required to broadcast ‘programs that contribute to a sense of national identity and inform and entertain, and reflect the cultural diversity of, the Australian community’. For the ABC to continue to produce high-quality programs and increase its local content and production, it must have a stable and adequate funding base. Of 17 countries surveyed by the OECD about levels of public broadcasting funding, Australia came in 16th.
Our continent is important to us all, and as a nation we have a responsibility to future generations—to our children and their children and beyond. A recent government report on climate change risk and vulnerability estimates that Australia could be two degrees Celsius warmer by 2030 and six degrees Celsius warmer by 2070. According to the report, a further two degrees Celsius increase would be devastating for Australia, with more heatwaves and bushfires, extended droughts, reduced rainfall in southern Australia and extensive damage to the Great Barrier Reef. Like many South Australians growing up in the 1960s and 1970s, a camping holiday on the banks of the River Murray was part of my childhood. We have since recognised the significance, both environmentally and economically, of the mighty Murray River. We are aware of the costs salinity has on infrastructure, agriculture and our environment. These are the just some of the reasons that Australia needs to meet our national and international environmental responsibilities.

There is no doubt that those who know me will expect that in this my first speech in federal parliament I will speak against this government’s widely publicised agenda for changes to our industrial relations system—and I do not intend to disappoint them. My 10 years as a union official, and more than 16 years of work before this, stand me in good stead to make a statement on workplace issues. The proposed changes to the industrial relations legislation flagged by this government are not in the best interests of Australian workers or their families. While productivity is an issue that must be addressed, it should not be at the expense of the quality of our family lives and values.

The many workers I have represented in the past 10 years come from different and diverse walks of life—from journalists, photographers, artists, camera operators, actors, theatrical technicians and members of our symphony orchestras to cinema workers, events ticket sellers, workshop stage trades people and front-of-house workers. Whether they come through university, TAFE, a cadetship or on-the-job training, there is something they all have in common—a need to be valued for their contribution in the workplace, rewarded by a fair day’s pay for a fair day’s work, and fair and equitable working conditions. They want a workplace free of bullying, intimidation and discrimination, where employment is secure and on-going and where family friendly conditions, including paid holidays and sick leave are guaranteed; a workplace where employees are adequately compensated for overtime and shift work, and where they have reasonable notice of their rostered hours; a workplace where employees have the right to bargain collectively for decent wages and conditions; a workplace where any agreement will have the no disadvantage test applied; and a workplace where employees cannot be unfairly dismissed.

The reality, even today, under the current Workplace Relations Act, is that the bargaining power of the employer is greatly superior to that of the employee. We must view any changes to the industrial legislation with this in mind. There will be no equality of bargaining power between an employer and an individual employee when it comes to Australian workplace agreements, because it appears likely that both protective institutions, the Australian Industrial Relations Commission and the unions, may be removed from the process. The extreme changes expected to be pushed through the Senate by this government mean that, for Australian workers and their families, the future is uncertain. There is however certainty in this fact: Labor will take up the fight on behalf of Australian workers and their families.
There are many other areas I would like to have addressed in this my first speech but they will have to be addressed as future opportunities arise. One does not arrive at the ‘House on the Hill’ without the support of many, and today I thank the people of South Australia and the South Australian branch of the Australian Labor Party. My special thanks go to friends Robyn Geraghty, the state member for Torrens, and her husband Bob; Terry Roberts, state Minister for Aboriginal Affairs and Correctional Services; the South Australian branches of the Communications Electrical and Plumbing Union and the Australian Manufacturing Workers Union as well as the other South Australian unions who gave me their support; and Christopher Warren, the Alliance Federal Secretary; and South Australian and Northern Territory Secretary, Shauna Black.

I place on record my thanks to Walkley Award winning journalist and journalism educator, the late Julie Duncan, who was a great inspiration in my journalistic development. Thank you to Debra Mewett, who has so competently set up my offices in Adelaide and Canberra, and to my other staff, Rachel and James.

I thank my parents, Janice and Johnny, my sisters and brothers, Russell’s parents, Pamela and Kevin, my colleagues, union members and friends for their advice and support over the years. To Russell, my closest friend, my partner from high school days: I thank you for your dedication to our young son, your encouragement, your support, your love and your humour. To you and Che, I trust that time will judge the sacrifices as a family that we make, by me taking my place in this parliament, as being worthy. Thank you.

**FIRST SPEECH**

The PRESIDENT—Before I call Senator Parry, I remind honourable senators that this is his first speech. I therefore ask that the usual courtesies be extended to him.

Senator PARRY (Tasmania) (5.47 pm)—This is the final first speech of all the 15 senators who were elected in October 2004. I can see relief in some senators’ faces. Whilst not agreeing entirely with the content of some speeches that have taken place before me, may I commend my colleagues for the passion and delivery of their first speeches in this chamber.

I am a Tasmanian by birth and come from a line of many generations of Tasmanians. In fact, I am a descendant of the First Fleet convicts who arrived on 26 January 1788 onboard the ships the *Scarborough* and the *Prince of Wales*. I left home at the age of 16—much to the joy of my mother, I think—joining the Tasmanian police force as one of their youngest ever recruits. After 10 years as a police officer I became a funeral director, eventually buying the longstanding family business with my wife, Allison.

As a result of my vocations I am conversant with many sides of life. Like all good senators I bring to the Senate an additional range of experiences. I have been to government and non-government schools, I have been an employee and an employer, I have been a public servant and I have been in the private sector. I know people. I have dealt constantly with people: people under pressure, people who are suffering, the wealthy, the poor, our youth, people with disabilities, criminals, the mentally challenged, sexual assault victims, drug users, the bereaved, the traumatised, prostitutes, beggars, the homeless and the dying. I have become adept at handling people and I feel the plight of many. I know about the harsh and ugly side of life. I have been there with the victims and the offenders. I have seen and experienced things in my life that I would never want others to have to experience—from horrific
fatalities and injuries to the inhumane treatment of one human being by another.

I also understand what it is like to go without and what it is like to have plenty. I struggled, alongside others, in the early years of married life with a mortgage and the prospect of raising children. I know what it is like to be faced with spiralling interest rates and to sometimes deprive your family and yourself of essentials in order to retain the family home. I have known times in business when money was tight and loans were enormous but I have also known success, and the spoils that success from dedication, long hours and honest labour brings. Throughout all these times as a child, as an adult and as a business proprietor, I have never lost my sense of purpose, of reality, of obligation to those around me, of patience and of strong commitment. I have remained focused on the important aspects of family, of loyalty to both friend and client, the need for hard work and the importance of not losing sight of the objectives. I also know of the good side of life. I am in my 24th year of a vibrant and happy marriage to a beautiful and loving woman. Together we have raised our children into adulthood. I value and subscribe wholeheartedly to the liberal philosophy of the protection of the family unit. Like Senator Nash, I also value the extended family with the importance of the role of grandparents, siblings’ families and beyond. Often great stories, great experiences and great love can come from those who are fortunate enough to have the closeness of extended family relationships.

I respect and am passionate about the law. As a police officer I have applied the law that legislators have enacted. Effective legislation comes from good policy. I am keen to pursue the continuance of good Liberal policy so that this country can continue to move forward with the values and the lifestyle that all Australians deserve. I am a team player. I believe that the team is bigger and more important than the individual. I have seen and experienced the benefits of a team, of the esprit de corps that is generated through people coming together and working towards the same goals. I know the advantage of working as a unit and the achievements that can flow from such a team perspective. I have worked in partnerships and teams that have required loyalty in order to not just achieve but survive. My life has been in the hands of others, and their lives in mine—never more evident than during my time as a detective.

Conversely, my role as a funeral director allowed me to take the emotional lives of others into my care. Funeral directors have a unique role in society, where each of us becomes a part of a family’s life during a very special and very private time. I make mention that a number of my funeral industry colleagues have journeyed here today, and I thank them for taking time out of their busy schedules to be in this house today. Equally, I trust it is not of concern to you, Mr President, or to honourable senators, that this is the largest gathering of embalmers and practising funeral directors ever to witness live the proceedings of the Senate. I also wish to assure all gathered here that no professional interest from the gallery is apparent.

While speaking of occupational paths, I mention in passing that I will one of the few senators—if not the only senator—to have covered, vocationally speaking, both of life’s certainties: previously, death; and now, taxes. I am confident that the diverse backgrounds and experiences contained within the ranks of all new senators will complement the array of prior occupational backgrounds of senators already ensconced in this place.

If one looks at the makeup of the Senate by way of past vocations, then the people of Australia should be satisfied that this body of 76 elected individuals contains enough skill,
expertise and life experience to effectively deliberate on all legislation and issues that are placed before it. This current Senate is made up of people that have a wide range of occupational classifications and come from areas such as nursing, practising medicine, farming of all varieties, journalism, policing, lecturing, wholesaling, labouring, skilled trades of all kinds, fishing, horticulture, teaching, accounting, the legal profession and many more.

Importantly, coupled with occupational definition, many have actually owned and operated medium and small sized businesses, giving that added advantage of having more than just a passing knowledge of what issues face the small business owner. Rather many in this place know exactly what the 1.26 million small business owners in this country face on a daily basis. I note the greater diversity of occupational background and small business experience comes from this side of the chamber.

I have just spoken about the makeup of the vocational attributes of this place. Now I want to speak about the political makeup of this chamber. In doing so, it is appropriate to consider the last half-Senate election. Fifteen senators left the Senate on 30 June this year, replaced by 15 senators elected on 9 October last year. This represents the largest change of the Senate since 1950, equating to 19.74—or 20—per cent of the Senate. Much has been said, and said by people with far more knowledge than I, about the contribution of the senators that are no longer in this place. I will not add to that except to publicly acknowledge the longstanding contribution of Senator Brian Harradine, a fellow Tasmanian, and I wish him well in retirement.

As I reflect upon the change to the makeup of the Senate, I note that the media has focused—often negatively—on the configuration of the Senate and the strong position the coalition now has by way of a majority on the floor of this chamber. I want to make three observations about this. Firstly, the makeup of this chamber is determined solely, and without recourse, by the electors of our nation voting in all states and territories. This is not an electoral aberration, this is not an engineered outcome and this is not, in any way, shape or form, a mistake. On 9 October last year, this nation voted and this is the legitimate result.

Secondly, commentators—both from the parliamentary wings of some political parties and from the media—treat the result of the last federal election as though it was unique in our time and something of problem, and as though an entirely new landscape has presented itself in Australian democratic history. This is not true. There are two other jurisdictions in this country that are operating under similar majorities. The Victorian parliament has a majority of government members in the upper house: 23 Labor members occupy seats, with 15 Liberal and four National. Similarly, the single-house system in Queensland, which has less scrutiny than the bicameral houses across this nation, has a majority without upper-house scrutiny or hostility. One could confidently argue that the sky has certainly not fallen in either of those states.

The third comment that I make in regard to the configuration of the Senate is to do with control. I am on the public record from a very early stage after the October election result objecting to this word, ‘control’. The government does not control the Senate. It never has and it never will. The Senate is comprised of individuals who have an opportunity to exercise their vote as their hearts and minds and the will of the constituency guides them. The only control that is exercised is that of the Australian people at the ballot box. This, however, does not prevent a collective of like-minded senators voting in a
similar pattern on legislation presented to this chamber. In fact, the people of Australia, in deciding whom to elect, chose individuals by their alignment to political groups or parties. Our constituents have expectations that we will fight for their causes in the party rooms of our respective organisations and then, after the exhaustion of battle there, vote as a collective. The only way to effectively govern this nation and provide for our states is to have a common, aligned, working majority.

I believe that we and the Australian people need reminding of the difficult nature of our roles in two respects. Each senator in this place wears the burden of having two masters, the first being the constituents of the state or territory from where each senator resides, and secondly the master that goes by the name of national interest or the common good for the people of Australia as a whole. If each senator were to consider only the welfare and benefit of their respective states and territories, then the overall wellbeing of this country would be sadly, and recklessly, abandoned. The ability to place national interest ahead of state interest when a conflict of opinion is apparent is indeed what tests the courage, intelligence and integrity of each and every one of us.

Mr Abraham Lincoln, the 16th President of the United States of America, in his 1860 Cooper Union address, captured the essence of what I have just said rather well—not that he heard what I said. Mr Lincoln said:

Neither let us be slandered from our duty by false accusations against us, nor frightened from it by menaces of destruction to the Government nor of dungeons to ourselves. Let us have faith that right makes might, and in that faith, let us, to the end, dare to do our duty as we understand it.

Many members of parliament have taken a keen interest in the health and wellbeing of every person in this nation. I have a strong view that preventative medicine is better than being reactive to problems after they arise. I have been proactive in my community regarding medical research both at a fundraising and an awareness level through administration. Being a funeral director, whilst also being proactive in medical research, certainly raised some eyebrows. When giving addresses to service clubs and similar groups about medical research, I would often be taken to task by fines masters and the like for trying to reduce funeral industry based clientele. I would graciously accept the humour, but then deliver my serious message.

As a funeral director, I have stood beside the bodies of hundreds of people who have died from what will one day be a preventable disease. Sadly, on many occasions the bodies of those people were younger than me or the same age as my children or were people in their fifties and sixties, all far too young to die. I have also experienced, with the families that I have served, the emotion and heartache that befalls us when someone close to us dies.

Whilst dealing with traumatic and other sudden deaths through accident or injury is devastating to families and funeral directors alike, the death of Australians from cancer and other medical illnesses appears to harbour a cruel aspect because of the thought that it just might have been preventable. So it is my vocational journey that has created a passionate desire to see medical research funding continue to increase. I commend this government on its record so far. Following the Wills review in 1999, this government made a commitment to double the research funding to the National Health and Medical Research Council. This increase has taken place over a six-year period and will reach a peak of $445 million dollars this financial year, up from $176 million in 1999. I am very keen to work towards further support for medical research funding.
On matters concerning health, I place on record my view that further examination of a single national approach to health is warranted. The blame shifting from one agency to another; from one government tier to another misses totally the point of health care. There are people throughout Australia that want service delivery in relation to issues that affect them personally. They do not care who is responsible; they—and rightly so—just want treatment. It is our duty to see that happen.

We need to be delivering the best outcomes in this critical area of public service. A duplicative administration and convoluted funding arrangements complicate and create bureaucratic jungles rather than medical service solutions. If the public interest is best served by a single national health entity then I want to start working towards that. The states will need to agree to this, and I would encourage state governments to explore this option with a view to a better health service for our nation.

I want to turn my attention to the Tasmanian Liberal Senate team. As a group, we regularly caucus and utilise the skills and interest areas of each senator to pursue issues for individual constituents and groups alike. Whilst we do not always agree and whilst we may have healthy debate, the team attitude removes duplication of effort and provides for a higher degree of representation by now having six senators supporting any single issue and by drawing on the expertise and experience of each team member in advancing issues. As the newest member of the team, I place on the public record my respect for this cooperative and unified method. Not only does a single unit of senators auger well for the people of our state and nation, but it is worth noting that we have a highly credentialed team.

Mr President, we are privileged to have you as President and part of our team. On that note, as this is my first speech since your re-election to office, I congratulate you on your re-election. I also note that in our team we have a minister of the Crown in Senator Abetz, a parliamentary secretary in Senator Colbeck and the longest serving senator in this parliament—now father of the Senate—Senator Watson. Together with Senator Barnett and myself, we can truly have direct influence on working for the betterment of our country, state and regions. I am pleased to have joined my colleagues to continue our team approach.

Time does not permit me to indulge in other areas of interest that fall within the purview of the federal government and the federal parliament. I make it known that over my time in this place I will be keen to explore and assist in areas that relate to the environment, our quarantine and federal policing efforts, electoral matters, migration, small business compliance issues, taxation simplification—just to name a few. I will certainly welcome the opportunity to involve myself in these and other areas as time progresses.

I do need to publicly thank some important people in my life. To my wife, Allison, I thank her so much for supporting me not only as a fantastic wife but as a business partner, as my No. 1 constituent and, to my annoyance at times, my best critic. I cannot thank her enough for her support. To my two adult sons, Joshua and James, my thanks to them for not only being good mates and great fun but for being ambassadors for my cause, especially in a university environment where support for a Liberal Senate team was not necessarily the most popular role on campus. I also take this opportunity to publicly express my congratulations to my eldest son, Joshua, on announcing his engagement.
to his now fiance, Amber, here in this house yesterday. Congratulations to you both.

I owe so much to so many others for contributing over short and long periods throughout my life’s journey, which has led to me standing here today. I do need, and indeed want, to acknowledge some important people. To my parents, Bill and Patricia, who have moulded, nurtured and shaped me, led by example, especially the installation of a strong work ethic in me and the sense of needing to support one’s community; thanks, Mum and Dad.

To my three brothers, Dean, Vincent and Andrew, I thank them for all our adventures together, for the comradeship of brothers and for the continued support and spirit of family. My parents-in-law, John and Anne Vincent, I thank you, as you have also been an integral part of my life. To my extended family, friends and past colleagues, thank you for attending today. I cannot and will not name you, but it is fair to say that virtually all of my best friends, confidants, mates and debating partners are all present today. I thank each of you most sincerely for your encouragement, your support and, most importantly, your honest friendship. I also thank you for giving up your day. With some pride, I acknowledge that each state of Australia is represented in the gallery.

I also thank the members of the Tasmanian division of the Liberal Party of Australia for having the confidence to preselect me and to the voters of Tasmania for placing their trust in the Liberal Senate team and indeed their faith in me. I hope to serve you well. To the gathering of friends and state colleagues in my electorate office at Burnie watching these proceedings on the web broadcast, thank you for your support. Finally, to my three new staff members, Leanne, Michelle and James, all four of us set out on this journey on 1 July. I thank you for your loyalty thus far and look forward to counting each milestone with you.

Prior to concluding, I wish to quote, once again, President Lincoln. This is from March 1832, well before he became President. I thought this statement of Lincoln’s to be poignant for two reasons: firstly, it talks about ambition in a way I subscribe to, particularly in his reference to worthiness; and secondly, like me today with a first speech, this was reportedly—while not his first speech—his first political announcement. I quote:

Every man is said to have his peculiar ambition. Whether it be true or not, I can say for one that I have no other so great as that of being truly esteemed of my fellow men, by rendering myself worthy of their esteem. How far I shall succeed in gratifying this ambition, is yet to be developed.

Mr President, I am new; I am keen; I am here to serve. I thank the Senate.

Honourable senators—Hear, hear!

DOCUMENTS

Immigration and Multicultural and Indigenous Affairs

Debate resumed from 11 August, on motion by Senator Kirk:

That the Senate take note of the document.

Senator GEORGE CAMPBELL (New South Wales) (6.11 pm)—The Department of Immigration and Multicultural and Indigenous Affairs report for 2003-04 provides yet more evidence that this government has lost control of its own migration and detention policy. We are now at crisis point and things do not look like getting any better. In nine long years of government, we have had some pretty poor performances from immigration ministers. But our current minister, Senator Vanstone, is by far the worst yet. Thanks to her lazy and arrogant approach to her portfolio duties, we have a system that is in chaos.
I want to draw attention to page 92 of the report, where it states this objective:
To provide lawful, appropriate and economic detention of unlawful non-citizens.

It continues with:
To detain unlawful non-citizens as required under Commonwealth legislation.

The reality is that the department, in enforcing immigration law in this area, has in fact been detaining lawful Australian citizens. One has to ask how that fits in with the department’s objectives or how much effort it actually puts into delivering on its objectives. The department, under the inept leadership of Minister Vanstone, has completely failed to meet one of its most important core requirements. We have a department that, instead of doing its job effectively, runs a system in which the mentally ill are treated as criminals and locked up without thought for their care or wellbeing—as we have seen in the now infamous case of Cornelia Rau, who was detained for an agonising 10 months. We have a system in which people who are lawfully in Australia fall victim to an inept bureaucracy ruled over by an uninterested and arrogant minister.

Just days ago, the nation found out that over 200 innocent people had been unlawfully detained over the last five years. Fifty-six of these people were detained for periods of more than three weeks. Most Australians are rightfully outraged by these revelations and, what is more, they are disgusted by the minister’s arrogant and uncaring response. How did the minister describe these cases this morning on Radio National, when questioned about them? As ‘old news’—that is what the minister called these tragic cases. They were just ‘old news’—not serious mistakes by an incompetent department, managed by an incompetent minister, but ‘old news’—something to be discarded and forgotten about so as to move on to a set of new cases and some more crises whipped up by the department.

Maybe we should not be surprised that this was the response of the minister, because this was the minister who oversaw the detention of Ian and Janie Hwang, who were taken from their school, Stanmore Public School, in March this year and locked up—kids were taken out of their classroom and put behind razor wire. This is from a minister who says that she is compassionate—that she has compassion for people in detention. In my view that sort of action does not demonstrate much compassion. This is also the minister on whose watch a 12-year-old boy attempted to commit suicide three times while he was locked up in Villawood detention centre and a minister who has already cost taxpayers $1 million in compensation payouts for wrongful detention—and with so many more cases coming to light, the bill is likely to be much larger.

Quite frankly, it was a disgrace to watch the way in which this minister handled the series of serious questions that were raised with her in question time today. She treated the questioners with contempt and she treated the substance of the questions with contempt, because she really did not have any answers to the serious issues that were posed to her in those questions. The Prime Minister has responsibilities to this country, and his first responsibility is to ensure that the ministers he puts in charge of departments are competent and capable of doing the job. This minister has clearly demonstrated that she is incompetent and not capable of doing the job, and the best action the Prime Minister could take to represent the interests of this country would be to remove the minister—(Time expired)

Senator BARTLETT (Queensland) (6.18 pm)—I also want to speak about the Department of Immigration and Multicultural
and Indigenous Affairs annual report. We have had a bit of a focus on DIMIA this afternoon, both in the discussion on the matter of public importance and in the debate on the general business motion moved by Senator Ludwig, and it is appropriate that that is the case. We have also had a debate on the exercise of Australian territory from the migration zone. There have been a number of times in those debates and many others when I have spoken about the wider importance of the migration area in terms of public policy and why Australians need to make themselves aware that this is not just an issue of a small number of unfortunate people who have fallen through the cracks and not just an issue of asylum seekers; it is an issue of huge significance to the future direction of Australia.

Given the other opportunities I have had this afternoon to specifically criticise the department and the actions of the Minister for Immigration and Multicultural and Indigenous Affairs, I want to draw on the departmental report to point to the significant number of people who are affected or touched in one way or another by the actions of the immigration department each year. This is, firstly, to demonstrate why it is so significant that we do much better in terms of getting things right and, secondly, to emphasise just how significant this is, in a social, economic and environmental context, to the future directions of our country. I will make a few comments along the way.

It is worth noting, if you look at the figures in this report, the number of visas issued in the visitors area and to working holidaymakers each year. In the last financial year, at the end of 2004, the total number of visitor visas issued was nearly 3½ million—that is a huge number of people. Of those, 2¼ million were electronic travel authority visitor visas, another 400,000 were tourist visas for people from non-ETA countries, there were 150,000 business visitors and there were 10,000 sponsored family visitors. In addition to that 3½ million, we had nearly 100,000 working holidaymakers—and I believe that that will go over 100,000 in the next financial year. That is a huge number of people and it shows just how much this issue is interconnected with the Australian community. When we are talking about 3½ million visitor visas each year, that makes debates about whether our permanent intake should be 90,000, 100,000 or 110,000 pretty minor in comparison.

If you look at the permanent entry area in the so-called economic program, there were over 71,000 in 2003-04. As is well known, that is going to increase to close to 100,000 in the next financial year in the economic area. If you contrast that with the family area, which was down to only 42,000 in the previous financial year, you can see how much the migration program has been distorted by looking for people who will bring in quick money and by dealing with short-term employment and skills shortage issues but not recognising the broader value of the family in our program. I particularly point to the increase—the nearly 866 per cent increase—in parent visas from the year before. That went up from 510 to nearly 5,000 and was a direct result, I might say, of Democrat negotiations in trying to deal with the total mismanagement of the parents category—this government’s obsession with trying to reduce and limit the number of people who come here, purely on the basis that they might cost us something in dollars and cents.

It is driven by a clear discrimination on the basis of age. It is a clear discrimination saying, ‘We don’t want people coming here who will cost our health system.’ It also impacts on people who have children or spouses with disabilities. They are clearly discriminated against purely on that basis because we look at the dollars and cents of what they might cost our health system; we
do not look at the broader social benefits. I note that Senator Nash, in her fine first speech, talked about the role of grandparents. That is a clear example of the wider benefits that the family unit can play. It is a real concern that we are decreasing parent and family visas in favour of short-term economic benefits. There are student visas as well—another 171,000; the numbers are enormous. It is a clear reminder of how important migration is. (Time expired)

Senator LUDWIG (Queensland) (6.22 pm)—I rise to take note of the annual report of the Department of Immigration and Multicultural and Indigenous Affairs. What is clear from the annual report is that the department fail, through their minister, to understand how to detain people lawfully and in a humane way. It seems to be—and it is becoming more abundantly clear, especially after question time today—that the minister still does not understand the basic operation of the Migration Act’s detention powers. It is a matter we have tried to explain to her on a number of occasions, but it is one of those things that you have to try and try again.

The detention powers comprise two sections: sections 189 and 196. Section 189 provides the power of initial detention, and the minister seems to understand that and so does her department. Where a person is reasonably suspected to be unlawful, they can be detained. However—and this is the part that the minister and the department fail to grasp—section 196 determines the duration of detention. You cannot—and let me repeat this for the minister’s benefit, even if she is not here—continue to detain indefinitely, unless you are certain that the person is unlawful.

The point that cannot seem to get through to the minister—and it seems that the department either does not want to acknowledge this or fails to appreciate it—is that there are two sections in the legislation. Up until now, it seems that the minister has been ignoring the latter section at her convenience. Senator Vanstone’s interpretation of the act is that you can detain indefinitely, for as long as you want, while you determine identity. The most recent attempt to argue this absurdity was in question time yesterday. The minister and this government still cling to the idea that you can detain indefinitely while you determine identity—but you cannot. It ignores the legislation; it ignores section 196.

Mr Mick Palmer, who looked into DIMIA, also, in essence, said the same thing, but the minister still blithely ignores the advice given. If Senator Vanstone is confused about the operation of these sections, she can easily turn to the assistance of the Federal Court. Three times they have made a ruling on the correct interpretation of the law in this regard and, as far as anyone can tell, three times the minister and her department have ignored the ruling. In fact, they still continue to pursue their own view of how these sections should be interpreted. It is reckless behaviour of an administration that believes itself to be beyond the rule of law. In the end, it is a product and a final destination of the extremist Liberal Party ideology peddled by this government.

I also want to deal with another matter where the government, through the minister, seems to be unable to face up to the truth. It is demonstrated by the following. On 10 May 2005 Senator Vanstone said in parliament:

The short answer is that I think the department do an excellent job. We are talking about 0.2 per cent of the cases. In other words, there are 0.2 per cent of cases involving detention where errors have been made. And the PM, Mr Howard, on 26 May 2005 said:
And I’m told that of these 88,000, 201 individual cases fell into the category where a person was released after it was determined they were not here unlawfully and that was 0.2 per cent of the number of people who were located.

If there is any doubt about where the source of the problem culture lies, Mr Palmer has nailed the Prime Minister and Senator Vanstone in the Palmer report. He said:

It was suggested to the Inquiry that, of the thousands of removals and cases DIMIA deals with each year, the case of Cornelia Rau represents less than 0.001 per cent. The Inquiry considers that this statement, more than most, demonstrates the culture and mindset that have brought about the failures in policy implementation and practices.

The Prime Minister and Minister Vanstone have failed again and again to see it. There it is in black and white. Mr Palmer knows where the culture comes from. It comes from this extremist Liberal Party government. Palmer could not investigate beyond what Senator Vanstone and the PM ordered him to. Despite the extensive involvement of the minister’s office in these cases, this government seems to have no ability to look at itself. (Time expired)

Question agreed to.

**Australian Competition and Consumer Commission**

Debate resumed from 11 August, on motion by Senator Bartlett:

That the Senate take note of the document.

**Senator BARTLETT** (Queensland) (6.29 pm)—The Australian Competition and Consumer Commission’s report on Telstra’s compliance with price control arrangements is a particularly appropriate document to examine given the current public debate surrounding the potential sale of Telstra. It is one aspect amongst a whole lot that do need to be examined if there is going to be any prospect of ensuring a decent deal for the consumer.

This report is from the financial year 2003-04, so in some respects things have moved a fair way in regard to some of the things that have happened since. But it does signal the extent of some of the problems that are currently faced with the regulator, in the form of the Australian Competition and Consumer Commission—a regulator with legal authority to oversee, under the Trade Practices Act, Telstra’s compliance with the price control arrangements that apply to it.

If you look at this report, which is quite a small and short report, you will see that the ACCC has said that, subject to the qualifications listed in this report, Telstra has adequately complied with the price control arrangements. That sounds fine until you actually look at the qualifications. There are quite a lot of them and some of them are quite serious. The qualifications can be characterised as involving matters of interpretation of the price control arrangements and matters reflecting data limitations. These include the late supply of reconciliations of data reported for the price control purposes and of Telstra’s publicly reported data. Telstra’s belated supply of data to the ACCC meant that the ACCC was unable to scrutinise the reconciliations that had been made in regard to the price control data.

They also had a qualification about the disputed three percentage point line rental claim. I do not have time to go into the fine print now, but it details how Telstra added a footnote in regard to the three percentage points. The report says that, although Telstra did not state why it believed the course in the footnote was open to it, the ACCC considered that any such use of the three percentage points as foreshadowed by Telstra would be contrary to the price control arrangements.
that apply to Telstra and contrary to the agreement previously reached on the issue.

Another qualification is the treatment of pensioner rebates—an area where the Democrats were able to win benefits, I might say, for pensioners in the previous Senate, when we had the opportunity to use the balance of power for people’s benefit. In this area, the ACCC considered that the way Telstra treated the revenue regarding phone bills for fixed lines for pensioners failed to give an accurate measure of the prices faced by pensioner customers for Telstra call services and line rental services and was inconsistent with the policy objectives of the price control arrangements.

Another qualification involves errors in previously reported basic access SIO data. Another qualification is the sampling of bill data to assess metropolitan and non-metropolitan local call relativities. In this case, Telstra altered its record-keeping systems so that records that were previously used for the Telstra Country Wide business unit could no longer be used. The sampling that was used, according to the ACCC, is contrary to the regulatory premise on which the price control arrangements were based. Another qualification is the non-supply of volume data in respect of discounted line rentals offered to schools.

For such a small report around what should be a simple area of price control, to have six different, separate and in some cases serious qualifications by the ACCC, compounded with what appears to be a dubious degree of cooperation from Telstra, should set big alarm bells ringing for anybody who seriously thinks that the regulatory regime is adequate to ensure that Telstra provides a decent service for individual consumers of Australia, let alone plays it fair in relation to competitors. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Palmer Report

Debate resumed from 11 August, on motion by Senator Ludwig:

Senator HOGG (Queensland) (6.35 pm)—I rise to speak on the report by Mr Mick Palmer on the detention of Cornelia Rau. I do so having listened to the debate in this chamber this afternoon. One would not be too far from the mark if one thought that there were two different reports by Mr Mick Palmer for consideration—one that had been given to government members and one that had been given to the rest of us. I am sure that is not the case. I am sure that we are all working from the same report. I listened to government members trying to shift the blame down and away from the minister, who should fairly and squarely accept the blame for what is clearly the mismanagement of her portfolio—in particular, the operations of the DIMIA compliance and immigration detention areas of that portfolio. If one takes a look at the report, one will find that Mr Palmer indeed has done a marvellous job given that it was not an open inquiry, witnesses who appeared were not subject to cross-examination in a public forum and not all of the witnesses who should have been heard were heard, according to evidence that seems to be well and truly on the public record.

It was as though government senators today adopted the condescending attitude that ‘well, the government took a look at the conditions operating as a result of the Cornelia Rau case’, but of course they tried to push the blame to lower levels of the Public Service, never ever accepting that the minister or the upper echelons of the department were responsible for what happened in this and other matters. If one looks at the language that was used by Mr Palmer one sees just in
the initial part of his report under the heading ‘Main Findings’ where the blame clearly and squarely lies. Mr Palmer, for example at point 6, says:

Initiatives are now being introduced, but the Inquiry found inadequate evidence of the required systems and processes in the compliance and immigration detention areas of DIMIA during the period of Ms Rau’s detention.

So there were clearly deficiencies. Some government members, to give them their due, did own up and admit that there were deficiencies but would not lay the blame where it should be sheeted home: to the minister. The report goes on to state:

That they should be permitted and expected to do so without adequate training—
that is, DIMIA officers—
without proper management and oversight—
and it was not at a low level, one can only assume; management comes from the top, and the top is the minister—
with poor information systems, and with no genuine quality assurance and constraints on the exercise of these powers is of concern. The fact that this situation has been allowed to continue unchecked and unreviewed for several years is difficult to understand.

And who has been at the helm? It is the minister. The minister has to face up to the responsibility at some stage. The minister is where the buck stops. I heard all sorts of reasons from the other side today as to why the blame should be shifted elsewhere. This is becoming too common a practice within various departments under this government. The blame is shifted away from the minister and onto the lower echelons within the Public Service—quite wrongly, in my consideration. Point 17 of the report states:

There are serious problems with the handling of immigration detention cases. They stem from deep-seated cultural and attitudinal problems within DIMIA and a failure of executive leadership in the immigration compliance and detention areas.

There is a failure of leadership, a failure to supervise. So what do we see in the end? We see people such as Cornelia Rau suffering internment in prison when that is not the correct place for her to be. The department and the minister failed to recognise how to handle such a case because over a period of time they had been very blase about these issues.

(Time expired)

Senator MARSHALL (Victoria) (6.40 pm)—Having read the Palmer report, I can say that it is an explosive and utter indictment of the highest order of this government, its immigration ministers and their maladministration. I had an opportunity to talk at some length on this report earlier today in the context of that maladministration when we were debating the disallowance motion for the excise regulations. Consequent to that there has been some further discussion today about the report and the responsibility that the Minister for Immigration and Multicultural and Indigenous Affairs should take in accepting some of the responsibility for the enormous failures of the department for which she is responsible. Today we saw Senator Brandis come into the chamber and defend the guilty, as we so often see—

Senator Forshaw—He defended the indefensible.

Senator MARSHALL—He defended the indefensible, and I support Senator Brandis having the right to do that. We saw him do it in the ‘children overboard’ affair. He is chief counsel for the defence for this government. I accept that even the guilty deserve to have a defence counsel try to mount some argument for them. We saw him do that admirably again today. During his presentation I wondered whether he had read the report but he went on to clarify that he had. I know that if Senator Brandis says that he has read the
report, he has indeed read the report. But there must be a problem with comprehension. Senator Brandis would have us believe that all that the report indicated was that there were some problems at the most junior levels of the public sector for which the minister could not possibly take any responsibility or have any knowledge of. That is not what I read through the Palmer report.

The Palmer report indicated that there was a culture of denial and self-justification. The inquiry found that that was the heart of the problem. I have only to take Senator Brandis and other senators who might be interested to page 169 of the report, which states:

The Inquiry found that these attitudes and perspectives were not, as some believed, confined to operational levels but were pervasive at senior executive management level. Executive managers, including Assistant Secretaries, should be in the vanguard of corporate leadership and should not be shackled by process-driven thinking and unable or unwilling to question existing structures, processes and procedures.

That clearly identifies the highest levels of management—the highest levels of management that would report directly to the minister, and the minister has the audacity to say that she ought to take no responsibility for any of those problems which are inherent throughout the process. Again, for the interest of the Senate, I refer to page 194 of the report, which states:

Throughout all aspects of both the Inquiry and the Examination there was, with few exceptions, been consistent evidence of reluctance at middle management and senior executive management levels to accept responsibility and acknowledge fault.

What a surprise. It does not stop at senior executive management; it goes all the way to the ministry, because the minister fails to do the same thing which Palmer accuses senior executive management of doing. Let us be clear: they refuse to accept any responsibility or acknowledge fault. That is at the core of the problem here. The minister ought to do the right thing and accept that responsibility and resign.

The other interesting thing which Senator Brandis, the counsel for the defence, wanted to argue was that, because the minister initiated the Palmer report in the first place, that showed that she was accepting the responsibility. Senator Brandis is from Queensland, and what he has said is really like saying that Sir Joh Bjelke-Petersen accepted the responsibility of all the corruption and failure in that state because he initiated the Fitzgerald inquiry. It is like saying that because he initiated that inquiry he had accepted full responsibility for that and really needed to take no further responsibility for what was happening in that state. It is a nonsense argument. It was a good try by a lawyer who came in to be the counsel for the defence, but it really does not wash. It does not pass the test of logic. It does not pass the laugh test. This minister should own up to her ministerial responsibilities. If she does not, the Prime Minister should do the right thing and remove her from office.

Senator MOORE (Queensland) (6.45 pm)—I rise to speak on the same document. We have heard many comments this evening on the Palmer report and I think we will continue to do so, now that the report is public. There is considerable interest in it. In my office I have received numerous phone calls and emails from people in the community wanting to see what is in the report. It has been a bit difficult to respond because in many cases there are no printed copies of the report. You have to recommend to people that they download it. I always have some reluctance when I ask community groups to use their printers to download government reports.

For me, reading this report was a very damaging experience on a whole range of
levels. There are the horrid and deeply personal experiences of Australian citizens and would-be Australian citizens being actively harmed by the system that should be supporting them and giving them solace. I am at a loss to understand how, in the great culture in which we operate, we can be anything but ashamed by reading about the litany of horrors that occurred when people turned to their government and their Public Service, seeking help and support. Of course, no system is ever perfect. We do not expect them to be perfect, but what we should be able to expect in our community is a strong, responsive public sector. For any of us who hold those values dear, the Palmer report is not just of concern; it is actually frightening. The report says about people working in the public sector:

Such perspectives reflect a culture of denial and self-justification that the Inquiry found to be at the heart of the problem. Rigid, narrow thinking stymies initiative and limits the ability to deal successfully with new and complex situations.

If it were possible to put together a document that reflected the absolute horror of a public sector that is not truly responsive and is not being adequately supported by the government to which it reports, you would have to point to the Palmer report. I talk with people who work in this department—it is a department that has a long history—and they have been damaged by reading this report and seeing the media comments about their workplace. They are shocked by the fact that people have now seen public condemnation of them and the work they do. That must reflect directly back on the minister.

We understand that there are different conventions on what constitutes ministerial responsibility, but a key element of the way that we operate is that the minister is the key point of their Public Service department. There has been considerable discussion over the years about what constitutes a strong, responsive, independent Public Service. There have been justifiable allegations of misconduct, lack of training and poor decision making. Throughout that service, which we build up through a very strong audit process, there is a clear structure which indicates that there should be review, identification of an issue, discussion of an issue with the relevant area and then a decision about what should happen to fix it.

What we have now is an entrenched situation in this department where people seem to have no understanding of what it means to be truly open and responsive. This is in a department that has been set up over many years to be at the forefront of our democratic system. This is the department that is responsible for citizenship. This is the department which is responsible for those people from across the world who seek to live and work and make their lives in Australia. How, then, can we feel confident in our Public Service if we can see, after so many years of hiding, such a culture? The report points out that it has become a culture which ‘generally allows matters to go unquestioned when, on any examination, a number of the assumptions are flawed’.

This report not only reflects on decisions about immigration matters. I hope that will be the subject of a lot more discussion in this place. This report once again raises the issue of an effective public sector in our country. That is something that we all value. I think the Palmer report will go on record as being one of the most damaging attacks on the public sector in Australia. We should be supporting our people who work in the Public Service, not leaving them open to this kind of attack. (Time expired)

Senator FORSHAW (New South Wales) (6.50 pm)—I rise to speak on the report from Mick Palmer. In the years that I have been in this chamber I have read a number of damn-
ing reports highlighting gross failures of management and administration in certain government departments and instrumentalities. I can recall a report on AQIS and one with regard to Creutzfeldt-Jakob disease issues. But I have to say that this report is one which really defies imagination. It defies imagination that the sorts of things that have been identified in Mick Palmer’s report could have actually occurred. I refer particularly to the systemic failure, the continued failure, built layer upon layer, of management—the failure to act appropriately to try to get to the truth of the tragic circumstances of Ms Cornelia Rau.

As we know from the main findings of the report, Ms Rau was detained and clearly at the time, though one has to acknowledge that it was not necessarily evident to the officers, she was suffering a mental illness. She had given a different name and claimed that she was a German citizen. But it is clear from the findings of the report that officers of the department failed to pursue the case sufficiently to get to the truth. As it says at paragraph 2 of the main findings:

Nevertheless, officers should not only have continued inquiries aimed at identifying Anna—that was the name that she had given—they should also have continued to question whether they were still able to demonstrate that the suspicion on which the detention was originally based persisted and that it was still reasonably held.

DIMIA’s inquiries concerning Ms Rau focused on establishing her identity for the purpose of enabling her removal from Australia. There was no corporate policy for or instruction to review the continued validity of the ‘reasonable suspicion’ that Ms Rau was an unlawful non-citizen.

The point that Mick Palmer is making is that they had reached a conclusion that Ms Rau was a noncitizen and they continued to pursue an activity which had as its purpose to have her deported. Of course, in the situation with Ms Alvarez Solon we saw the same thing happen. The decision was made in effect almost at the outset that this woman should be deported. That it was exposed only came about because the department and this minister finally acted to go back and have a look at how that actually came to pass. That is endemic to the culture in this department: constant failures to pursue investigations to reach the truth. There are so many instances of it in the findings of this report. It states:

There is a serious cultural problem within DIMIA’s immigration compliance and detention areas ...

It says that this has:

... given rise to a culture that is overly self-protective and defensive, a culture largely unwilling to challenge organisational norms or to engage in genuine self-criticism or analysis.

And it concludes:

The fact that this situation has been allowed to continue unchecked and unreviewed for several years is difficult to understand.

As my colleagues have pointed out, the failures are at the top—with the top management and with this minister. It is an absolute disgrace that people who were in positions responsible for this end up getting Australian honours awards and got promoted to senior ambassadorial positions around the world. As the report says, ‘nobody was in charge’—

(Time expired)

Senator BRANDIS (Queensland) (6.55 pm)—Flattered as I am by Senator Marshall’s observations about me a few minutes ago, I have to say that the burden of Senator Marshall’s argument was nonsense. The highest, most immediate form of responsibility that any minister or administrator can take is to move swiftly upon the identification of a problem, to set the processes in motion, to ensure that the problems are got to the bottom of, and to expose themself, as Senator Vanstone did in this case, to search-
s for a single occasion on which any minister of an Australian government, be they Labor or coalition, have exposed themselves to so much transparent scrutiny in order to get to the bottom of a systemic problem in their department which nobody says they were personally responsible for. But that is what Senator Amanda Vanstone did. The fusillade of rhetoric we have heard from opposition senators, both in the earlier debate this afternoon and now this evening in parliamentary prime time, is nothing other than an intellectually dishonest, disingenuous stunt.

Senator Amanda Vanstone, by taking a step which no minister of an Australian government has taken before and so setting herself up for the sorts of cheap shots we have heard from Senator Forshaw and Senator Gavin Marshall, has shown her real character. And those of us who know her in this place, as we all do, are not surprised, because Senator Vanstone is a person who is a blunt, plain-speaking, can-do and purposeful person. She is a person who is willing to roll up her sleeves and when there is a problem not sweep it under the carpet, as generations of Labor Party ministers have done, but expose it to the unstinting, harsh glare of public scrutiny, even at the cost to herself of being the victim of the sorts of cheap shots we have heard from the opposition, which could have no resonance with anyone who either had studied the report or was informed of the facts that Commissioner Palmer disclosed in his report. As I said a moment ago, she not only did that but moved swiftly to correct the problems.

Let me say two other things quickly. First, I saw Mr Bill Farmer first during the ‘children overboard’ inquiry. I do not know him particularly well, but may I say I was impressed by Mr Farmer’s forthrightness on that occasion. I thought that he was one of the most impressive Public Service officers I have ever seen. His reputation in the Australian Public Service, and particularly in the Department of Foreign Affairs and Trade, from where he comes, is exemplary, and his appointment as Ambassador to Indonesia I think is a great thing for this country.

Finally, may I chide my friend Senator Marshall for his lamentable ignorance of Queensland political history, because as you, Madam Acting Deputy President Moore, certainly know, it surely was not Joh Bjelke-Petersen who set up the Fitzgerald inquiry.

Senator BARTLETT (Queensland) (7.00 pm)—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Consideration

The following orders of the day relating to government documents were considered:


Refugee Review Tribunal—Report for 2003-04. Motion of Senator Bartlett to take note of document debated. Debate ad-
journeyed till Thursday at general business, Senator Bartlett in continuation.


Aboriginal and Torres Strait Islander Social Justice Commissioner—Native title—Report for 2004. Motion of Senator Carr to take note of document called on. On the motion of Senator Moore debate was adjourned till Thursday at general business.

Productivity Commission—Report—No. 33—Review of national competition policy reforms, 28 February 2005. Motion of Senator Bartlett to take note of document called on. On the motion of Senator Moore debate was adjourned till Thursday at general business.

Human Rights and Equal Opportunity Commission—Report—No. 28—Inquiry into complaints by immigration detainees concerning their detention at the Curtin Immigration Reception and Processing Centre. Motion of Senator Bartlett to take note of document called on. On the motion of Senator Moore debate was adjourned till Thursday at general business.


Gene Technology Regulator—Quarterly report for the period 1 January to 31 March 2005. Motion of Senator Bartlett to take note of document called on. On the motion of Senator Moore debate was adjourned till Thursday at general business.

COMMITTEES

National Capital and External Territories Committee

Report

Debate resumed from 11 August, on motion by Senator Lightfoot:

That the Senate take note of the report.

Senator HOGG (Queensland) (7.00 pm)—I rise to speak on this report by the Joint Standing Committee on National Capital and External Territories as a member of that committee and a person who participated in the conduct of the inquiry. I thought that it was a very important inquiry indeed. The focus of the inquiry turned out to be the issue of funding for the Antarctic Division. It became clear to me—and it was a concern of mine that was expressed repeatedly throughout the inquiry—that the funding that has been available to the Antarctic Division over a long period of time, but particularly in the last nine long years of the Howard government, has not moved at all. The funding has been static, and the only way in which the Antarctic Division has been able to operate efficiently has been to make economies and efficiencies within its operations. It is like the old question: how much juice can one
squeeze out of the orange or lemon? There is just so much, and I believe that at the end of the day the Antarctic Division is very fast reaching that time in its history.

The Antarctic Division is not one of the more prominent issues in the forefront of Australian minds, but it should be, because it performs a great service in terms of the research that is done at our sites in Antarctica and managed by the headquarters of the Antarctic Division in Kingston, in the outer suburbs of Hobart in Tasmania. The thing that repeatedly came to the attention of inquiry was the strength of the organisation, built on the diminishing resources that were being supplied. The report acknowledges that in the last budget the government determined that they would put in an air link, which is a welcome improvement for our scientists and which, from the evidence that we heard given to the committee, may well improve the standard of research that is performed by Australian scientists in the area. That is welcome indeed.

One of the concerns that I formed during the inquiry was that our research was starting to lag and we were not attracting the quality or quantity of scientists to Antarctica to do the research that is necessary, particularly in an area such as climate change. We had some excellent presentations from the Antarctic Division during the inquiry which clearly showed that the research that is carried out in Antarctica has a real, practical implication for us on the mainland in terms of our seasons, the diminishing rainfall that we are seeing in some areas and the climate change, as was mentioned by Senator Wortley in her first speech, that we may see into the future. I thought that, importantly, the committee did establish that there were some niche needs in that area, and for a report that has not a great number of pages there are a number of recommendations that all basically address the financial requirements of the Australian Antarctic Division.

I will look briefly at the recommendations. The first looks at operations and logistical support. The committee recommends that the government make funding available in this financial year for a scoping study for a new, dedicated marine research vessel. I think that it came across that, while the *Aurora Australis* is doing a magnificent task indeed, there is a need for a dedicated research vessel. The committee put into its report the need for funding to do a scoping study to determine just how that new, dedicated research vessel could be used to advantage us in pursuing research on the fishing grounds there and looking at changes in water temperature and how that will affect the food chain, not just in our immediate area but over a long distance around and off our shores.

The second recommendation looks at Australia’s obligations under the Antarctic Treaty System. We urge the government to put:

... an appreciable investment commensurate with Australia’s significant involvement in polar activities to support Australian programs planned for the International Polar Year 2007-2008 ...

We had to put in that recommendation because it seems at this stage that the government has been remiss in investing substantial resources to show Australia’s interest in this very important conference which will take place in 2007-08. We also urged that, because of our significant role in the Antarctic area, Australia should play a significant role in the International Polar Year activities.

The third recommendation of the committee went to an important area that should not be overlooked, and that is conservation and protection of the Antarctic environment. The committee urged the Australian government to allocate an additional $50 million to the budget over a 10-year period. The committee
made this recommendation on the basis that there are some significant remediation programs that need to be carried on with respect to past worksites in the Australian Antarctic Territory.

Senator Ian Macdonald—They’ve been doing that for a long time.

Senator Hogg—The minister on duty, Senator Ian Macdonald, interjects and says that they have been doing it for a long time. That is acknowledged, Minister, but the committee recognised from the evidence that had been presented to it that the need was beyond what the allocation currently is. I believe that that was a fair and reasonable conclusion for the committee to come to in this particular instance. Whether the government act on that will be their prerogative in the longer term, but the committee saw the need and made the recommendation that the government need to invest more heavily than they currently do in the remediation of certain sites in the Antarctic region. I do not think that was unreasonable in any way and I think that the government need to show that, in this particular pristine area, we are prepared to invest the dollars that are required to remediate these sites to a satisfactory standard.

The fourth recommendation of the committee went to the need to better fund the restoration and cultural heritage management of Mawson’s huts. Whilst there has been a program that has recognised that there is a dual role for the broader commercial community to sponsor restoration works in those areas, the significance of these sites should not be lost because there are insignificant funds being put in by the government at this stage. We are urging the government to boost the funding so that the proper restoration can be done before it becomes too late—before the iconic status of Mawson’s Hut gets lost in the pack of ice that currently invades the site itself.

Last but not least, the committee made recommendations in respect of our science program. In the report, we recommend to the government a doubling of funds from the current level of approximately $700,000 per annum for scientific research. We felt that the government have missed the mark. Whilst there is funding there, it is inadequate. It is insufficient.

The report clearly targets the need for better funding for the Australian Antarctic Division to support the magnificent work that has been done there by our scientists over a long period of time so that we can maintain the reputation that we have gained out of this research. I seek leave to continue my remarks.

Leave granted.

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (7.11 pm)—I do not want to hold the Senate up from the adjournment debate, which I know is nigh, but I would say in response to the committee’s report and the issues that Senator Hogg has very—

Senator Hogg—Is this the government’s response?

Senator IAN MACDONALD—Do I close the debate, do I?

The ACTING DEPUTY PRESIDENT (Senator Moore)—No.

Senator IAN MACDONALD—I can close the debate—and it would probably be appropriate. I want to indicate how very keen Senator Ian Campbell, the Minister for the Environment and Heritage, is about the issues that Senator Hogg has been talking about. I followed Senator Campbell as parliamentary secretary in charge of the Antarctic Division. Senator Campbell, as my predecessor, was vitally involved and interested in
Antarctica. In fact, when he became the senior minister in the portfolio, as environment minister, rather than leaving it with the parliamentary secretary, he has taken it to himself. Senator Campbell reflects the government’s keenness and enthusiasm for Antarctica. I am not sure that Senator Campbell would have been listening to this debate, but I will make sure that he—

The ACTING DEPUTY PRESIDENT—
I am sure he would have been, Minister.

Senator IAN MACDONALD—He is probably at some other important meeting for the government at the moment, but I will make sure that his attention is drawn to the issues that Senator Hogg has raised, because they are important issues.

Mawson’s Hut was something that Senator Campbell was involved in, as was I in the time that I was parliamentary secretary. A great job done was done by a large number of people in a commercial sense. The government in those days contributed quite a lot of money to the Mawson’s Hut Foundation, which did a lot of good work. I was surprised to hear Senator Hogg’s comment—and he was commenting on what the committee has reported. My impression was that the foundation had done all of the work that was necessary. I take it from what Senator Hogg said—obviously quoting the report—that there is still more to be done.

There is certainly a recognition that it is a particularly important part of Australia’s heritage—one that I suspect few Australians will ever have the opportunity of seeing. Those who do get the opportunity say that it is a very emotional experience to see Mawson’s Hut and the work that has been done. I mention in passing how grateful we have been to have had the sponsorship, one might say, of Sir Edmund Hillary, who was a great supporter and benefactor of the Mawson’s Hut Foundation. He personally raised a lot of money for work that needed to be done.

I thank senators for their contributions on the report. As I said, I will make sure that Senator Campbell’s attention is drawn to the comments in the report. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Corporations and Financial Services Committee Report

Debate resumed from 11 August, on motion by Senator Chapman:

That the Senate take note of the report.

Senator BARTLETT (Queensland) (7.15 pm)—I would like to speak briefly on the Joint Corporations and Financial Services Committee report on property investment advice with the appropriately questioning title of Safe as houses? I just want to touch on this because it does link into issues that I have raised a number of times in this chamber about housing affordability, the wider property market and the tax regime.

The tax regime—particularly, in my view, the completely unjustified huge windfall for higher income earners that was allowed through this chamber by the Labor Party in supporting the government’s reduction in capital gains tax back in 2000, along with the refusal of either of the major parties to look at how that interacts with the current negative gearing regime—has led to a huge number of people looking towards property speculation and property investment. I do not criticise property investment per se, but I do think the impact it has on housing affordability needs to be recognised. When housing affordability was last a major issue—it is a major issue now, but when it was briefly a media controversy—I remember Mr Howard saying, ‘I have never heard anybody complaining about the value of their house going...
up.' I have. A lot of people are far broader thinkers than just thinking, 'My house is now worth more, so I am worth more.' As Ross Gittins rightly pointed out, either yesterday or the day before, a lot of that so-called increase in wealth can be very illusory. The fact is that if my house is worth more now than it was five years ago—as it undoubtedly is, and indeed the Brisbane property market is continuing to rise compared to most other parts of the country—that might mean I can borrow more, which is not necessarily a good thing for our overall private debt ratio in this country, but it also means that it is of no value to me unless I want to then borrow against it to invest in something. This is what this report goes into. It is certainly no good for anybody coming through, such as my own daughter. If she wants to buy a house in the future, that is going to be far more difficult if the price of property has gone up. The broader issue of the inability of anybody who is not already a homeowner, those older Australians, to get on the property merry-go-round has been made a lot more difficult by the increase in the price of housing. So, frankly, there are a lot of people who are concerned if the so-called value of their house goes up.

A lot of that is driven by ill informed property speculation. That is not the only reason, but part of what drives that is the tax regime. The problem is that the longer it goes on the more difficult it is and the more unwilling the major parties are to tackle the hard choices. All we get is fairly facile commentary about the issue instead. The more people have their equity and debt tied up in artificially inflated housing prices, the more difficult it is to do anything about negative gearing and the interaction with the capital gains tax regime. It is not a matter of abolishing negative gearing overnight, or anything like that, but I do believe that we need to bite that bullet before it becomes even more of a problem for us in the artificial way that impacts on our economy.

This report deals with one dangerous aspect of that, which is the so-called property investment advice and some of the property investment schemes that are around to try to tempt people into the property investment market. The fact is that the tax regime, and the investment incentives around now, distorts the investment incentives to make people believe, in some cases quite rightly, that it is more lucrative to invest in property. But accompanying that are some risks and the fact is that some people who are new at this and do not know what they are doing are able to be led astray by some of the sharks and spivs that are undoubtely around the place. In this case I have to reluctantly point to my own state of Queensland for the existence of some of those. They can really put people in the terrible situation of not only not making money from their investment but actually losing their own home in the process.

There are good recommendations in this unanimous report. As far as I am aware the government has yet to respond to it, but I believe it is one that needs to be responded to as a matter of urgency. Whilst there are areas in Australia now where the bubble has burst in the property market—I think that is a very good thing, personally—the fact is that in some parts, including south-east Queensland, it is still reasonably vibrant in some respects and there certainly can be a return to that in the future. There is still no doubt that a lot of people are looking to invest in property. As I said, that is not something I criticise as a concept, but there is no doubt that, as the final chapter in the report says, it does need to be a matter of buyer beware.

There also need to be better protections. We need to ensure that there are some better protections for the naive, the vulnerable and
those who are basically led astray by crooks. We can do better with that. That is partly a matter for state governments but there are things that can be done at federal level too. Some of the recommendations in the report are: that loans for investment in property which is secured by home equity should be subject to a waivable 14-day cooling-off period; that ASIC conduct targeted advertising and educational campaigns to alert consumers to the risks associated with property investment in general and particularly with the get-rich-quick spruikers that do some of these so-called education seminars; and also that in implementing the recommendations of the Consumer and Financial Literacy Task Force, the government include a stronger focus on property investment in particular.

They are just a few of the recommendations and I think they are important. Apart from anything else, they will protect, or provide a better chance of protecting, individuals who in some cases put their own house at risk. Anything that stops ill-informed or dubious property investment that is basically just speculative the better, because at least it takes one less pressure off some of the things that unnecessarily push up the price of housing. It might be great if you get on the right side of property as an investment, but if it pushes up the price of housing in an artificial way it makes it more difficult and more expensive for everyday Australians to do that basic thing of buying their own home.

Question agreed to.

Community Affairs References Committee Report

Debate resumed from 11 August, on motion by Senator Cook:

That the Senate take note of the report.

Senator ADAMS (Western Australia) (7.23 pm)—I would congratulate all those involved with the Senate Community Affairs committee report, *The cancer journey: Informing choice*, on the inquiry into services and treatment options for persons with cancer. I note that former WA senator, the honourable Peter Cook, was very strongly pushing for this report. I wish him well. I am a cancer sufferer and have been involved with a number of organisations. I think there have been 33 recommendations, and the ones I would like to speak to tonight are recommendation 20, which is about the patient assisted travel services; recommendation 6, about multidisciplinary teams and cancer care; and recommendation 30, which is the target age groups for BreastScreen. For those who heard my first speech, these were some of the things I identified and I do feel very strongly about. As far as the patient assisted travel scheme is concerned, this committee has made recommendation 20:

The Committee recommends States and Territories adopt and implement the consistent approach to the benefits for travel and accommodation recommended by the Radiation Oncology Jurisdictional Implementation Group to ensure that benefits are standardised across Australia. These benefits should be indexed or reviewed annually for increases in travel and accommodation costs.

I was actually on that committee as well, and I will just quickly go through some of the things we recommended:

- eligibility, accommodation, transport and mileage benefits—including assistance continuing to be based on distance rather than time taken to travel to a specialist treatment centre;
- patient contributions—with a focus on targeting maximum financial assistance towards those most in need;
- escort/carer eligibility and benefits—aiming to reduce financial barriers to the participation of an escort/carer in supporting eligible patients;
- research—building on the evidence base for parameters of patient travel assistance schemes;
• awareness raising—both at facility level and through collaborative Federal, State and Territory strategies;
• availability of subsidised accommodation facilities for radiotherapy patients—to be considered in the service development framework for radiation oncology; and
• community involvement—including enhancing patient navigation of the local care system through greater involvement of the community and non-government sector.

The Senate committee recommended that the states and territories adopt the recommendations by ROJIG in relation to travel and accommodation assistance. This need is evident in people who have to go for radiotherapy services mainly because of the length of time that that takes. In most states, including my own state of WA, the only access to radiotherapy service, of course, is in Perth. That means if someone is in the north of the state or right down south, they still have to travel to Perth. It is a long time to be away from family, without support.

I feel very strongly about the second recommendation, on the multidisciplinary teams and cancer care, because I believe that every person suffering from cancer needs the support of a whole allied health team. If it is possible to get to a major teaching hospital, those teams are there but, with the patient assisted travel schemes, you have to go to your nearest specialist. That might be in a regional centre, where this support is not available. I am very strongly supportive of the multidisciplinary teams. It is just so important.

The third recommendation was the target age group for BreastScreen Australia:

The Committee recommends that the target age groups for BreastScreen Australia and the National Cervical Screening Program should be reviewed regularly, given the increasing trends in life expectancy for Australian women. In addition, a review should be conducted of how women outside the age limits are made aware of their cancer risk.

This is also very important. Just to conclude, I will read something from the Breast Cancer Network Australia by Lyn Swinburne, a colleague of mine. I think this sums it all up:

Patient Assistance Transport Scheme (PATS) reflects more than just the problem with the travel scheme, it reflects a bigger problem concerning the states and the Commonwealth and the relationship between them. An example is women who live near borders. A woman who lives in Byron Bay has to travel to a treatment centre in NSW to be able to get PATS, even though Brisbane or the Gold Coast are much closer and her family and support could be there. There are a lot of things that are not sensible as part of the scheme. There are a lot of bureaucratic difficulties and challenges for women.

I think that really does sum it up. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Public Accounts and Audit Committee Report

Debate resumed from 11 August, on motion by Senator Watson:

That the Senate take note of the report.

Senator HOGG (Queensland) (7.29 pm)—I will speak on the Joint Committee of Public Accounts and Audit report No.403, Access of Indigenous Australians to law and justice services. I serve on this committee in this parliament, and I must say that it has been one of the more difficult inquiries in which I have participated.

It became very clear throughout the conduct of this inquiry that the resources available to Indigenous people are far below those that are necessary to service the needs of the people. I also felt that throughout the inquiry and post the inquiry that there was a frustration in the sense that some of the people who appeared before us and some who have communicated with us since the inquiry were...
sick and tired of being inquired into. The clear solution to the Indigenous community receiving proper legal representation is to give them adequate funding. It is not a matter of how deep one’s pockets are or how deep the well is; it is primarily and essentially a system that is currently underfunded. That fact was recognised unanimously in that unanimous report.

By way of outline, the report states: Indigenous Australians receive legal services through an array of publicly funded mainstream (Legal Aid Commissions (LACs) and Community Legal Centres (CLCs)) and Indigenous specific organisations (Aboriginal and Torres Strait Islander Legal Services (ATSILSs) and Family Violence Prevention Legal Services (FVPLSs)). It went on to look at where the first need is within the Indigenous community, and it clearly concerns those who find themselves in criminal circumstances. So they are prioritised and they receive the first bite of the cherry, if you like, of the funding that is available under these various legal service groups. The report notes that ATSILSs operate in a climate of effectively static funding and increasing demand. That is a major problem because there is increasing demand for the service but there is effectively static funding. Whilst the tender process was going on in respect of the ATSILSs during the inquiry, there was no evidence to convince me at least—and I presume a number of other members of the committee—that that was going to be the panacea and that would resolve the problem of funding. Let us face it, the government have had a long time to correct this problem and to address an issue that goes to the very heart and soul of many remote Aboriginal and Torres Strait Islander communities. The report goes on:

Evidence suggested that ATSILSs have prioritised cases where a person is in danger of incarceration because the needs of criminal clients are immediate.

Of course, as I said, that prioritisation then takes representation away from other areas, particularly representation of women who are facing domestic violence, and that is just clearly one of the most important areas that is missing out at this stage. The report states:

The prioritisation of criminal law services is at the expense of providing family and civil law services. It further states:

The arrangements under which ATSILSs receive funding present significant impediments to them introducing or increasing family and civil law services.

So there is this act of tension in the Indigenous community between sufficient funding for criminal matters and sufficient funding for civil and family law matters. Those areas, which many of us take for granted, are being ignored purely and simply because of a lack of funding. One understands the frustration that comes out in the Indigenous community when they see a committee of the parliament yet again inquiring into their needs for legal representation. And legal representation is a fundamental basic right, I believe, in our society today. Whilst one cannot attribute blame to the people who are the victims in this case, many of them are victims because of circumstances that we have imposed upon them over a long period.

From information provided to us by the New South Wales Legal Aid Commission, the cost of incarceration is in the order of $66,000 per person per year. That cost is borne by the community at large. The argument was put to us that there needs to be a great deal of prevention in some of these Indigenous communities to ensure that this cost is not being borne unnecessarily by the rest of the community—in other words, that a dose of prevention is infinitely better than the cure. The Western Australian legal aid commission put a very succinct statement to
us regarding the cost of incarceration. They said:

… if we were able to provide proper representation for a lot of … people currently being found guilty and being sent to prison, I am sure that we would either reduce the numbers or contribute to a lowering of the sentences that people are being saddled with.

Further on, they said that there were two types of costs associated with the increased incarceration rates in the system. First was the cost of the criminal justice system and second was the financial cost of incarceration. That is where the cost which was given to us by the New South Wales Legal Aid Commission comes in. I will quote directly from the report:

It currently costs $66,000 to keep an adult in prison for twelve months. The costs jump exponentially when costs for their children are factored in. Children whose parents are in prison run a high risk of being taken into State care or juvenile detention centres.

So there is a spin-off from the incarceration: the exposing of young children to risk of being put into state care or juvenile detention centres.

The report also states that out of home care can cost as much as $260,000 a year, while it costs $216,499 to keep a child in juvenile detention for 12 months. Clearly, there is a cost associated with the problems caused by the lack of access to proper legal representation by Indigenous people in Australia. Surely the government can find a way to make more funding available to target areas which are currently not even being addressed in either civil or family law.

It really is a blight on our society that a report such as this has to be delivered in this parliament. Furthermore, it is equally a frustration for those Indigenous people who cannot access proper legal representation in civil and family matters. Indigenous women, who are playing a leading role in trying to reform some of the excesses that might occur in some communities, do not have access to proper representation. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Community Affairs References Committee Report

Debate resumed from 11 August, on motion by Senator Marshall:

That the Senate take note of the report.

Senator BARTLETT (Queensland) (7.39 pm)—I want to speak to the Community Affairs References Committee report Protecting vulnerable children: a national challenge. The Democrats representative on this committee is my colleague Senator Andrew Murray from Western Australia. Occasionally, we get confused with each other because of our common first name and our common philosophical predisposition to many issues. In this case, Senator Murray has to be congratulated on playing such a driving role not just in this report but in other Senate committee reports into the way children, particularly children in institutions, have been mistreated in the past. It does not just look backwards; it looks at the present and the future.

I want to draw attention to the report and the need for a prompt government response to it. The report was brought down in March of this year. That is already closing on six months ago. That probably does not seem very long ago in government time but it is quite a long time when you are dealing with important and crucial issues that are affecting children and others across the country as we speak.

I would particularly like to emphasise that there is a need for action here at state level as
well. That is detailed in the recommendations of the report. State governments have failed children in many ways in the past and continue to do so. But it is broader than that: it is society as a whole. Firstly, there is a lack of seriousness about many issues dealing with the abuse and neglect of children and a lack of appropriate laws, appropriate processes and appropriate resourcing.

However, it really comes down to a lack of attention to understanding. Some of the recommendations in this report calling for courses of study that focus on child protection and related issues and increasing awareness about child protection issues really need urgent consideration. There is still a lack of knowledge, even after a reasonable degree of attention in recent years to the problems and failings of the past. There is still a lack of knowledge and expertise in some of the areas to do with this.

This is a unanimous report. That gives it greater weight. I would like to particularly point to recommendation 9, which talks about the national plan for foster care, young people and their carers, and the need for that to be extended to include training, uniform data collection and support—and ways of improving carer support in particular. That includes national standards for reimbursement of costs to cover the real costs of caring and an examination of ways of improving foster carer retention.

One issue that was raised by Senator Murray—or it might have been another senator—in Senate question time was the need to make absolutely sure that, whatever the other pros and cons of the proposed changes in the welfare area that the government has planned—and I must say I have serious concerns about them—carers in particular do not get caught up in those changes. There is a real risk there. Data released by ACOSs in recent times shows that we must ensure that carers, particularly those caring for children, disabled children or children with particular special needs, do not get caught up inadvertently—or deliberately, for that matter—in the welfare changes that are coming forward. These are people who are already struggling enormously and it is widely accepted—as it is in this report—that they could do with both more financial support and wider social support.

The last thing we want is to put at risk some of their already inadequate income support or to put another extra burden, expectation and responsibility on them of another obligation they are meant to meet. There is no doubt—and I have said this before—that if there is one group in the community that I believe we really should be making sure do get extra assistance, it is carers. That includes those who are caring for children, parents, spouses and others in the home and those who are caring for others in the community.

It also includes foster carers, who, frankly, save the taxpayer a fortune. If people just gave up on that task and said: ‘I’ve had enough; I can’t do it anymore. It is up to the community,’ then we would really know how expensive it is. I acknowledge that providing more financial support to carers does cost more money and there are limits in that area; nonetheless, the cost would be tenfold—and that is probably a conservative estimate—if all of those carers just stepped away and left it to the broader community and the taxpayer to manage that issue.

There is also a recommendation here—and I again remind the government and the Senate that it was a unanimous recommendation—that the Commonwealth establish a national commissioner for children and young people to drive a national reform agenda for child protection. This is very important. One of the reasons why I think we
have failed as a community and at the state level—and this is not blaming any particular government, party, ministry or whatever—is that this has not had that national drive behind it. We are seeing Mr Howard, somewhat controversially, taking greater control nationally of some key areas. Philosophically, I do not necessarily disagree with that—depending on what is actually being done with that control—but what we need is leadership as well. It is not just a matter of grabbing legislative power and legislative control; it is a matter of providing that national drive behind something. It does not mean coming in with a predetermined view and saying, ‘Here’s what we’re doing; everybody has got to wear it.’ In fact, it means the opposite of that almost. It is just setting up the mechanisms and the priority at a national level to really pull things along to ensure the solutions, the expertise and the experiences that are there at the community level are tapped into in a cohesive and coordinated way.

One of the reasons reports like this are so valuable and informative is not that the senators who have been involved with them are particularly brilliant, although I am sure they are all highly capable; it is that the mechanism draws on the expertise, knowledge and experiences of professionals in the field and often, more importantly, the expertise of individuals who have experienced things firsthand and who know, to their own cost, what can go wrong. They often have a much better idea than anyone else about what needs to be done to fix things. We need to do better in terms of tapping into those experiences.

My own state of Queensland was the first state in Australia to establish a commissioner for children and young people, and it is one of the most empowered children’s commissions in the world. It has a wide range of powers and functions to promote and protect the rights of young Queenslanders under the age of 18, and I think there have been some clear benefits from that. I should take the opportunity, though, to note that there is an anomaly in this area in Queensland. Following recent legislation in Victoria, Queensland is now the only state in Australia that places 17-year-old children in adult prisons. So 17-year-old juveniles who cannot legally drink alcohol, sign contracts, get married without their parents’ permission or vote, should they be found guilty of a crime and subsequently sentenced to incarceration, for the purposes of the Queensland criminal justice system are treated as adults and sent to adult prisons. That is completely at odds with the child protection system, and this report points to the sort of damage that can be done to children in institutional or out-of-home care. I am not sure that you would call being in prison a form of institutional care, but these developments show that, while many people might not think of 17-year-olds as children, there are clearly recognitions of that within our system. As I say, in terms of their criminal justice system, all states except Queensland recognise that 17-year-olds are juveniles and should not be put in adult prisons.

There is a review under way of this in Queensland but it has yet to produce results. It should be emphasised that this is actually contrary to the Convention on the Rights of the Child, which defines ‘children’ as those aged under 18 and says that children should not be imprisoned with adults. The Queensland government has yet to act on that, despite it being a commitment from quite some time ago. It can be done quite quickly. It does not even need a legislative change, as I understand it; it only needs a regulatory change. With our current compliance with the Convention on the Rights of the Child being examined—it is under its regular review at the moment—this is the perfect opportunity for Queensland to address that anomaly and to ensure that we join with the
rest of the country in not locking up children with adults. That is just one example of the sorts of things that can be done. I urge the government to address this report. *(Time expired)*

Question agreed to.

**Consideration**

The following orders of the day relating to committee reports and government responses were considered:

- Environment, Communications, Information Technology and the Arts References Committee—Report—The performance of the Australian telecommunications regulatory regime. Motion of the chair of the committee (Senator Bartlett) to take note of report called on. On the motion of Senator Stephens debate was adjourned till the next day of sitting.

- Regulations and Ordinances—Standing Committee—112th report—40th Parliament report. Motion to take note of report called on. Debate adjourned till the next day of sitting, Senator Bartlett in continuation.

- Community Affairs References Committee—Report—Quality and equity in aged care. Motion of the chair of the committee (Senator Marshall) to take note of report called on. On the motion of Senator Stephens debate was adjourned till the next day of sitting.

- Employment, Workplace Relations and Education References Committee—Interim report—Indigenous education funding. Motion of the chair of the committee (Senator Crossin) to take note of report agreed to.

**AUDITOR-GENERAL'S REPORTS**

Report No. 44 of 2004-05

Debate resumed from 11 August, on motion by **Senator Mark Bishop**.

That the Senate take note of the document.

**Senator MARK BISHOP** (Western Australia) (7.50 pm)—I rise to take note of Auditor-General’s report No. 44 of 2004-05, *Performance audit: Defence management of long-term property leases*, and to make a few comments. The report was tabled in the parliament some six or eight weeks ago. At the outset, I should say that this report demonstrates that the government has sacrificed sound financial management for short-term gains. The report concerns the government’s decision to sell and lease back six Defence owned properties. That decision, made and implemented between 2001 and 2004, resulted in a significant additional net cost to government, arising from the sale and lease-back of the same properties for a period of up to 12 years. This was contrary to recommendations.

Indeed, if the government had retained the properties in public ownership, there would have been a considerable saving of public moneys. The excess spend, over 12 years, from the sale and lease-back was a remarkable figure of some $1.2 billion—that was in extra outlays over the period. That decision demonstrates how short-term budgetary cash-flow gain was considered a higher priority of the government than other matters. It shows ideology clearly overriding what would be regarded as normal commercial decision making.
The facts of the ANAO report bear out the conclusion that I have just asserted. The background is this: the Department of Finance and Administration and the Department of Defence concluded a joint review of the Defence estate on 6 March 2000. That review by the two departments examined a lease-back option and made a recommendation to government that the six properties in question should be retained in public ownership—that is, the rent paid in any lease-back scheme would exceed the opportunity cost of the sale proceeds. Contrary to that recommendation, the Howard government proceeded with the sale over a period of years.

The six properties that we are talking about are: the Defence Plaza in Sydney, which sold for some $85 million in 2001; the Defence Plaza in Melbourne, which sold for $40 million in 2001; the Hydrographic Office in Wollongong, which sold for $7 million in 2001; Campbell Park offices in the ACT, which sold for $99 million in 2002; the Defence National Storage and Distribution Centre in Moorebank, which sold for $209 million in 2003; and the Australian Defence College in Weston Creek, which sold for some $32 million in 2003. The total net gain to government from the sale of these properties was some $472 million.

Defence paid back $46.4 million in rent for these six properties in the first year. For the first full year of rental in 2003-04, this amounted to 60 per cent of Defence’s property rental payments. Over the six-year life of the lease agreement, Defence will pay a rental of some $604 million for the properties they once owned. I repeat: the sale proceeds from the six properties were some $472 million and the rental return—that is, the rent that has to be paid out after the sale proceeds of $472 million are realised—is $604 million. The difference is an additional cost of some $132 million to the Defence budget over a period of six years.

The additional budgetary outlay for the properties was not approved until much later. It is fair to say that it was both a poor and a remarkable decision. Defence, of course, in inhabiting the properties—and some of them are of fairly recent construction—is more than likely to exercise options, at the expiry of the first lease period, to extend the leases. In such a case, ANAO calculates that the gross rental paid for the period of the contract and option in each of the leases will exceed some $1.2 billion, recalling that the sale proceeds netted $472 million. It is fair to say that, in those circumstances and with those figures on the table, as identified by ANAO, this is the result of short-term thinking, an inconsistent approach and a clearly reckless disregard for future liability.

Worse still—there is worse to come—these are not normal commercial leases. At Campbell Park, Moorebank and Weston Creek, the Auditor-General found that there were greater lease obligations imposed upon the Commonwealth than is the case with normal Defence contractual leasing arrangements. In fact, there is an additional cost as well. Almost $2½ million was paid to a property services contractor in 2003-04 to meet the requirements of the lease agreements. These decisions to sell and to lease were taken after the outcome of the joint review of the Defence estate was known. The government based its business case analysis on outdated figures. The government, in its decision making, deliberately chose to ignore actual market values. Instead, it relied upon hypothetical lease terms. In fact, the ANAO finds that the Department of Finance and Administration breached the provisions of the Financial Management and Accountability Act—an act that the department is charged to oversee in terms of its administration. So, desperate to achieve the sale for particular budget reasons in 2002, 2003 and 2004, the government chose to deliberately
breach its own act and incur significant future liabilities for many out years into the future. It ignored normal commercial practice and created new standards of conduct.

But there is more. The ANAO made findings in respect of the two big value properties in the CBDs of Sydney and Melbourne. The ANAO found that the rental increases were 23 per cent and 43 per cent respectively after two years. At the time of the sales, both Sydney and Melbourne had buoyant commercial property markets. It is pretty obvious perhaps, but it was not taken into account in the costings or the sales figures that were eventually negotiated by the sale agents on behalf of the Commonwealth. Even if Defence invested the proceeds from the sale of these properties, the ANAO report found that the rental commitments would exhaust funds during year 10 of a 12-year lease in the case of the Sydney property and during year eight of a 12-year lease for the Melbourne CBD property.

As I said, to comment objectively, this was a remarkable and poor decision. And this from a government which continually boasts of its own competence with respect to financial management and from a government which chooses to stand upon and argue on the basis of its own credible economic record. Here is a clear example of a government proceeding with a plan that from the outset was doomed to create losses in defiance of its own structures but, more particularly, in breach of an act of parliament that it brought in and, at one time, heralded.

Last week I spoke of other examples of the Howard government’s mismanagement of Defence funding or Defence moneys. In particular, I referred to a report by the ANAO of the M113 armoured personnel carrier upgrade project. The ANAO found that there was a litany of problems resulting in massive cost blow-outs in that particular project and, likewise, with a number of other refits and upgrades such as the frigate project, which I will speak to on another occasion. The real worry is that we seem to accept such mismanagement of huge sums of money by the Department of Defence as normal or even permissible. The reaction of most people is simply to roll their eyes and think, ‘It's always been thus.’ After nine long years the evidence is clear. It is simply not good enough that bad decisions, poor decisions, of this magnitude are allowed to continue. I conclude by saying that this is clearly another example of a government struggling with the concept of sound financial management.

Question agreed to.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Moore)—Order! It being 8.00 pm, I propose the question:

That the Senate do now adjourn.

Sir Harry Gibbs

Senator BRANDIS (Queensland) (8.00 pm)—Since the Senate rose for the winter recess Australia has suffered the loss of one of its most distinguished citizens—the former Chief Justice of Australia Sir Harry Gibbs, who died on 25 June. I had the honour of representing the Senate at the state memorial service for Sir Harry in Sydney on 11 July, when his life and achievements were commemorated in moving eulogies by his daughter, Margaret Gibbs; his close friend and fellow member of the High Court bench, Sir Ninian Stephen; and his first two associates, the Hon. Justice Glen Williams, now a member of the Queensland Court of Appeal, and Mr David Jackson QC, the leader of the High Court bar. All spoke in their different ways of a man of rare intellectual distinction and the highest integrity who was pre-eminent among the judicial lawyers of his day. Yet, despite his eminence in the public
life of our nation, Sir Harry Gibbs remained in the private sphere an exemplar of the quieter virtues of modesty, humanity, decency and good humour.

Harry Talbot Gibbs was born in Sydney on 7 February 1917, but he grew up in the Queensland city of Ipswich. He was educated at the Ipswich Grammar School and the University of Queensland, from which he graduated with degrees in arts and law in 1937 and 1939 respectively. He achieved first class honours in English literature and first class honours in law—the first arts/law graduate of that university to have achieved the distinction of a double first. It would be several decades before that achievement was repeated. He was also the president of the university law students association.

Gibbs was called to the Queensland bar in 1939 and immediately demonstrated the fighting spirit appropriate to a barrister when he and his friend Tom Matthews, who had also graduated that year with first class honours in law, brought proceedings against the Barristers Admission Board. The board had refused to give them the benefit of a rule which remitted the admission fees of barristers who had achieved that academic distinction, contending, rather parsimoniously, that it had a discretion not to do so. Gibbs and Matthews argued that their entitlement to waiver of the fee could not on the proper construction of the rules be denied—and they won. It was the first appearance in the law reports of the name ‘HT Gibbs’, a name which would come to dominate the Queensland Reports during the 1950s as Gibbs became the pre-eminent barrister at the Queensland bar. It would appear with increasing frequency in the Commonwealth Law Reports as well, as Gibbs developed the leading High Court practice among Queensland barristers.

Gibbs’ fledgling practice was interrupted by the Second World War. He served throughout the whole of the war, particularly in New Guinea, rose to the rank of major and was mentioned in despatches. After the war he resumed his practice and quickly became the busiest and most respected junior at the bar, specialising in commercial, property, tax and constitutional matters. He was renowned as an appellate advocate. He did not have a particularly polished or suave manner of speech—in fact, his voice was high and slightly grating. But those who remember him as a barrister speak of the intellectual force of his arguments, which persuaded by their sheer intelligence. While still a relatively young man he won the respect of the most eminent judges of his day, including the great Sir Owen Dixon. In fact, Gibbs won flattering remarks from Dixon for his argument in the last High Court case in which he appeared—Dennis Hotels v Victoria—the rarest of all compliments from that commanding and austere man.

Having taken silk in 1957, Gibbs was appointed to the Supreme Court of Queensland in 1961 at the age of only 44. He was the young star of the court and there were many who expected Gibbs to be promoted rapidly to the chief justiceship when Sir Alan Mansfield retired in 1966. But that did not happen. Instead, he was appointed to the Federal Court of Bankruptcy, having been earmarked to be the first chief justice of a proposed Commonwealth superior court. But the new court was not created as expected—it was not until 1976 that the Federal Court of Australia came into being—and for a few years Gibbs’ career languished.

It was revived when, in 1970, the Gorton government appointed him to succeed Sir Frank Kitto when he retired from the High Court. He served as a justice of the court for 17 years—for the last seven of them as Chief Justice—until his retirement in 1987. He
served the court and the Australian people with exemplary distinction. He was never controversial—not a small virtue in a judge, although one which is less appreciated nowadays than it should be. His judgments across the whole gamut of the law were always closely argued and convincing. He never engaged in judicial rhetoric and, although in his private life he had a great love of English literature—in particular, poetry—one will scour his extensive judgments in vain for a single purple passage. Yet his judgments are models of clarity and lucid expression in which he arrived at his conclusions through rigorous, exhaustive and intellectually honest reasoning.

His style of judicial reasoning was sometimes criticised during the 1980s and 1990s as unfashionably narrow. That was a time when the fashion developed among some of his judicial colleagues for judgments which were all too often monuments of social, economic and political relevance, paeans to philosophic doubt, tracts of the times, effusions of social consciousness and even gratuitous expressions of outrage more suitable to parliamentary speeches or the columns of newspapers than to the spare and difficult task of judicial decision making. But that criticism bothered Sir Harry Gibbs not at all. Evoking the memory of the great Sir Owen Dixon, he reflected on the proper function of the judiciary in his retirement speech on 5 February 1987. He said:

It no doubt makes it easier for some to explain the decisions of the Court if the Justices are regarded as stereotypes and if one is described as a conservative or upholder of State rights and another as a liberal or centralist. Implicit in this approach is the assumption that judges make decisions on the basis of their own preconceived opinions regarding social, economic or political matters. In truth, the difficulties of decision are sometimes such that two judges may be led to opposite conclusions, although each rigorously applies legal methods and legal principles. Some critics claim that it is quite unreal to say that judicial decisions are guided by strict and complete legalism.

The words of that expression of Sir Owen Dixon have perhaps acquired an unfortunate connotation. No one seriously suggests that there should be a rigid adherence to the very words of previous judgments or that statutes should be construed with unthinking literalism and everyone recognizes that the law must and does develop to meet the needs of the changing times but in that development principle and logic and precedent have their proper place and a judge would fail to perform a judicial function if he or she deserted all three and gave a decision based simply on individual notions of right and wrong. Stability and certainty in the law are virtues, particularly in unsettled times.

His approach was, very much, the Dixonian one of reasoning, carefully and rigorously, from stated, transparent premises to ultimate conclusions, having regard to all relevant facts, legal doctrines and principles and—just as importantly—conscientiously disregarding any irrelevant ones. It is an approach which David Jackson QC, at Sir Harry’s memorial service, described as ‘quintessentially judicial’. And, I am happy to add, it is an approach which is once again asserting itself, as the legal faddism of much of the 1980s and 1990s is being critically reappraised.

Yet it should not be thought that Sir Harry Gibbs was a narrow lawyer. Rather, he understood that legal principles are embedded in a firm foundation of rights and freedoms. But, as he said in his retirement speech:

History shows that rights and freedoms are best protected, indeed can only be fully protected, when the law is administered openly by impartial courts and the parties are represented by lawyers who are competent and independent. The rule of law is a precious inheritance and it can be preserved only if the legal profession in Australia retains its strength and integrity.
The death of Sir Harry Gibbs marks the passing of the greatest lawyer the state of Queensland has produced since Sir Samuel Griffith. Both occupied the office of Chief Justice of Australia with conspicuous distinction. Both brought to it the very highest intellectual capacities and profound knowledge of the law, enhanced and broadened by deep learning in the humanities. Appropriately, in his retirement, Sir Harry accepted the presidency of the society named in Sir Samuel Griffith’s honour.

At the peak of Sir Harry Gibbs’s career there was no greater judicial lawyer in Australia. His reputation, always outstanding, will, I believe, grow in lustre with the passage of time.

Defence Recruitment

Senator MARK BISHOP (Western Australia) (8.10 pm)—Tonight I want to resume where I left off in an adjournment debate earlier this week and address the matter of falling and failing recruitment to Australia’s defence forces. It might be recalled that I referred to data provided in the ASPI report on the 2005-06 defence budget. Those figures showed a picture of failed targets over the last nine years. They also showed retention rates over the same period averaging about 11 per cent. I also spoke on the proposal to attract and retain more women in the Australian defence forces. A key feature of this is training which is offered by all of the services, much of which is transferable into industry after discharge. I identified the concern at family disruption, the needs of partners for employment and the changing nature of society which put it at greater odds with the extant culture of the defence services. There is, however, much more to this matter.

The government and the defence forces need to urgently review their entire approach to this subject. This includes looking at rigidities which might be structural impediments in the system. Some commentators have referred to the current term of service as a problem. Some say that the younger generation these days has a different paradigm of employment life. It is said that there is significantly less concern for single career paths of only one employer for life. That is, income security holds less fear than it did for earlier generations. I must say, though, that I have seen no research on this matter, so it remains fairly speculative. But I note in passing that both generations associated with the Great Depression and World War II held employment security paramount over all, hence the attachment in those days to careers in the Public Service and various government agencies.

I understand, however, that turnover within the Australian defence forces, at various levels, is not always considered to be a bad or retrograde thing. In fact, my information is that for other ranks, ORs, the average period of employment might be only four or five years. In terms of constant force refreshment, that is considered both desirable and healthy. That is particularly so, given the limited career paths for persons in those ranks. For officers it might be different but again there are critical career points when choices have to be made. Equally, turnover as the hierarchy narrows is also desirable. It facilitates careers and prevents the creation of bottlenecks. So perhaps any consideration of career paths as part of the recruitment and retention problem might be marginal. Perhaps wastage rates are simply the nature of the beast.

However, there are two other rigidities in the system which are worthy of comment. The first is the new policy introduced in recent years which set very high standards for fitness but again with the deficiency that there is no apparent safety net. Fitness for duty in the services is, of course, essential. But whether the standards are too absolute
and too rigorous is a question. Put simply, not all services require one to be fit for battle.

It has been put to me that wastage could be reduced by having more flexibility for those less able to perform at such a high physical standard. That, though, will vary between the services. We know, for example, that the Navy cannot fill its shore complement and hence denies rotations from sea duty. Unfortunately, fitness standards have another downside. My own experience of military compensation is that medical discharge due to unfitness facilitates wastage. For defence as an employer, it is not a problem because there is no requirement for it to manage its own compensation liability. The compensation bill is always funded out of general revenue. Therefore, it is very easy to diagnose personnel as being unfit and then discharge them without consequences. The recent military justice inquiry has revealed some of those cases.

The result of this is that, in some cases, middle-aged personnel, and younger, return, unexpectedly and without anticipating it, to a labour market for which they are unprepared. The disability for which they were discharged might restrict opportunities for future employment. And, being discharged early, they have not gained marketable skills which would enable them to take up a useful place in the civilian labour market. The impression gained is that, despite efforts to improve transition management, training for work force re-entry is at best inadequate.

If skills are obtained, military personnel can benefit enormously from a service career. If not, then at discharge they are certainly in limbo. It is perhaps unfortunate that the latter impression is so strong. Recruitment, therefore, might also depend on this impression. Added to this is a second policy tenet which prevents deployment within the services to civilian and clerical jobs. This effectively makes discharge earlier, easier and more frequent. This in turn affects the retention rate. The whole debate about retention, training and discharge is, as one would expect, complex.

Some say the current controversy over military justice crystallised an unfavourable attitude towards a defence career. If so, it is a most unfortunate downside, but the remedy is obvious, if the government is serious. The government simply needs to acknowledge the veracity of the findings of the Senate inquiry into military justice. The diminution of the reputation of, and lack of respect for, our military personnel which have flowed from this inquiry are most unfortunate. The reputation of those personnel needs to be restored as a matter of priority, and that is entirely in the hands of the government and more senior personnel within the Australian defence forces.

It also needs saying that modern perceptions of risk are changing. Defence service can entail risk—and sometimes significant risk—to life and limb. In making a choice in a wider and more sophisticated labour market, that risk is logically and properly a consideration for those seeking to enter into a career in the defence forces. Public controversy about the merit of various deployments may, one suggests, be part of that. It is interesting to consider the debate about the deployment to East Timor, under the flag of the United Nations, and the debate that has followed the location of troops in Iraq. We know that in the United States, for example, the increasing body count from Iraq shown on the evening news is making recruitment into the services there quite difficult. Putting one’s life on the line in a national emergency is one thing; doing the same for another country’s emergency, outside the authority of the United Nations, is clearly a different matter.
We note that there has been other speculation, including the potential for recruitment overseas. This idea is not unique to the ADF; it is something many in industry are actively pursuing. It is also suggested that there is a need to pay greater attention to the ethnic communities. These communities are generally considered to be underrepresented in the defence forces. It is said, for example, that the ADF is predominantly a white, Anglo-Saxon community. That is another issue worthy of consideration. Recruitment to the ADF is a matter of continuing importance. This is particularly the case at this time of higher levels of readiness. We will watch this debate, as it unfolds, with continuing interest.

**Workplace Relations**

Senator FERRIS (South Australia) (8.19 pm)—Some of us in this chamber would have seen the recent advertisement by the ACTU against the government’s foreshadowed workplace relations reforms. The ad which appeared on television that I want to refer to tonight showed a young mother who is, it is implied, threatened with the sack for refusing to comply with her boss’s demand that she come to work unexpectedly. This advertisement, in my view, creates a range of emotions among very vulnerable members of the workforce, including, firstly, a sense of vulnerability. In the television footage a mother is at home looking after her two young children, without a man. She is called in to work with no ability to provide for her family in her absence, leaving her and her children feeling very vulnerable.

The second emotion seemed to me to be inflexibility. The woman was being forced to come to work at short notice by a demanding and unscrupulous boss. The third emotion appeared to me to be insecurity. The woman appeared scared stiff at the possibility that she would lose her job if she said no. The fourth and final emotion that seemed to me to come from that advertisement was apprehension. She felt pressured that she could be called into work at any time on any day, despite her family circumstances, and apprehensive about what the future might hold for her and her job unless she complied with the implied unreasonable demand being made on her. The truth is that that ad was designed to scare people into believing that the proposed workplace relations reforms will damage and undermine existing workers’ rights. Even putting to one side that we have not yet seen the legislation, the claims in that advertisement are already highly misleading and can be easily refuted.

For example, myth 1: vulnerability. This myth is that workers’ rights might in some way be diminished. In fact, workers’ rights will continue to be protected under the government’s proposed workplace relations reforms. It will continue to be unlawful to discriminate against or sack an employee on the basis of family responsibilities. That is the case now, and the Workplace Relations Act will continue to provide protection against unlawful dismissal.

Myth 2: inflexibility. This is the second emotion. The proposed reforms are about giving workers genuine choice and flexibility. Employees and employers will be able to negotiate employment arrangements which suit both parties, with or without a union representative as they choose. Flexibility is the most important issue for working parents with young children.

Myth 3: insecurity. Workers’ rights will be protected under the new workplace relations reforms. These reforms are about genuine choice. Workers need not feel insecure. They will have choices and they will not be able to be unlawfully pressured into making agreements.

Myth 4 is the fourth of the emotional myths in the advertisement that to me ap-
peared to come through from that woman—that is, apprehension. These reforms are designed to assist employees and employers in tailoring working arrangements that are best suited to them. This misleading television advertisement is designed to frighten the vulnerable in this society, women in particular, who feel threatened by change. To me, the offensive implication is that employers will be able to sack women because they are pregnant, are of different racial backgrounds, will not come in when they get a phone call, have different religions, have union membership or because of their sexuality, and that they will in fact have no redress. That is a cruel fabrication to the women in the work force.

Contrary to that advertisement, unlawful dismissals will still be unlawful under any changes to the workplace relations system. It will still be unlawful to discriminate against or sack an employee on the grounds of a person’s religion, gender, union membership, pregnancy or any family responsibilities. It is unlawful now and it will continue to be so.

Businesses prosper with a stable and happy work force—not one where people can be dismissed because one phone call results in some question about their availability. They will not be able to be dismissed on a whim. It will continue to be unlawful to do so. We do not want a work force and they do not want a work force where there is a revolving door employment policy: in one day and out the next. That does not make for a good work force.

Today’s families come in all shapes and sizes. They are no longer necessarily a husband, a wife and 2.4 children. Fertility rates are dropping and Australia has an ageing population—we have discussed that in this place many times. Everybody has different aspirations as to when and how they want to work and how they want to structure the rest of their lives. Australia’s workplace relations reforms must ensure that employees and employers have genuine choice.

Standing still on this issue, as with so many others, is not an option. Our labour productivity has slipped recently, and if we stand still in an environment of increasing global competition we go backwards. We must undertake sensible and sensitive workplace reforms to stay productive and ahead of our competitors and to provide the best working environment for our children. The fact is that the current workplace relations system, at both a state and federal level, is process driven rather than outcome based. It creates disputes in order to solve them. It has become the domain of third parties and so-called experts rather than actual employers or employees. The complex procedures which have developed over the past century include absolutely ridiculous logs of claims. The ambit in some of those logs is laughable. And at a federal level, the roping-in of employers that become bound by awards is ludicrous.

In all jurisdictions other than Victoria and the territories private sector workplaces have to establish whether they are bound by the Commonwealth laws or the state laws. This is no easy task, and there is no logic to it. Businesses in the same industry, sometimes competing with each other in the same street or shopping centre, may be under different industrial relations laws. It is crazy. In some cases, employees in the one business are under different Commonwealth laws, but other employees doing other tasks, even in the same shop, are under state laws. This is just crazy. I ask you: is this a system that is working well? If it is, I would hate to see one that was in need of change and reform. There is a need for industrial relations reform and this government plans to deliver it.
I had a very constructive meeting this morning in my office with the President of the ACTU, Sharan Burrow. We plan to meet again, and as a member of the Prime Minister’s task force on industrial relations reform I am very keen to maintain that dialogue with Sharan Burrow. I felt that we had a very constructive first conversation and I look forward to more of them. And I give an undertaking to the working women of this country: I will not let you down. In the process of constructive and sensible workplace reform I will be in there arguing for you.

Senate adjourned at 8.28 pm

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]

Civil Aviation Act—Civil Aviation Safety Regulations—Airworthiness Directives—Part 105—AD/A330/52—Electronic Instrument System Display Units [F2005L02293]*.


Environment Protection and Biodiversity Conservation Act—Threat Abatement Plans for—

Predation, Habitat Degradation, Competition and Disease Transmission by Feral Pigs [F2005L02259]*.

Psittacine Beak and Feather Disease Affecting Endangered Psittacine Species [F2005L02255]*.

Financial Management and Accountability Act—

Adjustments of Appropriations on Change of Agency Functions—Direction No. 5 of 2005-2006 [F2005L02283]*.

Financial Management and Accountability Determinations—

2005/21—Other Trust Moneys—Insolvency and Trustee Service Australia Special Account Establishment 2005 [F2005L02306]*.


2005/23—Other Trust Moneys—Australian Communications and Media Authority Special Account Establishment 2005 [F2005L02309]*.

Net Appropriation Agreements for—

Department of Finance and Administration [F2005L02254]*.

Department of Transport and Regional Services [F2005L02297]*.

Insolvency and Trustee Service Australia [F2005L02267]*.

National Capital Authority [F2005L02257]*.

Financial Sector (Collection of Data) Act—Financial Sector (Collection of Data) Determinations Nos—

57 of 2005—Reporting Standard SRS 240.0 (2005) [F2005L02223]*.

58 of 2005—Reporting Standard SRS 300.0 (2005) [F2005L02225]*.


64 of 2005—Revocation of reporting standards applying to superannuation entities [F2005L02238]*.


* Explanatory statement tabled with legislative instrument.
Indexed Lists of Files

The following documents were tabled pursuant to the order of the Senate of 20 June 2001, as amended:

- Departmental and agency contracts for 2004-05—Letters of advice—Communications, Information Technology and the Arts portfolio agencies.
- Foreign Affairs and Trade portfolio agencies.

Unproclaimed Legislation

The following document was tabled pursuant to standing order 139(2):

Unproclaimed legislation—Document providing details of all provisions of Acts which come into effect on proclamation and which have not been proclaimed, including statements of reasons for their non-proclamation and information relating to the timetable for their operation, as at 31 July 2005, dated August 2005.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Minister for Defence: Overseas Travel

(Question No. 714)

Senator Chris Evans asked the Minister for Defence, upon notice, on 4 May 2005:

For each financial year since 2000-01 to 2004-05 to date:

1. (a) What overseas travel was undertaken by the Minister; (b) what was the purpose of the Minister’s visit; (c) when did the Minister depart Australia; (d) who travelled with the Minister; and (e) when did the Minister return to Australia.

2. (a) Who did the Minister meet during the visit; and (b) what were the times and dates of each meeting.

3. (a) On how many of these trips was the Minister accompanied by a business delegation; and (b) can details be provided of any delegation accompanying the Minister.

4. Who met the cost of travel and other expenses associated with the trip.

5. What total travel and associated expenses, if any, were met by the department in relation to: (a) the Minister; (b) the Minister’s family; (c) the Minister’s staff; and (d) departmental and/or agency staff.

6. What were the costs per expenditure item for: (a) the Minister; (b) the Minister’s family; and (c) the Minister’s staff, including but not necessarily limited to: (i) fares, (ii) allowances, (iii) accommodation, (iv) hospitality, (v) insurance, and (vi) other costs.

7. What were the costs per expenditure item for each departmental and/or agency officer, including but not necessarily limited to: (a) fares; (b) allowances; (c) accommodation; (d) hospitality; (e) insurance; and (f) other costs.

8. (a) What was the total cost of air charters used by the Minister or his/her office or department; and (b) how many occasions did the Minister or his/her office or department and/or agency charter aircraft, and in each case, what was the name of the charter company that provided the service and the respective costs.

Senator Hill—The answer to the honourable senator’s question is as follows:

1. (4), (6), (7) and (8) The Special Minister of State will respond on behalf of all ministers to these parts.

2. (3) and (5) (d) The information sought in the honourable senator’s question is not readily available. To collect and assemble such information would be a major task requiring considerable time and resources. In the interest of efficient utilisation of departmental resources, I am not prepared to authorise the time and effort that would be required.

5. (a), (b) and (c) See my response to Senate Question on Notice 682 part (1).

Prime Minister and Cabinet: Customer Service

(Question No. 833)

Senator Chris Evans asked the Minister representing the Prime Minister, upon notice, on 4 May 2005:

With reference to the department and/or its agencies:
(1) For each of the financial years 2000-01 to 2004-05 to date, can a list be provided of customer service telephone lines, including: (a) the telephone number of each customer service line; (b) whether the number is toll free and open 24 hours; (c) which output area is responsible for the customer service line; and (d) where this call centre is located.

(2) For each of the financial years 2000-01 to 2004-05 to date, what was the cost of maintaining the customer service lines.

(3) For each of the financial years 2000-01 to 2004-05 to date, can a breakdown be provided of all direct and indirect costs, including: (a) staff costs; (b) infrastructure costs (including maintenance); (c) telephone costs; (d) departmental costs; and (e) any other costs.

(4) How many calls have been received, by year, in each year of the customer service line’s operation.

Senator Hill—The Prime Minister has provided the following answer to the honourable senator’s question:

I am advised by my department as at Attachment A.
Attachment A
Department of the Prime Minister and Cabinet
Customer Service Telephone Lines

<table>
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<td>Customer Service Number</td>
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<td>Open 24 hrs</td>
<td>Output Area</td>
<td>Call Centre Located At</td>
<td>Cost of Maintaining the Customer Service Lines</td>
<td>Staff Costs</td>
<td>Infrastructure Costs (including maintenance)</td>
<td>Telephone Costs</td>
<td>Departmental Costs</td>
<td>Any Other Costs</td>
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<tr>
<td>2000/2001</td>
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<td>ANS</td>
<td>ACT</td>
<td>$166</td>
<td>NA</td>
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<td>$166</td>
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<tr>
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<td>N</td>
<td>OCO</td>
<td>National</td>
<td>-</td>
<td>NA</td>
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<td>OCO</td>
<td>National</td>
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<td>NA</td>
<td>NA</td>
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<td>2002/2003</td>
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<td>ANS</td>
<td>ACT</td>
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<td>Y</td>
<td>N</td>
<td>ANS</td>
<td>ACT</td>
<td>$150</td>
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<td>$150</td>
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<td>ANS</td>
<td>ACT</td>
<td>$18,948</td>
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</table>

NOTES:
1. The Department does not have dedicated call centres. Customer service lines are answered by general staff as part of their normal administrative duties.

QUESTIONS ON NOTICE
2 The toll free number is open during business hours and a recorded message after hours. Local call cost only.
3 Answers provided to question 1 d indicate - "National" - general staff located in capital cities around Australia "ACT" - general staff located in Can-
berra.
5 NA denotes information is not available.
KEY:
PM&C OUTPUT AREA
ANS Awards and National Symbols Branch
PORTFOLIO AGENCIES
OCO Office of the Commonwealth Ombudsman
Eyre Peninsula Bushfire Recovery Assistance
(Question No. 919)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 31 May 2005:

With reference to the joint media release by the Minister for Agriculture, Fisheries and Forestry and the Minister for the Environment and Heritage of 25 February 2005 (reference DAFF05/040WTJ), announcing the provision of $2.68 million in bushfire recovery assistance for Eyre Peninsula farmers:

(1) What is: (a) by each financial year of this program, the projected expenditure profile; (b) the expenditure by the Commonwealth to date; (c) the starting date of the program; and (d) the projected completion date.

(2) By financial year, what amount of funding is projected to be made available from: (a) the Natural Heritage Trust; and (b) the National Landcare program.

(3) When and who in the South Australian Government did the Minister approach to: (a) negotiate the South Australian Government’s contribution to this program; (b) invite the South Australian Government to jointly announce this program; and (c) negotiate the South Australian community’s contribution of an estimated $2.74 million to this program.

(4) (a) Who made the estimate that the community’s in kind support for this program would be equivalent to $2.74 million; (b) how was this estimate made; and (c) can a copy of the modelling used to make this estimate be provided; if not, why not.

(5) When and in what form did the Member for Grey make representations to the Minister in relation to this program.

(6) For each financial year, what is the total projected number of grants of up to $4 000 to be made available to assist landholders to develop property management plans.

(7) As at 30 May 2005, how many grants of up to $4 000 have been made to assist landholders to develop property management plans.

(8) For each financial year, what is the total projected number of grants of up to $10 000 to be made available to assist landholders to implement property management plans.

(9) As at 30 May 2005, how many grants of up to $10 000 have been made to assist landholders to develop property management plans.

(10) Can a copy of the guidelines and application form be provided; if not, why not.

(11) How many requests for information about grants for property management plans and on-ground works have been received by Landcare and the Sustainable Industries section of the department on the telephone number 02 6272 5196.

(12) Has a freecall number or some other low cost facility been installed to deal with long distance inquiries from South Australia; if so, when; if not, why not.

(13) How many requests for information about this package have been received by the Rural Financial Counselling Service at Tumby Bay on 08 8688 2922.

(14) (a) What extra resources were provided by the Commonwealth to the Rural Financial Counselling Service at Tumby Bay to assist the service to cope with the number of inquiries generated by this package; and (b) over what period of time were these resources made available.

Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:
(1) What is: (a) by each financial year of this program, the projected expenditure profile; (b) the expenditure by the Commonwealth to date; (c) the starting date of this program; and (d) the projected completion date of this program.

(a) Projected Expenditure (Combined State and Australian Government contributions)

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<td>$2,050,000</td>
<td>$1,270,000</td>
<td>$2,040,000</td>
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</table>

(b) $1.64 million.
(c) 15 June 2005.
(d) 30 June 2007.

(2) By financial year, what amount of funding is projected to be made available from: (a) the Natural Heritage Trust; and (b) the National Landcare program.

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<thead>
<tr>
<th></th>
<th>2004-05</th>
<th>2005-06</th>
<th>2006-07</th>
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<tbody>
<tr>
<td>a) Natural Heritage Trust</td>
<td>$1,490,000</td>
<td>$0</td>
<td>$1,040,000</td>
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<tr>
<td>b) National Landcare Program</td>
<td>$150,000</td>
<td>$0</td>
<td>$0</td>
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</table>

(3) When and who in the South Australian Government did the Minister approach to: (a) negotiate the South Australian Government’s contribution to this program; (b) invite the South Australian Government to jointly announce this program; and (c) negotiate the South Australian community’s contribution of an estimated $2.74 million to this program.

(a) Australian Government officials on behalf of the Minister commenced discussions with the State on receiving their first draft of the proposal on 4 February 2005.
(b) The South Australian Government, through the office of the Hon John Hill, MP, Minister for Environment and Conservation was consulted on the development of a joint draft announcement prior to Minister Truss’ visit to the Eyre Peninsula on Thursday 24 and Friday 25 February 2005.
(c) A joint announcement did not take place as the State were not able to confirm their funding commitment to the program at that time. The South Australian community’s contribution of an estimated $2.74 million to this program was based on information provided by the South Australian Government.

(4) (a) Who made the estimate that the community’s in kind support for this program would be equivalent to $2.74 million; (b) how was this estimate made; and (c) can a copy of the modelling used to make this estimate be provided; if not, why not.

(a) South Australian Government.
(b) No. The estimate was made by the South Australian Government.
(c) No.

(5) When and in what form did the Member for Grey make representations to the Minister in relation to this program.

The Member for Grey and his office held numerous discussions with the office of the Minister for Agriculture, Fisheries and Forestry commencing directly following the fires on the Eyre Peninsula.

(6) For each financial year, what is the total projected number of grants of up to $4,000 to be made available to assist landholders to develop property management plans.

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<thead>
<tr>
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<th>2004-05</th>
<th>2005-06</th>
<th>2006-07</th>
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<tbody>
<tr>
<td></td>
<td>0</td>
<td>60</td>
<td>32</td>
</tr>
</tbody>
</table>
(7) As at 30 May 2005, how many grants of up to $4,000 have been made to assist landholders to develop property management plans.
Nil.

(8) For each financial year, what is the total projected number of grants of up to $10,000 to be made available to assist landholders to implement property management plans.

<table>
<thead>
<tr>
<th>Year</th>
<th>Projects</th>
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<tbody>
<tr>
<td>2004-05</td>
<td>0</td>
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<tr>
<td>2005-06</td>
<td>80</td>
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<tr>
<td>2006-07</td>
<td>104</td>
</tr>
</tbody>
</table>

(9) As at 30 May 2005, how many grants of up to $10,000 have been made to assist landholders to develop property management plans.
Nil.

(10) No. Guidelines are currently being finalised by the State in consultation with Australian Government officials.
Nil.

(11) Nil.

(12) The State Government had a freecall number operational by 13 January 2005.

(13) As at 10 June 2005, there had been 452 fire-related enquiries received by the Rural Financial Counselling Service at Tumby Bay. The Service estimated that 25-35% of these enquiries sought information on the package.

(14)(a) Through the South Australian Association of Rural Counselling Services additional counsellors were deployed to the impacted area on a rotation basis. The rural counsellor from Kangaroo Island – 3 days, a rural counsellor from the South East – 11 working days, Wudinna – 1 day and a retired counsellor for four months supported the existing services.

(b) This additional support was made available directly following the fires.

**Eyre Peninsula Bushfire Recovery Assistance**

**(Question No. 921)**

Senator O’Brien asked the Minister representing the Minister for Human Services, upon notice, on 31 May 2005:

With reference to the joint media release by the Minister for Agriculture, Fisheries and Forestry and the Minister for the Environment and Heritage of 25 February 2005 (reference DAFF05/040WTJ), announcing the provision of $2.68 million in bushfire recovery assistance for Eyre Peninsula farmers:

(1) (a) When was the Minister briefed on the operation of this program and the requirement for Centrelink and the department to administer the program; and (b) on each occasion, who briefed the Minister.

(2) What changes were required to Centrelink’s normal operating procedures for the Farm Help Program in relation to the package announced in the media release.

(3) When were Centrelink staff briefed regarding the package announced in the media release.

(4)(a) How many applications have been received to date for grants of up to $4,000 to assist landholders to develop property management plans; (b) how many applications have been approved; (c) how many applications have been received to date for grants of up to $10,000 to assist landholders to implement property management plans; and (d) how many applications have been approved.

Senator Patterson—The Minister for Human Services has provided the following answer to the honourable senator’s question:
(1) The grants referred to in the media release of 25 February 2005 are the responsibility of the Department of Agriculture, Fisheries and Forestry, the Department of the Environment and Heritage and the South Australian State Government. As a consequence, the Minister of Human Services was not briefed by Centrelink on this component of the bushfire package.

(2) In relation to the Farm Help program mentioned in the media release, Centrelink Financial Information Service Officers actively promoted the Farm Help program to relevant customers and liaised with Rural Financial Counsellors in the Lower Eyre Peninsula.

(3) As the Farm Help program was an existing service, no additional briefing was required. Centrelink was not involved in administering any financial elements of the grants announced in the joint media release by the Departments of Agriculture, Fisheries and Forestry and Environment and Heritage on 25 February 2005, therefore it was not necessary to brief Centrelink staff.

(4) This grants package is the responsibility of the Department of Agriculture, Fisheries and Forestry, the Department of the Environment and Heritage and the South Australian State Government.

Family Relationship Centres

(Question No. 953)

Senator O’Brien asked the Minister representing the Attorney-General, upon notice, on 9 June 2005:

With reference to the Prime Minister’s media statement of 29 July 2004 headlined: ‘Reforms to the Family Law System’:

(1) Can information be provided on: (a) the proposed location of the 65 community-based Family Relationship Centres by: (i) state or territory, (ii) city/town/suburb, and (iii) federal electorate; and (b) the scheduled opening date of each centre.

(2) What modelling is being conducted, or has been conducted, to determine the needs of particular communities and thereby the location of each Family Relationship Centre.

(3) (a) When will the modelling begin and when will it conclude; (b) who will conduct the modelling; (c) how were they selected; (d) who made the final decision; and (e) can the modelling be made available; if not, why not.

(4) For each financial year of the program’s projected existence, can information be provided on the profile of total projected Commonwealth expenditure to: (a) establish; and (b) provide running costs for the community-based Family Relationship Centres.

Senator Ellison—The Attorney-General has provided the following answer to the honourable senator’s question:

(1) (a) Information about the location of the first 15 centres is at Attachment A. The Government has not yet announced the locations of the other 50 centres.

(b) The first 15 centres are expected to open from the middle of 2006.

(2) The Attorney-General’s Department analysed demographic information obtained through the Australian Bureau of Statistics (ABS) along with the results of a needs analysis undertaken by the Department of Family and Community Services, which showed, by ABS statistical sub-division:

- population
- proportion of divorced or separated people with children
- proportion with oldest child under 5 yrs old
- the number of blended families
- separations in the last 6 months and the last 3 years
• Child Support Agency clients
• people receiving parenting payment, and
• Domestic Violence Hotline referrals.

Other factors taken into account in the Department’s analysis were:
• the accessibility of the proposed Family Relationship Centre to people elsewhere in the region, and
• the location of the courts and Government funded services such as those under the Family Relationship Service Program, Indigenous services and community legal services and the distribution of other Government agencies such as Centrelink and the Job Network.
• the need for the first 15 centres to be in discrete geographical areas such as outer metropolitan/regional areas to avoid them being overrun while the next 50 centres are being established.

(3) The analysis of the data was conducted by the Attorney-General’s Department and the Department of Family and Community Services. The analysis is not available as it was prepared for internal decision making purposes, specifically for the Ministers’ consideration of the location of the centres and other services.

(4) Total projected Commonwealth expenditure on the Family Relationship Centres over the next four years is:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005-06</td>
<td>$2.064m</td>
</tr>
<tr>
<td>2006-07</td>
<td>$29.253m</td>
</tr>
<tr>
<td>2007-08</td>
<td>$59.131m</td>
</tr>
<tr>
<td>2008-09</td>
<td>$87.996m</td>
</tr>
</tbody>
</table>

This expenditure includes costs associated with the national advice line, research, training and other support for the centres.

The establishment and running costs vary from centre to centre. Funding for each centre will be announced at the commencement of the selection process.

Attachment A

Locations of the first 15 Family Relationship Centres

New South Wales

<table>
<thead>
<tr>
<th>Location</th>
<th>Electorate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lismore</td>
<td>Page</td>
</tr>
<tr>
<td>Sutherland</td>
<td>Hughes</td>
</tr>
<tr>
<td>Penrith</td>
<td>Lindsay</td>
</tr>
<tr>
<td>Wollongong</td>
<td>Cunningham</td>
</tr>
</tbody>
</table>

Victoria

<table>
<thead>
<tr>
<th>Location</th>
<th>Electorate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sunshine</td>
<td>Maribyrnong and Gorton</td>
</tr>
<tr>
<td>Frankston</td>
<td>Dunkley</td>
</tr>
<tr>
<td>Ringwood</td>
<td>Casey, Deakin and Menzies</td>
</tr>
<tr>
<td>Mildura</td>
<td>Mallee</td>
</tr>
</tbody>
</table>

Queensland

<table>
<thead>
<tr>
<th>Location</th>
<th>Electorate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strathpine</td>
<td>Dickson</td>
</tr>
<tr>
<td>Townsville</td>
<td>Herbert</td>
</tr>
</tbody>
</table>
South Australia

<table>
<thead>
<tr>
<th>Location</th>
<th>Electorate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salisbury</td>
<td>Wakefield, Port Adelaide and Makin</td>
</tr>
</tbody>
</table>

Western Australia

<table>
<thead>
<tr>
<th>Location</th>
<th>Electorate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Joondalup</td>
<td>Moore</td>
</tr>
</tbody>
</table>

Tasmania

<table>
<thead>
<tr>
<th>Location</th>
<th>Electorate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hobart</td>
<td>Denison</td>
</tr>
</tbody>
</table>

Northern Territory

<table>
<thead>
<tr>
<th>Location</th>
<th>Electorate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Darwin</td>
<td>Solomon</td>
</tr>
</tbody>
</table>

Australian Capital Territory

<table>
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<tr>
<th>Location</th>
<th>Electorate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Canberra</td>
<td>Fraser</td>
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</tbody>
</table>

**Child Support Payments**

(Question No. 978)

_Senator Kirk_ asked the Minister representing the Minister for Human Services, upon notice, on 23 June 2005:

1. How many resident families ceased receiving payments through the Child Support Agency because the non-resident father has died.

2. How many resident families ceased receiving payments through the Child Support Agency because the non-resident father has committed suicide.

_Senator Patterson_—The Minister for Human Services has provided the following answer to the honourable senator’s question:

1. In 2002-2003 there were a total of 1,527 male payers recorded on the child support computer system as having died. This is the latest data available.

2. CSA does not collect data on client suicides or other reasons for death.