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SITTING DAYS—2005

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<td>14, 15, 16, 20, 21, 22, 23</td>
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<td>September</td>
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<td>October</td>
<td>4, 5, 6, 10, 11, 12, 13</td>
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<td>November</td>
<td>7, 8, 9, 10, 28, 29, 30</td>
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<td>December</td>
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RADIO BROADCASTS

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

- CANBERRA 103.9 FM
- SYDNEY 630 AM
- NEWCASTLE 1458 AM
- GOSFORD 98.1 FM
- BRISBANE 936 AM
- GOLD COAST 95.7 FM
- MELBOURNE 1026 AM
- ADELAIDE 972 AM
- PERTH 585 AM
- HOBART 747 AM
- NORTHERN TASMANIA 92.5 FM
- DARWIN 102.5 FM
FORTY-FIRST PARLIAMENT
FIRST SESSION—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.
(4) Chosen by the Parliament of Tasmania to fill a casual vacancy vice Susan Mary Mackay, resigned.

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

Heads of Parliamentary Departments
Clerk of the Senate—H Evans
Clerk of the House of Representatives—I C Harris
Secretary, Department of Parliamentary Services—H R Penfold QC
**HOWARD MINISTRY**

<table>
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<tr>
<td>Prime Minister</td>
<td>The Hon. John Winston Howard MP</td>
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<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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<td>Minister for Transport and Regional Services</td>
<td>The Hon. Warren Errol Truss MP</td>
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<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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<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>Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Indigenous Affairs</td>
<td>Senator the Hon. Amanda Eloise Vanstone</td>
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<td>Minister for Education, Science and Training, Minister Assisting the Prime Minister for Women's Issues</td>
<td>The Hon. Dr Brendan John Nelson MP</td>
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<tr>
<td>Minister for Industry, Tourism and Resources, Minister Assisting the Prime Minister for the Public Service</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. Ian Elgin Macfarlane MP</td>
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<td>Minister for Communications, Information Technology and the Arts</td>
<td>The Hon. Kevin James Andrews MP</td>
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*(The above ministers constitute the cabinet)*
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<td>Minister for Justice and Customs and Manager of Government Business in the Senate</td>
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<td>Senator the Hon. Ian Douglas Macdonald</td>
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<td>Minister for Citizenship and Multicultural Affairs</td>
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<tr>
<td>Minister for Revenue and Assistant Treasurer</td>
<td>The Hon. Malcolm Thomas Brough MP</td>
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<td>Parliamentary Secretary to the Minister for Finance and Administration</td>
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<td>The Hon. Christopher John Pearce MP</td>
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<td>The Hon. Gregory Andrew Hunt MP</td>
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<tr>
<td>Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry</td>
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Leader of the Opposition

The Hon. Kim Christian Beazley MP

Deputy Leader of the Opposition and Shadow Minister for Education, Training, Science and Research

Jennifer Louise Macklin MP

Leader of the Opposition in the Senate, Shadow Minister for Indigenous Affairs and Shadow Minister for Family and Community Services

Senator Christopher Vaughan Evans

Deputy Leader of the Opposition in the Senate and Shadow Minister for Communications and Information Technology

Senator Stephen Michael Conroy

Shadow Minister for Health and Manager of Opposition Business in the House

Julia Eileen Gillard MP

Shadow Treasurer

Wayne Maxwell Swan MP

Shadow Attorney-General

Nicola Louise Roxon MP

Shadow Minister for Industry, Infrastructure and Industrial Relations

Stephen Francis Smith MP

Shadow Minister for Foreign Affairs and Trade and Shadow Minister for International Security

Kevin Michael Rudd MP

Shadow Minister for Defence

Robert Bruce McClelland MP

Shadow Minister for Regional Development

The Hon. Simon Findlay Crean MP

Shadow Minister for Primary Industries, Resources, Forestry and Tourism

Martin John Ferguson MP

Shadow Minister for Environment and Heritage, Shadow Minister for Water and Deputy Manager of Opposition Business in the House

Anthony Norman Albanese MP

Shadow Minister for Housing, Shadow Minister for Urban Development and Shadow Minister for Local Government and Territories

Senator Kim John Carr

Shadow Minister for Public Accountability and Shadow Minister for Human Services

Kelvin John Thomson MP

Shadow Minister for Finance

Lindsay James Tanner MP

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

Senator the Hon. Nicholas John Sherry

Shadow Minister for Child Care, Shadow Minister for Youth and Shadow Minister for Women

Tanya Joan Plibersek MP

Shadow Minister for Employment and Workforce Participation and Shadow Minister for Corporate Governance and Responsibility

Senator Penelope Ying Yen Wong

(The above are shadow cabinet ministers)
SHADOW MINISTRY—continued

Shadow Minister for Consumer Affairs and Health Regulation
Laurie Donald Thomas Ferguson MP

Shadow Minister for Agriculture and Fisheries
Gavan Michael O’Connor MP

Shadow Assistant Treasurer, Shadow Minister for Revenue and Shadow Minister for Small Business and Competition
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
CONTENTS—continued

Matters of Public Importance—
Telstra ........................................................................................................................................ 86
Committees—
Scrutiny of Bills Committee—Report ...................................................................................... 101
Budget—
Portfolio Supplementary Estimates Statements ........................................................................ 101
Committees—
Membership .................................................................................................................................. 102
Tax Laws Amendment (2005 Measures No. 5) Bill 2005—
First Reading .................................................................................................................................. 102
Second Reading .............................................................................................................................. 102
Committees—
Membership .................................................................................................................................. 103
Privilege .......................................................................................................................................... 104
Business—
Rearrangement ............................................................................................................................. 124
Consideration of Legislation ......................................................................................................... 124
Documents—
ASC Pty Ltd .................................................................................................................................. 127
Adjournment—
Victoria: Fast Trains .................................................................................................................... 131
Prostate Cancer ............................................................................................................................. 131
Foetal Alcohol Spectrum Disorder ................................................................................................. 133
Television: Program Content ......................................................................................................... 135
Mr Do Nam Hai ............................................................................................................................. 138
Documents—
Tabling .......................................................................................................................................... 140
Indexed Lists of Files ...................................................................................................................... 140
Departmental and Agency Contracts ............................................................................................ 140
Questions on Notice
Workplace Relations—(Question No. 1021) .................................................................................... 141
Majura International Training Complex—(Question No. 1060) ...................................................... 141
Defence: Explosives—(Question No. 1064) ..................................................................................... 142
The DEPUTY PRESIDENT (Senator the Hon. John Hogg) took the chair at 9.30 am and read prayers.

BUILDING AND CONSTRUCTION INDUSTRY IMPROVEMENT BILL 2005

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

In Committee

Consideration resumed from 6 September.

Building and Construction Industry Improvement Bill 2005

The TEMPORARY CHAIRMAN (Senator Marshall)—The committee is considering amendments (4) to (7) on sheet 4646 revised moved by Senator Murray. The question is that the amendments be agreed to.

Senator MURRAY (Western Australia) (9.31 am)—Yesterday, we were debating the question of whether this definition is appropriate for the ills that it is supposed to address. The minister remarked that, if the definition of building work caught up those that were not intended by it, there was the ability of the government to pass regulations which would remedy the problem. There is an issue with that. The minister indicated quite rightly that the Building and Construction Industry Improvement Bill 2005 indicates that regulations may be passed which can exclude as well as include categories of persons and therefore would affect, subsequent to the legislation, those who might otherwise be covered or not be covered in the intended definition. The minister indicated, of course, that that was a remedy for someone caught up who should not be caught up. But the difficulty with the bill and the explanatory memorandum is that the regulation can also include additional people. So it goes both ways.

Minister, I want to ask you, therefore, with respect to that issue whether clause 78(3)(a) would permit the first regulations made under clause 5(3) to be expressed to take effect from 9 March 2005. Clause 5(3) permits the definition of ‘building work’ to include any activity that is prescribed by the regulations. Clause 36, which provides definitions for the purposes of clauses 38 and 41, includes the phrase ‘building work’. It is therefore possible that a regulation passed subsequent to this bill, expressed to take effect from 9 March 2005, may render a person or body liable to a civil penalty for conduct which not only was lawful at the time that it was engaged in but also had not been described by any bill put before the parliament as being potentially subject to a civil penalty. The reason I raise that is that the definition does not stand on its own in the legislation; it is specifically designed, in terms of the law, to be varied by regulation. I quite like the idea of it being there as a remedy but, if it includes others, you can see the potential difficulty we are in. Therefore, I would appreciate your comments on that issue.

Senator ABETZ (Tasmania—Special Minister of State) (9.35 am)—I think I see the point that Senator Murray is making in relation to the Building and Construction Industry Improvement Bill 2005. Yes, the legislation and the framework will allow it to cut both ways in relation to backdating to 9 March. We would not intend to use it in that way. In any event, as I understand it—and it has just been confirmed—these regulations would be disallowable by the parliament. I indicate that it would not be the government’s intention to use it in that way but, even if any future government were to get a rush of blood to its head in relation to that, it would be open for the parliament to disallow the regulation.
Senator MURRAY (Western Australia) (9.36 am)—I appreciate the assurance of the minister, and I hope that it has some binding effect on the department and the relevant minister. I assume the department will note it and convey that assurance to the minister for inclusion in the operating guidelines, because it is helpful. I just want to make some further remarks with respect to yesterday’s debate. I made some remarks about the outcomes of the royal commission and said I thought a disservice had been done by going for an industry specific regulator. Of course that does not reflect on the commissioner.

As the chamber knows, the Democrats have been strong supporters of royal commissions, including the Cole royal commission. We did not oppose it; we supported its establishment. We supported improvements—and so did the Labor Party—to the Royal Commissions Act at about the time of the HIH royal commission. Having supported that and having supported its establishment, it does not necessarily bind you to agree with all its findings and outcomes. Our view was that what it did find, which we thoroughly agreed with, was that more regulation and enforcement was necessary in the building and construction industry. However, we came to a view, as a result of a very intensive Senate committee inquiry and other input, that that would need the establishment of an independent national workplace relations regulator for all industries and for the enforcement of the law in all respects involving both employers and employees and with cross-fertilisation between the tax office and other offices which are affected by poor behaviour. So we have in-principle opposition to industry specific regulators, and that is a problem for us.

We included in our recommendations increasing penalty provisions under the Workplace Relations Act for all industries because they were exposed as being too weak. The chamber will recall that last year penalties were in fact increased by a factor of three. This bill proposes to increase them even more, and we do not quite see why that is necessary when the new penalty regime has not yet been tested. We initiated increased penalty provisions, which was a recommendation of the royal commission, and that occurred. The quantum, of course, was different to what the government were after. We also recommended the inclusion of whistleblower protection provisions in the Workplace Relations Act, which has occurred.

We believed there should be increased powers and capacity for the Industrial Relations Commission to make good-faith bargaining orders, to resolve disputes on their own merits and to make more determinations—in other words, we felt that it should be more active than it had been in ensuring that the act was as effective as it should be. We believed the Workplace Relations Act should enable genuine project agreements to be reached and certified for major projects. We thought legislating a definition of ‘employee’ in the act would improve matters. We believed the Building Industry Taskforce should play a more active role in pursuing the underpayment of employee entitlements, breaches of awards and agreements, and other matters. In fact, we supported an increase in their powers. It was a passionate debate, but it clearly indicated that we wished to take stronger action to address problems identified by the royal commission.

We also thought that the Commonwealth Electoral Act and the Workplace Relations Act should be amended to ensure that democratic control regarding donations remained with members of registered organisations and shareholders, that donations should be capped, that donations which have strings attached should be prohibited and that better disclosure requirements should be provided. You might say to yourself, ‘What has that got...
to do with this debate? Effectively, it is trying to curb any possible relationship between politics at the local, state and federal government levels and building industry matters. We also reaffirmed our belief that a national unitary industrial relations system would improve matters.

As a party we are not against change or reform, but right at the heart of our belief is simply the fact that the present laws that we have are not being properly enforced. We have been pleased to see, as a result of pressure by the Senate through its various committees, that ASIC has picked up its game on, for instance, phoenix companies. That is a direct result of the efforts of all parties and of the information that has come to us on this matter, particularly from people in the union movement and certain employer organisations. If you act to ensure that the Crimes Act is attended to, that the tax act is attended to, that the Corporations Law is abided by and that workplace relations law is properly regulated and enforced you can indeed address the issues which have been raised.

I will remind you again that the government has stated that it is proud of the work that it did on the wharves of this country. The fact is that that work was achieved under existing law. The changes and improvements to competition and productivity did not require changes to the existing law. It was a result of political will. It was controversial, yes—people have strong opinions about it, yes—but the existing law was used. Our great concern is that we are not using existing law well enough and that overkill is occurring. Take, for instance, the blue flu epidemic issue in Western Australia. If 200 workers do not turn up on a Monday morning and they have sick certificates from doctors, and those certificates have been wrongly achieved—they have been signed, say, by the same doctors or there has been a plan to do this—that is covered by existing law. That is a crime; that is fraud. The health authority can go after the doctors for giving people certificates which are untrue and allow them to claim Medicare on wrongful grounds. There are all sorts of ways to address this matter.

It is a crime to pretend to do something which is untrue. The existing law covers that. You do not need to change the law to have the Building Industry Taskforce go after it. If it is fraud, it is fraud. I am very concerned that industry specific law is going to be dramatically increased when we already have the available tools to address the wrongs and ills that the government see before them. In summary, my criticisms of the royal commission are that I felt that they did not attend enough to the tools that we already have in law and to the ability to change behaviour and performance through existing mechanisms. That is where my criticisms lie.

Coming back to the amendments before you, given that I am concerned about the reach of these new laws, it is obvious that I am concerned about the definitions. When you see that the AiG, the CPU, the TWU, I think, and other unions have all said that there is real danger with these definitions going through then you see that it can be remedied through regulation. Perhaps the regulations take time to come to the surface—these things do take time and you can see why there is a concern on our part to narrow the definition. We have not sought to rewrite a definition. We have included much of what the government proposes; it is not as if we have invented something new. We have just tried to narrow it down. I guess that the government is not going to change its mind but in conclusion I seek an assurance from the government that, if it finds that these definitions are not workable, reach too far or have unintended consequences from its perspective, it will move rapidly to remedy the matter.
Senator FORSHAW (New South Wales) (9.46 am)—I want to make some comments in regard to these amendments and also to put a particular question to the minister that I would appreciate a response on. I commence by indicating that what has just been stated by Senator Murray is a very valid point. Whilst I have not always agreed with Senator Murray on some industrial relations legislation issues in the past, I think that the comments that he has made this morning and has made throughout this debate are very pertinent.

As he said, if there are problems in this industry then, as in any other industry, there are mechanisms available under existing legislation to deal with those problems. There is both the workplace relations legislation and other legislation, and he has pointed to some instances of potential fraud and so on. I remind the government and the minister that breaches of workplace relations legislation and industrial legislation occur constantly in this country. Indeed, unions are well aware of this, because they are constantly pursuing claims against employers for underpayment of wages and pursuing employers and companies to ensure that entitlements and other conditions of employment as specified in an award or agreement are adhered to.

I know from my own experience of 18 years as a union official that each year my own organisation, the Australian Workers Union, and indeed other unions, were instrumental in recovering millions of dollars in unpaid wages and entitlements. The union had lawyers constantly engaged in taking action in state and federal commissions to deal with these issues or going to the industrial registrar and asking them to take these issues up. If you know anything about the rural industries in this country, you know it is a fact that quite often employees would not be receiving their full entitlements. I could bring report after report, documentary evidence that this situation has occurred. Sometimes we thought we were probably only scratching the surface in trying to ensure that employees, for instance, in an industry like the horse training industry were properly treated.

I will tell you something about the horse training industry where young kids are getting a start as stable hands. I have been made aware and have pursued in the past situations where some of those kids, instead of being paid their proper entitlements such as overtime, were given a meat pie and a bottle of Coke as the equivalent payment. We pursued cases against some of Australia’s leading horse trainers, people who were handling thoroughbred racing stock worth millions of dollars, who breached awards and treated their employees very badly. I am sad to say that I think that situation still exists in many respects in the industry today. Young people who, if they dared to say to their employer, ‘Boss, I think that I am entitled to be paid overtime or Saturday penalty rates for a race day,’ were threatened. Indeed, in some instances violence was taken out on them. They were taken out the back of the training shed or the stables and given a belting. That occurred and there have been documentary programs about it. We used existing laws to deal with those issues, and I think that is the point made by Senator Murray. His point is well put: if there are issues in this industry, the mechanisms already exist to take action, whether it be against unlawful action or breaches of awards or the law by employees, employers or registered organisations.

Health and safety is another example of where we see breaches of both industrial legislation and other legislation. As I said in a speech a couple of days ago on this bill, when young kids in this industry fall from high-rise building sites because of a lack of safety railing, to my mind that is the sort of serious—it could be said criminal—
negligence that needs to be addressed. But nowhere did I really see any evidence of the $60 million royal commission wanting to even address that issue. I do not see it in this legislation either.

Yesterday Senator Marshall asked a question of the minister regarding the coverage of this legislation and its definitions of the building industry. He particularly asked the minister to give him some indication of the number of employees who could be affected. The minister responded with a dismissive approach and sought to draw an analogy to other legislation. He specifically referred to legislation for breathalysers. There was a bit of an exchange across the chamber. I do not want to spend too long on this, but I thought the minister’s response demonstrated a complete lack of understanding of the bill that he is taking through this chamber.

This bill, through its definitions clause, is specific. It targets a specific industry, specific groups of employees and employers, and it has exemptions in that clause—those occupations that are not intended to be caught up in clause 5 of the bill. Clause 5 says:

Definition of building work

(1) Subject to subsections (2), (3) and (4), building work means any of the following activities ...

It then lists them from (a) through to (d). I might say that many of them are descriptions that have appeared for many years in building and construction industry awards. I am very familiar with those words. Then the definition clause goes on to say ‘but does not include any of the following’: It talks about drilling for oil or natural gas, the extraction of minerals, including tunnelling, boring or constructing underground works, and makes specific reference to the domestic housing industry and single dwellings. So the legislation seeks to set up a specific application and to specify exemptions to its coverage.

The minister has said on the record that the regulations can be used to clarify the definition of building work. On Monday he said:

Importantly, the definition of ‘building work’ is able to be modified by regulations. Any non construction related activity that is inadvertently captured can be excluded from the operation of the act. Similarly, it will enable the addition of other categories of building work should the need arise.

A sort of catch-all power is to be available through regulations. Just as a straight point of law, that is a completely different position from breathalyser legislation. The breathalyser legislation applies at large. No-one is exempt from the application of the laws regarding driving under the influence and over the legal limits. So the minister’s attempt to compare breathalyser legislation with this legislation is a nonsensical proposition. The breathalyser legislation has application generally across the entire community. No-one is exempt. You run foul of that legislation, you breach that legislation, if you commit the relevant offence. But no-one is exempt from the jurisdiction of that legislation.

Here, this bill seeks to specify a discrete industry and sector of the work force. My concern is that this regulatory power that would be used to extend the definition of building work could create real problems, not just in the industry but also at law. During my years of involvement in industrial relations I can recall that there were at least six High Court cases dealing with the issue of defining the building industry, defining building operations or defining what was in connection with the building industry. They were cases that had to consider the definition of the civil construction or civil engineering industry as against the building industry. I was intimately involved in many of those...
cases. They arose over demarcation disputes between what was covered by building industry awards and what was not—whether it be in civil construction work or manufacturing work and so on.

So there is a history of law where these issues have been looked at and where decisions have been made on them. I would have thought that the government would have been aware of that history. I would have thought that they would not have drafted this legislation without having some regard to previous binding decisions of the High Court. If they had been doing their job, that is what they would have done. But I am concerned for two reasons: firstly, that this legislation seems to ignore all of that precedent; and, secondly, that this catch-all regulatory power to extend the definition is likely to become an issue for future litigation.

I have not had the opportunity to pursue this in detail but I would like the minister to advise this chamber how it is that that regulatory power that he referred to in his comments does not go beyond the legislative power in the act. In other words, how is it that the regulation will be able to extend this definition of building work in effect to infinity, to include anything? A second and related question is about local government work. Local councils, as we know, are engaged directly in a lot of work that could be described as building work: the construction of roads, community facilities, footpaths. I want the minister—I hope the minister is listening—to advise this chamber whether it would be possible for this legislation to apply to work directly performed by local government employees—(Time expired)

Senator WONG (South Australia) (10.01 am)—We are debating the definitions of building work, building agreement, building association and building certified agreement. What lies at the core, as I understand it, of the Democrats’ amendments and why Labor are supporting them is that these amendments go to the delineation of the application of this industry-specific legislation. We share the concerns of the Democrats and, I think, of some of the other members of the cross-bench about creating industry-specific legislation to deal with a perceived problem. Whether or not you agree with the government about the extent of issues in the building industry—and there are differences of view about the extent of those problems and the cause of them—if you read the royal commission’s findings and do some analysis of the issues which are identified in the industry it becomes very clear that the primary issue, the primary problem, the primary failing is not in the drafting of the legislation which applies to the building industry and the various aspects of the legislation; the primary weakness is in the enforcement of existing law. That is a point that Senator Murray has made a number of times in the context of these debates: that if government agencies, the police and other regulatory, investigative and enforcement bodies enforced and applied the law more particularly or more effectively in the building industry that would deal with many of the problems which were identified by the royal commission. But, instead of dealing with that, what we have is a piece of legislation which is creating not only a new enforcement mechanism, which is a different argument, but a whole new set of penalties and prescription and regulation.

We on this side of the chamber have concerns about that. Where we differ with the Democrats is that we have concerns about creating an enforcement body specific to this industry. Those concerns, which I will speak about later, primarily revolve around this issue: we do not think it is appropriate for there to be within government this type of coercive power. We go back to the very basic
principle of the separation of powers, the notion that the determination of existing rights and obligations and the enforcement of them should be a function separate from the executive. When we have a situation, as we do under this legislation and also under the codifying contempt legislation which preceded it and which this will supersede, of enforcement powers being drawn into the executive in this way, we have real concerns with that. There are times when the executive does have some enforcement powers, but we are talking here about coercive powers which are very substantial and are associated with significant penalties which, if this bill is passed by this chamber—as it looks like it will be—will be even more substantial than previously applied. We say it is not appropriate for those types of coercive powers, which have the capacity to interfere to that great an extent into the lives of individual Australians, to be drawn to the executive in the way that was constructed under the Building Industry Taskforce.

Leaving aside the issue of enforcement, I will turn specifically to the issue of the definitions that Senator Murray has moved and make some comment about the submissions that were put to the Senate Employment, Workplace Relations and Education Legislation Committee inquiring into this bill. It is quite clear that unions and also some employer groups had significant concerns as to the extent of the ambit of the definitions in the bill. It is quite clear that unions and also some employer groups had significant concerns as to the extent of the ambit of the definitions in the bill. It is quite clear also from the evidence put by the department that it was a very conscious decision by government to draft the definitions in a way that gave quite a wide ambit to the application of this legislation. As anyone who has been around any sort of legal drafting or watched the application of laws in certain areas will know, when you draft a definition you may have things in your mind about what is included in it but it is often the case that things you do not think of end up being included in the definition. Our concern on this side of the chamber is that that is precisely what will happen if the existing definitions in this legislation which define its ambit are passed unamended.

I refer to a number of submissions to the committee. First, and perhaps most importantly from the government’s perspective, is that of the Australian Industry Group, who oppose the broad definition of ‘building work’. There were various bases on which they opposed it. Their concerns relate to the fact that there is the potential for this definition to intrude into what is normally regarded as the manufacturing sector. Perhaps the minister can address the question of whether or not the government has amended the legislation to take account of the AiG’s concern, or whether or not the views of what is Australia’s peak manufacturing industry body were taken into account when drafting this definition.

I also point to the submission by a number of unions, which the minister, given his view about trade unions, may well just simply disregard. But there was some cogent evidence put about the way in which the statutory definition proposed in the bill would apply to particular sectors. For example, the Rail, Tram and Bus Industry Union made the point that members involved in infrastructure maintenance work would potentially, in their view, be performing building work as part of the building and construction industry. These include persons working as fettlers, track repair machine operators, gang protectors, track inspectors and gangers. I would think, as the union put it, that most of those employees would have a hard time thinking of themselves as being part of the building and construction industry. The view the union put was that the current definition set out in the bill in fact would include them. That may not be correct; these issues are a matter of legal opinion. But I do not see in the minister’s
answers in the debate or, frankly, in the submissions by the department in the context of this inquiry, the answer to the delineation questions that have been raised both by employer and employee groups.

In fact, DEWR gave advice to the committee as follows:

The definition is deliberately broad to ensure that application of the bill extends to the conduct of building workers, employers and organisations. The definition is appropriate to bring about the structural and cultural change the industry requires.

That is one of those tautological, circular definitions where you say, ‘A hat is a hat because it is a hat and we want it to be a hat.’ We have a situation where the government is saying, ‘We want a broad definition so that we get in building workers, employers and organisations’, and it has to be broad because it is ‘appropriate to bring about the structural and cultural change the industry requires’. It is not joining with the issue. The issue is one that arises specifically from Senator Murray’s amendments, and we look forward to the minister explaining very clearly why it is that a more precise, narrow or accurate definition of the building industry is inappropriate. I recall the minister at the outset of this debate making some comments about it but, with due respect to him, it did not seem to us on this side of the chamber that he answered the specificity of the issue raised by the Democrats.

A characteristic of this legislation is that wide definitions have been included so as to ensure the widest possible catchment for building work. Different definitions around industrial action and the statutory concept of unlawful industrial action are designed to make activity by employees in pursuit of their industrial interests more difficult. That is indisputable when you look at the terms of this legislation—it is indisputable that this legislation is about making it more difficult for employees and their unions to advance their industrial interests.

An example is the definition of building industrial action, and in particular the scope of the exemption for work being ceased for health and safety purposes. As Senator Forshaw has previously said, this is one of the most dangerous industries in Australia. The commercial building industry is a dangerous industry.

Senator Webber interjecting—

Senator WONG—My colleague Senator Webber, who is from Western Australia, points out that the mining industry is as well, and I concur with that. As the minister keeps reminding everybody, I worked for a short period as a legal and industrial officer for this union, and during that period there were times when we did have members die. We had members die on building sites and it is a very tragic thing to occur. Unfortunately, in Australia we still have situations where deaths occur far too often on building sites. One of the areas I worked in also was workers compensation. Despite the fact that the minister or the government members might pooh-pooh it and say, ‘It is all about people faking bad backs,’ I can tell you there are also a lot of injuries. There are a lot of people with injuries arising from building industry work. I recall one of the first members I acted for in relation to an industry accident. I noticed halfway through the interview that he did not have very many of the top parts of his fingers left. That was because he had been in a number of industrial accidents.

These are not easy industries to work in; these are industries which require high levels of safety, and in which there has been an improvement in safety over the years. Some of the organisations and movements that have been at the forefront of that are the trade unions. Yes, at times trade unions have stopped work on building sites in order to ensure the
safety of their members. Certainly, when an accident happens, work is stopped to ensure that another person is not injured. I would think most Australians would think that is a pretty legitimate basis on which to stop work or take industrial action—that there is a prospect of injury, serious injury or even death.

There is an interesting difference between the exemption regarding health and safety concerns in the legislation being proposed in this bill and that in the Workplace Relations Act. Under this legislation building industrial action excludes action by an employee based on a reasonable concern about an imminent risk to his or her health or safety, provided that the employee did not unreasonably fail to comply with a direction to perform other work that was safe for the employee to perform.

This is an important exclusion—we should exclude from the ambit of unlawful industrial action circumstances whereby an employee refuses to work because it is unsafe. That is what this exemption is supposed to be about—enabling people to refuse to work if it is unsafe. What is interesting is that this exemption also exists in the Workplace Relations Act but it is wider. The government is saying that building employees only deserve a narrower exemption for health and safety concerns—and industrial action resulting from, or associated with, health and safety concerns—than employees in the wider work force. The Workplace Relations Act requires an employer to direct an employee to perform work that is safe and appropriate. The words ‘and appropriate’ are missing from this legislation before us. The Workplace Relations Act specifies work that is safe and appropriate for the employee to perform.

In a further change in this bill from the Workplace Relations Act, when a building employee seeks to rely on this exemption the onus is on the employee to prove that the action was based on a reasonable concern about an imminent risk to health and safety—that is in clause 36(1)(g). So the government is saying that building employees have lesser rights than employees in the general work force to refuse to work on the basis of a concern about health and safety. Not only that, the employee actually bears the legal onus of establishing that that was a reasonable position for them to be in; that they, in fact, had a reasonable concern about their health and safety. This is a far greater onus than applies to the general work force. What is the public policy argument for this in such a dangerous industry? (Time expired)

**Senator ABETZ** (Tasmania—Special Minister of State) (10.16 am)—If I may make a brief response. In relation to this legislation, as with all legislation, the question a government should ask itself is, ‘What is the social evil that they want to overcome?’

Without going back into the breathalyser debate that we had last night, the social evil there was drink drivers. Here we are dealing with legislation trying to overcome the social evils—if I can use that term—that the royal commission found after 171 days of hearings. The issue is not about the number of people who may or may not be covered, but rather the conduct that should be covered by the legislation.

Suggestions were made by Senator Murray about the existing laws and why they are not good enough. I would simply refer to paragraph 13 on page 5 of the revised explanatory memorandum as being some of the reasoning and rationale for this specific legislation. We were then asked about the regulatory power. I think that was Senator Forrest’s question. Section 5(3) of the bill clearly provides the power to vary the scope of the definition of building industry by regulation. The government is confident that...
the power to make such regulations is technically sound and will withstand any legal challenge.

Senator Wong asked questions about enforcement. The ABC commissioner will be an independent statutory officer who can investigate breaches of workplace relations laws, including agreements and awards, and bring proceedings to appropriate courts for determination. So there is no breach of the separation of power principles there. We were then asked about the definition of building work, as I understand it, and what our discussions were with the Australian Industry Group. An exposure draft of the bill was released in 2003 and comments were received from all sectors of the community, including the AiG, and their views were considered. The government’s primary concern was to ensure that those engaging in inappropriate conduct could not avoid our regulation. The facts are that this is an industry where the participants are well versed in evading their legal obligations by taking advantage of every loophole available.

The question was again raised by Senator Wong as to why we have the industry specific legislation. We have been through that a number of times, and it was as a result of the royal commission’s recommendations after 171 days of public hearings. Senator Wong also raised the issue of occupational health and safety in this industry. The evidence from the royal commission demonstrated that it was common for the unions to manipulate occupational health and safety issues, but industrial action based on a reasonable concern about an imminent risk to a person’s health or safety will not be unlawful. We have had a long and full debate about these amendments and I suggest that, other than if Senator Murray wants a brief right of reply, we move to a vote.

Senator FORSHAW (New South Wales) (10.20 am)—Minister, I think you may have been distracted when I asked one of my questions. It was whether or not direct employees of local government, who are often engaged in building local roads and preparing local roads and footpaths, will be covered by this legislation?

Senator ABETZ (Tasmania—Special Minister of State) (10.21 am)—Without being flippant, you would have to ask yourself the question, ‘Do they fall within the definition of the legislation?’ I am not about to give advice from here as to whether some people may or may not fall within a particular type of activity without knowing the full details of what they might actually do or not do.

Senator WONG (South Australia) (10.21 am)—Believe it or not, Minister, we are coming to the point where we are happy to vote on these amendments and it is a reasonable question—not so much for legal advice—but what is the government’s intention? Is it the government’s intention that civil construction employees, or other employees of local government, be covered by this definition and by the legislation? The government ought to be able to indicate what its intention is.

The TEMPORARY CHAIRMAN (Senator Troeth)—The question is that amendments (4) to (7) on sheet 4646 revised, moved by Senator Murray, be agreed to.

Question negatived.

Senator MURRAY (Western Australia) (10.22 am)—by leave—I move:

1. Clause 15, page 16 (line 5), after “Commissioner”, insert “or Deputy Commissioner”.

2. Clause 15, page 16 (line 6), after “instrument”, insert “and in accordance with the merit selection process required by subsections (6) to (9)”
(3) Clause 15, page 16 (after line 19), at the end of the section, add:

(6) The Minister must by writing determine a code of practice for selecting and appointing the ABC Commissioner and any acting or Deputy ABC Commissioner 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; and
(d) openness and transparency.

(7) After determining a code of practice under subsection (6), the Minister must publish the code in the Gazette.

(8) Not later than every fifth anniversary after a code of practice has been determined, the Minister must review the code.

(9) In reviewing a code of practice, the Minister must invite the public to comment on the code.

(10) A code of practice determined under subsection (6) is a legislative instrument.

(4) Clause 16, page 16 (line 22), after “commissioner”, insert “in accordance with the merit selection process specified in Section 15”.

I will speak briefly to these amendments. This is another of our principles that we try to get established in law and that is that appointments should be on merit. Government inevitably answer that they are and that their appointments are good ones. Often that is true; however, sometimes it is not true. More important than it not being true of course is the perception that surrounds the nature of appointments. It is particularly important for statutory appointments that there are the proper checks and balances.

These amendments of ours have been opposed by the Liberal Party, the National Party and the Labor Party 26 or 27 times. That is not going to stop us moving them, because times change and people move on and accept that better standards are necessary. I would hope that in due course, as with other accountability mechanisms, the government parties and the opposition party accept the necessity of this sort of approach. We think it is a principle that should be accepted to ensure that appointments to the governing organs or public authorities are based on merit and that the processes by which these appointments are made are transparent, accountable, open and honest. The Democrats think that an independent body should be given the responsibility of scrutinising government appointments against a set of established criteria.

We have not just invented this as one of our little fetishes or obsessions, although I confess freely to the Senate that it is an obsession. We looked at the United Kingdom experience after Lord Nolan headed the 1995 Nolan commission. He and his commission managed to persuade the United Kingdom government—which has the numbers always, it seems, in their system—to accept that appointments should not only be based on merit but should be based on merit according to set criteria. What this sought to do was to go some way to ending the perception of the privilege and patronage associated with government appointments.

Lord Nolan set out key principles to guide and inform the making of such appointments. These were that a minister should not be involved in an appointment where he or she has a financial or personal interest; ministers must act within the law, including the safeguards against discrimination on grounds of gender or race; all public appointments should be governed by the overriding principle of appointment on merit except in limited circumstances; political affiliation should not be a criterion for appointment; selections on
merit should take account of the need to appoint boards that include a balance of skills and backgrounds; the basis on which members are appointed and how they are expected to fulfil their roles should be explicit; and the range of skills and backgrounds that are sought should be clearly specified. In response to the Nolan committee’s recommendation the United Kingdom government subsequently created the Office of Commissioner for Public Appointments, which has a similar level of independence from the government as the Auditor-General in the United Kingdom, to provide an effective avenue of external scrutiny.

The Democrats have used the Nolan committee’s recommendations in our amendments over the last five to six years because they are tried, tested, proven and work. Meritorious appointments are the essence of accountability. In making these remarks I put no reflection at all on the person or persons that the government may seek to appoint because in fact they might meet all the necessary criteria that I have outlined. But it is important that governments recognise that this issue of appointments on merits is a live issue in the community, is a live issue in public perception and sooner or later needs to be addressed in a better way than it is at present.

This is not a fault of the present government; it is a fault of all governments—state, territory and federal. It is an important issue of accountability which we need to keep pushing forward where the legislation is relevant, and this is a relevant matter. This is going to be a controversial body, it is likely to have a lot of focus and it may well be involved in highly visible public occurrences. It is very important that the person or persons who head it and lead it are seen to have been appointed on the criteria we have outlined, which in item (3) are spelt out:

... selection and appointment is to be made, including but not limited to:

(a) merit;
(b) independent scrutiny of appointments;
(c) probity; and
(d) openness and transparency.

I find it very difficult to understand why such an amendment would not meet with the approval of the Senate.

Senator MARSHALL (Victoria) (10.28 am)—I would be happy to hear what the minister had to say about that, but I also rise in support of these amendments. They are clearly very important amendments. One would find it very difficult to understand why the government could not accept such amendments if, in fact, they were trying to achieve what they publicly say they are trying to achieve—that is, a balanced approach and improvements in the building and construction industry. I do not believe what they have said publicly. I do not believe that what we have here today in this legislation is based on anything they have really put forward in this debate.

The government keeps coming back to the royal commission. The initiation of that process all that time ago demonstrates why we need such amendments—to ensure that appointments of this nature are done openly, transparently, independently and based on merit. The government always relies on the findings of the royal commission, but let us understand and recall when and how the royal commission was set up in the first place. It was 26 July 2001 when the government announced the establishment of a royal commission into the building and construction industry, to be headed by retired New South Wales Supreme Court judge Terence Cole.

As to the timing of the inquiry, it was a few months before the calling of a federal election. It was based on an 11-page letter
from the then Employment Advocate—a letter that was based on accusations with no basis of proof to back them up; just simple allegations—that was requested to be written by the then minister for industrial relations. It was clearly a political stunt. They were going into an election with no issues. They were a government that had run out of ideas. What they wanted to have was an election based on union bashing. That was where they wanted to be. What actually happened in that period of time was that the *Tampa* came along. The government did not have to proceed with a union-bashing election campaign; they were able to have a race based election campaign. That is where the election took us at that point in time. But the royal commission went ahead anyway. Let me tell you what the *Australian* newspaper said at that time. The *Australian* clearly called it a political stunt, because it was a political stunt. The *Australian Financial Review*—

The TEMPORARY CHAIRMAN (Senator Troeth)—Order! Senator Marshall, I would ask you to relate your remarks to the amendments before the chair.

Senator MARSHALL—Thank you, Madam Temporary Chairman, but I am clearly doing that. I am making the point that there is a need to have transparent, open and honest appointments to these bodies in order to give the process some credibility. The backdrop to all this legislation before us today—as has been said time and time again by the minister—is the royal commission. I think it is well in order for me to argue about the failed process and the political stunt of the royal commission which has got us to the point we are at today.

What did the *Australian Financial Review* editorialise at the time that the royal commission was established? It said that the royal commission inquiry was as much about propaganda and the political cycle as about policy. It was absolutely right. Time has moved on. We are now in 2005. They have had the royal commission. I sat through many of the royal commission hearings. I saw the way it was handled. I must say that I was appalled—and I am not a person with any legal background or training. We had a process where the newspapers reported what was going to be in the royal commission the next day. You got morning headlines before the royal commission started. You had the counsel for the prosecution, in effect—that is, the counsel representing the royal commission—getting up, making a statement for an hour or so and making all sorts of allegations, which just happened to be the same things that were reported in the morning’s newspapers, and then sitting down. For the rest of the day no evidence was led to those issues. No witnesses were called to back up the allegations that were made. It was simply a process of propaganda. That royal commission was as much about propaganda and pursuing the political agenda of this government as it was about anything else. It did royal commissions no justice whatsoever.

The minister talks about all of the days of hearings and how this government relies on the hearings. Allegations made time and time again against union officials and others and against individuals were made and left to stand. People were not allowed to challenge them. The people accused were not allowed to challenge them. What a lot of people forget is that royal commissions are not open court processes. They do not have the same judicial standing. Royal commissions are not bound by the rules of evidence; therefore, evidence that would normally be inadmissible in a court, such as hearsay evidence, can be received and used by a royal commission. It can be parroted by a royal commission and used in their findings, as it was in this royal commission. It can then be picked up time and time again by this government and put
up as if there had been some formal judicial process and the evidence had been challenged, tested and found to be true. No such thing happens in royal commissions. The recommendations are an opinion of the commissioner.

What we put, and what I argue very strongly, is that, if we had had amendments and selection criteria similar in nature to what Senator Murray is moving in the amendments to this piece of legislation today, we would have had much more of a chance of having a fair, open and transparent process. That is why these amendments are crucial. If we are going to have a supposedly independent body—and we oppose that actually taking place to monitor this industry, but it looks like we are going to have it because the government now has unfettered power, having the numbers in this chamber as well—we ought to have the head of such a body open to a selection process that has some independence; is based on merit; and has probity, openness and transparency. They are some of the major criteria, as outlined in these amendments. They are important and worthwhile amendments.

Let us not be conned by the constant catchcry of this government that we can rely on the royal commission. We cannot rely on the royal commission. From my point of view, that was purely a political stunt, a witch-hunt and a propaganda exercise. It is really only the government that remains convinced that it was anything else. You do not hear a lot of people other than those in the government getting up and saying that this was the be-all and end-all and that everything that the royal commission said was appropriate.

Senator Murray has a slightly different position to me on that, but he did quite rightly make the point that, even though he supported the process of the royal commission, that does not automatically mean that people actually have to accept all of the commission’s recommendations. He obviously does not accept some of them, and the Australian Labor Party accepts even fewer of them.

Let us be clear about the backdrop of the royal commission. When this government totally rely on it, they simply hope that people forget about why it was set up in the first place. It was set up as a political stunt; as a witch-hunt on unions; and as a way to try to deliver their long held belief that there ought not be an organised labour movement in this country, because organised labour stands in the way of their mates making big bucks. That is what it really gets down to.

We heard Senator Johnston the other day attacking working people who had actually been successful—working people who had share portfolios and working people who had ownership in some businesses. From the government’s point of view that is not for the likes of us; that is not for the likes of working people. Working people have no right to shares. As far as the government are concerned, only the people they represent ought to have the ability to have share portfolios and have any wealth whatsoever. As I understand it, Senator Johnston was accusing one particular union official of having the gall to live in a suburb that was right next door to him. Obviously, that is a little bit too close for comfort. We cannot have the working class living too close to the elite lawyer class, which is well represented on the other side.

What it is all about is trying to destroy organised labour in this country. If you destroyed organised labour, what would it mean? It would mean there could be a free-for-all for employers. Then they would get the choice which the government champion so much. And the choice is to take it or leave it.
it: you either want a job under the conditions that they will set for you or you leave it. That is not a choice that we accept. That is not a choice that is based on equity and fairness. That is not a choice that we in the Labor Party will ever accept. We will fight that sort of choice all the way.

They are an extreme government. We know they are an extreme government because they tell us so. They have an extreme agenda in industrial relations. They now have the majority in both houses of parliament and they intend to introduce these extreme measures. Why don’t they just say that? Why don’t they just be honest with the Australian people and tell us that is their agenda, instead of trying to hide behind the idea that this process is somehow balanced and that there is enormous criminal activity going on in the building and construction industry?

We hear that point parroted time and time again: ‘The royal commission said there was criminal activity.’ The royal commission reported a long time ago now. How many prosecutions have there been as a result of the royal commission’s findings? Not one. If the industry was riddled with organised crime, intimidation and thuggery—all the things that they accuse the building industry of—then, after a royal commission that the government spent $69 million on and which produced secret volumes of findings that have been handed to every state department of public prosecutions, don’t you think that there would have been at least one prosecution?

This is an industry which they tell us makes up seven per cent of our economy. There are hundreds of thousands of employees in it. It has important flow-on effects for the economy. Don’t you think that, if any of their claims were even remotely true, there would have been at least one prosecution? But there has not even been one. It really makes their claims sound very hollow. Very little of what they say in this debate about industrial relations rings true. When you actually challenge some of the evidence put up, there is nothing behind it.

This is the rub; this is how they do it. They make allegations in this place. Other people repeat the allegations. Then other people repeat the allegations as if the allegations have been tested and proven. They convince themselves—there is no question of that—that they are true. But the reality is that there is no basis behind them; there is no truth behind them. They are an absolute con. This is how the government work. They are going to keep developing that con over and over again by saying the same things over and over again, because they believe that if they say them often enough, forcefully enough and passionately enough they will become true.

Minister, they will not become true. You do not have the evidence. You have some statements made by a royal commissioner who presided over a royal commission that was set up months before a federal election as a political stunt. That is all you have. I know you will fall back on it; I know you want to rely on it. But we on this side of the chamber know the truth about the industry and it is not as you portray it.

That is not to say—in case anyone gets the wrong impression—that the industry is perfect. We acknowledge that it is not. Anything that involves large numbers of people and businesses, very complicated structures and very complicated building techniques is never going to be perfect. There are always going to be some rogues in the industry—on all sides. No-one says it is pure. It is a rough and a tough industry. But it is not the basket case that this government talks about.
Last night we heard the minister starting to argue against his own legislation. He started to tell us that since the government came to power all the workers are happier. I think the quote was, ‘Workplaces are happier places. They are more efficient and more productive and they have higher pay.’ He talked about how the economy has been booming and how there is low unemployment. He was dressing it up. Given the size of the construction industry in our economy, why do we need all of this? What is the serious problem? There have been no prosecutions. We know there is a lot to be done. If the government wanted to concentrate on tax evasion—(Time expired)

Senator WONG (South Australia) (10.44 am)—I want to put on the record Labor’s view about Senator Murray’s amendments. We do not agree with the establishment of this body, but in general we believe governments have the right to appoint persons to appropriate statutory authorities. As I think Senator Murray said previously, we have voted against similar amendments. We acknowledge that. However, we have great concern about the objectivity of the proposed building and construction industry commission and the Australian Building and Construction Commissioner, and our concerns as to his or her objectivity are well grounded. They are based on our experience of the Building Industry Taskforce, their record to date, their practice and, as has been documented in the debate, what many observers would regard as a significant weighting towards investigating unions and employees and a significant underweighting in relation to the investigation of other aspects of non-compliance, such as breaches of awards, underpayment of wages and the like. So, in the context of our concerns regarding the Building Industry Taskforce, this legislation and the Building and Construction Commissioner, we will on this occasion be supporting Senator Murray’s amendments.

Senator ABETZ (Tasmania—Special Minister of State) (10.45 am)—The government will be opposing the Democrat amendments for the reasons that we have outlined numerous times in the past. Unlike the Labor Party, at least we are going to be consistent again. There is some certainty with this government. I will briefly put on the record the reasons why. First of all, the government does not support the proposed Democrat amendments in this tranche of amendments we are looking at.

We believe the first proposed amendment is unnecessary as the definition of ‘commissioner’ already includes ‘deputy commissioner’. The government do not support the second or third proposed amendments as they are unnecessary and inappropriate. The bill already requires that the nominee has suitable qualifications or experience and is of good character. That is set out in section 15(3) of the bill. Probity checks are routinely conducted by the department on significant appointments. As well as requiring nominees to be appropriately qualified and experienced, cabinet guidelines apply additional procedures to appointments concerning the relatives of ministers, members of parliament, ministerial staff, departmental secretaries and agency heads. Departmental reporting requirements also ensure openness and transparency.

We had a last minute flourish and an attack on the royal commission by Senator Marshall. I respond by saying that, if you have the proof, you do not need a royal commission. You get allegations or suggestions and, if you believe that they are serious enough, that is what motivates a royal commission to make findings in relation to the allegations that are made. I also indicate that it was not the role of the royal commission to
prosecute offences. The work undertaken by the royal commission has informed the activities of a number of people, but I think mainly the Building Industry Taskforce. However, the commission had over 700 witnesses give evidence to it. It is hardly a conspiracy set up by the government when you have 700 witnesses detailing, chapter and verse, the culture of the building and construction industry.

I indicate that in the 23rd volume of the royal commission’s report there were 33 recommendations relating to the protection of workers’ entitlements. Why do we not hear about the royal commission’s findings and that they were undoubtedly referred to and dealt with?

**Senator Marshall**—Why don’t we see legislation about it? Where’s the legislation?

**Senator ABETZ**—Because I would assume that in those cases the vast majority of it was protected by existing law and had not been flushed out. Even with the union’s activities in looking after workers, the royal commission flushed out 33 extra cases, and that was of course to the benefit of workers. But, as I indicated, the Building Industry Taskforce took on the findings of the royal commission. Yes, Senator Marshall is right—did the royal commission prosecute anybody?

**Senator Marshall**—I never said that. I said ‘resulting from’.

**Senator ABETZ**—Resulting from it we had the Building Industry Taskforce and, as at 16 August 2005, the task force has put a total of 29 matters before the court—15 are still before the court, 11 have been successfully prosecuted and only three have been unsuccessful. So we have a situation where the findings of the royal commission did inform the task force and certain prosecutions have been taken. As is the wont with prosecutions, some will fail and some will get up, but I think that is a fairly high success rate by anybody’s standard. As I have indicated, the amendments that are before us are opposed by the government.

**Senator MARSHALL** (Victoria) (10.50 am)—Once again the minister, maybe not deliberately, has tried to misrepresent me. What I was clearly identifying were the prosecutions resulting from the royal commission itself. They are not to be undertaken by the royal commission. It is about all this so-called evidence that the government claims is based on their decisions. All that information was passed on in the secret volumes to each state’s department of prosecutions, and there has not been a single prosecution arising out of that, and that is clearly what I said. If you want to talk about the Building Industry Taskforce, let us do so. Let us talk about a couple of things we should note about that particular body.

Let us look at a bit of their record and some of the statistics I have at my disposal on this. They are from the task force’s web site. Between 1 October 2002 and April 2005 the Building Industry Taskforce received 2,827 hotline inquiries. This was over a period of 942 days. Across Australia that equates to around three phone calls per day or around $8,631 per phone call, according to its budget. Remember that this is from 1 October 2002 to April 2005, with the backdrop of the task force’s budget—its total cost—of $24 million. Let us look at its cost-effectiveness for a moment as well. The task force has conducted 2,734 site visits in this time. That equates to around $8,925 per site visit. The task force claims to have conducted 115 investigations during this time. That equates to around $212,174 per investigation. Of these investigations, only 11 have actually been to court and have had resolution. That equates to around $2,218,181 per completed matter. A further 11 matters are still before the courts at the moment.
In total, only 22 matters have been to court at all. These have cost the taxpayer around $1,109,090 each. Penalties recovered through this process have ranged from $500 to $8,500. That gives you a measure of the sorts of things that the task force is actually prosecuting. From the successful prosecutions, fines have ranged from $500 to $8,500, so the final figure for total penalties recovered to date comes in at a grand $39,200—hardly a figure proving the government’s constant rhetoric that this is an industry dogged by illegal behaviour.

What do some of the courts say about this body? Justices in courts such as the Federal Court of Australia have made numerous comments and remarks in a number of cases about the operations of the Building Industry Taskforce. For instance, Justice Hughes in the case of Alfred v CFMEU described the task force as—and these are the justice’s words—a ‘shadowy group’. In the case of PG and LJ Smith Plant Hire v Lanskey Constructions in 2005, in which the Building Industry Taskforce was backing the applicants, Justice Wilcox remarked:

... the applicants' case was beset with legal difficulties that would have required it to be dismissed in any event. Even on the view of the facts propounded by the applicants, their case was hopeless. It was instituted without reasonable cause.

And of course that is one of the cases the task force add into their statistics—cases that have been instituted without reasonable cause. In the decision in Pine v Seelite Windows and Doors Pty Ltd, Justice Finkelstein remarked:

In these circumstances this action is much ado about nothing. True it is that the laws of the land must be obeyed. It is also true that the Building Industry Taskforce is entitled to take all reasonable steps to ensure that the laws, for which it has some responsibility in enforcing, are complied with. As I have said, not every contravention of every law needs to be punished. Often a caution will suffice. But, as it has been decided that there should be an action, I must deal with it.

The judge went on to say:

Should I impose a penalty on the respondents? No harm has been done to anyone. The contravention was inadvertent. It is unlikely to occur again. The amount of wages involved is insignificant. In these circumstances it would be quite wrong to punish the respondents. Nothing would be achieved by the imposition of a pecuniary penalty. There is no need for a specific deterrent: it is simply not necessary. And if any penalty were imposed it would be so low that it could not act as a general deterrent.

Again, the point I am making is that these are the cases that the task force include in their statistics, the very small handful of statistics over the last few years from a body that has spent $24 million going around hunting for breaches of the Workplace Relations Act in an incredibly large industry across the country—an industry, according to this government, that is beset by lawlessness and criminal activity. Again, it just does not ring true.

As the justices have said in those cases—and I am not saying it is all cases—that add to the statistics in that very small handful of cases, they are trivial in nature and much ado about nothing. That is the extent we have got to. But it does not matter, because this government want to prosecute. They think they are on a good thing. They have got a propaganda machine going. They have invested $69 million in the royal commission. They have got an agenda waiting for working people in this country. It is not going to be a pretty agenda; it is going to be a very painful agenda. That is where they are going, but we will be arguing against it all the way. Based on what the minister said in his last contribution, I just wanted to put some of those things on the record, because the government’s claims and their rhetorical flourishes do not stand up to proper scrutiny. Unfortu-
ately, given their new-found arrogance with their numbers in the Senate, although we will challenge them all the way, at the end of the day they will march on regardless.

Question negatived.

Bill agreed to.

BUILDING AND CONSTRUCTION
INDUSTRY IMPROVEMENT
(CONSEQUENTIAL AND TRANSI-
TIONAL) BILL 2005

Bill—by leave—taken as a whole.

Bill agreed to.

Bills reported without amendment; report adopted.

Third Reading

Senator ABETZ (Tasmania—Special
Minister of State) (11.00 am)—I move:

That these bills be now read a third time.

Senator WONG (South Australia) (11.00
am)—It is clear from what has occurred in
the committee debate that the Building and
Construction Industry Improvement (Conse-
quential and Transitional) Bill 2005 will be
passed. It is clear that the safeguards that
Labor and the Democrats combined to put
into the predecessor legislation will not be
included, and it is clear that this government
will continue in its overt pursuit of the build-
ing union and of building industry employ-
ees. It is important that we place on the re-
cord what is going to occur here today. The
government is going to pass legislation that
will regulate the activities of one sector of
the Australian work force, which will expose
that sector to far greater penalties and far
more stringent regulation than the rest of the
Australian work force.

Why are the government doing it? They
are doing it because, frankly, they know that
they can. They know they can construct this
ogre of a building worker—a building
worker who does the wrong thing and does
not turn up to work. From the rhetoric on the
other side, you would think that all building
workers were thugs and criminals. This
rhetoric creates an image of a building indus-
try employee and therefore justifies the gov-
ernment intervening. They do not mention
that the great majority of building and con-
struction workers in this country are just or-
dinary Australians: Australians who are
working for a living and working in an indus-
try that is often dangerous, that is difficult
and that does make a substantial contribution
to the economy. They do not mention the
building we are in. In fact, every building
that we live and work in has been built by
the building workers of Australia. They want
us to focus on this continued lie that the great
majority of building workers are somehow
doing the wrong thing and the great lie that
all that the building industry unions do is do
the wrong thing. We know that is not true.
We know that is yet another example of the
government’s tactics, whereby they under-
mine and create a negative stereotype of a
particular sector of the Australian population
in order to justify draconian legislation or
differential treatment.

Australians are entitled to ask several
questions. Why is it that building workers in
this country ought to be treated differently to
other workers? Why is that the case? Why is
it that building workers in this country ought
to be exposed to penalties that the rest of the
Australian work force is not exposed to?
Why is it that building workers ought to be
exposed to this concept of what is called
unlawful industrial action when that is not a
statutory concept known under the Work-
place Relations Act, which is this govern-
ment’s own regulation, this government’s
own legislation and which applies to every-
body else? Why are we singling out con-
struction employees? That is the salient ques-
tion. Why must they be subject to the provi-
sions of this bill? Why must they be subject
to more stringent legislation? Why must they
be subject to greater penalties? What makes them so different that they have to operate under a completely different set of principles and far harsher legislation than every other Australian worker? Why is that?

That is what this bill does: it creates this notion of unlawful industrial action. What flow from it, of course, are increased penalties. If the government believed that that was such an important concept, they would have put that into their Workplace Relations Act. But they do not. They will not do that. They will only do it in relation to this bill—although, having said that, we never know what they might do when we get the next piece of industrial relations legislation. Currently, they are saying: ‘We are going to create this new offence with a civil penalty. We are going to create this new concept of unlawful industrial action, and the only people in Australia who will be subject to it are building workers.’

What else are they going to do? They have also given building workers lesser rights when it comes to acting in relation to health and safety. Most Australians would think this is ludicrous. If you ask most Australians in the street which industry they thought was one of the most dangerous in Australia, most of them would say it is the building industry. My colleague Senator Webber reminded me before of the mining industry—that is pretty high on the list—but a lot of people would say the building industry. But because of this government’s concerns about industrial action taken—they say illegitimately—for health and safety concerns, what they are giving building workers is a lesser right than every other worker in Australia to not work when they think it is not safe. So a building worker in an industry that most of us would regard as one of the least safe in Australia has a lesser right than other workers to stop work when she or he thinks it is unsafe.

**Senator Murray**—And a lesser right than a building worker building a house.

**Senator WONG**—That is true. Senator Murray makes a very good point. Where is the logic in that? There is no logic in that. The only logic is when you understand the political agenda that is driving this legislation and that is at the heart of this legislation. It is about targeting certain workers and a certain union. That is what this legislation is all about, because you cannot justify that on policy grounds. How can you justify on policy grounds someone in the commercial construction industry, which is known to be one of the most unsafe industries in Australia, having less of a right to stop work because they think it is unsafe than a worker in the general population and in other industries? There is no logic in that. It is only explicable by the government’s political agenda to target a group of workers because they think they can. They have engaged in demonising them, in stereotyping them, in trying to get Australians to think that all of these people, or a substantial proportion of them, do the wrong thing, are engaged in criminal activities or are thugs—or any of the various other insulting ways that this government have described building industry employees.

What else are they exposing building workers to that no-one else is exposed to? This is an interesting issue. One of the aspects of this legislation that we did not discuss much in committee was the ability of the Australian Building and Construction Commission to publicise noncompliance. The body that the government are proposing to establish under this legislation is allowed to publish the fact that someone has not complied with the legislation or with the law more generally. It is a very unusual provision. Most of the time, with bodies such as ASIC or the ACCC, the publicity comes from the fact that the action is taken and then the press report that fact. For example, we
know about ASIC’s investigation of Mr Vizard, and there has been a lot of press commentary about that, and we know about the ACCC’s consideration of matters because the press report that. Why is the government putting in this bill that this statutory body has the power to publicise noncompliance?

What is interesting about that is clause 67, which allows for details of noncompliance. If you look at it, you would argue that that might even occur where a court or an independent body has not in fact found that there has not been compliance. For example, noncompliance with clause 28, which is the provision of a written report to the commissioner on compliance with the building code within a specified period, is simply a matter of fact for the commissioner to establish. If somebody failed to comply with clause 28, the commissioner can make the decision that they failed to comply and then publicise it, without the issue having to go before an independent tribunal. Arguably, natural justice does apply and the commissioner would have to respond after hearing from the person that they were making the publicity about, but that is not in the legislation. I hope that would be implied. So you have a situation where the commissioner can publicly come out and declare that somebody has failed to comply with pieces of this legislation or with the code, without even having to go before an independent body. Why should building workers be subjected to that? Does that apply to any other worker in Australia? I do not think so.

Perhaps one of the most important and clearly, we say, biased aspects of this legislation is the test on coercion, which is included in clause 70. It used to be clause 248 in the 2003 legislation. The Bills Digest, which discusses the 2003 bill, highlights particular concerns about the potential reach of this aspect of the bill. Clause 248, which is now clause 70 of the bill that we are discussing, deems that the ability, willingness or eligibility of a person to do things is irrelevant when considering provisions which deem someone to commit a contravention—and/or the same as an actual contravention—of the bill. The digest said:

This appears to mean that merely encouraging someone to do something that either cannot be done or was not in contemplation can amount to a contravention of the Bill attracting substantial penalties.

If that is correct, the coercion provisions that have been put into this legislation that will apply to building workers mean that, even if a building worker merely encourages someone to do something either that they cannot do or that was not in contemplation, it could in fact amount to a contravention of the legislation. It is an extraordinary provision. In this government’s desire to cast the net as wide as possible and to pick up all aspects of what it sees and defines as inappropriate action by building workers or their union, it has come up with a definition that means that, even if someone simply encourages someone to do something that cannot be done or was not in contemplation, that could attract substantial penalties. It demonstrates the lack of even-handedness when it comes to the government’s drafting of this legislation.

In short, Labor will be opposing this legislation, just as we opposed the 2003 bill. We do not think that it is appropriate to put one set of Australian workers under far harsher and more stringent regulation than another set. We do not think that it is appropriate for workers to be treated differentially simply because a government do not like the union and the industry in which they work or because there are problems in a particular industry. We also agree that there is no place for criminality or lawlessness in any sector of the economy, let alone the building industry. But we do not believe that creating industry specific legislation which has the ef-
fert of giving fewer rights and imposing harsher penalties on a set of Australian workers is the way to go. Whenever we ask why it is that we have legislation that is targeting particular employees in Australia, particular Australians, the only answer the government can give is this rhetorical answer about the lawlessness in the building industry. They do not go back and work out how to enforce existing laws. Instead, they dream up a piece of legislation which imposes far harsher penalties on one set of Australian workers. Why do they do that? Because they think they can. We will oppose this legislation. We will continue to oppose this legislation. We think it is wrong.

Senator MURRAY (Western Australia) (11.14 am)—May I compliment the shadow minister on her clear enunciation of principle. I thought it was an eloquent summation of the Labor position. For the reasons expressed in our minority report in the inquiry into these bills and for the reasons I expressed in the second reading debate and throughout the committee stage debate and for many—probably most or nearly all—of the reasons expressed by Senator Wong, the Democrats will be opposing the bill.

Senator BOB BROWN (Tasmania) (11.14 am)—I agree with what Senator Murray said in his contribution to the debate. The Greens will also be opposing this legislation.

Question put:
That these bills be now read a third time.
The Senate divided. [11.19 am]
(The Deputy President—Senator JJ Hogg)

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Question agreed to.
Bills read a third time.
COMMITTEES
Environment, Communications, Information Technology and the Arts Legislation Committee

Membership

The ACTING DEPUTY PRESIDENT (Senator Hutchins)—The Deputy President has received a letter from a party leader seeking to vary the membership of a committee.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (11.22 am)—by leave—I move:


Question agreed to.

BUSINESS
Consideration of Legislation

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.23 am)—I move:

That:

(a) the following bills be introduced:

Telstra (Transition to Full Private Ownership) Bill 2005, and
Telecommunications Legislation Amendment (Competition and Consumer Issues) Bill 2005; and

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

Senator LUDWIG (Queensland) (11.23 am)—I rise to speak on the motion moved by Senator Ellison. What Senator Ellison has moved today is a procedural motion to allow the Telstra legislation to be introduced. It is a motion for the provisions of paragraphs (5) to (8) of standing order 111 to not apply to these bills, which then means that they can be considered during this sitting. What we saw yesterday was an abuse of the Senate by the government. What they did yesterday was to amend a reasonable motion to allow reasonable consideration of a government bill by a legislation committee to ensure that there was proper scrutiny of that legislation. They moved that amendment yesterday, which, as I have said, was an utter and complete abuse of the process and procedure of the committee.

That amendment yesterday also had a couple of barbs in it. Not content to destroy the processes and procedures of the committee once, the government did it a number of times within that amendment. What that amendment did was to ensure that not only would the scrutiny of the legislation be reduced to fewer than four days but also in reality there would be the ability to have only a one-day examination of it by a committee. It also said that the second reading debate would be started on the introduction of the legislation, at the time when senators would want to read the legislation to see what was contained within it. This motion seeks to ensure that the bills are introduced. The motion yesterday was trying to second-guess what was going to happen today, which also makes it completely inappropriate. I will come to what today’s motion does.

The amendment to yesterday’s motion means that the second reading debate will proceed after the exemption from the cut-off motion today and then the bills will be referred to a committee. The usual process, the usual procedure, in the Senate is that the second reading debate is held after a committee has reported so that senators can be informed by that committee report during the second reading debate. That procedure has been fol-
allowed for years now. This government does not want to do that. This government wants to set its own agenda in a very short time frame to suit the exigencies of its own political imperatives. What the government seeks to do in this motion is to use the devices of the Senate to ensure that its way of proceeding with the legislation is dealt with.

The government has used the phrase ‘reasons for urgency’ in its statement on these bills. The statement says:

The bills are part of a package of measures relating to the further privatisation of the government’s remaining shareholding in Telstra and future proofing of telecommunications services in regional, rural and remote Australia.

Senator Joyce might want to read that more closely. I think that there, in that statement, is a falsehood told by this government—that is, that there will be future proofing of telecommunications services for regional, rural and remote Australia. It is very unlikely. But I will come to that debate during the substantive part of the bill.

The issue is that the passage of these bills is necessary to ensure that these measures are in place before 1 January 2006. So where is the urgency to start the second reading debate today, before the bills have gone to a committee, before the committee has been able to look at them, even within a reduced period? There is no urgency. A bill that is introduced into the parliament in this session can still be available for debate in November. These bills could still be available in November and completed before December—and certainly before 1 January 2006—even under the model that exists now. Senator Conroy’s motion yesterday gave a hint of an even better situation when he indicated that a reasonable basis would be to ensure that the committee stage went for at least one month, to allow for reasonable scrutiny of the bills. Thereafter, if the government were to speak to the opposition and ask to introduce the bills to be dealt with, I have no doubt that that would be given proper consideration by the relevant shadow minister.

But in this procedure the government has now sought to throw out the rule book and say: ‘We’re going to write the rule book each day. We’re not going to tell you in future what rules we might adhere to.’ What Minister Ellison needs to explain in his contribution to this debate is what rules he is going to obey in this place, what procedures he is going to adopt, which ones he is going to throw out because they do not suit him any longer or which ones he might decide he does not want to deal with from here on in. Without the rule book it is going to be Rafferty’s rules. Senator Ellison is going to make the rules up as he goes. We are going to have Rafferty’s rules apply in this place, because each time there is an impediment because of a rule the government is going to throw it out. Each time the government finds that a rule is inconvenient or inconsistent with its plans, or it is not happy with a rule, or a rule does not suit Senator Joyce, or a rule affects the government’s ability to have a matter dealt with or heard, it is going to bring in an amendment to throw it out or to get around it, to circumvent its operation, in order to ensure that the Senate will not be able to properly scrutinise or deal with legislation.

If it has not been apparent up until now, I make it clear that the opposition will not be supporting the exemption from the cut-off, because this is yet another attempt by this extreme government to force this legislation through without attracting too much public attention. What it wants to be able to do is slip it under the carpet and say, ‘We want this legislation and we want it now.’ This is just another example of this government trying to use its numbers in the chamber to take power away from the Senate and turn the Senate from a house of review into a sausage fac-
tory. That is what Minister Ellison would like it to be.

The cut-off was introduced to prevent exactly what is happening today, to prevent a government from doing what this government are doing now. Under the cut-off, a bill introduced by a minister or received from the House of Representatives is to be deferred until the next period of sittings unless it was first introduced in a previous period of sittings and is received by the Senate in the first two-thirds of the current period. What that means is that a process was available to this government, if they had got their house in order, to get the bill dealt with if it got it in before two-thirds of the current sittings had finished. But, no, they could not manage that. So what they have now said is: ‘We’ll exempt it from the cut-off. But what we will not do is explain fully why.’ They do not need this legislation until next year, so they could introduce it today and have it dealt with in the ordinary course of events in the next sitting period. Senator Brown, who might also want to contribute to this debate, might detect that on many occasions the opposition have agreed to an exemption from the cut-off, sometimes against his wishes. But, in those instances, there has been consultation, dialogue and an acceptance that the bill is urgent, and the government has been able to demonstrate that there is an urgency that requires that the bill be dealt with.

The opposition have always accepted the point that if there is a demonstrated urgency requirement and there has been consultation by the government, including with the minor parties, then there is a case that can be made. The opposition have always said that, in determining whether or not we will accede to a request for exemption from the cut-off, we will treat it on the principle that has been espoused in the Senate over many years—we will treat it on its merits. In this instance the government has not been able to make its case. It has not consulted widely on this. It has simply sought to punch the bill through using its numbers. It has not acceded to our view that the matter should be dealt with by a committee for a reasonable period of time to ensure that the debate can be informed during the second reading stage. What we have not agreed to unless really special circumstances permit, and only where there is agreement, is to have second reading speeches proceed whilst the committee stage is dealt with afterwards. The whole purpose of having a legislation committee looking into the bill is to have it inform the senators here so that they can contribute to the second reading debate, and if there are any recommendations that come out of that then they can inform the committee stage of debate in the Senate.

It is interesting to note what Senator Hill said in a speech in this place back in August 1993. Of course, at that time he was in opposition. He said:

This chamber was constantly frustrated by large numbers of bills being introduced at the end of a session and the chamber therefore not have the opportunity for proper deliberation of those bills. Former Senator Macklin, the Deputy Leader of the Democrats at the time, put to the Senate a cut-off date—it became known as the Macklin motion—a deadline, usually about a month out from the end of a sitting, where we said to the House of Representatives, ‘If you do not have to legislation before us by this date, it will not be considered by the Senate.’ The result was that the Government did get to the Senate by that date legislation it regarded as essential for passage within that particular parliamentary session.

Before the cut-off was introduced, the Senate was repeatedly plagued with end-of-sitting rushes of legislation which would see huge amounts of government bills being introduced or received. This would result in the legislation being passed with greater haste than during the earlier part of sittings, leaving inadequate time for proper consideration
of the bills. In proposing the cut-off in 1993 Senator Hill said:

All that is being proposed in this motion today is the setting up of a structure that would enable both houses of this parliament a reasonable time to consider the government's legislation.

Hollow words now, Senator Hill.

This bill is being introduced in the Senate today at the very same time that the government asks for the exemption from the cut-off so that not only is the bill to be introduced but it will also be heard, moved to the first reading and then moved to the second reading today if the government's plan eventuates. It appears that this is exactly what it planned to do the whole way through. The government's intention has been to confine and reduce the debate to ensure that the bill would not get proper scrutiny.

Of course, the consequence of that, if their plan succeeds—as it is likely to given that they have the numbers and the power in the Senate to bully their way through—is that the committee stage is then also likely to be truncated. This government would like nothing more on this issue than to conceal and cover it up, as the latest Telstra fiasco shows. They do not want to give Senator Joyce the opportunity to change his mind, either. They want to ensure that they have tucked under their wing the ability to sell Telstra now, rather than deal with it in a reasonable time over the course of the coming months. They do not need that ability until next year, as I have said.

The government do not want us to think about this bill. The government do not want delay in relation to this legislation. And the opposition have said, 'Neither do we.' We have offered a reasonable compromise to ensure that the bill could be dealt with, but the government—and perhaps this is the true reason behind it all—do not want scrutiny thrown on Telstra. They do not want the Senate to turn the spotlight on it. Instead, they want to scuttle away into the dark corners where they are perhaps more comfortable in relation to this debate.

Let us examine a little history, because it was the same characters that make up this government that first introduced the cut-off, and it is now coming back to haunt them. I hope I hear Senator Hill's contribution in the exemption from the cut-off debate because it was in fact Senator Hill, the then Leader of the Opposition, who put this procedure in place. To quote him again:

The parliament does not set the program; the government sets the program. But, in our view, the parliament has the right to have a reasonable time to consider that legislation. I do not care whether we are in government or the Labor Party is in government in this regard: when masses of bills are guillotined through either chamber without the parliament having time to consider them, the process does not operate well. We should all regard that as unsatisfactory. We simply do not accept that a government putting good faith into practice cannot organise its program in a way that allows the parliament to fulfil its responsibility.

They are words said by Senator Hill in 1993 and which this government today has abandoned completely. He crossed his heart and said, 'I do not care whether we are in government'. He needs to explain himself today, because it is a question now of whether he still holds that commitment or is in fact joining with his fellow moderates, and perhaps Mr Ruddock, in their descent into the dark side.

The original reason the cut-off and its predecessor the Macklin motion, later amended by the Greens, were introduced has been put down to the fact that ministers or departments were deliberately delaying the introduction of legislation with the intent that it would be passed without proper scrutiny through the Senate. Of course, you can be sure that a government might want to use
that process and say, 'We will not put a bill up. We will hold back, because it may be able to slip through without proper scrutiny.' That is what this government is doing. Many ministers often used the excuse that the government bills which accumulated at the end of sittings were urgent, but this was usually contradicted by the fact that the legislation’s urgency had not been stated at the time of its passage. In this instance we are not even at the end of sittings and the government is using this device to bring a bill on for debate. We are not even at the point where bills are accumulating and I suspect this government will say something on the lines of, 'We have only got four or five weeks of sittings left to deal with this legislation.' It is the government’s program and agenda. They have the right to manage their program. No-one is arguing about that. But the government is unable to schedule bills—to deal with in se-riatim and finalise bills. Ministers do not have their bills ready. Ministers do not have their bills available for debate.

This is but one example, but it is a cogent example of a government that is rorting the system. The opposition always looks critically, as I have said, at any bill the government seeks to exempt from the cut-off. This is not one that should be. The government now have a majority and they are planning to abuse their numbers in the chamber and wield their power like a club to bludgeon the Senate into submission. That is what they are doing today. They did it yesterday. They did it when they reduced the number of questions for the opposition and minor parties in question time. This is the third iteration of their opportunity to do it, and they have another amendment on the books where they are going to force the Senate to operate within certain hours, again without consultation and without agreement. This place has operated with agreement—(Time expired)

Senator BOB BROWN (Tasmania) (11.43 am)—If there was ever a major piece of legislation where the Senate should be judicious and have plenty of time, it is this piece—this collection of legislation to sell Telstra. And when you look at the reasons for urgency given by the minister, Senator Ellis-son, there are none. The word ‘urgent’ does not appear in amongst those reasons. This is simply a facilitation of a sale on a political whim, with the Prime Minister using the Senate as a rubber stamp. This is the executive reducing the Senate to a rubber stamp on a time line that is politically convenient for the Prime Minister.

I will move an amendment to the government motion which we are dealing with by adding a new clause which reads:

In the meantime the Prime Minister desist from any further injudicious influence on Telstra, or its executives, to falsely talk up the company’s interests.

What a remarkable dereliction of prime ministerial duty it was for the Prime Minister yesterday in this place to counsel the executives of Telstra to talk up how the company is going. The Prime Minister, fresh from condemning the very same executives for what he said was talking down Telstra, then says, ‘But you should talk it up instead.’ One does not have to be an expert in the way in which markets work to know that it is an executive’s duty to neither talk it up nor talk it down but to tell the truth. We have a prime minister whose record on that score is wanting. We have a prime minister who did not tell the truth when it came to the children overboard affair, who was wanting for the truth when it came to weapons of mass de-struction in Iraq and there are legion other events. Whichever way one lines up on po-litical spin, the advice of the Prime Minister that the executives of Telstra should be in-volved in spin to the people whose money depends on being accurately informed of
when to buy, sell or hold shares was remarkably bad. One has to ask the question, 
'Is the Prime Minister above the law?' Is the Prime Minister above telling other people to 
breach their executive duties? The answer to both questions is no. This is a prime minister 
who has behaved badly not only to potentially millions of Australians who may be 
involved in share dealings in Telstra but also to everybody in Australia who has an interest 
in telecommunications. The Prime Minister should be censured for having been so remiss 
in making the statements he did yesterday. Had it been said by somebody else in this 
parliament the Prime Minister would no doubt have immediately tackled them about 
it.

Somebody observing this in the commercial world said, 'The Prime Minister should take a chill pill.' I suggest that the Prime Minister take a truth pill, and that the Prime Minister advise executives in Telstra to tell the truth. That is all that is required. The executives are not politicians, nor should they try to be. It was remiss of an executive to be informing the market that he would not advise his mother to be taking shares in Telstra. That is a direct signal to the market, and the market took that signal and down went the price of Telstra shares. But the Prime Minister was no better yesterday when he indicated to exactly the same people that they should be talking up Telstra's wellbeing. He did not tell them to tell the truth, but to talk it up, spin it and misinform the market—which ultimately means the shareholders of Australia. It was a very faulty day for prime ministerial behaviour and politics in Australia.

This motion is a clear signal to the Prime Minister to improve, to pick up on that behaviour and to do better. He should apologise for the injudicious statements he made yesterday. It is not the duty of the Prime Minister to intervene in that way—in fact it is a failure of his duty. I noticed that the authorities are looking at whether Telstra executives have not been releasing to the market all the information that should be passed on—at least that is what the papers are saying. Information, including the predictions coming out of Telstra about how it is going to perform in the market in the future, is one thing—and, yes, it should flow to those people who are affected by the internal workings of Telstra—but for a prime minister to come in over the top of that when he has a political bee in his bonnet to sell Telstra is another thing.

He has suddenly got the National Party to agree. By the way, where are they? Here we are at the start of this truncated debate and we only have one of the five of them in here. Where is Senator Joyce, where is Senator Boswell at this moment when we are discussing the way in which this debate is going to be rammed through the Senate without a proper input from the people of Australia because the government says, 'We want to get out of here, with this legislation through by the end of next week.' It is an appalling way for the government to be behaving towards those Australians who have an interest in this matter, and I submit that there are more than 20 million of them. Whatever else, the National Party, which is saying, 'We must consult our constituents all the way down the line,' ought to be ensuring that when these bills do hit the Senate they go back to their constituents and consult with them. That is not possible under these circumstances of effectively cutting off that period of time built into Senate law in standing order 111 which will be removed by this suspension of standing orders that we are dealing with.

Where is Senator Coonan, the Minister for Communications, Information Technology and the Arts? She was just saying in here yesterday that the Senate will follow due process. She said that the normal processes
of the Senate will be followed. It is not normal to suspend standing orders; to cut the ability of the public to have input to the Senate. We pride ourselves, and our committee system, as being the house of review. If there is no time, there is no review. The Friday committee hearing is effectively a hollow gesture to the idea that the Senate ought to be able to go to the people and to seek feedback and be informed by the people before it debates an issue. That is what is being abolished here.

The Prime Minister will say that he is there for all of us but he is not. He is not there to allow the Australian people to have a say. You cannot have a say if you do not know what you are dealing with, and so far these bills have not been published. The Australian public does not know about them. We do know that there is one to two million shareholders out there who have a mighty high interest in what is going on. The government and the Prime Minister are saying, through the 39 members opposite—none of whom is going to vote against this and all of whom are going to fall into line—that those shareholders and those phone users should not have a say, should not be able to feed back into this debate as it gets rammed through the Senate, which is being treated as a rubber stamp by a Prime Minister who for too long has treated the House of Representatives and its committee system as a rubber stamp. We have government by the executive. The parliament is simply being sidelined.

You can predict what the vote will be next week. People may think that Senator Joyce or somebody else might cross the floor or could be influenced but no, that is not going to happen. The watchdog has become the biscuit puppy. Senator Joyce is not going to make a stand against this, nor will Senator Boswell, nor will the other National Party senators who should be, above all, ensuring that the public has time to feed their point of view into this debate. I oppose the motion as put by Senator Ellison and I move:

After paragraph (b), insert:

; and (c) in the meantime, the Prime Minister (Mr Howard) desist from any further injudicious influence on Telstra or its executives to falsely ‘talk up’ the company’s interests.

Senator FAULKNER (New South Wales) (11.54 am)—I also wish to speak in this debate. Today the government have brought to the parliament, again, the proposal for the full privatisation of Telstra. They intend to use their Senate majority to force it through with indecent haste. We have been given six sitting days to deal with five major pieces of complex legislation. The government are just trying to ram through these very fundamental changes to the telecommunications industry in this country. The legislation is important to the economy as a whole. The legislation impacts on every Australian and we know that 70 per cent of Australians are opposed to it. And yet, the extent of the scrutiny the government is prepared to allow is a referral of these five bills for consideration to a Senate committee for a perfunctory one-day hearing on Friday of this week into the detail of this legislation.

Two of the bills, the Telstra (Transition to Full Private Ownership) Bill 2005 and the Telecommunications Legislation Amendment (Competition and Consumer Issues) Bill 2005 are being introduced into the Senate and we are now debating the cut-off motion in relation to those two pieces of legislation. Three other bills are being introduced into the House of Representatives today: the Telecommunications Legislation Amendment (Future Proofing and Other Measures) Bill 2005, the Telecommunications (Carrier Licence Charges) Amendment (Industry Plans and Consumer Codes) Bill 2005 and the Ap-
appropriation (Regional Telecommunications Services) Bill 2005-2006.

Earlier today, just one explanatory memorandum for these bills was available on the parliamentary internal electronic system. I checked a few moments before I came down to the chamber and now it is two out of the five explanatory memoranda that are available online for the members and senators to examine. So when the government spins that there is no need for any more debate about Telstra and that the Senate does not need to examine the detail of these bills because, they argue, we have had the debate already, they are being deliberately misleading. In the case of the Telstra sale bill, it is true—it has been debated before. In the case of the competition and consumer issues bill, it has never been seen before. It is new. In the case of the future proofing bill, another version of that bill has been debated previously. In the case of the Telecommunications (Carrier Licence Charges) Amendment (Industry Plans and Consumer Codes) Bill, it is new. It has never been debated or seen before in this parliament. In the case of the Appropriation (Regional Telecommunications Services) Bill, which I prefer to call the ‘slush fund bill’ because that is precisely what it is—even though it is a pretty pathetically miserable slush fund it is nevertheless a slush fund bill—it is a new bill. It has never been seen before. So it is a monstrous lie for the Howard government to say that these matters have been examined by the parliament before. They have not been examined by the parliament before: by any committee, at any stage, in any detail, ever.

Even with the totally inadequate reference for the examination of these bills for a few hours on Friday of this week, the committee, by virtue of the resolution of the Senate, is very limited in what it can examine. It is in fact prevented by resolution of the Senate from looking at the issue of privatisation.

The government does not want the committee to go there. The government has turned this miserable and pathetic committee inquiry on Friday into a complete joke by constraining the committee in what it can examine. But this is what I expect with the Howard government now in total control and with a majority in both houses of the parliament. I expect this sort of extreme agenda. I expect this sort of arrogance. And doesn’t it, combined, make a very ugly and undemocratic situation for us to deal with!

Senators should ask themselves why we are having this indecent haste. What is the rush? Why does this debate have to be completed by Friday of next week? Why do we have the remaining six sitting days in this sitting period to finish debate on these five bills? Why the indecent rush? I can tell senators why. At the end of this sitting fortnight the Federal Council of the National Party meets, and the sale of Telstra has to be signed, sealed and delivered before that meeting takes place on the weekend after next. The National Party sell-out on the Telstra issue has to be concluded by the end of next week, before the Federal Council of the National Party meets, because the National Party has completely sold out its constituency. We are used to that, I suppose.

We heard the Queensland Nationals beating their breasts about the fact that they had allegedly consulted the electorate on the sale of Telstra. Had they consulted the 70 per cent of ordinary Australians who do not want Telstra sold? They say they have consulted the electorate. What does that mean? It means that Queensland Nationals senator has gone up to Queensland and rolled out the numbers on the Queensland State Executive of the National Party. That is what consultation means in this case: talking to the Queensland State Executive of the National Party.
Meanwhile, 70 per cent of Australians are opposed to the full privatisation of Telstra. But does Mr Howard, the Prime Minister, listen to those 70 per cent of Australians? Does the National Party of Australia listen to those 70 per cent of Australians or even those Australians who live in regional and rural areas? Of course not. The National Party continues an absolutely unbroken record of never delivering for country people, never standing up to the Liberal Party, never standing up to John Howard, never crossing the floor in the Senate and always selling out. That is the modern National Party for you.

The same group of National Party senators has been consistently treated with utter contempt by Mr Howard himself. Not one National Party senator in this chamber in the history of the Howard government has ever made it to the ministerial bench—not one. Imagine Black Jack McEwen copping that! Not one of them has ever been good enough to make the miserable ministerial line-up of incompetents, duds and no-hopers of the Howard government. Not one of them has ever made it to the ministerial leather in the Senate. That says it all. They are all wanna-bes or has-beens—the whole lot of them. None of them ever made the grade.

Here we have a situation where one of them could have made a name for himself. But none of them have the intestinal fortitude to do so. I do remember that one Queensland National Party senator—that is, Senator Joyce; I have not yet met Senator Joyce and I look forward to doing so sometime in the weeks or months ahead—said before the last election, on 7 September 2004:

I agree with John Howard on most things, but I won’t be endorsing the sale of Telstra.

Oh, really? That is what the then Mr Joyce said.

Senator Bob Brown—That was last year!

Senator Faulkner—It was last year. What about the former President of the Queensland National Party, Mr Terry Bolger? I think he was President of the Queensland National Party for about six years. What a job! He said on 15 March 2005:

We won a Senate place in our own right, saying we would oppose the sale of Telstra. It was not with the Coalition ...

Thank you very much, Mr Bolger. Thank you, Mr Bolger, for your comment on 13 October 2004 that said:

Our policy is Telstra should not be sold. We are against any sale of Telstra unless the community tells us to do otherwise.

Mr Bolger, 70 per cent of Australians say, ‘Don’t do it.’ And the proportion and percentage is higher in rural and regional areas. And the proportion is higher again in Queensland. I must admit that just a few weeks ago—although it seems longer—Mr Bolger ceased to be the President of the Queensland Nationals, so I suppose all the rules have changed because he no longer has the gig.

This is all happening at a time when Telstra is in unprecedented turmoil. Everyone knows that the government forced out Dr Ziggy Switkowski. The Howard government appointed board gave him the flick; they told him to go. Then, with very great fanfare, a new Telstra chief executive was appointed, a chief executive who recently—in fact, less than three months ago—was described so warmly by Howard government ministers.

I saw what Mr Howard said yesterday about Mr Trujillo, so I went back and checked what the Howard government ministers said when this self-same gentleman was appointed as the new chief executive of Telstra. Let me quote, for the benefit of other senators, what they said.

I congratulate Telstra chairman Donald McGauchie and the board on securing the services of such a highly regarded chief executive
with deep knowledge and understanding of the telecommunications industry.

Senator Minchin said that. He also said:

Mr Trujillo’s experience covers the full range of business operations in which Telstra is engaged, including fixed line, mobile, broadband and directories.

And, Mr Acting Deputy President, you will not believe what good old Senator Minchin said next:

He—

Solomon Trujillo—

has a proven track record in delivering services to customers, returns to shareholders and maintaining a constructive relationship with regulators.

Wouldn’t you know it? This is the man who is now described by Prime Minister Howard as a disgrace!

What is Mr Trujillo’s offence? He has committed a cardinal sin under the Howard government: he has told the truth. And you cannot get away with that under Mr Howard and his government. He has told someone the truth. Telstra executives have reported to the government on the parlous state of Telstra. They have reported on Telstra’s underinvestment in infrastructure. They have reported that the dividends have been paid from reserves. As I am now a backbencher, I have a bit of time on my hands these days and so I checked out this wonderful document. The problems were outlined in dot points: the company did not make the investments it needed to make; they received 14.3 million fault calls; over 14 per cent of all lines have faults—that is nearly 1½ million phone lines; replacement of obsolete or non-vendor supported equipment was needed; the work force is ageing and there is a lack of training for new workers; and legacy IT systems are not capable of handling the volumes in new services currently being offered. Then Mr Trujillo says—and this is the killer blow—that $2 billion to $3 billion in additional investment should have been spent over the past three to four years.

Instead of making the investments it needed to make, the government has been obsessed with tarting up Telstra for sale. We know from the document that Telstra is borrowing from reserves to pay the dividend. On page 3 it says that Telstra is borrowing from reserves to pay the dividend—more than $550 million in 2005, rising to more than $2.2 billion in 2006. It also says that the Telstra board has already recognised that this kind of borrowing to pay dividends is not a sustainable policy or practice. Mr Trujillo reports this, and he is then branded a disgrace by the Prime Minister because he has told the truth.

What a classic example this issue we have before us is of government arrogance and deceit. The government knows the difficulties with Telstra. They have been informed that Telstra has been underinvesting in infrastructure. They know that dividends have been paid from reserves. But they are furious with Mr Trujillo and the board for actually telling the government and the public the truth.

The government says that the CEO’s job is to talk up the share price. I happen to think that the CEO’s job is to tell the truth—that happens to be my view. I do not brand anyone a disgrace if they tell the truth. The whole thing is an exercise in ensuring that we do not hear the truth. They do not want to hear the truth from Mr Trujillo; they do not want to hear the truth from the board of Telstra; they do not want to hear the truth from a Senate committee about five bills that should be subject to the most exhaustive, thorough and proper examination at this time. The way forward here is clear: the Senate should fulfil its accountability role. (Time expired)

Senator BARTLETT (Queensland) (12.14 pm)—We are debating at the moment
a motion by the government to allow the Telstra sale bills—the entire package—to be exempted from the cut-off motion. That sounds a bit obtuse. What it means in reality is that it allows bills that have not appeared until this very day to be debated straightaway without any examination at all. It is worth spending a few minutes looking at the context of the standing order that we are trying to waive. Senator Ludwig gave a reasonable history of this standing order, and it is one that I am particularly interested in because, as he said, it was originally called the Macklin motion, and Senator Macklin was my Queensland predecessor in the Democrats. I can trace my own seat in this place directly back to him. It is important to emphasis this, because we do have a lot of new senators in this place—I think 16 senators have entered this place in the last couple of months—and many of them might not be aware of that history and why this is a significant issue.

What this motion does in effect is overturn the principle and precedent, going back to the 1980s, that was put in place precisely to prevent this sort of grotesque abuse of process. The standing order that the government is seeking to waive in relation to the Telstra bills is one that requires that any bill that is introduced in the Senate is not to be debated until it has been in the Senate for 14 days. I would not have thought it was too much to ask on any significant piece of legislation to give the Senate—and of course it is not just the Senate but also the people in the community with expertise who provide feedback to senators—two weeks to look at the legislation and examine the consequences of it. This motion from the government seeks to overrule that standing order that has now been in place since the 1980s and which would otherwise simply provide the Senate with 14 days to look at the legislation.

Of course, we quite frequently exempt legislation from that cut-off motion. In fact, we did it just yesterday. But in my view the bills we did it to yesterday were relatively minor; they were neither complex nor controversial. As we all know, the Telstra legislation is not only controversial but also, more importantly, complex. It is complex and detailed, and yet it has appeared just today and we are expected to start debating it today. If we had not spoken on this motion and had just agreed to it straightaway, we would have been into the debate on the legislation before most of us had even had a chance to see it. As Senator Faulkner said, the details on many of the bills are still not available for us to start looking at. That is a significant subversion of the process.

I was speaking on this matter late yesterday and indicated that it was perhaps for the best that there were not the usual number of school students watching us and seeing this sort of travesty. We actually have a number of them in the galleries now, and it is unfortunate that they are witnessing such a serious perversion of democracy and of the parliamentary process. One of the core things you would teach any of the school students who are in here today learning about the parliament, learning about our democratic system, finding out how it really works in practice and getting that basic bit of education about it is that the government does not equal the parliament. The parliament, and the Senate in particular, are here to examine what the government puts forward. We are here to examine the laws. It is simple Civics 101: government proposes laws and parliament examines them.

However, what we are seeing here today is that crucial second part—that fundamental leg in our entire democratic system—being pulled away. When you have any system that is held in place by three different legs, as with the separation of powers, and you pull one away, the system falls over. That is not just unfortunate from some nice theoretical
point of view; it is unfortunate because the people who bear the cost and consequences are the people of Australia. So we are seeing a fundamental undermining of the political process here, as well as a deliberate, calculated spit in the face to a principle that the Senate adopted nearly 20 years ago.

Senator Ludwig pointed out some of the comments that Senator Hill made in support of the principle behind allowing proper scrutiny. Of course, Senator Hill does not hold the same view today. Senator Faulkner, perhaps a touch unkindly, pointed out that some of the National Party members here have not made it to the ministerial leather. Personally, I do not think that is too bad a thing. As I said, the parliament is important. You do not have to be a minister; I am not going to be a minister. Backbenchers can make a valuable contribution, but they make a valuable contribution by standing up for what they believe in, not just by being a number, a cog in the machine.

However, they may want to follow Senator Hill’s example. Let us look at Senator Hill’s example. He has been a great success. He has been Leader of the Government in the Senate for 10 years or more. He is possibly the longest-serving Leader of the Government in the Senate in our history. I would not be surprised by that. So I urge all new senators—and there are many of them here, including two National Party senators—to follow Senator Hill’s example. What did Senator Hill do when he was a young, fresh-faced senator first elected to this chamber back in, I think, 1981? He crossed the floor. He crossed the floor on issues he believed in. It did not hurt his career. He has been the longest-serving Leader of the Government in the Senate in history. Obviously that is the way to go. Follow the example of your leader, be true to yourself and cross the floor on issues of importance and you too may end up in the same position as Senator Hill. To all of those new people here who want to look to their superiors and find out how it is done, there is a good example for you.

We do have a serious situation here with the whole matter of where Telstra is placed at the moment. The motion before us is specifically about whether we should start debating the legislation straightaway, so I do not want to stray too far from that, but one of the reasons it is problematic to be overturning this principle is the incredibly serious debacle that Telstra, the whole telecommunications environment and the whole corporate environment now is.

Maybe now we are getting a sign of why the government was not so concerned initially about the regulators going a bit soft on Mr Vizard, because we have the Prime Minister of this country saying to the executive of one of our largest companies, ‘Your job is to talk up the price.’ Speaking as the majority shareholder who wants to flog this asset off, he is saying, ‘Your job is to talk up the price.’ As Senator Faulkner said, and as my colleague Senator Murray said outside this place earlier today, the role of the chief executive and that of directors when they are talking about their company is to tell the truth. Their role is not to talk up the price so the government can get as much money as possible—it is to tell the truth so that shareholders and people who are thinking of buying shares actually know what they are getting into. It sends an extremely serious message to company directors and executives around the country when you have a majority shareholder, in effect, who everybody knows wants to sell off their holding, telling people: ‘Talk up the price. Stop telling the truth—don’t talk about the facts, don’t lay out some of the problems, just talk up the price.’ That is an incredibly serious situation.

That leaves aside the issue of whether or not as the majority shareholder the govern-
ment were given what I would say was clearly price sensitive information about major issues to do with the problems inside Telstra when that information had not been made available to other shareholders. That in itself raises some problematic questions, but we will leave that to the regulator to deal with in terms of the law. What I am concerned about is the message that it sends at a time when a lot of people across the political spectrum have done a lot of work trying to improve corporate governance and trying to improve the culture of the way our corporations operate.

There is a really significant principle at stake with this motion, as there was yesterday with the resolution to establish a farcical, impractical and unworkable Senate inquiry process. This motion today compounds that problem, because what this motion expects us to do is to start debating the legislation before the committee has even had a chance to look at it. At least in their grand benevolence the government have allowed one day of hearing for the Senate committee to hear from people with expertise in this area about the legislation and what it might mean. But they will not even give the Senate the courtesy of allowing us to hear from those experts—to hear from the Senate committee, to read the submissions and to read the Hansard transcripts of the evidence—before we have to start debating it. They want us to debate it straightaway before the Senate committee has sat, before the submissions are in and before the evidence is in.

As I said yesterday, it is a pretty clear example of the arrogance of this government when they do not even feel they need to bother about looking reasonable and fair. They do not care how farcical it looks, because they do not think it matters. They think they can get away with anything. They think, ‘People don’t want Telstra to be sold, but they’ll get over it.’ But there is one thing far worse, in my view, than governments doing something the public do not want. Sometimes governments need to do that; sometimes parliaments decide to do that, based on the evidence, for the public good, and they go out and explain why. But when you do it in a way that is so contemptuous of public input and due process, and in a way that is designed specifically to prevent proper scrutiny of what is being done, then there is no way you can convince people that you actually have the public interest at heart.

The government do not have the intestinal fortitude to put and carry the case, and to argue the detail here. They do not want anybody to see the detail. They just want it through and out of the way so they can create some other issue—terrorism or something—and get everybody’s mind off the problem. It is a serious indication not only of the indefensibility of what the government are doing but of their complete contempt not just for the parliament but for the Australian people.

To revert to speaking about my own state of Queensland for a moment, it is particularly sad that it will be Queensland senators who will be delivering the numbers on this motion, as occurred yesterday. It would take only one senator to vote with the non-government senators—without pre-empting how Senator Fielding might vote, but assuming he votes against this motion. I hope my arguments have been persuasive in relation to that. It would take only one government senator to take that short walk across the chamber and sit with us for only a few minutes. We are not that unfriendly. You will be all right. You will be safer over here, because Senator Heffernan will be on the other side. You can stop this motion happening and send a clear signal that you do have some concern for proper process.

But if that does not happen then this travesty will be allowed to happen because of the
numbers that Queensland will deliver. Because, unlike every other state and territory, it will be a clear majority of senators from Queensland that will be giving the government that extra crucial number. If it was not bad enough losing the State of Origin this year, we have actually got Queensland handing over Telstra on a plate to the southerners. I apologise to some of my colleagues from other states—the non rugby league states—who might not understand some of these things, but it is a terrible thing for Queenslanders to lose the State of Origin. But if there is one thing worse than losing, it is not putting up a good strong fight.

I say to Senator Joyce and my fellow Queenslanders: ‘What would Wally Lewis do? What would Darren Lockyer do?’ Darren Lockyer is a good country boy. ‘What would Marty Bella do?’ Marty Bella was a National Party candidate. Marty Bella would not just give up halfway through. You have given up before half-time, Senator Joyce. You have got to fight right through to the final siren. Even if you are going to lose, you have got to keep taking the ball up. Even the grasshopper, Barry Gommersal, would blow the whistle on this one. I think he stood for Liberal and Labor at some stage—I am not sure—and then as an Independent. He had a go all around. But he would have blown the whistle. He would at least have sent it to the third umpire for a proper look before letting it through. Show a bit of that Queenslander spirit, Senator Joyce. At least do us proud; at least go down fighting. Do not just hand it to them on a plate. Do not just let them steamroll through. It has been a bad enough year for Queensland already without this sort of thing happening.

It is, as I said yesterday, in many ways more significant to prevent proper scrutiny than it is to support the sale or not. It is a policy decision about whether or not to sell Telstra—and I accept that some people genuinely believe it is the way to go, although I am finding it harder and harder to see how they could see it as the way to go, given the debacle that is playing out in the public arena at the moment. But in some ways I think you have more of an obligation, if you support that approach, to make sure that it is done properly. Even people who support the sale of Telstra will recognise that you have to get it right: you have to get the regulatory regime right, you have to get the powers of the Competition and Consumer Commission right and you have to set up the funding proposals right to ensure proper infrastructure down the track, or at least give yourself the best chance. So I would argue that there is actually more of an obligation on those that support this to ensure that it is properly scrutinised and, as much as possible, guarantee that they will deliver on the promises that accompany the sale.

So you are preventing that proper scrutiny and having the farce that people have to start to debate a matter on the day it is brought in, before they have even had a chance to look at the legislation and before they have had a chance to hear from the community—the people who will be directly affected and the operators who will have to engage with this mammoth privatised corporate gorilla of Telstra. Before we can even hear from them we are supposed to give informed comment on that. We can all talk about whether or not we think it should be privatised, as we have done before, but there are deeper issues than that simple fact. There are deeper issues, as we all know and as Senate committees have looked at in the past, about the regulatory regime, about competition, about vertical integration, about trade practices and about predatory pricing—let alone the structure of the funding that has been promised in relation to that and how real and genuine that is.

I pointed out before for the benefit of Senator Joyce and the other new senators
that I have been the victim of promises from this government in the past. They have promised us pools of money to go to certain areas and then, after the legislation is through, the money disappeared down all sorts of different plugholes. So you have to be really careful about that sort of thing. You have the record of this government to go by. You cannot say you were not warned; you cannot say you do not know. The experience is there and the record is there. To allow this through and to allow the travesty of a debate like this to occur is in many ways a much poorer reflection particularly on those that have made statements from the government side that they were going to stand up for their constituents and stand up about the issues of concern on Telstra. Preventing any scrutiny is, in many ways, much poorer form than whether or not you vote for it at the end of the day. I would urge coalition senators, once again—as it only takes one—to think about that before allowing this disgraceful motion and this total perversion of process to go through.

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (12.33 pm)—I want to make two quick points, because Senator Bartlett invites us to draw the attention of new senators to what is occurring in the chamber here this morning. Can I firstly make it clear that I do not intend to close the debate. I am not speaking in my capacity as a minister; I am speaking as a senator.

It is important that Senator Fielding, all other senators and, in fact, the children who have packed themselves into the gallery see what is happening here. We have seen two things happen. Firstly, we have seen, for the benefit of the schoolchildren in the gallery, a filibuster. We are now approaching what I remember from my schooldays as lunchtime, and the Senate has done virtually no business this morning. It has just spoken about when it might have a debate. We are debating when we might have a debate. We have seen a series of senators from the other side—a series of Labor senators and now a Democrat senator—speaking for the full available time, and this is what is called, for the benefit of everyone listening, a filibuster. This is a bunch of senators lining up because they would rather not deal with the legislation.

I remind all honourable senators that this is legislation that has been before the Senate on four previous occasions. This is legislation that the government promised in the lead-up to the 1996 election and was thwarted in 1996-97 when we debated the legislation. We went, very honestly, to the people in 1998 and said, ‘We want to sell Telstra.’ We put out all the reasons and we had a huge debate on it. We went again in 1998 and again we were thwarted after the 1998 election. We went to the people in 2001 and said, ‘We want to sell Telstra.’ We won that election, we came into the Senate and we were thwarted again. We went to the people again in 2004. So at four elections we have had the honesty and the integrity to go to the Australian people and promise something that we know is not popular.

Senator Bartlett, to his credit, said that sometimes governments have to do things that they believe are in the public interest but that are not popular. The introduction of the A New Tax System was an example of that. It was very brave politically to do it; it was something that we knew would be good for Australia and we did it in spite of its unpopularity. We believe in that with Telstra. We promised it at four elections and now we want to do it. But what we have seen today is a filibuster. The other thing Senator Bartlett will not tell you is that the Australian Democrats on a number of occasions, and the Australian Labor Party on many occasions, have brought into this place, in recent hist-
tory, large and complex pieces of very important legislation and have supported an identical motion—identical in wording to the motion we have before us today.

Senator George Campbell—But the bill has been available for scrutiny!

Senator IAN CAMPBELL—Senator George Campbell, by interjection, misleads the Senate. I will cite the mother of them all. I am on the record as criticising the government of the day when former senator Gareth Evans, the then Leader of the Government in the Senate, brought into this chamber in the middle of December, a few days before Christmas, the Native Title Bill—a complex, complicated and massive piece of legislation that changed the land management system in Australia for all time. There was no legislation and there were no amendments available. He had hundreds and hundreds of amendments, and we did not even have a speakers list. He brought it into the parliament, and he needed the cut-off motion. And who voted for it? The Australian Democrats. By the time the bill had been put through with a guillotine brought in by former senator Cheryl Kernot allowed them to put it through—and the Australian Democrats voted for the cut-off motion, the gag and the guillotine to get it rushed through the parliament—at the end of it she wandered right over here and gave Gareth a great big kiss on the lips to celebrate it.

For the benefit of the schoolchildren and the new senators, please do not be misled by senators who come into this place and in effect display what can only be described as hypocrisy when they say that this is some sort of travesty. It is not. This is what the Australian Labor Party did in power, and it is what the Australian Democrats did when it suited them. It does not suit them this time. We promised this in the 1996, 1998, 2001 and 2004 elections. And what is our sin? We are trying to keep our promises to the Australian people and do so in a timely way.

Senator Bartlett—Mr Acting Deputy President, I rise on a point of order. The minister accused the Democrats of hypocrisy, which is unparliamentary and I ask him to withdraw that. The minister is jealous because somebody got a kiss on the lips. I will come over and give him one if it makes him feel better! The circumstances were very different to what he is describing has happened today. I ask him to at least create his misleading rhetoric without reflecting in an unparliamentary way on the Senate.

The ACTING DEPUTY PRESIDENT (Senator Hutchins)—There is no point of order.

Senator GEORGE CAMPBELL (New South Wales) (12.40 pm)—As I interjected on Senator Ian Campbell in his contribution—one of bluster and very little substance—he has to know that this is a sorry day for democracy in this country. Senator Ian Campbell, you know that the government’s approach in dealing with these bills is absolutely outrageous. It is an absolute outrage to suggest that, on such an important issue to the Australian people as the sale of Telstra, you can introduce bills into this parliament without giving a copy of them to the opposition or the minor parties and put up a motion that suggests that we should immediately proceed to the second reading debate on bills that we do not know the contents of.

We know you have the bills. It was put to you last night that you ought to give us embargoed copies of them. What was your response? ‘No, you can’t have them. You’re not getting them. You’ll debate them sight unseen.’ I will remind you what the Minister for Communications, Information Technology and the Arts said on Monday, 5 Septem-
ber with respect to a question from Senator Brown. The minister assured the Senate:

... the proper processes of the Senate will be followed in the debate on the bills.

That would normally include making the documentation—the explanatory memoranda and copies of the bills—available in sufficient time so that people can look at them, understand the detail of them and be able to make a considered response to them. The minister also said that she would be put out a ministerial statement. I think she said that on Meet the Press on Sunday morning. She certainly said it back in here. I understand the ministerial statement has gone up in smoke. It has disappeared off the radar screen—we are not going to get a ministerial statement. So we are not even going to get an explanation from the minister on what she views these bills as generally seeking to do.

We are being asked to facilitate the passage of a piece of legislation to sell the major telecommunications carrier in this country without seeing the conditions under which the sale will take place. We are being asked to buy a pig in a poke. We are being asked to put our names to a proposal to sell the rest of Telstra without knowing what conditions will ultimately be attached to that sale. That is an outrage in dealing with assets of the Commonwealth in a proper, democratic and transparent way.

The minister has said that she will go and work out the details of the sale in a backroom with the executives of Telstra. From 11 August, over the past two or three weeks, having watched the dealings of this government with the executives of Telstra, we would not want them in too many locked-up rooms doing deals. At the end of the negotiations on the sale of Telstra, we would finish up with the question of whether or not we actually had a company to sell off. But that is about what the conditions should be, not an opportunity for the opposition or the minor parties to have input into the process, not an opportunity for scrutiny to ensure what is done is aboveboard, open and transparent, but something that will be done in backrooms in secret, so we will not be able to make any criticisms or value judgments.

Debate interrupted.

**MATTERS OF PUBLIC INTEREST**

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

**Middle East: Israeli-Palestinian Conflict**

**Senator MASON** (Queensland) (12.45 pm)—A few weeks ago the Israeli Defence Force completed its withdrawal from the Gaza Strip. Several thousand Jewish settlers from about 21 settlements scattered over the territory were removed by the IDF, some peacefully of course and some by force, thus ending almost four decades of Israeli presence on this very small piece of land abutting the Mediterranean Sea.

The Israeli withdrawal is to be welcomed. Indeed, the status quo, while perhaps still sustainable from a military point of view, was arguably no longer sustainable from a political point of view. Something had to change in the dynamic of this conflict that has been tearing the region apart for decades now and, of course, sending periodic shockwaves throughout the rest of the world. The Israeli withdrawal from Gaza is one such step. As Israel’s Ambassador to Australia, Mr Naftali Tamar, wrote recently in the Australian, the hopes are that the Gaza withdrawal will achieve several objectives. He wrote that it will:

Reduce friction with the Palestinian population, who will find themselves under the governance of the Palestinian Authority rather than the Israeli government; give Palestinians the opportunity to break out of the cycle of violence in those areas...
no longer under Israeli control; dispel claims by the Palestinians regarding Israel’s overall responsibility for the Palestinian population in the Gaza Strip; and allow for any future permanent status arrangement by clearing all Israeli settlements and installations. In addition, the plan carries with it the potential for improvement in the Palestinian economy and living conditions.

The ambassador, it seems, is quite optimistic. There are, however, far more sceptical views. For example, the American columnist Charles Krauthammer wrote:

The Israeli abandonment of Gaza is a withdrawal of despair. Unlike the Oslo concessions of 1993, there is not even the pretense of getting anything in return from the Palestinians. Nonetheless, unilaterism is both correct and necessary. Israel has no peace partner—Mahmoud Abbas has nothing to offer and has offered nothing—and in the absence of a partner, there is only one logical policy: Rationalize your defensive lines and prepare for a long wait.

Gaza was simply a bridge too far: settlements too far-flung and small to justify the huge psychological and material cost of defending them. Pulling out of Gaza leaves behind the first truly independent Palestinian state—uncontrolled and highly militant, but one from which Israel is fenced off.

If Israel can complete its West Bank fence, it will have established a stable equilibrium and essentially abolished terrorism as a regular and reliable means of attack—i.e., as a usable strategic weapon. That will leave the Palestinians a stark choice: Remain in their state of miserable militancy with no prospects of victory or finally accept the Jewish state and make a deal.

So Krauthammer writes. There is of course truth and merit in both positions. There is a need to provide Israel with defensible borders and a hope that the Israeli-Palestinian conflict can finally be resolved in a peaceful manner through the creation of a Palestinian state.

However, we need to be watchful for this end is far from certain. Statehood is not—as recent history indicates—always a magical solution. There is a lot more to it than just a piece of land with a flag and a national anthem. The Palestinian-Israeli conflict can only be fully resolved if a free, democratic and prosperous state of Israel exists in peace next to a free, democratic and prosperous state of Palestine. Palestine cannot be allowed to degenerate into another impoverished, backward cleptocracy run by crooks, thugs and fanatics—what David Frum calls a ‘Mediterranean Somalia: an unstable failed state in which gangs compete for power and extremist Islam finds a sanctuary.’

Unfortunately, Yasser Arafat’s tenure as the leader of the Palestinian Authority has not laid any useful foundations for a healthy Palestinian state. In a long cover story for the latest issue of the Atlantic Monthly David Samuels paints a frequently heartbreaking picture of the betrayal of the Palestinian people by some of their leaders. Writes Samuels:

The amounts of money stolen from the Palestinian Authority and the Palestinian people through the corrupt practices of Arafat’s inner circle are so staggeringly large that they may exceed one half of the total of $7 billion in foreign aid contributed to the Palestinian Authority.

It is absolutely appalling. And sadly, Palestinian democrats and liberals who want normal lives and a decent future for their people and their children are stuck between the rock of corruption and the hard place of extremism. We have to remember that unfortunately too many on the Palestinian side still do not believe in the two-state solution, but a one-state solution with Palestine from Jordan to the Mediterranean and the Jews into the sea. Hamas leader, Dr Mahoud Al-Zahar, told Arabic newspaper Asharq Al-Awsat recently:

We do not and will not recognise a state called Israel. Israel has no right to any inch of Palestinian land. This is an important issue. Our position stems from our religious convictions. This is a holy land. It is not the property of the Palestinians.
or the Arabs. This land is the property of all Muslims in all parts of the world.

As an Israeli group, Palestinian Media Watch, notes of Hamas:

The Hamas website publicized numerous posters that declare the same religious victory theme. The Hamas poster below, showing a face of Hamas founder Ahmad Yassin laughing, superimposed over a somber religious Jew, presents the Sharon evacuation plan as a victory of the Koran over the Talmud. The words on the poster: ‘Our Koran proves that we were right and your Talmud proves that you were wrong …’ Another Hamas poster shows a rifle and the Koran with the words: ‘With those two together the victory has been achieved.’

Hamas, by the way, is in a very strong position to win the parliamentary elections in Gaza scheduled for next January. But as Israeli finance minister Mr Ehud Olmert said recently, the pullout is a ‘calculated risk’. He said:

There comes a time when you have to take a risk in order to break this cycle of violence.

Israel has now withdrawn from Gaza. Soon it will be vacating virtually all of the West Bank, and the ball will very much be in the Palestinian court. It will be time for the Palestinian leadership, as well as the Arab leadership in general, to demonstrate to the world the commitment to a parallel future. It will be time for a final and unequivocal recognition of the right of Israel to exist as a Jewish state. It will be time for the final and unequivocal renunciation of terrorism as a political and military weapon. It will be time for the end of the obsession with Israel—that sliver of land less than one-third the size of Tasmania, stuck in the middle of a region stretching from the Atlantic to Central Asia.

It will be time for no more excuses, distilled, quite appallingly, in a statement by one Arab participant in last year’s World Economic Forum in Davos. He said:

We cannot reform ourselves as long as Israel occupies Arab lands.

No more misplaced blame for the appalling lack of freedom and opportunities for tens of millions throughout the Middle East. It will be a time also of great challenge and great opportunities, both for the peoples of the Middle East and for the rest of the international community. President Bush said very recently that the Gaza withdrawal will create an opportunity for the Palestinians to begin laying the foundations of a peaceful, democratic state. He said:

I see relations with a peaceful Palestinian state … that is founded on democratic institutions. That’s what I believe can happen and should happen. … in order to ultimately defeat terror—whether it be in Palestinian territories or Iraq or Iran—there must be open, transparent societies based upon rule of law.

Fortunately, the Palestinian National Authority Chairman, Mahmoud Abbas, seems to understand what is at stake. He said a few days ago before a Palestinian youth parliament:

… ‘lesser jihad’ [had ended and that the Palestinian people were now] standing before the ‘greater jihad’, which is construction, development, and achieving security and tranquility for our people. We want to live like the rest of the peoples of the world. After the evacuation of the settlers from Gaza, a solution needs to be reached for the West Bank and Jerusalem and a just solution must be found for the refugee problem.

He continued:

We will sign a peace treaty with Israel. In that way, we will have peace and they will have security.

Chairman Abbas later reiterated in a talk with the wounded and disabled in Gaza that the Palestinians are now “standing before the ‘greater jihad’, which is the development of the homeland and its construction and changing our people’s lives”. He said:
From here we will begin to develop, to build, to invest, and to protect our land and homeland...

The road ahead is by no means smooth, even if we assume that it is paved with good intentions. Controversial points remain, like those mentioned by Chairman Abbas, such as Jerusalem and the so-called right of return by Palestinians and their descendants to their former homes in Israel proper. There seems to be very little hope for compromise at least on those two issues. After visiting Israel, just before Christmas in 2003, I came away with an abiding hope that one day, on the grey hills of the Holy Land, Israelis and Palestinians will be able to, if not in the words of Martin Luther King: ‘Sit down together at a table of brotherhood,’ then at least, at long last, sit alongside each other in peace.

**Maralinga**

Senator CARR (Victoria) (12.57 pm)—For a number of years I have maintained an interest in the management of nuclear waste, ranging from the clean-up at Maralinga in the aftermath of the British atomic tests to the saga of trying to find a location to store radioactive waste material. In recent estimates committees I have questioned the government about site contractors and the effectiveness of the clean-up and the costs of the Maralinga project. I have discovered in recent times, though, matters that suggest to me that this government has been grossly misleading the public and this parliament in relation to the clean-up of Maralinga. I am particularly concerned about attempts to cover up attempts to finalise those arrangements. It has been brought to my attention that in the town of Ceduna there is an open secret that the government is proposing a dishonest waste of public money in an effort to aggrandise the current Minister for Education, Science and Training, resulting in the abandonment of the proper principles of administration.

It is important that the truth about the government’s dealings with the Maralinga clean-up is known because it involves issues that starkly reveal both the mediocrity and the incompetence of successive coalition ministers, none more notable in this regard than the previous Minister for Science, Peter McGauran. There are few who would not recall the hapless way in which the minister was gazumped by the Prime Minister in the run-up to last year’s election when the government abandoned its proposals for radioactive waste storage after the expenditure of some $10 million. It was obviously a matter of great embarrassment to the government and to the current Minister for the Environment and Heritage, who made certain promises at that time which have now been found, in the case of the Northern Territory, not to have been accurate.

Many of the victims of the Maralinga atomic test program were Indigenous Australians—the traditional owners of the former test site, the Maralinga Tjarutja. In 1995, the Commonwealth government reached an agreement compensating the Maralinga Tjarutja for their suffering. The compensation money that was paid at that time has been well invested and has provided a continuing source of support for the community. Briefly, that 1995 agreement committed the Commonwealth government to the clean-up of the Maralinga test site, the transfer of the Maralinga village and airstrip to the traditional owners along with the test site lands, assistance to the community to pursue tourism, museum and related opportunities and a compensation payment of $13½ million to a charitable trust for the benefit of the community. Of course, the money was paid and the clean-up has been undertaken.

I want to know why the government are now proposing to pay a further $6.6 million. I am interested to know why the government, and in particular the Minister for Education,
Science and Training, now see an opportunity to make political capital out of their previous incompetence in regard to this project. I am referring here to the current proposal being circulated by the minister for education to other senior ministers seeking support for the further payment of $6.6 million to underwrite the cost of a resource centre based within the existing Maralinga village. I think it is important to highlight that the complaint is not about the Maralinga Tjarutja but about the way in which the government are seeking to undertake a project of this type.

My dispute is with the coalition government, not with the local Aboriginal community. The dispute is about the benefits or the necessity of such a resource centre, which certainly has the potential to support both the community and its fledging tourism industry, and whether appropriate feasibility studies and due diligence processes have been undertaken. My concern is with the minister for education and the cynical way in which he is approaching this issue. The Maralinga Tjarutja have been seeking an amendment to the 1995 agreement for a number of years now. They have been seeking additional funding for a number of years now to establish and maintain a resource centre, which was originally foreshadowed in the 1995 agreement. On such an obvious question ATSIC has been consulted. On numerous occasions in the past ATSIC indicated that the buildings in the village at Maralinga were not suitable for long-term housing. The traditional owners wanted this issue settled before they agreed to hand back the whole site.

It is important to ask how the government is handling this question. For years the government has been actively opposed to settlement on those terms, and that has been the situation until recently—the government has resisted making extra payments. However, in recent months there has been an about-face by this government. The minister has now instructed his department to negotiate a secret protocol on these matters. Initially he offered $4.4 million, but he suddenly turned around and increased the offer to $6.6 million. I have grave concern as to how the government can suddenly find this additional money. Where is it in the budget? What processes were put in train to ensure that due diligence and probity arrangements were entered into?

My concern is that the government is seeking to interfere with the program in terms of Indigenous support. There has been a 180 degree U-turn. It is not about supporting one of this country’s most disadvantaged groups; rather, it is a deliberate, cynical political intervention by this minister for his personal glorification. It is about his own ministerial ambitions in terms of his struggle with Peter Costello. This decision involves millions of dollars of public money. It was committed without a policy approach that was evidence based. It lacks a due diligence process to support the claim that it is an appropriate use of money. We have a $6.6 million offer being made, as I understand it—and perhaps Minister Macdonald, who is in the chamber, can advise me—out of a contingency fund, which of course is not identified by a line item within the education department budget.

The Maralinga rehabilitation program is required to give training opportunities to the Maralinga people. It is no accident that the exhaustive MARTAC report on the rehabilitation program identified again and again widespread government failure in this regard. There was repeated failure in regard to training initiatives. Again, we have a situation where the government is proposing another project for reasons of political expediency and it will pay $6.6 million without the necessary training support being put in place. Again, we have a situation where the gov-
ernment is setting up the community for failure. There is no evidence to suggest that there has been a proper public policy process to underwrite this. The minister says, ‘I am a can-do minister.’ He tells the department: ‘This is going to be a can-do department. Make sure that you hand out money in such a way as to take attention away from the bungling to find a site for the storage of radioactive waste material.’ This is a minister who claims that he can get results where other ministers have failed.

There is no high-minded, noble principle at stake here—this is about crass, cynical manipulation for the political advantage of one minister. The minister intends to secretly pay millions of dollars so he can get his picture in the paper again. That is what this is about. It is a very messy business, a protracted and highly controversial matter, which the government seeks to try to resolve and bury by the provision of these arrangements. Today I am seeking to table a number of questions relating to this issue. I am seeking further evidence as to what is going on within the Department of Education, Science and Training and with the attempt by the minister to square away the payment of $6.6 million with Minister Vanstone and Minister Minchin—the process by which such payments are being proposed to be made.

I want to know: are the officials from the department currently negotiating to pay the $6.6 million so that other people can take back a site that has already been cleaned up? I would like to know: to what extent was the $4.4 million offered and why was it rejected? Why was the offer increased to $6.6 million? I would like to know how much money was put in the budget to cover this arrangement and where it was recorded in the budget. And I would like to know whether or not there has been a due diligence process undertaken to ensure that this money will be spent properly. I am very concerned that such a controversial matter as this can be handled in such a secret way. I strikes me that if this was all above board then the minister would have made an announcement. There would have been a clear and strong policy rationale for it, not an attempt to slip through the amounts of money that I understand are being proposed.

The Maralinga clean up was given the all clear by MARTAC in March 2003. In March 2000, the government announced that the clean-up project was close to completion. So we have been told for some years that this project was close to completion, yet in 2005 we are being told that another $6.6 million is to be paid. I think we are entitled to know why, under what circumstances and for what reasons. What I do not want to see is a situation in which another group in this country is held up for ridicule and abuse by this government. I do not want to see it set up for failure in circumstances that we have seen time and time again, in which the government fails to provide the necessary administrative framework and then turns around and blames the Aboriginal community for a program that goes belly up.

I find it an extraordinary proposition that payment of the sorts of amounts of money that are being spoken of can be undertaken in secret without any proper public debate about these issues. This is a matter that requires the government’s attention, and I trust that when these answers come back that we will have a clear understanding of precisely what it is that the government is intending. This is not a matter I intend to allow to rest. I seek leave to table the questions referred to in my speech.

Leave granted.

Mifepristone

Senator ALLISON (Victoria—Leader of the Australian Democrats) (1.11 pm)—Women in France, Sweden and Great Britain, but not Australia, have access to what was
described in the 1980s as ‘a new generation of fertility control agents that can cause the interruption of early pregnancy’. It works by blocking progesterone, which is a vital hormone in the establishment and maintenance of pregnancy. I am referring to Mifepristone, previously known as RU486, the importation of which was explicitly banned in Australia in 1996 unless it had the approval of the health minister. It seems that we cannot keep heroin or ecstasy out of this country, but we have been very successful in stopping any of this pharmaceutical from coming into the country.

Mifepristone has been used by more than 200,000 women worldwide and has been found to be a safe and effective alternative to surgical abortion in the first nine weeks of pregnancy. It is non-invasive, has less risk of infection and therefore infertility for women, and does not require an anaesthetic. It is 96.9 per cent effective, more private, less costly, provides women with greater control over their fertility and could replace 50 per cent of the current surgical abortions being conducted. It also has fewer side effects and is easier to use than even the morning after pill, which, as we all know, is perfectly legal and available over the counter—unless, of course, your pharmacist imposes his or her particular moral judgment on the stocking of emergency contraception, as many do.

Australian women do not have access to Mifepristone because the anti-reproductive choice, high moral ground defenders of religious views on the matter of abortion held sway in this parliament then, as they probably do now. That is bad enough, but there is another whole group of people out there whose lives and health would be greatly improved by access to this banned pharmaceutical. It would save women who have ectopic pregnancies from the dangerous surgery involved, surgery that often damages fallopian tubes and risks infertility. Three women die every year in Victoria alone from complications that arise from ectopic pregnancies. Physicians can, of course, apply to the Minister for Health and Ageing for an exemption to this ruling, and arrange the importation themselves if the minister agrees. But this process takes a very long time and is useless for women in these circumstances because of the time delay and the fact that they are affected by a life-threatening situation. My main purpose today, however, is to draw attention to the many clinical studies and research that has been done overseas that show that Mifepristone is a promising and viable treatment option for meningioma, some breast cancers, fibroid tumours and uterine and ovarian cancers.

It makes no difference in this country whether the purpose for which Mifepristone is to be used is for interrupting a pregnancy or for treating life-threatening conditions that are not related to pregnancy. Let us look at meningioma. It accounts for 15 per cent of all primary brain tumours and 12 per cent of all spinal cord tumours, and it occurs twice as often in women as it does in men. Meningiomas may enlarge or become symptomatic during pregnancy or the menstrual cycle and are positively associated with breast cancer. These indications suggest that the hormones oestrogen and progesterone influence tumour growth. Many cancers and tumours are known to be hormone sensitive, and oestrogen and testosterone blockers are being used effectively as a treatment on their own or in addition to radiotherapy. This has proven to increase the success of those treatments by 50 to 60 per cent. By binding with progesterone receptors, Mifepristone appears to inhibit the growth of, or actually reduce, meningiomas.

In a study at the University of Southern California in 1994, Mifepristone was found to have some efficacy in the treatment of patients with inoperable meningioma. A year
later, a study in Portugal showed that Mifepristone interferes with the steroid action that influences the growth of meningiomas. Patients in the US have testified that Mifepristone helped treat their disease. In Australia, people with cancers and tumours that are progesterone sensitive do not have the same right to medication that can help them as do people with cancers or tumours that are oestrogen or testosterone sensitive.

In Australia, 30,000 hysterectomies are performed every year on women of childbearing age for a number of reasons, such as fibroid tumours and ovarian and uterine cancer. Studies have shown that Mifepristone is a useful treatment of these conditions in many instances. The use of Mifepristone for endometriosis, which affects thousands of women in Australia—between 10 and 20 per cent of women—and causes severe pain and, in some cases, infertility, blocks the capacity of endometrial tissue to grow in response to oestrogen and is showing promise in relieving those symptoms. Mifepristone could possibly be used outside the whole question of pregnancy for a very large range of people who are affected by other conditions.

This issue came to light for me when a constituent wrote and said that she had meningioma and had discovered research which showed that people in other countries had access to Mifepristone but that it is not available in Australia. So she did some research into the situation. She has now, through her doctor, applied to the Minister for Health and Ageing for an exemption from the law preventing the use of Mifepristone, and she is awaiting a response from the minister. I do not wish to identify the person for privacy reasons, but I thought it might be useful to identify what she said about her own condition. She said:

... although meningioma is a benign tumour, surgical removal is not always viable and may result in significant deficits if it is attempted. Naturally, this depends on the location of the tumour and its involvement with vital structures, nerves and arteries. Surgery on a tumour in the skull-base carries with it the risk of deficits such as loss of eyesight, damage to facial nerves and loss of hearing (in one ear in my case).

My own experience is such that the first neurosurgeon I went to see refused to operate as he said “it was too dangerous”. The second neurosurgeon I saw said he could operate and, although he uses very advanced surgical techniques, he advised there was a 50% chance I would be left with damage to my eyesight, and possibly damage to some facial nerves. He also advised I most probably would lose all my hearing in one ear. Damage to my eyesight, if it results, could possibly be repaired within 3 months and yet another operation but there was no guarantee it would be successful and there is also a risk that such damage may be permanent.

Of course, this would also result in a lengthy recovery period in the event that such deficits result and the prospect of damage to my eyesight and facial nerves (which carries complications in itself) is not something I would take lightly. Permanent damage would leave me disabled.

That was part of her response to the Therapeutic Goods Administration, which raised some questions once that application had been put in.

Whilst the Senate agreed in 1996—not with the support of the Democrats—to restrictions being placed on Mifepristone, it is now time for us to revisit that question. I would argue that there is no reason why women in this country should not have access to Mifepristone, or RU486, in whatever circumstances they deem useful; and it is certainly the case that we should lift the restriction for those people for whom cancers and other conditions might be treated.

The request to make this pharmaceutical drug available to people with those conditions is under way. I will be urging the minister to support the application and also to extend it for other conditions. Ectopic pregnan-
cies are one condition which is in urgent need of some action. There is not the time for patients to make individual applications to the minister, as is now required in order to receive this treatment. That is not reasonable. Most countries in the world allow the use of Mifepristone at least for ectopic pregnancies and for cancers, and Australia should revisit this question. I would argue for no restrictions at all on this pharmaceutical, because it is safe, because it has been tested, and because it has been used by so many people over such a long period of time. We should not be bound by some moral view about whether it could be used for abortion or not.

I also make the point that abortion in this country is legal, and there is no reason why there should not be another avenue for non-surgical abortion made available to women. What we are doing is putting women through unnecessary suffering by adhering to a decision which was made in this place without the knowledge that we now have about the other applications of this drug. I believe this to be a particularly important issue for women, and the Democrats will be strongly campaigning to encourage the minister to do something about this situation.

**Millennium Development Goals**

Senator MOORE (Queensland) (1.22 pm)—Last night I said in an adjournment speech that I hoped to get another chance to talk in this place about the Millennium Development Goals, and today that opportunity has arrived. As I was beginning to say last evening, we are living at a time of great opportunity, not just for our country but for our world. We have the opportunity over the next years to make a real difference in global poverty. A commitment has been made by the leaders of over 180 countries to eradicate world poverty by 2025. That seems a long time away, and one of the things that is important for all of us as citizens of this world is to understand exactly what our commitments have been and, most assuredly, to ensure that our governments maintain their position and continue to work actively to eradicate poverty.

The eight millennium goals seem so straightforward. We talk about world goals of eradicating extreme poverty and hunger; achieving universal primary education; promoting gender equity and empowerment of women; reducing child mortality; improving health, especially maternal health; combating the horrific issues of HIV and AIDS—and over the years we have extended that goal to look at malaria and other diseases; ensuring environmental sustainability; and, to wrap that all up, developing an effective global partnership for development. They are the world millennium goals. The concern is that, whilst these were agreed in 2000 and reviewed—the first step—in 2002, there is still such amazing ignorance in our country and in other countries of exactly what they mean. In that way we have all failed, because one of the key components of the commitment in 2000 and 2002 was to ensure that this ignorance was not there and to ensure that this activity was going to be real and not just another set of words or proposals that could easily be dismissed.

The sense of opportunity to which I refered is here and now, because next week in New York at the UN the world leaders are gathering again. We have the opportunity in 2005 to have a look at what has been going on since the commitment in 2000 and, more importantly, to plan for the future: to say exactly what has been achieved up till now—and there have been remarkable achievements across the world—and to work together to ensure that in a spirit of effective global partnership we can move forward.

We cannot be diverted from this goal. If we are, all that activity, goodwill and real
effort will be wasted, because once again world commitments will be seen as meaningless. They will be able to be pushed aside and overtaken by whatever is the flavour of the month. All too often we are swamped by the issues of the global economy, the horrific issues of world conflict and that bottom key point, which is that citizens of our world have the right to live without poverty. All citizens of the world have the right to health, security and education. The leaders of the countries of the world have committed to take action plans. Over the next years we need to ensure that we observe what is going on, work together with real action and plan for the future.

One of the key aspects for me as an Australian is to have a look at exactly what our country is doing. We have a proud history in the United Nations, as I mentioned last night, in terms of our role in setting up the UN. Australian men and women were there in 1945 to have a look at what the future of the world was going to be as a collective. That is our legacy, and now, in 2005, we have to continue that work. Next week our Prime Minister, who has committed to go to this meeting—and it is a shame, Prime Minister, that it seemed to take you such a long time to make this public commitment to be there, but we will not dwell on that at the moment; we will look at the positives and say that you are going to be there representing our country—will have the opportunity as the leader of our country to add his voice to the voices of other world leaders about what is happening in our country and how Australia is going to work towards achieving the very straightforward goal of eradicating world poverty.

When we go there I really hope that we are going to have a concrete plan of action for our country. In 2002 at that first international review of the Millennium Development Goals, whilst we attended—and, unfortunately, the Prime Minister was unable to attend that meeting—we were not able to point to any clear plan that Australia was working towards to meet its requirements. I am hoping that next week it will be much more clear what Australia is doing across each of those key goals and how it is going to operate as a country which is widely regarded as a developed nation and which has, as we have heard from members of the government all too often, a strong, robust economy. We now have the opportunity to put more effort, through useful, effective and proactive aid programs, into being part of the international community.

It is not a matter of argument that Australian aid levels are low by international standards and we do not meet what I consider to be the agreements we have made. The United Nations recommendation is that we—not Australia in particular but all countries—increase our aid budget to 0.5 per cent of GNI, with a goal to reach 0.7 per cent by 2013. That is not that long away. Australian aid at the moment is projected to be 0.28 per cent in 2005-06, and it has only reached that level because of the significant involvement we had in tsunami relief. We all know and have heard in this place and internationally of the incredibly valuable effort that the Australian nation made at a range of levels in post-tsunami aid. Not only did we send personnel and professional medical people to work in the countries but there was an outpouring of personal donations in the country. As a result of the government commitment to the tsunami relief, we have now reached the level of 0.28 per cent.

Australia’s overseas development assistance to GNI ratio has fallen progressively. We reached the level of 0.25 per cent in 2001, and we have worked around that level ever since. It is a little more than half of the OECD average. In this place we often compare ourselves, and I will take a bit of a lead from Senator Bartlett’s comments earlier.
Compared with other OECD countries and economies, on the league ladder of where we rate with aid contributions, we rank 13th out of 22. I think we can do better than that. We are not even in the top eight. When we look at the way that our economy is operating and the level of life that we have in our country, we are privileged in many ways, and I think we have the opportunity to be more generous.

Australia’s aid has steadily decreased over the last decade, and we are well below the OECD average of 27 per cent. British Prime Minister Tony Blair has been quoted quite often recently because he has taken strong international leadership on the role of developed countries, committing resources needed to reach the goals that have been clearly set out by the millennium commitment. The UK has committed to the UN’s recommended increase in aid, and this commitment has been matched by other European nations and by our neighbour and fellow Commonwealth member Canada.

I do not often do all the figures in speeches that I make but I think that, when we are looking at aid contribution, it is important to compare ourselves—as we do in so many other areas—with what is happening in other economies. We are lagging behind, and that is disappointing. As I said, we have the opportunity next week, in an international forum, to do better. The message for all of us is that we can do better—and we have proved that, when needed, Australians can contribute very effectively.

The government has the chance, when the Prime Minister attends the summit, to commit to increasing our aid and raising our position in the overall international community. We have a clear history of being a leader in a whole range of issues in the United Nations. The Millennium Summit is our chance, in response to the desperate need across each of the goals that have been identified, to say what Australia’s commitment is and how we are going to achieve it and to say that by whatever date—the recommendation of 2013 is a bit of a halfway mark—we will have reached that level of international aid. The work of AusAID must be commended on so many levels—in the way that the Australian aid budget has been linked to the development of local communities and to the clear aspect of good governance in areas to which we give aid. All those things are noble and have been effective. We need to lift that quantum so that we contribute more effectively to the international commitment.

Last evening I made a plea—and I cannot let the time go by again. Australia has a very strong history in our influence on the rights of women and girls. At the Beijing summit 10 years ago, which I was very fortunate to attend, Australia was well regarded. Our position on equity issues, on women’s health and on sharing our knowledge with other nations was highly noted, and we made a significant contribution in developing the Beijing commitment. That has subsequently been reviewed twice in Beijing Plus Five and Beijing Plus 10.

Minister Patterson quite recently led a delegation to celebrate and acknowledge the 10th anniversary of the Beijing women’s conference. At the Beijing Plus 10 conference, the Prime Minister, through Minister Patterson, once again made a strong commitment to the promotion and protection of the human rights of women and girls and made the effective statement that we supported the issues of women’s health and that there is no way that we can talk about developing the effective role of women in communities if we cannot look very clearly at women’s health, particularly reproductive health. In a recent media release, the Chief Executive of the Australian Reproductive Health Alliance, Chris Richards, said:
In less than a week—that is, next week—the 2005 World Summit will bring together more than 170 Heads of State and Government to discuss the future of the UN and the MDGs. This Summit represents a crucial moment for UN Member States to demonstrate their commitment to the UN Millennium Project goals and targets...

In August this year, a declaration for the 14 September summit was released. Ms Richards said:

Australia must reject any efforts to undermine any discussion on the MDGs—that is the current term for Millennium Development Goals—and reaffirm the August 5 Draft Summit Outcome Document particularly in regard to universal access to sexual and reproductive health.

Australia must not be persuaded to change the whole emphasis of the Summit away from the achievement of the MDGs or that will be a disaster for women around the world...

That statement was clearly made with the understanding that, while we have the opportunity next week to look at recommitting to the MDGs, there is always the possibility of a threat. We have heard quite concerning rumours that there are certain groups who are hoping that, through the process next week, the agenda will be diverted to other issues such as the structure of the UN—which is important—and budgetary issues of the UN make-up. Those things will need to be considered, but we cannot allow next week’s opportunity to be diverted so that the critical aspect of the world commitment to eradicate poverty is dismissed.

As I said earlier in this speech, it is all too easy to dismiss commitments that hurt and which mean that we have to work hard. A plea to our delegation—which I think we can make with a degree of hope—is that, at the meeting next week, the key aspects of the Millennium Development Goals will be protected and we will be able to hold our place strongly in the international community. We can eradicate world poverty if we do fulfil commitments to those eight goals.

Nuclear Energy

Senator MILNE (Tasmania) (1.37 pm)—I concur with the remarks of Senator Moore, who has just resumed her seat. I certainly support achieving the Millennium Development Goals—in particular, obviously, the eradication of poverty. Much more could be done in Australia, in particular with regard to Indigenous communities. I rise today after hearing the Minister for Foreign Affairs, Alexander Downer, this week extolling the virtues of nuclear power and joining in the pro-nuclear chorus by the Treasurer, Peter Costello, the Minister for Education, Science and Training, Brendan Nelson, and other senior ministers. I think Australians do have a right to know exactly what is behind the Australian government’s sudden interest in nuclear power generation. One thing is for certain, and that is they are not interested in finding a genuine solution to climate change if they are persisting with nuclear.

Nuclear power generation is not a solution to climate change and is not economically viable. Everywhere there is a nuclear power industry it is subsidised to the hilt. For Minister Downer to say, ‘It takes quite a challenge of the intellectual imagination to say you’re concerned about greenhouse gases and you’re opposed to nuclear energy,’ only serves to reinforce what the world has known for decades, and that is that Australia is not a serious player in combating climate change. Electricity generation contributes less than one-third of greenhouse gas emissions globally and so, even if all generation of electricity were converted from fossil fuel to nuclear, it would not solve our climate change problems. Even with a moderate uptake of nuclear energy for electricity generation, the
resources of high-grade ore would run out in less than 30 years, thus putting off until to-morrow what we should be facing today in terms of energy efficiency and renewable energy sources—not to mention, of course, saddling our children and grandchildren with the horrendous problems associated with the disposal of waste.

Australia continues to be a major destructive force in achieving a global consensus on finding solutions to the ongoing emissions of greenhouse gases. Having worked in every conference of the parties on the United Nations Framework Convention on Climate Change to undermine effective global action and having joined with the USA in rejecting the Kyoto protocol to enforce any targets and limits, Australia is now seeking to promote an uneconomic, unsustainable and dangerous source of energy.

Senator McGauran interjecting—

Senator MILNE—in fact, Australia seems intent on subsidising and promoting every energy source that is not renewable—which is what you seem to promote and support, Senator McGauran. Why is it that the government refuses to act on the energy savings that could be generated by energy efficiency? Why does the coal industry get ten times the amount of money for innovation in energy that the renewable energy sector does? The government’s own Ministerial Council on Energy said:

Energy consumption in the manufacturing, commercial and residential sectors can be reduced by 20-30% with the adoption of current commercially available technologies with an average payback of four years.

Why isn’t the government acting on what is achievable and sustainable?

In spite of the government’s failure to take serious action on climate change, I do welcome its change of rhetoric. I am pleased to hear government ministers, including the environment minister, Senator Ian Campbell, acknowledging at last that human induced climate change is a reality and that strong and urgent action must be taken. At least now we do not have to listen any more to the contrarian arguments that have been put forward in this chamber year after year for the last decade trying to deny that human induced climate change is real. The Australian government has at last joined the rest of the world in acknowledging the seriousness and scale of the likely impacts of human induced global warming.

However, if the government were really serious about finding solutions to climate change, it would not be engaging in this deceptive debate about nuclear power. Nuclear is never the answer. Whenever you mention nuclear, the two Ws leap up: weapons and waste. You cannot avoid a discussion of weapons and waste when you want to promote nuclear power. You cannot talk it up without explaining how you intend to prevent terrorists and countries with nuclear weapons, or aspirations to have nuclear weapons, from accessing the materials they need to develop them, and you cannot avoid the question about what you intend to do about the safety of reactors and what you will do with the waste.

Minister Downer is so enthusiastic about the export figures for uranium to China that he is telling Australians he will guarantee that China will not use any uranium sent from Australia for nuclear weapons. Martin Ferguson, the shadow minister for primary industries and resources, agrees. He too demonstrates a breathtaking naivety by saying that it is hard to begrudge China a peaceful power industry. Exactly how do Minister Downer and shadow minister Martin Ferguson intend to do that? Just last week China’s leading arms control official was reported as refusing to commit China to international inspections of its nuclear power facilities as a
condition of buying uranium from Australia. Furthermore Minister Downer has already said he will exempt the signatories to the Nuclear Non-Proliferation Treaty from additional safeguards that he has recently proposed—and, of course, coincidentally, that includes China.

Australians do not believe that any agreement with China entered into by the Australian government will prevent China from using that uranium for whatever purpose it sees fit if it chooses to do so. China has already supplied nuclear capacity to Pakistan—we know that. It has said it would not rule out using nuclear weapons in any dispute with the United States over Taiwan. Minister Downer is kidding himself and the Prime Minister is deluded if he thinks that Australians will put their faith in him and in Minister Downer on such a critical matter of global ecological and international security. It is clear that Australia’s sudden acknowledgment of climate change and its touting of nuclear and coal as solutions has everything to do with increased export earnings from coal and uranium sales to China and India and nothing to do with sustainability or solving the problems posed by greenhouse gas emissions. It is short-term promotion of large corporate coal and uranium mining interests at the expense of Australia’s innovative renewable energy businesses.

Australian security and health and global security and health are at risk. It is the ‘support the BHP Billiton and Roxby Downs need for a new uranium market’ project. That is what it is: support the Roxby Downs and BHP Billiton need for new markets. That is what all this talk about nuclear power is simply designed to do. It is the driver for shadow minister Martin Ferguson’s remarks and the driver for the government’s change of heart. But nuclear power first would have to be legitimised, and that is what Treasurer Costello has been trying to do lately when he has said:

It would be pretty silly of us to export our uranium for other people but say we’re in principle opposed to do it for ourselves. This is the whole logic for the sudden talking up of nuclear power in Australia. They all know it will never happen but they know it is morally indefensible to export uranium for nuclear power whilst objecting to it in Australia. So the way out of it is to suddenly support nuclear power in Australia, secure in the knowledge that the Australian people will never let it happen or, even if they did, that it would be uneconomic without massive government subsidies, such as those proposed by President Bush in the United States. As Senator Minchin said recently:

How on Earth could we reach consensus on the site for, and construction of, a nuclear power station and a site to store the . . . waste it would produce. It makes no sense for our party to associate itself with a cause so politically unpopular when there is no prospect of a commercially and politically viable domestic nuclear power industry in our lifetime ... That was said by Senator Minchin, a government minister. I will repeat that:

. . . no prospect of a commercially and politically viable domestic nuclear power industry in our lifetime.

Yet that is exactly what Treasurer Costello and Ministers Downer and Nelson are doing—and they are being ably assisted by Labor’s shadow minister Martin Ferguson.

What is even more appalling about this agenda is that it includes the promotion of exports of uranium to India. Ministers Macfarlane and Campbell are both reported as having said that exports to India would be a good thing. How can undermining the Nuclear Non-Proliferation Treaty be a good thing? A decision for a signatory of the Nuclear Non-Proliferation Treaty to sell uranium to a nonsignatory undermines the con-
vention and imperils global security. How can Prime Minister Howard spend millions of dollars on security and try to justify his commitment of Australian troops to Iraq, condemn Iran and then sell uranium to India? He should rule out immediately any sale of uranium to India and insist on an apology from Ministers Macfarlane and Campbell and the Mineral Council of Australia.

If the issues of the proliferation of nuclear weapons, the health impacts of the use of depleted uranium in weapons from which our troops in Iraq will suffer and the security threat to Australia are not enough, it is instructive to hear Minister Downer speak of so-called low risks associated with nuclear power generation in the very same week that the report on Chernobyl has been released. If you have a look at what is happening at Chernobyl, you will recognise that the problem is not over. In fact, few people realise that the majority of the reactor’s fuel is still intact and active. The concrete and steel sarcophagus covering it was never meant to be permanent. Cracks have already begun to emerge and radioactive seepage has been detected in groundwater. Alexey Yablokov from the Centre for Russian Environment Policy warns that a second Chernobyl disaster could be in the making without urgent repairs. He says:

If it collapses, there will be no explosion, as this is not a bomb, but a pillar of dust containing irradiated—
cancer causing—
particles will shoot 1.5 kilometres into the air and will be spread by the wind.

Yablokov reports that already small luminescent chain reactions have been observed as rain and snow mix with the reactor’s fuel exposed through cracks in the casing. I suggest that Ministers Downer, Costello and Nelson take a trip to Chernobyl over the Christmas break to watch the chain reaction in the snow and rain and reflect upon their enthusiasm for an industry which is so dangerous that there is no limit to its capacity to wreak havoc on people and ecosystems rather than contemplating spending millions of dollars subsidising an Australian nuclear industry and imposing new uranium mines on the Northern Territory. They should think about how to help the Russians deal with Chernobyl.

I call on the Prime Minister and the Leader of the Opposition to stop this phoney debate right now, rule out nuclear power generation for Australia and admit that all this verbiage that we have been hearing about nuclear power as a solution to climate change is nothing other than a smokescreen for unashamedly facilitating new markets for BHP Billiton’s Roxby Downs project. Let the real debate in Australia begin on how to tackle climate change, on the mechanisms to move to a low carbon economy, on an investment and promotion program for renewable energy, on energy efficiency and on the consequences of expanded uranium mining and the likely impacts that it will have on global peace and security. We need to uphold our global treaties, including the Nuclear Non-Proliferation Treaty, and we should ensure that we do not sell uranium to India and undermine that treaty.

Indian Ocean Tsunami

Senator WEBBER (Western Australia) (1.50 pm)—Recent press coverage of Treasurer Peter Costello’s visit to Aceh has brought back into the minds of most Australians the contribution Australia has made to the repair and relief effort in that community and also the need for that community to begin to be rebuilt and prosper. As is usual, the media, whilst reminding us of the enormous private and government assistance from Australia for the redevelopment of that community, has also commented on how slowly that
community is being rebuilt. However, when the media comments, it does not actually take a few significant issues into account.

When looking at the capacity to rebuild communities in Aceh, within the media commentary there is no acknowledgement of the proportion of the local population that died that day as a result of the tsunami. Nor is there any acknowledgement of the high proportion of local decision makers that were killed and, therefore, the diminished capacity of that local community to make decisions about their redevelopment.

I was fortunate enough to also visit Aceh at the invitation of the government earlier this year and was struck, like the Treasurer, by the enthusiasm and sense of community among those who survived that natural disaster. What you are also struck by when driving through Banda Aceh are the mass graves where some tens of thousands of bodies were buried, effectively within a couple of days, in order to ensure that the rest of the population was safe from disease. So you are looking at a highly traumatised and damaged local community.

In order to redevelop their townships, their education system and their capacity as a community, I would have thought that the first goal of anyone involved—and I know it is the first goal of the Australians working in the field—would be to have local community involvement. There is no point—indeed, it is almost passing colonial and patronising—in the approach of some commentators, who say, ‘Well, the houses haven’t been built.’ There is no point in a whole bunch of Australians or other workers turning up and building housing, imposing housing and a lifestyle on a very traumatised and fractured community. For that community to prosper, for it to make the most of the peace deal that the Indonesian government have negotiated with the separatist movement, there needs to be robust involvement in and community ownership of their redevelopment. As I said, whilst they are a very traumatised people, they have a great enthusiasm for and a deep commitment to the place that they call home.

Whilst I was there, we also got to meet a number of the Australian aid workers that are there, paid for by the Australian government with a package that has the support of everyone in this parliament, I think. We also learnt about the work of the Australian military. The work that the Australian military did in repairing the hospital in Banda Aceh and making it as usable as possible is nothing short of amazing. It was described to me what the hospital was like, what the wards were like when they turned up to make it usable: truly horrendous. You cannot help but be moved by the work that our military and Australian aid workers have done. As a community we have come together to help out one of our nearest neighbours and shown what it is to be truly Australian. It is something that everyone can be very proud of.

The way the Indonesian government responded to the tsunami and the role that the Australian community played are in stark contrast to what is going on in America at the moment in the city of New Orleans. Within 24 hours of a natural disaster, the tsunami, ripping apart the communities in Aceh, the Australian government was on the ground or preparing to send people there and the Indonesian government were on the ground. There were tents, there was water—there was true commitment. They enabled the local community to survive. Wards in the hospital were being cleaned out to treat the injured. There were Australian military field hospitals available to treat the injured. How different that is to what has happened in the world’s richest nation after another natural disaster: people were rounded up and put into sporting stadiums, and it was some seven days before they were even given any
drinkable water. If a developing nation can do as Indonesia did, if the world can look after them through a national disaster and if our local community can come together to assist, it makes you wonder what on earth is going on on the other side of the world.

If people are concerned about the lack of progress in rebuilding the local community, as I say, it is not only important to have the Acehnese involved; it is incredibly important to have community involvement to rebuild and repair that part of the nation. I would also remind people that restructuring and rebuilding takes a long time. It was only a couple of years ago that a bushfire went through this very town and destroyed some 600 homes. Two years later, not all of those homes have been rebuilt. That is nobody’s fault. That is not the fault of the government or the aid organisations or anyone else; that is just the fact that it takes a community a long time to make informed decisions and to actually repair themselves and their lifestyle.

When I was younger, I lived through Cyclone Tracy in Darwin, and as a community it took us a long time to come together and actually decide—

Senator Ian Macdonald interjecting—

Senator WEBBER—Indeed, Senator Macdonald, I am that old, and I feel I am getting older by the minute sometimes in this chamber! It takes a long time to rebuild that sense of community. You only get to rebuild viable towns and viable city structures if you let the local community take control of its own destiny and have some input.

More recently, I was again in Indonesia at the suggestion of the shadow minister for foreign affairs, Kevin Rudd, to take part in the third Australia-Indonesia Young Leaders Dialogue—not that I see myself, at the age of 40, as being particularly young.

Senator Stephens—you’re a spring chicken!

Senator WEBBER—No, neither spring nor chicken, Senator Stephens. I was at that dialogue as one of the two ALP representatives. As I said, it was the third annual dialogue, where not only members of the two major political parties but also leaders in the media and in business in both countries come together. They come together to talk about the future directions in significant policy areas for both governments and the challenges facing both nations. I would like to place on the record my thanks to the ANU, particularly Andrew McIntyre, and the Habibi Centre for the sponsorship that they gave all of us who took part.

It was put to me when I agreed to go that it was an important thing, and those of us from Western Australia in particular understand how important it is to create ongoing and enduring links with one of our closest neighbours. Indeed, if you live in Perth, particularly with the changed arrangements that Qantas has brought in, it is easier to get to Jakarta most days than it is to get to Canberra. So Western Australia’s relationship with Indonesia and the rest of South-East Asia is incredibly important.

One of the issues I was struck by when we were conducting this two-day dialogue was the awareness of Indonesian politicians of various, fairly outrageous right-wing media comments that were made. (Time expired)

QUESTIONS WITHOUT NOTICE

Telstra

Senator WONG (2.00 pm)—My question is to Senator Coonan, the Minister for Communications, Information Technology and the Arts. I refer the minister to comments by the Prime Minister yesterday that he had advised the chairman of the Telstra board that ‘the obligation of senior executives of Telstra is to talk up the company’s interest not to talk them down’. Is the minister aware that section 184 of the Corporations Act requires
company directors and officers to act in good faith and in the best interests of the company? Doesn’t the Corporations Law also require Telstra executives to tell the truth about the company’s operations instead of breaching the act by misleading shareholders in order to advance the government’s privatisation plans? Does the minister support the Prime Minister’s urgings for Telstra senior executives to breach the requirements of the Corporations Law?

Senator COONAN—Thank you to Senator Wong for the question. My understanding of what the Prime Minister said was that he stated there is a directors’ duty that applies to all corporations in Australia, and applies under the law, to not knowingly talk down or damage a company’s interests. I think he said in his interview this morning—and I must say I concur with that sentiment—that that is a matter of commonsense. Telstra, of course, have a very good story to tell and I think we would all like to see them start telling it. The management have a duty to create value and to help Telstra grow. I think everyone would welcome them focusing on these issues.

Nobody is asking a company director or a senior executive of a company to lie or tell any mistruth in the interests of talking up the value of the shares, but that is a very different thing from speaking against the interests of the company. We are not asking for any mistruth or any misrepresentation at all. In fact, the Prime Minister has said that if you have a senior position with a company you have a general obligation not to talk against the interests of the company, and that is perfectly in accordance with the law. I might add that you also have the obligation, I would have thought, not to exaggerate the impacts on a company, for example, of regulation. Even Mr Tanner, who seems to have bumped Senator Conroy as the opposition spokesman on communications, has questioned the accuracy of Telstra’s claims that $850 million of Telstra’s profits and forward estimates would be destroyed by regulation. Mr Tanner thinks that Mr Trujillo gilded the lily as he went around over the past weeks, or those under his direction did, talking about the impact of regulation on the company. So, put in context, the Prime Minister’s comments are not only comments that I agree with but they are comments that fall fairly and squarely within the law and fairly and squarely within the obligations of directors.

Senator WONG—Mr Deputy President, I ask a supplementary question. Does the minister accept that Telstra’s other shareholders are entitled to know that the company has pursued an unsustainable dividend policy and has underinvested in its network? Can the minister explain why the government is now asking Telstra executives to talk up the company, to join with them in misleading the Australian public about the true state of the company?

Senator COONAN—Mr Deputy President, thank you for the supplementary from Senator Wong. To start with, the supplementary really mixes up a whole lot of concepts and questions. But, as Senator Minchin has said, the dividend policy of the company is entirely a matter for the Telstra board. This government denies completely having influenced any decision of the board in relation to their dividend policy. It is the situation that all directors have an obligation not to trash the value of the company, not to trash the value of the shares and to put in context and to truly state the impact of various factors on the company. That is what needed to be put into context, and I agree with the Prime Minister’s comments.

National Accounts

Senator MASON (2.05 pm)—My question is to the Minister for Finance and Administration, Senator Minchin, representing
the Treasurer. Will the minister inform the Senate of the results of today’s national accounts? What do the national accounts show about the strength and underlying health of the economy? Will the minister inform the Senate of any policy implications flowing from today’s figures?

Senator MINCHIN—I thank Senator Mason for a very pertinent question. Indeed, today’s quarterly national accounts do show that the Australian economy is in particularly good shape. Real GDP increased by no less than 1.3 per cent in the June quarter, well ahead of market expectations. Real gross domestic income for this country rose by no less than 4.6 per cent through the last financial year, which reflects many things but particularly the continued strengthening of our terms of trade. These sorts of results are particularly good because they show year average growth of 2.3 per cent for the economy which shows that we have achieved and, indeed, exceeded the budget forecast for 2004-05 and we are now clearly on track to achieve the forecast of three per cent for the financial year we have just entered. The figures confirm that, after an unprecedented 14 years of economic growth, we experienced only a very mild slowing in December and March, with this strengthening of the economy in the June quarter. Of course, that is a very different experience from the sort of boom and bust that we had under Labor in the eighties and nineties.

And there is good news in the composition of this strong growth performance. The big driver of growth in this June quarter was business investment, which was up 6.8 per cent in the quarter and 15.3 per cent for the year as a whole. Machinery and equipment investment was up 18 per cent over the year and building investment up 12½ per cent. Household consumption rose by 0.7 per cent in the quarter, which shows that while consumer spending has slowed from its previous high levels, it certainly has not collapsed. Household spending is now growing by less than income, which is a good sign that households are rebuilding their balance sheets. Dwelling investment was up 3.3 per cent in the quarter to be down only two per cent over the year. That reflects what we all wanted: a soft landing in the Australian housing market.

Business conditions are particularly strong. The profit share of national income has risen now to an all-time high of 27.4 per cent. Of course, that is one of the reasons for the very strong investment we are seeing in the economy. Corporate profitability was helped by a 5.8 per cent rise in the terms of trade for the June quarter, which is the highest quarterly increase in our terms of trade since 1988. The strong profitability and investment in today’s figures demonstrate the way in which our exporters have been able to respond to increasing demand for Australia’s resources—from China in particular. The national accounts also indicate that inflation remained subdued. These figures show how robustly healthy the Australian economy is. Growth has strengthened, and its composition indicates very good prospects, at least for the year ahead. Households, as I say, are consolidating their finances. Businesses are investing heavily. These are very good signs. Company profitability is strong, exports are increasing, national income remains high and inflation is well contained. The inflation figure is reflected in the Reserve Bank’s decision today to leave interest rates unchanged.

So, together with that Reserve Bank decision, today’s national accounts indicate that the policies we have put in place to make our economy more competitive and flexible have delivered sustained low-inflation growth, and a move away from the terrible boom-and-bust conditions we inherited. But it is a reminder of the need to continue with the reform that has produced these very good re-
results. We need further reform in workplace relations, we need welfare to work reform and we need the full sale of Telstra so that Australian families, businesses and employees can continue to benefit from strong and sustainable economic growth.

Telstra

Senator MOORE (2.09 pm)—My question is to Senator Coonan, the Minister for Communications, Information Technology and the Arts. Can the minister confirm that under the Telstra Corporation Act 1991 the Telstra board must notify her annually of the details of the company’s dividend policy? Can the minister advise the Senate when Telstra first informed the government that it was borrowing from its reserves to pay dividends? Did the government raise any concerns with Telstra at the time about the long-term sustainability of such a policy? If not, why not?

Senator COONAN—Thank you to Senator Moore for the question. If Senator Moore were to actually have a look at the provisions of the Telstra Corporation Act she would be aware that the act in fact places restrictions on what the government can do with information it receives, and that information cannot be passed to people other than ministers, their employees and public servants. The government has no legal obligation to disclose sensitive material to the market. The legal responsibility for informing the market is on Telstra as it has responsibility for managing the company and knowledge of the detailed performance of the company. In fact, it is able to determine its own dividend policy.

When you look at Telstra’s dividend policy you see that it is in accordance with the company’s constitution. The setting of dividends has been the company’s responsibility since it was set up. The Telstra board and management are responsible for the day-to-day management of the commercial operations of the company. Telstra has been an independent company since set up as such under the Labor government in 1991. The Labor government made the board responsible for dividend policy and also was responsible for incorporation of the prohibition in the act on the passing of information.

In June 2004, the Telstra board announced its capital management policy, stating that it was the board’s policy to declare ordinary dividends of around 80 per cent of normal profits after tax, and that the board expected to return $1.5 billion to shareholders through special dividends and share buybacks. These were initiatives of the board and reflected the board’s judgment on the most effective use of the company’s resources in the interests of all shareholders.

I am advised that there are many examples where companies pay dividends that are higher than their reported profit in a particular year and they have been paid out of reserves. Indeed, 14 of our top 100 companies are currently paying dividends that exceed their latest reported annual earnings. The most well known of these would be Suncorp Metway, Alinta, Seven, Telecom New Zealand and PaperlinX. The company has made it clear to all investors, including mums and dads, that the current capital management policy applies for three years. The capital management policy announced in 2004 explicitly applied to three financial years: 2004-05, 2005-06 and 2006-07. The company was able to return capital because of its strong level of retained earnings. So there can be no suggestion that the company or the government has misled investors into believing that a dividend payout ratio of over 100 per cent would continue past 2007.

Senator MOORE—Mr Acting Deputy President, I ask a supplementary question. If the Telstra board did advise the government,
the government then raise any concerns with the board—not the market—about the impact that this policy would have on Telstra's ability to invest in network infrastructure? Why did the government, as the main shareholder, fail to act to protect the interests of consumers and the mum and dad investors in Telstra that the Treasurer told us about? Why did the minister not express her concern to the Telstra board—again, not the market—that its dividend policy was ruining the company and running it into the ground?

Senator COONAN—Thank you for the supplementary question, Senator Moore. I can only think that you have not comprehended what I said in answer to your primary question about the publication of the dividend policy and the prohibition on the government passing information as to confidential conversations it has with Telstra. I do not know how I can put it more plainly for Senator Moore, but if you go back and look at what I said in answer to the primary question, you will be very clear on it.

Wages

Senator FIFIELD (2.15 pm)—My question is to the Special Minister of State, Senator Abetz, representing the Minister for Employment and Workplace Relations. Will the minister inform the Senate how real wages have risen under the Howard government? Further, will the minister inform the Senate as to how the Howard government is ensuring wages in Australia continue to grow for the benefit of workers and their families, and is the minister aware of any alternative policies?

Senator ABETZ—I thank Senator Fifield for his question and note his long involvement in the good economic management of this country, especially in his former employment. Those on the other side do not like to hear it but the facts are indisputable: wages have grown by 14.7 per cent in real terms in Australia over the past nine years. That is, according to the Australian Bureau of Statistics, wages have grown at 14.7 per cent over and above the cost of living. None of us on this side pretends that things are easy for Australian workers and their families, but there is no doubt that an actual increase in wages since March 1996 of 38 per cent—that is an increase of over four per cent per year and well above the rate of inflation—has made things easier than they otherwise would have been. Significantly, and contrary to what those on the other side would want Australian workers to hear, the Australian Bureau of Statistics figures show that from 1994 to 2003-04 the real incomes of low- and middle-income households increased by proportionately greater amount than those of the richest households. In other words, the gap between the rich and the poor has narrowed. Sure, the rich have got richer, but the poorer in our community have been closing the gap that used to be there. Those on the other side may scoff, but the simple fact is that the Australian Bureau of Statistics figures actually show that. We are not going to rest on our laurels. We accept that more needs to be done. That is why we are determined to ensure that wages continue to grow; further assisting working Australians and their families. That is why we will soon introduce new laws to ensure that this happens.

Let us have another go at playing, ‘Who said it?’ This one should not be too difficult for those on the other side. Let them guess who said this:

We achieved 13 years of wage restraint under the accord. The wage share of GDP came down from 60.1 per cent when we took office to the lowest it had been since 1968. We left office with a wage share of GDP at 55.3 per cent.

I wonder if those opposite can tell us who said that. Mr Keating? No, you would be wrong if you thought it was Mr Keating. In fact, you would be wrong if you thought it
was Senator George Campbell, although he has 100,000 jobs hanging around his neck according to Mr Keating. The fact is it was the wannabe prime minister, Mr Beazley, who said that on radio just very recently. Here we have the wannabe Labor Prime Minister bragging about lower wages in Australia, whereas we have been actually able to deliver better pay packets for Australian workers. That is why Australian workers are listening to us, because we are actually delivering and the Australian workers can see that. That is why they do not listen to the political prattle from those on the other side. What we on this side ask is that Labor come cross and join us to ensure that Australian workers can enjoy the higher standard of living and better lifestyle that we want to ensure through our industrial reform. (Time expired)

Te ls t r a

Senator CONROY (2.19 pm)—My question is to Senator Coonan, the Minister for Communications, Information Technology and the Arts. I refer the minister to her comments this morning on ABC radio where in response to the question, ‘Did you know that Telstra had been underinvesting in its network?’ she replied:

No, of course not. That is not something that the government is privy to as Telstra rolls out its capital expenditure.

Can the Minister confirm that under section 8(a)(g) of the Telstra Corporation Act 1991 the Telstra board is required to annually prepare a corporate plan for the minister outlining its operations, including details of the investment and financing programs of the company? Did Telstra inform the minister of its capital investment plans in the last three corporate plans provided to the government?

Senator COONAN—I thank Senator Conroy for his question. I must say that it is a great relief that Labor have now gone to the act and are actually trying to look at what the legal obligations are relating to the directors of Telstra and the role of the government as a major shareholder. The situation, of course, is that what the government will do as a shareholder, and in our role as government, is to obey the law. Of course that is what we do and, in fact, that is what we did when we were briefed by Telstra relating to a proposal that Telstra wished to have the government contribute to when they came to see the Prime Minister, the Deputy Prime Minister, my colleague Senator Minchin and me. It is certainly the case that we do not know—and indeed no-one in my situation would know—which exchanges go and get fixed by the Telstra Corporation, by Country Wide, and what particular capital expenditure is expended. Until you see the financial accounts you cannot possibly know what specific steps Telstra are taking in relation to roll-outs of any particular remediation.

What, in fact, Senator Conroy has pointed out in the last 48 hours is the absolute absurdity and absolute conflict of interest that the government has been placed in, wearing three hats in relation to Telstra—firstly, as the majority owner of Telstra and, according to Senator Conroy, having certain obligations to shareholders; secondly, as the government and having responsibility as the regulator. Of course, these things are totally inconsistent. You cannot be the owner of the majority of Telstra shares and responsible for the value of the company at the same time as you are setting the rules for well over 100 telecommunications providers.

What do you do to resolve the conflict? The government have said that we need to sell our remaining share in Telstra in the interests of consumers as a whole, in the interests of taxpayers and certainly in the interests of the shareholders of Telstra. The Labor opposition have no idea how they would deal with that conflict. In fact, Mr Beazley was
pinged yesterday when he could not say what Labor would do if they were in government. He was asked whether he would buy back the privatised part of Telstra. He said they would not do that. Then he was asked whether Labor would sell the rest of Telstra. Do you know what the answer was? He said, ‘We would look around the world and see what other governments are doing in this position.’ This is the weak, indecisive and utterly dishonest approach of the Labor Party, who have absolutely no idea how to deal with this conflict of issues. The Labor Party put their foot on a piece of sticky paper back in 1991 when they corporatised Telstra and now they cannot live with the inevitable consequences.

Senator CONROY—Mr Deputy President, I ask a supplementary question. Given that the minister now accepts that she was regularly briefed by Telstra on its investment plans, didn’t the minister recognise that Telstra was running down its network to boost dividends? Why has the minister allowed Telstra to run down its network at the expense of shareholders and consumers, and hang mum and dad shareholders in Telstra out to dry?

Senator COONAN—Senator Conroy’s position on telecommunications gets more and more confused. A little while ago he said the government had a conflict because it owns Telstra. Then he says the government has a conflict of interest because it is selling Telstra, and he has accused the government of fattening it up for sale. If the government cannot own a company, and the government cannot sell the company—

Opposition senators interjecting—

The DEPUTY PRESIDENT—Order on my left! Senator Conroy is entitled to be heard.

Senator Chris Evans—Mr Deputy President, I raise a point of order. I know the minister is floundering but the point of order is that she has made no attempt to answer the question at all.

Senator Coonan interjecting—

Senator CHRIS EVANS—You are not needling me at all; you are embarrassing the government, Minister. Can the minister attempt to answer the question about why she has left shareholders out to dry in this matter?

The DEPUTY PRESIDENT—There is no point of order. As the President has said and I will say from the chair, we cannot instruct or tell the minister how to answer the question. When there is quiet we will resume question time.

Senator COONAN—The points of order show that this is really starting to hurt the Labor Party. They are starting to get extremely worried about their position. The Labor Party have complained that the government—

Opposition senators interjecting—

The DEPUTY PRESIDENT—Order! Senator Carr, Senator Conroy and others on my left, Senator Coonan is entitled to be heard in silence.

Senator COONAN—The Labor Party clearly do not want to hear my answer. In Labor’s view the government cannot own a company and it cannot sell it either. Where does that leave you? The situation is that this government needs to sell its remaining share in Telstra. If the Labor Party were honest they would support this sensible policy in the interests of all Australians. (Time expired)

Conservation

Senator SCULLION (2.26 pm)—My question is to the Minister for Fisheries, Forestry and Conservation, Senator Ian Macdonald. Will the minister inform the Senate how the Australian government is assisting the efforts of farmers, volunteers and land-
owners to look after and conserve our natural environment? Is the minister aware of any alternatives to the government’s approach?

Senator IAN MACDONALD—I thank Senator Scullion for that important question and acknowledge his very keen interest in conservation matters, both on the land and on the sea. Farmers, volunteers and landowners do a mighty job in looking after and conserving our environment. They are helped by any number of conservation NGOs; by groups like the WWF; by action on the ground conservation groups like Greening Australia, Conservation Volunteers Australia and Landcare; and by farmers organisations. They are also helped by regional bodies set up by the Commonwealth and state governments under the Natural Heritage Trust.

Senator Scullion asked about the support the Australian government gives these groups. We give them a lot of support because we are acknowledged as the greenest government in Australia’s history. We earned that well founded reputation through programs like our Natural Heritage Trust, where we have put $3 billion into environment and conservation; through our National Action Plan for Salinity and Water Quality, where we have put another $1.4 billion; and through our National Landcare Program where we have put some $600 million since the Howard government came to office. These contributions and investments by the Australian government leverage many times more than that from private industry and from state governments.

This expenditure results in a lot of good programs. There is the work we do with Envirofund, the community water grants, the Great Artesian Basin, and the 56 regional community groups we have set up under the Natural Heritage Trust to do good work at a catchment level. There is also our new Defeating the Weed Menace program, a $40 million program of the Howard government. In that regard, Senator Campbell and I are delighted to announce today 11 new projects under the Defeating the Weed Menace program to do good works defeating that real scourge of the Australian economy, productive land and the environment—weeds. These new projects announced today will help control Mimosa pigra and will help with the national focus on parthenium weed management. Senator Campbell is, I know, very interested in the integrated weed management of blackberries in Western Australia, which we funded following today’s announcement.

The important part of the Howard government’s approach to conservation is that we do it in a way that helps the environment but does not cost jobs. When we put money into that, we actually support jobs through better productivity and increases in tourism. By contrast, have a look at Labor’s approach. Labor’s approach was managed by former environment minister Senator Faulkner, whose great initiative on the environment was to get Mr Latham, who he supported, down to Tasmania to hold hands with Senator Bob Brown and to try and cost hundreds or thousands of jobs in Tasmania.

As an alternative, the Howard government saved those 10,000 jobs. We did that, I might say, with the support of the forestry section of the CFMEU, who campaigned with us against Labor and the Greens because jobs were at stake. We had a good environmental outcome: 100 million trees are now locked away in Tasmania, but, at the same time, more jobs are created in the tourism and forestry industries in Tasmania. I thank Senator Scullion for that question. It is a very good record that the Howard government has and he contributes to it in the north. We are very proud to continue it. (Time expired)
Telstra

Senator ALLISON (2.31 pm)—My question is to the Minister for Communications, Information Technology and the Arts. I ask the minister why the government rejected Telstra’s proposal to build a world-class, high-capacity broadband network costing $5.7 billion—$3.1 billion, I understand, to be funded by Telstra and $2.6 billion to be funded by the government? Isn’t it the case that, with your plan, the $100 million a year in interest from the so-called future-proof fund would take 50 years to deliver fibre optics or satellite broadband to all Australian households that would want it?

Senator COONAN—I thank Senator Allison for the question. The government did not proceed with the proposal that it received from Telstra because it had a preferable plan.

Senator ALLISON—Mr Deputy President, I ask a supplementary question. Can the minister indicate in what way this plan is preferable? It is my understanding that the latest OECD figures for December 2004 show that Australia is now ranked 21st in broadband subscribers per 100 inhabitants, down from 18th in 2001. Does she agree that the only reason we have relatively high take-up rates is because we started at a low base, years behind other countries? Why is it that the government is not interested in broadband infrastructure? Is the minister seriously suggesting that $100 million a year is going to deliver what Telstra’s plan would have?

Senator COONAN—I thank Senator Allison for the supplementary question. Firstly, the government’s approach to the funding of rural and regional services in telecommunications is to look at where there is market failure. The government’s Broadband Connect program in fact does just that. The government will be investing $1.1 billion to ensure that no Australian is left behind in the provision of broadband. Secondly, the HiBIS program that the government has been running for about a year now has meant that Australia has moved to be the 10th fastest in take-up in the OECD. This is because this government cares about rural and regional Australians, cares about providing decent services for Australians and is able to devise programs that will encourage competition and technical neutrality.

Local Community Initiatives

Senator WATSON (2.33 pm)—My question is directed to the Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues, Senator Kay Patterson. Will the minister inform the Senate about recent Howard government initiatives to support local communities and community based solutions to local problems? Is the minister aware of any alternative policies?

Senator PATTERSON—I thank Senator Watson for his question and I acknowledge his deep interest in community organisations in Tasmania and the work that they do in his state. It gives me the opportunity to discuss the Howard government’s commitment to working with local communities to develop and support local solutions. There is a large and diverse range of programs across Australia that are designed to help individuals, communities and families to be part of and contribute to strong and resilient communities. We understand that local people know best about their local issues and how they can best address those in their particular communities. The overarching strategy for many of the programs is the Stronger Families and Communities Strategy. This program has been so successful that the Howard government increased the funding by $490 million in April last year. This reflects our commitment to providing better opportunities for children and their families and to building stronger local communities.
One of the major parts of the Stronger Families and Communities program is Communities for Children. It is a key element of the strategy and will create better outcomes by creating closer links and ongoing cooperation between all of the people in a community who have a close interest in the health and wellbeing of the young children in that area. We are finding that, in many organisations within the areas where Communities for Children have been established, people who have been working with children and have an interest in children sometimes have not even spoken or worked together.

I recently announced new facilitating partners for 10 new Communities for Children sites, which has brought the total number to 45. I have visited a large number of these sites and have been impressed by their dedication, hard work and innovative responses to local needs. For example, in Lakes Entrance I was impressed by the simple idea of having children from the childcare centre collected by their parents from the local library one day a week after childcare. This introduced parents and children to a resource they otherwise might never have accessed. We know the importance of children’s librarians and libraries in our communities.

Another program I would like to highlight is the Local Answers initiative. It is part of the Stronger Families and Communities program. Local Answers gives communities the power to develop solutions to their own issues within their own communities, and we help them by supporting these locally developed projects. There have now been over 260 community based projects worth more than $40 million and these have been funded through the Stronger Families and Communities program. I recently announced the third round of the Local Answers program. The closing date is 23 September and I remind all my colleagues to encourage their local groups to apply.

Senator Watson asked me about alternative policies. It is no secret that the Labor Party wanted to abolish the Stronger Families and Communities program. Mr Swan said:

If the money had all been put into a couple of strong national programs, we would have got a better bang for our buck.

The shadow Treasurer, in his recent book, praised a small local group he visited which provides a network of breakfast programs in Christie Downs in Adelaide. This program has made a major difference to children’s lives, lifting attendance and participation and reducing antisocial activities—exactly what Stronger Families and Communities supports. I advise the Senate that Christie Downs community house already receives funding of over $200,000 under our strategy. I wonder if the shadow Treasurer would have enjoyed going and telling the families who attend this valuable program that Labor would have cut their funding.

What Labor is about is Canberra funded, Canberra run projects. There is a great difference between that and the way we are delivering these programs, with our policy being about Canberra funded but locally run projects. That is where you are going to get the best bang for your buck. It is about local communities knowing local solutions, not Canberra funded, Canberra run programs.

**Telstra**

**Senator SHERRY** (2.38 pm)—My question is to Senator Minchin, the Minister for Finance and Administration. I refer the minister to his comments in the Senate on Monday that the government does not pressure the Telstra board. Indeed, he has said this time and time again in the Senate. Is the minister aware that yesterday the Prime Minister announced that he had telephoned the chair-
man of the Telstra board to tell him that the obligation of senior executives of Telstra is to talk up the company’s interests, not to talk them down? Wasn’t this really a case of the Prime Minister asking Telstra to inflate the company’s true position in order to advance the government’s political agenda of privatising the company? How does the minister reconcile the Prime Minister’s heavying of the Telstra chairman with his protestations that the government does not interfere in the day-to-day running of Telstra?

**Senator MINCHIN**—I certainly do not resile from my clear and unequivocal statement that the government does not pressure irresponsibly or unduly the Telstra board or management in any way at all. These are matters entirely for the board and for management. The Prime Minister clearly explained his remarks this morning at his press conference to ensure that the media did not continue with their misinterpretation of what he said. It is quite proper for the Prime Minister to have called the chairman of Telstra on the basis of the unfortunate fact that we remain the majority shareholder, again demonstrating how impossible this position is for us.

But, given that this parliament refuses to allow us to sell our shares—at least until the end of next week—he did, and I think quite properly, feel it incumbent upon him as Prime Minister to inform the chairman of the government’s disappointment with the tone of the remarks made by one executive of that company. I would have thought the opposition would support such a comment, given that they seem to have this profound concern for the mums and dads who are shareholders of this company, albeit that they seem to have no concern for the taxpayers, who are conscripted shareholders of this company.

Nevertheless, in that vein, the Prime Minister quite properly informed the chairman that he thought those remarks were a little unfortunate and probably should not be repeated. That is a very different thing from the quite malicious assertion from the opposition that somehow we have pressured the company in relation to its dividend policy. That is so far from the truth as to be risible. Indeed, it has always been the case and always will be the case that the company will decide its dividend policy, not the government.

**Senator SHERRY**—Mr Deputy President, I ask a supplementary question. That really was an answer out of a John Cleese training movie. Given that the Prime Minister has now admitted to dictating to the chairman of Telstra, will the minister now concede that the government has been bullying Telstra for years? Will the government now acknowledge that Telstra’s failure to invest in its network is the direct result of pressure from the government to fatten it up for sale?

**Senator MINCHIN**—I wish I was paid as much as John Cleese to perform in this chamber. Unfortunately, I am not. The government totally rejects that assertion and indeed I wish the opposition would see more clearly than it does that what we have experienced in the last few days in commentary upon the 11 August meeting that we had with Telstra is a further demonstration of the impossible conflict of interest that we have.

As the Prime Minister said this morning, Telstra came to see us in our three capacities: as the majority shareholder, which we would prefer not to be; as the regulator of the industry, which we must be; and as a potential source of funds for the proposal Telstra wished to put to us. That puts us in a completely impossible position. We have to balance these various responsibilities very carefully. But we ensure at all costs that it is the company that makes the decision as to the
capital management of the company. In fact, on investment, the company has been investing at least $3 billion a year for the last four years in its network and will invest $4 billion in the coming year. *(Time expired)*

**Nuclear Power**

Senator MILNE (2.43 pm)—My question is to the Minister representing the Minister for Health and Ageing. Given the recent comments of several federal ministers supporting nuclear power for Australia, can the minister confirm that under the Australia Radiation Protection and Nuclear Safety Act the licensing of a nuclear power plant in Australia is prohibited? Secondly, will the government rule out any changes to the act that would allow a nuclear power plant to be licensed in Australia?

Senator PATTERSON—I am advised by my colleagues that the answer to the first part of the question is yes. The answer to the second part is that people have been saying that it is legitimate to have a discussion about this. Australians are big enough and intelligent enough to have a discussion about this issue. I think it is relevant. I think it is appropriate. We should not shy away from having a healthy, appropriate and sensible discussion about a number of issues that face us in regard to creating growth in our communities and dealing with energy into the future. To shy away from it and put our heads in the sand is not the way to deal with it.

Senator MILNE—Mr Deputy President, I ask a supplementary question. Given the minister’s refusal to rule out any changes to the act which would permit a nuclear power plant to be licensed in Australia, is the minister aware of all the impacts of the accident at the Chernobyl nuclear power plant almost 20 years ago, detailed in the International Atomic Energy Agency report released overnight, including the anticipated death of 4,000 people, an economic cost of several hundred billion dollars and ongoing problems at the reactor site?

Government senators interjecting—

Senator MILNE—Is the minister also aware of the numerous problems at nuclear power plants in other countries, including 22 major accidents since Chernobyl and the recent falsification of safety records at Japanese nuclear power plants?

Government senators interjecting—

The DEPUTY PRESIDENT—I call the minister.

Senator Bob Brown—I raise a point of order, Mr Deputy President. There was very strident opposition to that question being heard, but it was about a paper released overnight, and the questioner had a right to have that question put without all the interjections from those braying opposite.

The DEPUTY PRESIDENT—There is no point of order.

Senator Milne—I was actually asking the minister that, given that the—

The DEPUTY PRESIDENT—I thought you had completed the asking of your question.

Senator Milne—I had not.

The DEPUTY PRESIDENT—That was the impression I had, and I had called the minister to respond to the question.

Senator Bob Brown—I can help you. I got to my feet to call a point of order, Senator Milne sat down and you called the minister. She should finish the question. She still has time.

The DEPUTY PRESIDENT—The clock has now been set for the response by the minister. I will call on the minister to respond to the question.

Senator PATTERSON—Thank you, Mr Deputy President. I think to respond to that...
barrage in one minute would be an impossibility, but I say that, if there were to be any change of legislation, it would be the parliament of the day—the voice of the people—that would make a decision about that. I was asked whether I am aware of a whole list of issues that the senator went through. Yes, of course I am aware. Nobody in their right mind would not have seen what happened at Chernobyl, but that is not the debate we are having here. You started a debate about whether we are going to change the legislation. I cannot guarantee what parliament will do in the future. We are elected by the people. The legislation would have to be changed. However, I think it is appropriate for the country to have a reasonable and sensible debate and not the alarmist debate which I am sure the Greens are going to run.

Telstra

Senator KIRK (2.47 pm)—My question is to Senator Coonan, the Minister for Communications, Information Technology and the Arts. I refer the minister to her comments in the Senate on Monday. She said:

... as far as I am aware, Telstra has met all of its obligations, in terms of both what it needs to tell the Australian Stock Exchange and in any broader statements it might make to the market.

Is it not true that the information contained in the private briefing that she received on 11 August outlining chronic network faults, network underinvestment and an unsustainable dividend policy was not publicly available until yesterday? Given that the minister would have been aware of media reports that this document had been selectively leaked by Telstra, does she believe that this information should have been made available to the rest of the market? As the joint shareholder minister, why did Senator Coonan not direct Telstra to disclose this information?

Senator COONAN—I thank Senator Kirk for the question. If I may say so, these questions are getting sillier and sillier, because the Prime Minister, I and I think Senator Minchin in an answer to a question have outlined what the legal obligations of the government are in relation to receiving sensitive information.

Opposition senators interjecting—

Senator COONAN—If you listen, I will tell you something you might not know. The information that the government received was presented only hours after Telstra gave a full briefing to the market about its 2004-05 results, which included relevant forecasts on future earnings and details of dividend payments. What should be remembered is that this presentation was given to the government in the context of a dominant Australian company running an argument to reduce regulation, and it should be viewed as such. What Telstra discussed with the government was a proposal, the details of which the government are not going to divulge, that sought regulatory relief and a large government contribution to roll out a new network. The government are very clear about what our obligations are under the act that the Labor Party set up when it corporatised Telstra. We will obey the law, and we will continue to not divulge information that is given to us that we are otherwise prohibited from passing on to the market. Just to make it perfectly clear: it is up to Telstra, not the federal government, to keep the stockmarket updated on Telstra’s financial position. That is clearly the law, that is clearly the position and that is in fact what happened.

Senator KIRK—Mr Deputy President, I ask a supplementary question. As the joint shareholder minister, didn’t Senator Coonan have a moral obligation to disclose this information to the mum and dad shareholders who have seen the Telstra share price plummet over the past two weeks at the same time
as the big end of town has traded on this information?

Senator COONAN—There is a big difference between what the senator is suggesting the government should do and what the government has a legal obligation to do. I suggest the senator read the section and comprehend it.

Working Holiday Maker Program

Senator TROETH (2.51 pm)—My question is to the Minister for Immigration and Multicultural and Indigenous Affairs, Senator Vanstone. Will the minister inform the Senate about how the government’s Working Holiday Maker Program benefits the Australian economy? Is the minister aware of any alternative policies?

Senator VANSTONE—I thank Senator Troeth for the question. Australia does have a very strong and healthy Working Holiday Maker Program which offers young people from countries with whom we have that arrangement the opportunity to work and holiday in Australia at the same time—to, in a sense, immerse themselves in the Australian way of life. Australia currently has 19 reciprocal working holiday maker arrangements, offering young Australians similar opportunities to experience a holiday and work in other countries, so it is a two-way street. It is of benefit to us, with young people coming from other countries—and to those countries, of course—but also of benefit to our people who get the opportunity to go away and broaden their own experience.

Over recent years the Working Holiday Maker Program has grown quite significantly, from fewer than 50,000 a year in the mid-1990s to over 104,000 in 2003-04. That is a tremendous increase from about 50,000 in the mid-90s up to 104,000 working holiday makers now coming to Australia. In 2004-05, the financial year that we have just completed, over 121,000 working holiday-makers arrived in Australia, a further increase. That in fact was an 11 per cent increase over arrivals in the 2003-04 year.

The top 10 countries are the United Kingdom, the Republic of Korea, Ireland, Germany, Japan, Canada, France, Sweden, the Netherlands and Italy. Working holiday agreements are a good example of two governments working together to achieve mutually beneficial outcomes for young citizens in their countries. Working holiday makers make a very significant contribution to our economy. Research that was based on a total of only 80,000 people coming—and, as I said, in the last financial year we had 121,000 people coming—shows that they spend $1.3 billion annually. The same report suggests that 49,000 full-time jobs are created through the expenditure of working holiday makers. So they bring a lot of money in and they create other jobs for Australians.

Further enhancements to that program were announced in this year’s budget. In particular, from the first of the last month of spring, which is of course November, working holiday makers who undertake at least three months seasonal harvest work on their first visa will be able to apply for a second working holiday visa. Consequently, they will be able to spend 24 months instead of 12 months, provided they have spent three months doing seasonal harvest work in regional Australia. There are clear benefits for regional Australia and clear benefits for people in horticulture and agriculture who indeed need seasonal harvest work done. The working holiday makers are young, mobile, and willing to take on the experiences and challenges that come from working on farms in other countries, and they are highly valued by farmers.

The Working Holiday Maker Program is taken seriously by the Australian government, because we want to ensure that the
people who come out under these arrangements are looked after properly and that they
are paid appropriate wages—that they are not misused when they are here. We also
want to ensure, of course, that they return home at the end of their stay. Extending the
Working Holiday Maker Program is something that Australia is always looking to do.
It is of great benefit to us and to the nations we participate with. We are always happy to
enter into dialogue for new agreements and to enhance the existing arrangements.

Telstra

Senator MARSHALL (2.55 pm)—My
question is to Senator Minchin, the Minister
for Finance and Administration. I refer to the
March 2004 determination by the minister to
pay Telstra Super $3.125 billion, thereby
absolving the Commonwealth government of
any further liabilities to almost 20,000 mem-
ers of Telstra Super’s defined benefits
funds. Didn’t the previous CEO, Ziggy Swit-
kowski, agree that in return for this determi-
nation Telstra would not use the existing sur-
plus in the fund to discriminate against em-
ployees? Given the new CEO has flagged
significant job reductions in Telstra, has the
minister sought an assurance that Telstra will
not focus job reductions on long-term em-
ployees in order to make savings in its super
liabilities and return the surplus to Telstra as
a windfall gain? If not, Minister, why not?

Senator MINCHIN—The arrangement
we came to with Telstra was a very good one
in relation to superannuation. Indeed I think
the opposition supported it at the time. It was
a sensible unwinding of a legacy of the gov-
ernment’s previous responsibility for the
PMG and then its transition into what is now
the modern corporation of Telstra. It restored
a more normal arrangement with regard to
superannuation for Telstra itself. Indeed, it
was in the strong and good interests of Aus-
tralian taxpayers to have terminated that ar-
rangement on a sensible financial basis with
Telstra. It was, I think, widely received and
understood to be a very sensible move on our
part. I cannot recollect exactly the circum-
stances under which Telstra made certain
undertakings. I am happy to refresh my
memory of those. To the extent that they do
have some bearing on any staff reductions
which Telstra may contemplate in the future,
I am happy to ensure that Telstra is reminded
of the obligations, if any, which it did under-
take at the time of that arrangement.

Senator MARSHALL—Mr Deputy
President, I ask a supplementary question. I
thank the minister for his answer and ask
whether the minister has also sought assur-
ances from the Telstra board that, when the
government sells its shareholding in Telstra,
the existing super benefits for employees
will continue. What assurances, if any, have
been given to Telstra employees in this re-
gard?

Senator MINCHIN—Again, my very
strong recollection is that at the time we
came to that arrangement, and in contempla-
tion of the government’s clear policy of de-
siring to sell its remaining shares in Telstra,
very clear assurances were given that, in the
event that the government ran down its
shareholding, the superannuation conditions
would continue, but again I am happy to con-
firm that for Senator Marshall.

Threatened Species

Senator EGGLESTON (2.58 pm)—My
question is to the Minister for the Environ-
ment and Heritage, Senator Ian Campbell.
Will the minister inform the Senate how the
Howard government is working to protect
Australia’s threatened species and ensure
their preservation for future generations of
Australians to enjoy?

Senator IAN CAMPBELL—That is a
very good question from the Western Austra-
lian senator on what is National Threatened
Species Day. National Threatened Species Day is strongly supported by the Australian government, in a partnership with the World Wide Fund for Nature. Dr Nicola Marcus and I have announced today just over half a million dollars of new grant funding to preserve, protect and try to save our threatened species. There are, as you probably know, Mr Deputy President, 1,700 listed threatened species under the federal government’s environment law. Today being National Threatened Species Day—7 September, as Senator Eggleston would know—is to commemorate the day on which the last Tasmanian tiger died in captivity in 1936, so it is an important day. It reminds us that it is hard work to ensure that threatened species do survive, that habitat is—

Senator Bob Brown—Mr Deputy President, on a point of order: on the matter of the anniversary of the Tasmanian tiger becoming extinct, I wonder if the minister would tell the chamber about how rapidly the logging of that tiger’s habitat, under government policy, is proceeding in 2005.

The DEPUTY PRESIDENT—There is no point of order.

Senator Ian Campbell—It is good to hear Senator Bob Brown—or in fact any Green—discussing anything to do with the environment. We know they want to push drugs onto young kids. They want to put people’s taxes up. You have here today the Liberal environmental team of Senator Ian Macdonald trying to save the country from the weeds—

The DEPUTY PRESIDENT—Resume your seat, Senator Ian Campbell.

Senator Bob Brown—Mr Deputy President, on point of order: I ask that that insulting and wrong reference be withdrawn.

The DEPUTY PRESIDENT—I did not detect anything unparliamentary in what was being said, Senator Brown. It might not have been to your liking, and I can understand that, but I did not detect anything unparliamentary.

Senator Bob Brown—A minister is not allowed to tell lies about another member of this chamber, and he should withdraw the comment.

The DEPUTY PRESIDENT—There is no point of order. I call on Senator Ian Campbell to complete his answer to the question and to address his remarks to the chair.

Senator Ian Campbell—I will, Mr Deputy President. I am sure people will be amused by a ‘liar, liar, pants on fire’ sort of discussion, but the reality is that we are here today, on 7 September, announcing over half a million dollars to look after important Australian species such as the brush-tailed rock wallaby, turtles such as the Olive Ridley sea turtle, the flatback turtle—

Senator Bob Brown—Mr Deputy President, on a point of order: he mentioned the species there, but will he tell us what the government is doing in destroying the habitat of the swift parrot, the Tasmanian wedge-tailed eagle—

The DEPUTY PRESIDENT—That is not a point of order.

Government senators interjecting—

The DEPUTY PRESIDENT—Order on my right!

Senator Bob Brown—and a range of other creatures on National Threatened Species Day and why the government is threatening these species.

The DEPUTY PRESIDENT—Senator Brown, what is your point of order? There is no point of order.

Senator Abetz—Mr Deputy President, I was wondering if you could advise Senator Brown that we are not being broadcast on
TV, because once he realises that he might stop the stunts.

The DEPUTY PRESIDENT—Senator Abetz, you do not have a point of order.

Senator Chris Evans—On a point of order, Mr Deputy President: I would just like you to perhaps consider after question time whether or not an allegation of a senator pushing drugs onto children is parliamentary. I am not trying to verbal Senator Ian Campbell, but I would be concerned—as I think a lot of senators would be—if that were considered to be parliamentary. I am not trying to verbal Senator Campbell. He may have phrased it another way, but all I am doing is inviting you, Mr Deputy President, to consider that.

Honourable senators interjecting—

The DEPUTY PRESIDENT—I am getting so many people wanting to take points of order. I am very pleased.

Senator Hill—On the point of order: I understand the Labor Party wishing to defend the Greens’ drug policy. The Labor Party and the Greens have been very close for a long time. Furthermore, we are always prepared to have a debate—

Opposition senators interjecting—

The DEPUTY PRESIDENT—Order on my left!

Senator Hill—We are always prepared to have a debate on the Greens drug policy.

The DEPUTY PRESIDENT—Senator Hill, resume your seat. I cannot hear a word that is being said in the chamber, because of the noise. If people are wanting to take points of order, that is within the standing orders and part of debating, but I must be able to hear the points of order.

Senator Ian Campbell interjecting—

The DEPUTY PRESIDENT—Senator Ian Campbell, I am trying to get some order in this chamber so I can hear Senator Hill’s point of order.

Senator Hill—My point of order was that Senator Bob Brown was wanting to debate an issue, not seeking an answer to a question. The minister is able to answer the question in the way that he chooses and, if Senator Brown then wants to debate that answer, there is a facility for it in the standing orders. He can get up and debate it immediately after question time, and we will all participate in the debate on the Greens’ drug policy, if that is Senator Brown’s wish. But, in the meantime, Senator Ian Campbell is entitled to answer the question.

Senator Forshaw—On the point of order, Mr Deputy President: I think I heard clearly what Senator Ian Campbell said and, further to the remarks of Senator Evans on the point of order, my recollection was that he said ‘the Greens are pushing drugs’. The reference to pushing drugs is very different to a suggestion about what a policy is. It has a particular meaning, and that is why I invite you to consider it as Senator Evans has requested. For Senator Hill to then pick that up and suggest that the Labor Party was supporting that, I think, was also unparliamentary.

The DEPUTY PRESIDENT—Senator Forshaw, I heard Senator Evans’s point of order. I will undertake to make a review of the statement made during question time and, if further comment is needed, then I will come back to the chamber and make an appropriate statement.

Senator IAN CAMPBELL—Mr Deputy President, on a fresh point of order: firstly, if I did accuse the Greens of pushing drugs on young people, I will unreservedly withdraw that. However, the point of order I seek to make is that Senator Bob Brown should be told that it is unparliamentary, when I am answering a question about threatened spe-
cies, to get up and try, under the guise of a point of order, to ask another question. The Greens had the opportunity on National Threatened Species Day to come in here and ask me a question about national threatened species. They chose to ignore that because they are preoccupied with a drugs policy that makes drugs more freely available to young Australians. They are obsessed with a series of policies that do not help the Australian environment, and I think Senator Brown should be told not to interrupt my answer in future, because I want to concentrate on helping the Australian environment, not on their agenda, which is to make drugs more freely available to young Australians.

The DEPUTY PRESIDENT—On your new point of order, Senator Ian Campbell, Senator Bob Brown is entitled to take points of order. His point of order was ruled out of order by me, and I think Senator Brown should be told not to interrupt my answer in future, because I want to concentrate on helping the Australian environment, not on their agenda, which is to make drugs more freely available to young Australians.

Senator IAN CAMPBELL—On today, National Threatened Species Day, the theme of the day is to fight back against ferals. Ferals are a great threat to our threatened species. For example, they are threat to birds like the black cockatoo and the swift parrot and they are a threat to the grey-headed flying fox. This announcement builds on over 270 projects. The Australian government, in cooperation with the WWF, have invested about $3½ million over the past seven years in habitat restoration of something like 700,000 hectares of land across Australia. In your own state of Queensland, Mr Deputy President, the Gympie and District Landcare Group will use its money to remove weeds and fence off roosting sites for the grey-headed flying fox. In my home state of Western Australia—and I am sure Senator Evans will be pleased to know—the Kimberley Land Council will be receiving a grant to satellite tag and track freshwater sawfish in the Fitzroy River. I encourage all Australians to get involved in Biodiversity Month, which is the month of September, and to support National Threatened Species Day and to fight back against ferals.

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

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Telstra

Senator SHERRY (Tasmania) (3.09 pm)—I move:

That the Senate take note of the answers given by the Minister for Communications, Information Technology and the Arts (Senator Coonan) and the Minister for Finance and Administration (Senator Minchin) to questions without notice asked today relating to Telstra.

Over the last number of years but particularly over the last number of sitting weeks, the Labor Party has been putting a number of fundamental questions to Senator Minchin and Senator Coonan because they carry the responsibility at the present time for the proposed privatisation sale of the majority Australian government ownership of Telstra. What a shambles we are seeing unfolding with respect to the sale of Telstra—an ideologically driven obsession by the Liberal government to sell the majority government ownership of Telstra. In fact, the Financial Review, which is not renowned for its embellishment of a particular mess, got it spot-on when earlier this week it described the sale process and the various mismanagements of this Liberal government as akin to a John Cleese training movie. In fact, it makes an episode of Fawlty Towers look good.

Today we have posed a number of critical questions to the two ministers responsible for Telstra in the Senate. For example, Senator
Coonan, the Minister for Communications, Information Technology and the Arts, has been asked on a number of occasions whether the board informed the minister under the Telstra Corporation Act 1991 about the underinvestment by Telstra in its network in order to boost dividends and to fatten it up for sale. Senator Coonan avoided answering the question. She avoided acknowledging that she must have received documents from Telstra that would have shown that underinvestment was occurring and, in fact, that the artificial boosting of dividends was occurring. Why does the minister want to avoid acknowledging that she received that? Because it is convenient in relation to the government’s ideological obsession to sell Telstra. That is why she wants to avoid acknowledging that she received that. It suited the government for there to be a cover-up of the underinvestment in our telecommunications network in order to boost the dividends to fatten it up for sale.

As a result of the exposure of this secret Telstra report, which Minister Coonan and certainly the Minister for Finance and Administration would have read, largely but not exclusively we are seeing a significant drop in the Telstra share price. So, as the government wanted to cover up this information in order to artificially fatten the Telstra share price, and now that this approach has been uncovered through the release of this secret Telstra document, the share price has continued to slide. The mum and dad shareholders in this country are the victims of this government’s mismanagement of the Telstra sale obsession—an obsession of this government to privatise Telstra. The share price has now dropped to the low $4.30 mark, and there are predictions that it will drop even further, possibly below $4. If you were a purchaser of T2 Telstra shares—and there are well over a million of them in this country—you would be very disappointed with the drop in the share price from over $7 down to the $4.30 mark and possibly going down to below $4.

This has all come about as a result of the mismanagement by Minister Minchin, the finance minister, and Minister Coonan, and of course it is added to by the Prime Minister, who now apparently believes he can breach the law and instruct Telstra executives to boost the share price by talking the price up. The onus is on the Telstra executives and the board to disclose the truth, not, as the Prime Minister claims, to talk the price up to suit the government’s sale purposes and to try to get the share price up artificially back to the $5.25 mark, which is contained in the budget papers. This is a total shambles from beginning to end. (Time expired)

Senator SANTORO (Queensland) (3.14 pm)—I also want to talk about the mums and dads that Senator Sherry has just talked about and I want to tell the Senate about the experience that the mums and dads had under Labor and the good experiences that they have had under the Howard government. There is no doubt that most Australians would agree that Labor’s telecommunications record in government was appalling, particularly with respect to regional services. For example, Labor’s record on mobile phones is shameful. Instead of extending coverage, Labor reduced coverage, something which Senator Sherry or subsequent Labor Party speakers cannot deny. Labor forced the closure of what at the time was a most extensive regional mobile network. The extraordinary mistake was rectified as a matter of urgency by the Howard government which required a replacement CDMA network to be rolled out. I am also particularly pleased to note that even Senator Conroy is beginning to see the error of Labor’s ways. Earlier this year he said:

Not all the decisions we’ve made in the past as a government were right.
A truer word has never been spoken by him or anybody else on the other side.

While Labor has recognised its mistakes of the past, it has not moved on. In the same speech earlier this year Senator Conroy made the extraordinary statement that the central plank of Labor’s telecommunication policy is its opposition to the privatisation of Telstra. How does Labor, for example, think it is going to regulate Optus or Vodafone or AAPT if it does not own them? It just does not make sense. Labor’s policy of Telstra is all over the shop.

During its 13 years in government Labor placed no requirements on companies to either install or fix phone services within any statutory time limits. Under Labor the most remote customers in Australia could expect to wait up to 27 months for a new phone line to be installed. Under the Howard government’s customer service guarantee no customer has to wait more than 20 working days for a new phone service. Labor tries to mislead people into believing that fundamental consumer safeguards are tied to the public ownership of Telstra. In reality—and it knows it—it is the legislated universal service obligation that guarantees telecommunications access for all Australians.

On the other hand it is good to have a look at what the coalition has achieved in this vital area of service delivery. Since 1996 the coalition has delivered unprecedented benefits to Australian consumers and businesses through the development of a highly competitive telecommunications regime. Research conducted for the Australian Communications Authority by the independent Allen Consulting Group found that the Howard government’s telecommunications reforms have increased the size of the Australian economy by more than $10 billion, created approximately 26,000 new jobs, delivered benefits to small business of $2.1 billion, and resulted in Australian households being on average $720 better off.

There are now more than 100 telecommunications carriers operating in Australia. That is good competition and it must be good for consumers. There are now more than 16 million mobile phones in operation in Australia, operating on a variety of networks, including Hutchison’s 3G network, and the number of broadband subscribers in Australia is now well over one million, and—surely, Labor senators opposite would have to acknowledge that this is a good sign for competition—almost half of Telstra’s ADSL subscriptions are wholesale services being resold by competitors.

If you have a look at that key section of the Australian economy and Australian society in regional Australia, regional Australians particularly have significantly benefited in the area of telecommunications under the Howard government. Since 1997 the Howard government has committed, and will spend, more than $1 billion on improving communications infrastructure and services in Australia. Most of this has been spent in regional Australia and, as senators opposite will know, more money has been committed recently. This expenditure covers a range of programs, including Networking the Nation, the Social Bonus, initiatives in response to the telecommunications service inquiry—known as the Besley inquiry—and the regional telecommunications inquiry, Estens. The most recent commitment was more than $180 million in response to the Estens inquiry.

In terms of specific regional achievements, the Howard government has provided more than $140 million to support the extension of mobile coverage to 98 per cent of the population. Under the coalition 40,000 customers living in remote Australia have received access to untimed local calls for the
first time. In addition, these customers have been given the opportunity to take up subsidised two-way high-speed satellite internet services. Through the coalition’s customer service guarantee people now wait only 20 working days for a phone service or an interim service. As I said before, under Labor they had to wait up to 27 months. That is what this debate is all about: highlighting Labor’s mismanagement and failure in terms of this vital area of service delivery and policy development and comparing it to what the coalition government has achieved since 1996—a better deal for consumers in both urban and regional centres. It is about time that the Labor senators opposite faced up to that. (Time expired)

Senator MOORE (Queensland) (3.19 pm)—Again we are gathered here to talk about the issue of Telstra. Our questions today were directed mainly to Senator Coonan but also to Senator Minchin. The questions directed to Senator Coonan were looking specifically at the information that we were able to find out several weeks after the event about what information was shared between members of the executive of Telstra and the minister. Direct questions were asked about when information was shared and what the known information was, whether people knew exactly what the state of the Telstra budget was and how the dividends were being used—quite specific technical questions about what was going on in the management of Telstra.

The minister was very quick to tell us that the legal responsibility was with the board of Telstra to explain to people what was happening with the board. She consistently mentioned that the legal responsibility was with the board. In terms of the process and the understanding of the legislation, it seems to me that we as the major shareholders of Telstra at the moment need to know what is going on before we go through the sham of the committee and the vote that is going to happen—before the end of this fortnight we have been told. We are the major shareholders of Telstra at the moment and it seems to me that we need to know what is going on and exactly what is happening in Telstra now.

That is the relationship that we have been told will go out to the Australian people. To all those people who are emailing and writing and telling us how concerned they are about what is going to happen to Telstra after the government gets its way and sells it off, we have been told that there will be in place strong regulation and strong limitations on what this particular company—the new privatised Telstra—will be able to do. We have been told that the community is to trust the organisation. There is to be built up a position of trust and the universal service regulations and the obligations will be in place and that of course the people of Australia will not be worse off—in particular, the people of regional Australia will not be worse off. We have been told that there is no need for further consideration by any committee process because we have already heard all those arguments and the government are certain and convinced that they will have in place sufficient regulation and understanding.

I do not think the people have heard that message effectively—certainly the ones who are contacting my office have not. I know they are also contacting everybody else’s office because you can see that on the emails containing these questions, these concerns, these cries from people who are worried about what is going to happen to their service delivery in the future. The emails are being directed to all representatives from all parties in both the House of Representatives and the Senate. These people are saying that they do not have a particularly strong trust in what is going to happen in the future. It is worrying when we hear that even now, in the
relationship between the board and the minister, that real issue of trust is one that we need to work on. Certainly, the board of Telstra has a legal responsibility to be honest with the community about what is going on so that we know exactly where Telstra stands now.

We say that that situation should be so clear and so firm that of course we know exactly what is going on with the financial arrangements of the company, we know exactly how service delivery will be maintained and we know exactly what will happen to the staff who are working in that agency. Senator Minchin gave answers to questions on what was to be the future of the superannuation process for a number of staff. We have already been told, through various questions and answers in the media, about the expected loss of staff numbers in the agency, which is very worrying. It comes at the same time as the government are saying to the people of Australia: ‘Don’t worry; service delivery will be maintained. You will still be able to access services no matter where you are.’ They say that regardless of a number of inquiries that we have had over the last years where it became clear that people were not happy with the way service delivery was operating. They wanted security. In fact, they needed security in their telecommunications. We have talked about that before.

We are concerned, and I think the people of Australia are concerned, that there is such a commitment to selling Telstra. It has become almost an item of faith for the government that they must sell Telstra to fulfil whatever obligations they have. Nothing will stand in their way. It does not matter how the operations are going. It does not matter what the financial position is. The commitment to sell Telstra is there. The minister was saying today that the questions are getting sillier and sillier. What is happening is that the questions keep coming, because the people need to know about the security of telecommunications and about future directions. *(Time expired)*

Senator McGauran (Victoria) (3.24 pm)—I will wrap up this absurd debate—a debate that has been going on for many years now. The opposition are no better now than they were at the time of the first sale of Telstra. Senator Moore, I will pick up just one of your points in the limited time that I have. You say that you cannot trust Telstra in the future to implement the universal service obligation or the customer guarantee. You do not have to trust the board of Telstra one way or the other. The point is that it will be law. It will be legislated and regulated, Senator Moore. As a matter of law, there will be penalties imposed that will go straight to the licence of any communications carrier. So it is absurd to say that we need to trust a future independent board of Telstra, because in fact it will be regulated by the law of the land.

I would like to address the sheer opportunism that the opposition has displayed this whole week with regard to the Prime Minister’s comments. That is what Senator Coonan was talking about: how silly this debate has become. This debate has been reduced to the desperate, the shriek, the hysterical, when you grab the perfectly normal comment made by the Prime Minister that the Telstra board should be talking up the company. That is perfectly consistent with what any board of any company should be doing—talking up the best parts of their company to point out to the market, to their shareholders, the benefits of the company. That does not mean not to tell the truth at all. The Prime Minister’s comments were consistent with what is the responsibility of every board.

Also, paying dividends out of a company’s reserve is quite a normal process. In
fact, I am informed that 14 of the top 100 companies are doing that right now. They are paying out dividends, over and above their recorded profit, from their reserves. There has been no better friend to the mum and dad investors than this government in its nearly 10 years in government. The share market has, in that 10 years, reached extraordinary heights and broken records. It has brought new wealth to the mums and dads. There have never been more mum and dad investors in the share market than there have been over the term of this government.

As I said, this debate has reached its most hysterical point as we close in on the final sale of Telstra. This will be my third debate on the sale of Telstra. I have seen T1 and T2. I guess you can call this the final sale of Telstra or T3. The debate has reached its most hysterical point, as none less than Senator Faulkner showed this afternoon when he addressed the chamber. He reached his full volume today. Senator Faulkner was most scary when he said, as the Labor Party have all been saying, that this debate is being closed down and that they have not been given enough time to debate this issue. What a load of nonsense! We have faced the people on this issue at four elections. On each occasion the Labor Party attempted to make it a central plank of the election, but on each occasion they were rejected. But, more than that, we have had some 11 inquiries into telecommunications, two primary inquiries by the Senate into the sale of Telstra, and of course we have had the Besley and the Estens inquiries.

This has been the most debated and scrutinised legislation ever to go through the parliament. It surpasses almost all those other debates that we have had—for example, on native title—but not that which we had on the Commonwealth Bank, which you sold. You made a commitment to the people of Australia that you would not sell it. You went to an election on that. Do you know how many days you gave this chamber to inquire into the 70 per cent sale of the Commonwealth Bank? Five days. So do not come in here and say that we are cutting the debate short on the final sale of Telstra. It is a load of nonsense. The processes are being followed and there will be debate.

Senator KIRK (South Australia) (3.29 pm)—I rise to take note of answers given to questions asked of Senator Coonan in question time today. We heard the Minister for Communications, Information Technology and the Arts in question time tell the Senate that it is not the government’s job to know whether Telstra has made appropriate disclosures in its company report. She said that the government would not necessarily even know what Telstra was disclosing. We say, and we have tried to emphasise this here today, that what Senator Coonan says is not her job is, in fact, the job of the government to find out. The government are the ones who are telling the Australian people that Telstra services are up to scratch. They are the ones who are telling the Australian people, and fooling Nationals such as Senator McGauran and others, that there is a proper strategy in place for rolling out decent communications around the country. The government are in charge. The government ought to know—they ought to have made these things known to themselves—and once they had found out this information they should have passed it on to the public.

The government are really bitter and annoyed because they have this driven view that they must privatise Telstra. It is this driven view that is causing them to want to talk up Telstra—that is, not tell the truth about Telstra but talk up its operations, talk up the situation with regard to faults and say that everything is perfect out in regional Australia—in order to be able to sell Telstra, in order to brainwash the Nationals into sup-
porting the government legislation that we are told will be introduced later this week, if not today, and that we will be required to vote on in the next week or so.

What do we know? We know that a document is now circulating which has such details as 14.3 million fault calls currently per year for Telstra and more than 14 per cent of all lines with faults. There is also a concern that Telstra has an ageing work force. This document clearly demonstrates that the government has lied to the Australian people. It lied to the Australian people in the course of the last election when it said to them that services in regional Australia were up to scratch. The document says that the company has been systemically stripped through dividends in order to prop up the share price for privatisation. We see, as a result, that investment in infrastructure, services and training has been neglected.

Most importantly, it is pretty clear that highly market-sensitive information that was made available to the majority shareholder of Telstra a month ago was not disclosed to the mum and dad shareholders, the poor minority shareholders—the ordinary mums and dads. Whether or not there is a legal obligation on the government to do so, clearly the government had a moral obligation to advise those mums and dads who are shareholders in Telstra, who bought those Telstra shares in good faith and who rely on the company doing well so it can return significant dividends to them. If this information was in the hands of the government, it should have disclosed it, if it acknowledges that it has a moral obligation to do so, to the mums and dads out there. This information was available to the big end of town but not to the ordinary Telstra shareholder.

What we see today from the Telstra data is what Labor has been saying for years and years: investment is declining in the Telstra network, it is deteriorating and faults are increasing. What we see is the truth that we have been trying to bring to light and that the government has been trying to cover up. This is what it lied about to the Australian people at the last election. It is now quite clear that the situation is much worse than the government has been prepared to admit.

Question agreed to.

PETITIONS

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

Abortion
To the Honourable President and Members of the Senate in Parliament assembled.
We the undersigned citizens support a woman’s fundamental right to safe, affordable and legal abortion.
We oppose any moves within the Parliament to deny women this right or to restrict or to impose conditions on women’s access to termination of pregnancy.
Your petitioners request that Senators reject any legislation that comes before the Senate that would undermine a women’s right to access abortion.

by Senator Allison (from 16 citizens).

Petition received.

NOTICES

Presentation

Senator Milne to move on the next day of sitting:

That the Senate—

(a) notes the release of the report Chernobyl’s legacy: Health, environmental and socio-economic impacts by the Chernobyl Forum initiated by the International Atomic Energy Agency;

(b) expresses its concern that:

(i) 4 000 people may die from radiation exposure from the accident,

(ii) approximately 4 000 cases of thyroid cancer, mainly in children and adoles-
cents at the time of the accident, have resulted from contamination,
(iii) 100 000 people living in the vicinity of the reactor are still receiving more than the recommended radiation dose limit,
(iv) 784 320 hectares of land have been taken out of agricultural production,
(v) there is still a highly contaminated 30 kilometre zone around the reactor,
(vi) structural elements of the sarcophagus built to contain the damaged reactor have degraded, posing a risk of collapse and the release of radioactive dust,
(vii) a plan to dispose of tonnes of high level radioactive waste at and around Chernobyl has yet to be defined, and
(viii) the financial cost of the direct damage, the recovery and mitigation operations, and indirect economic losses over the 2 decades since the accident amounts to hundreds of billions of dollars; and
(c) calls on the Government to heed the extensive environmental, economic and social costs of the Chernobyl nuclear accident and stop the promotion of nuclear power as a clean and safe energy option.

Senator Hutchins to move on the next day of sitting:
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 12 September 2005.

Senator Stott Despoja to move on the next day of sitting:
That the Senate—
(a) notes that:
(i) 8 September 2005 is International Literacy Day,
(ii) marking the beginning of the United Nations Decade of Education and Sustainable development (2005-2014), the theme of International Literacy Day for 2005 is the role of literacy in sustainable development,
(iii) literacy is a key lever of change and a practical tool of empowerment on each of the three main pillars of sustainable development, namely economic development, social development and environmental protection,
(iv) worldwide, almost one in every seven people is illiterate, and out of a total of 860 million illiterate adults more than 500 million are women,
(v) worldwide, more than 100 million children are not in school, and
(vi) an Organisation for Economic Co-operation and Development (OECD) survey in 2000 entitled, Literacy in the information age: The final report of the International Adult Literacy Survey, found that approximately 20 per cent of the Australian population was at the lowest level of prose and the OECD listed Australia as one of 14 countries with more than 15 per cent of citizens performing at the lower prose level; and
(b) calls on the Government to address this deficiency so that literacy alone is no im-
pediment to an individual’s progress or development in Australia.

Senator Carr to move on the next day of sitting:
That the Senate condemns the Government’s arrogant abuse of its Senate majority in subverting the Senate’s processes and procedures.

Senator Forshaw to move on the next day of sitting:
That the time for the presentation of the report of the Finance and Public Administration References Committee on the Gallipoli Peninsula be extended to 12 October 2005.

Senator Bartlett to move on the next day of sitting:
That the Senate—
(a) notes:
(i) comments by the Member for Indi, Ms Sophie Panopoulos, seeking to ban Muslim girls from wearing headscarves at public schools and saying that the wearing of the hijab is ‘more an act of rebellion’ than religion,
(ii) comments by the Member for Mackellar, Ms Bronwyn Bishop, that Muslim girls wearing headscarves is ‘an iconic act of defiance’,
(iii) the view of the Herald Sun columnist, Mr Andrew Bolt, that such comments are ‘fostering bigotry’, and
(iv) that the Prime Minister, Mr Howard, has not condemned the comments, but rather ruled out banning headscarves from schools as ‘impractical’;
(b) calls on the Government to act on the recommendations of the Investment Review of Health and Medical Research report by:
(i) reorganising the National Health and Medical Research Council to administer research funds in a more streamlined and strategic fashion, and
(ii) increasing investment in health and medical research to bring Australia up to the Organisation for Economic Co-operation and Development average of 0.2 per cent of gross domestic product.

Senator Stephens to move on the next day of sitting:
That the Senate—
(a) notes that:
(i) medical research improves health, creates jobs and results in economic returns to Australia,
(ii) the effects of demographic ageing will place unprecedented demands on the Australian health system, and
(iii) the ‘burden of disease’, including pain, suffering and premature death in Australia already costs 13.7 per cent of the health span of Australians; and
(b) calls on the Government to act on the recommendations of the Investment Review of Health and Medical Research report by:
(i) reorganising the National Health and Medical Research Council to administer research funds in a more streamlined and strategic fashion, and
(ii) increasing investment in health and medical research to bring Australia up to the Organisation for Economic Co-operation and Development average of 0.2 per cent of gross domestic product.

Senator Bob Brown to move on the next day of sitting:
That the Senate—
(a) expresses its great sympathy for the people of the United States of America (US) after the catastrophe of Hurricane Katrina;
(b) grieves for those whose lives have been taken or who have suffered loss, and wishes all strength to those working to aid the people of the stricken region; and
(c) from the other side of our shared planet, wishes the people of the US rapid healing and all possible recovery from the ravages of this terrific storm.

Senator Watson (Tasmania) (3.34 pm)—On behalf of the Standing Committee on Regulations and Ordinances, I give notice that 15 sitting days after today I shall move:
That the following delegated legislation be disallowed:

1. Crimes Amendment Regulations 2005 (No. 1) as contained in Select Legislative Instrument 2005 No. 81 and made under the Crimes Act 1914 [F2005L01124]


I seek leave to incorporate in Hansard a short summary of the matters raised by the committee.

Leave granted.

The summary read as follows—

Crimes Amendment Regulations 2005 (No. 1), Select Legislative Instrument 2005 No. 81

These Regulations prescribe certain laws of Queensland concerning forensic procedure as ‘corresponding law’ for the purposes of section 23YUA of the Crimes Act 1914.

Section 17 of the Legislative Instruments Act 2003 directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken particularly where a proposed instrument is likely to have an effect on business. Section 18 of the Act provides that in some circumstances consultation may be unnecessary or inappropriate. The definition of ‘explanatory statement’ in section 4 of the Act requires an explanatory statement to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken. The Explanatory Statement that accompanies these Regulations makes no reference to consultation. The Committee has written to the Minister seeking advice on whether consultation was undertaken and, if so, the nature of that consultation.


These Declarations were made by the Secretary of the Department of Employment and Workplace Relations on 29 April 2005, the Acting Secretary of the Department of Education Science and Training on 17 May 2005, and the Secretary of the Department of Family and Community Services on 26 April 2005. Each instrument revokes a previous Declaration and specifies classes of trusts that are excluded trusts. The title of each Declaration is identical, and the substance of each Declaration is nearly identical.

The instrument made by the Secretary of the Department of Employment and Workplace Relations contains a sunset clause that provides for the cessation of the Declaration on 30 June 2006. The equivalent instruments prepared by the two other Departments do not contain such a clause. The Committee has written to the three Ministers seeking advice on the reason for this difference and whether there is any possibility that instruments having the same purpose might come to operate for different periods of time in relation to different clients or Departments.

The Committee has also sought advice on the process for proving that a relevant trust is an excluded trust.

The Committee has received some advice and is awaiting further information to allow it to finalise its consideration of these Declarations.
Senator FERRIS (South Australia) (3.35 pm)—I present the ninth report of 2005 of the Selection of Bills Committee and move:

That the report be adopted.

I seek leave to have the report incorporated in Hansard.

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE
REPORT NO. 9 OF 2005

1. The committee met in private session on Tuesday, 6 September 2005 at 4.18 pm.

2. The committee resolved to recommend—

That—

(a) the provisions of the Corporations (Aboriginal and Torres Strait Islander) Bill 2005 be referred immediately to the Legal and Constitutional Legislation Committee for inquiry and report by 12 October 2005 (see appendix 1 for statement of reasons for referral); and

(b) the provisions of the Therapeutic Goods Amendment Bill 2005 be referred immediately to the Community Affairs Legislation Committee for inquiry and report by 30 October 2005 (see appendix 2 for statement of reasons for referral).

3. The committee resolved to recommend—

That the following bills not be referred to committees:

• Defence Legislation Amendment Bill (No. 1) 2005
• Protection of the Sea (Shipping Levy) Amendment Bill 2005
• Tax Laws Amendment (2005 Measures No. 5) Bill 2005.

The committee recommends accordingly.

(Jeannie Ferris)

Chair

7 September 2005

Appendix 1

Proposal to refer a bill to a committee

Name of bill(s):
Corporations (Aboriginal and Torres Strait Islander) Bill 2005

Reasons for referral/principal issues for consideration
To examine the viability and operation of the provisions of the bill which intends to replace the Aboriginal Councils and Associations Act 1976 (the ACA Act) in order to improve governance and capacity in the Indigenous corporate sector.

Possible submissions or evidence from:
Ms Laura Beacroft, Registrar of Aboriginal Corporations
Mick Dodson
Senator Brennan Rashid
Dr Christos Manziaris
Mr Graeme Neate
Dr Jim Fingleton
Mr Tom Calma, Aboriginal and Torres Strait Islander Social Justice Commissioner,
Miriuwung Gajerrong (Prescribed Body Corporate) Aboriginal Corporation
North Queensland Land Council Native Title Representative Body Corporation
Land Councils—Cape York Land Council, the Central Land Council and the Northern Land Council
Aboriginal legal services
Jennifer Clarke (ANU)
Garth Nettheim (UNSW)

Committee to which bill is referred:
Legal and Constitutional Legislation Committee

Possible hearing date:
Possible reporting date(s): 12 October 2005

Appendix 2

Proposal to refer a bill to a committee

Name of bill(s):
Therapeutic Goods Amendment Bill 2005

CHAMBER
Reasons for referral/principal issues for consideration

To examine the provisions of the bill relating to new enforcement options for the TGA to:

(a) identify if the Bill provides sufficient detail on the scope of alleged breaches to which infringement notices may apply, on the use of alternatives to court proceedings, and the extent to which the processes of investigation of offences will be in line with procedural fairness (including the use of media during investigations and prosecutions)

(b) ascertain if the bill adequately accommodates differences between registrable and listable goods

(c) examine inequity implications for Australian based manufacturers due to the non applicability of the civil penalty regime to foreign entities

(d) examine the need for ad hoc appeals mechanism against the imposition of an infringement notice and a fine under the civil penalties regime currently included in the Guidelines, to be included in the Regulations to preserve the appeal mechanism and prevent arbitrary variations and application.

Possible submissions or evidence from:
Medicines Australia
Medical Industry Association of Australia
The Complementary Healthcare Council of Australia
Johanson and Associates Consulting
Department of Health and Ageing, Therapeutic Goods Administration
Therapeutic Goods Administration, Office of Complementary Medicines
Deloitte Touche Tohmatsu
Professor Stephen Myers, Australian Centre for Complementary Medicine
Australian Traditional Medicine Society
Dr Ian Brichthope, Australasian College of Nutritional and Environmental Medicine
Doug Kentwell, Regulatory Solutions
ACNEM—Australasian College of Nutritional & Environmental Medicine

Committee to which bill is referred:
Community Affairs Legislation Committee

Possible hearing date:
Possible reporting date(s): 30 November 2005

Senator BARTLETT (Queensland) (3.35 pm)—I move the following amendment:

At the end of the motion, add “and, in respect of the Therapeutic Goods Amendment Bill 2005, the Community Affairs Legislation Committee report on 28 October 2005.”.

This amendment is just to change the date from the 30th to the 28th, because the 30th is on a weekend.

Question agreed to.
Report, as amended, adopted.

NOTICES
Postponement

The following items of business were postponed:

Business of the Senate notice of motion no. 1 standing in the name of Senator Bob Brown for today, proposing the reference of matters to the Community Affairs References Committee, postponed till 8 September 2005.


General business notice of motion no. 236 standing in the name of the Leader of the Australian Democrats (Senator Allison) for today, relating to foetal alcohol spectrum disorders, postponed till 8 September 2005.

General business notice of motion no. 237 standing in the name of the Leader of the Australian Democrats (Senator Allison) for today, relating to National Gynaecological Awareness Day, postponed till 8 September 2005.

General business notice of motion no. 238 standing in the name of the Leader of the Australian Democrats (Senator Allison) for today, relating to ethanol in petrol, postponed till 8 September 2005.
General business notice of motion no. 240 standing in the name of the Leader of the Australian Democrats (Senator Allison) for today, relating to reproductive health services, postponed till 8 September 2005.

General business notice of motion no. 241 standing in the name of Senator Nettle for today, relating to Wandella State Forest, postponed till 8 September 2005.

HURRICANE KATRINA

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

That the Senate—

(a) expresses its profound sympathy to all Australians and their families who have suffered as a result of Hurricane Katrina; and

(b) extends its sincere condolences and deepest sympathy to the American people in the aftermath of Hurricane Katrina.

Question agreed to.

MR DAVID HICKS

Senator ALLISON (Victoria—Leader of the Australian Democrats) (3.37 pm)—At the request of Senators Stott Despoja, Kirk and Bob Brown, I move:

That the Senate—

(a) notes:

(i) the right of all Australians, regardless of their alleged crime, to a fair and transparent trial,

(ii) the number of serious doubts raised by legal and military experts, including retired High Court of Australia Justices Mary Gaudron and Sir Ninian Stephen, the Presidents of the Law Council of Australia and the 14 Law Societies and Bar Associations of the states and territories of Australia, independent Law Council of Australia observer Lex Lasry QC, head of the Australian Military Bar Captain Paul Willee QC, Mr Geoffrey Robertson QC, the American Bar Association, three United States of America (US) military commission prosecutors and sitting High Court of Australia Justice Michael Kirby, who regard US military commissions as unjust,

(iii) that Spain, France and the United Kingdom have all refused to allow their citizens to be tried before US military commissions, and

(iv) the comments by the United Kingdom’s Attorney General, the Right Honourable Lord Goldsmith, that ‘the United Kingdom have been unable to accept the US military tribunals … offer sufficient guarantees of a fair trial in accordance with international standards’; and

(b) calls on the Government to advocate for Mr David Hicks’ trial to be conducted in a properly constituted court with rules of procedure and evidence that meet Australian and international standards of fairness.

Question negatived.

COMMITTEES

Rural and Regional Affairs and Transport Legislation Committee

Meeting

Senator FERRIS (South Australia) (3.38 pm)—At the request of the Chair of Rural and Regional Affairs and Transport Legislation Committee, Senator Heffernan, I move:

That the Rural and Regional Affairs and Transport Legislation Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Wednesday, 14 September 2005, from 4 pm to 6 pm, in relation to its inquiry on the administration by the Department of Agriculture, Fisheries and Forestry of the citrus canker outbreak.

Question agreed to.
WORLD POVERTY
Senator BARNETT (Tasmania) (3.39 pm)—I, and also on behalf of Senators Chapman, Stephens and Polley, move:
That the Senate—
(a) recognises:
(i) the extent and gravity of world poverty and the urgency of tackling this situation,
(ii) that the most impoverished countries cannot escape the cycle of poverty without assistance, and
(iii) that two-thirds of the world’s poor are actually in Asia, (rather than Africa);
(b) acknowledges recent efforts by the Australian Government including increases in the Australian overseas aid budget and special support for those in need following the December 2004 tsunami;
(c) supports the Millennium Development Goals agreed to by the Australian and other governments in 2000 which specifically included a set of eight goals to be achieved by 2015 as follows:
(i) halve extreme poverty and hunger,
(ii) achieve universal primary education,
(iii) promote gender equality and empower women in all levels of education,
(iv) reduce child mortality by two-thirds,
(v) reduce the maternal mortality ratio by three-quarters,
(vi) halt and begin to reverse the spread of HIV/AIDS, malaria and other diseases,
(vii) ensure environmental sustainability by:
(A) integrating the principles of sustainable development into country policies,
(B) reversing the loss of environmental resources,
(C) halving the proportion of people without access to clean water or adequate sanitation, and
(d) significantly improving the lives of at least 100 million slum dwellers by 2020, and
(viii) develop a global partnership for development based on fairer international trade, financial and governance systems; and
(d) urges the Australian Government to recommit itself to the achievement of those goals.
I seek leave to make some remarks with regard to the motion.

Leave granted.

Senator BARNETT—I will be brief in light of the time arrangements. I wish to speak in favour of the motion and thank the Senate for their support of it. I acknowledge in particular the work of the Micah Challenge and the Make Poverty History effort, supporters like World Vision and Opportunity International and the host of other non-government organisations that are supporting this particular motion and the efforts to make poverty history, and the support from the Australian government for the Millennium Development Goals, which is set out very clearly in the motion.

Overseas development aid must be carefully targeted, especially in our region. As is indicated in the motion, two-thirds of the world’s poor are in our region. According to the World Bank, 712 million people in Asia and 314 million people in Africa live on less than one American dollar per day. In my view, conditions should be attached to ensure corrupt regimes do not benefit. In addition, conditions with respect to better governance outcomes are justified. Free, freer and fairer trade have a huge part to play in advancing the cause.

At the moment our Australian development budget is costed at $2.5 billion or thereabouts. That equates to about one loaf of bread a week for the world’s poor. It is my
view that perhaps we can dig a little bit deeper and do even better than that. I would like consideration to be given to making it two loaves of bread per week. Over time I think we can attain that investment, and it will be for a very good reason, as set out in the motion.

Senator POLLEY (Tasmania) (3.42 pm)—by leave—I have great pleasure in supporting this resolution and in drawing to the attention of those in the chamber the Watoto Children’s Choir from Uganda that performed in the front foyer this morning, giving us a wonderful experience. I think that performance strengthens the argument to move this motion today in support of world poverty. World poverty is real and increasing and I would like to take this opportunity to briefly talk in the chamber about the desperate situation facing the impoverished people of the world and what action Australia can take to contribute to addressing world poverty.

Take these facts as a strong reminder of the need for cohesive and urgent attention to reduce poverty. Over one billion people live on less than a dollar a day, and three billion on less than two dollars a day. Some 113 million children, of which 60 per cent are girls, do not attend school. Youth literacy levels are less than 80 per cent in the world’s poorest countries. Every year, around 11 million children under the age of five years die of mainly preventable diseases. Maternal mortality levels are unacceptably high: up to 670 per 100,000 live births. That is some 50 to 60 times higher than in wealthier countries. Over half a million women per year die during pregnancy or childbirth. An estimated 40 million people are living with HIV-AIDS. Nearly one billion people live in urban slums, and half the developing world still lack toilets or basic sanitation.

How do we as a country contribute to reducing world poverty? We can do it through implementing the Millennium Development Goals, agreed to in 2000 by all UN members, including Australia, which set out eight clear goals for halving poverty by 2015. These goals focus on income generation, health, education, gender equity and environmental sustainability. More specifically, some of the goals include: halving extreme poverty and hunger by 2015 by halving the proportion of people whose income is less than a $1 a day and halving the proportion of people who suffer from hunger; promoting gender equity and empowering women in all levels of education; reducing child mortality by two-thirds; reducing the maternal mortality ratio by three-quarters; and halting and reversing the spread of HIV-AIDS.

Australia’s aid levels are low by international standards and fail to meet international agreements. Our aid is not focused on meeting the MDGs. In the 2002-03 budget only 2.7 per cent of the total aid budget, equal to only $49 million, was allocated to the MDGs. With our current commitment of only 0.28 per cent of the GNI, the United Nations recommendation is that we increase our aid budget to 0.5 per cent of the GNI with the aim of reaching 0.7 per cent by 2015. This increase of $60 per person in Australia’s aid budget would help 32.7 million people reach the MDGs. The UN summit on the MDGs to be held in New York this month must be attended by the Prime Minister but he has still not indicated if he will attend. Australia must make a stand against world poverty and make a strong, resource backed commitment to the MDGs.

Question agreed to.

MATTERS OF PUBLIC IMPORTANCE

Telstra

The ACTING DEPUTY PRESIDENT
(Senator Marshall)—The President has re-
received a letter from Senator Ludwig proposing that a definite matter of public importance be submitted to the Senate for discussion, namely:

The failure of the Howard Government to be open and honest with the Australian public and Telstra shareholders over the sale of Telstra.

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 ACTING 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 clock accordingly.

Senator CONROY (Victoria) (3.47 pm)—The developments of this week have caught out the government in its failure to be open and honest with the Australian public and Telstra shareholders over the sale of Telstra. In the same week as it has tried to rush through its extreme plans to sell Telstra, against the wishes of the vast majority of the Australian public, the government’s incompetence and mismanagement of telecommunications policy has blown up in its face. The events of this week have revealed the effects of nine long years of deception from the Howard government regarding the sale of Telstra. After staunchly telling the Australian public for almost a decade that all was well with Telstra and that services were up to scratch, the developments of this week have caught the government out. Yesterday Labor revealed a secret briefing document that Telstra provided to the government on the state of Telstra’s business. This document was a damning indictment on the impact that the government’s privatisation agenda has had on Telstra. The report outlines the fact that in the last two years special dividends have stripped $1.9 billion out of Telstra. It is clear, even to the casual observer, that the object of this dividends strategy was to prop up Telstra’s share price in the short term. It is clear that the object of this policy was to encourage investors to buy Telstra shares not because they thought they were a good buy but because they would receive a juicy dividend from them in the short term.

We all know why Telstra decided to pursue this policy. While the government has stridently insisted in the past that it does not interfere with the day-to-day operations of the management of Telstra, it is obvious to all who are following this debate that Telstra’s dividend policy has been pursued in the furtherance of the government’s privatisation agenda. The impact of this policy on Telstra’s consumers and its long-term share price has been disastrous and this week the government has reaped what it has sowed. As has been recognised in the past by the Minister for Finance, the pursuit of an extremely generous short-term dividend policy undermines the capacity of the company to make capital investments.

Telstra’s briefing document confirms that the dividend policy implemented by Telstra in pursuit of the government’s privatisation agenda has left it without the cash to invest in infrastructure and to improve services to regional and rural Australia. The report concedes that over the past few years Telstra has failed to make the necessary investments in its network. The report also states that the consequences of this underinvestment have been dramatic. Telstra’s report reveals that, as a result of this strategy, Telstra has received 14.3 million fault calls on its lines and that 14 per cent of all Telstra’s lines have faults. Let me repeat that: 14 per cent of all Telstra’s lines have faults. In total, 1.4 million Australians currently have a faulty telephone line because Telstra has underinvested in its network as it has tried to prop up its
share price in pursuit of the government’s privatisation agenda. Even worse, because Telstra had returned so much of its capital to shareholders instead of investing in new markets, it has now realised that it will not have sufficient revenues in the future to continue these dividends.

To make matters worse, when Telstra told the government this, what was the reaction of the Prime Minister? He shot the messenger. He called the messenger a disgrace. He attacked Mr Trujillo and blamed him for the problems facing Telstra. Mr Trujillo is not to blame for the current mess that Telstra is in; he has only been at the helm for two months. The real culprit for the mess that Telstra is in is the Howard government. It is the consequences of the Howard government’s extreme privatisation agenda that are to blame for this situation.

So after trying to blame Sol Trujillo for Telstra’s problem, the Prime Minister then reverted to form and tried to avoid his own responsibility for the disaster that has affected Telstra’s shareholders and consumers. He is the one who handpicked the Telstra board. He is the one who encouraged them to prop up the share price by draining reserves to strip the company of billions through inflated dividends and share buybacks. This is a company that has underinvested in its own network to the tune of at least $3 billion. It has 1.4 million faulty lines. It has IT systems which are simply incapable of supporting new products.

Labor says that, as the majority shareholder in Telstra, the government has a moral obligation. It was obliged to make small shareholders aware of the parlous state—welcome, Senator Barnaby Joyce! We invite you to join in. We invite you and the $7 billion woman over there to participate. We are very pleased to see you. There are 1.4 million faulty lines. That is going to take more than your shonky $200 million a year to fix—your bandaid $200 million a year.

Senator Brandis—That is the first time you have diverted from the script.

Senator Nash—Go back to your script.

Senator CONROY—It might have helped if you had stuck to your guns with the $7 billion woman next to you. You recommended $7 billion in the Page Research Centre’s report. That was a great way to fill in three months while you were waiting to take your seats—a great waste of time, a complete sell-out, a complete pretence.

Government senators interjecting—

The ACTING DEPUTY PRESIDENT (Senator Marshall)—Order! Senator Conroy, please address your remarks through the chair, and I ask other senators to cease interjecting.

Senator CONROY—I accept your admonishment, Mr Acting Deputy President. The fact that the revelation of the truth would undermine the government’s privatisation plans does not absolve them of this moral responsibility. The Prime Minister sat back and let speculation in the marketplace take place, he let shares be traded and he let Telstra’s mums and dads take a bath simply because he could not afford to have the truth be confirmed. This is too important to the mum and dad shareholders, consumers and the Australian economy to be swept under the carpet.

As Telstra acknowledged in its briefing document that it gave the government on 11 August, the company has:

... systemic weaknesses and vulnerabilities that have far reaching implications and need to be recognised and addressed—not only for the future of T3 but also for the future of Telstra itself.

But the idea of a moral obligation is a foreign concept to the Prime Minister—not normally for Senator Brandis, but for the
Prime Minister, the ‘rodent’ as Senator Brandis affectionately refers to him, the idea of a moral obligation is a foreign concept.

At his press conference today, he looked like he needed a dictionary to work it out. Like a drowning man searching for a life raft he sought refuge in the provisions of the Telstra Corporation Act. The Prime Minister claimed that under a provision of the Telstra act, allegedly introduced by the Leader of the Opposition, Kim Beazley, the government was not able to disclose the information it obtained in its private briefing with Telstra.

Senator Joyce—Are Labor going to sell or not? What side are you on?

Senator CONROY—We will be on the no side, Senator Joyce. I know you are new to the chamber but please come and vote. The people opposed to the privatisation of Telstra will sit on one side of the chamber and that will be us: the Labor Party, the Democrats, the Greens and probably Senator Fielding. We will all be sitting on one side of the chamber. Do you know how you will know that you are voting yes? You will be sitting on the other side of the chamber.

Government senators interjecting—

The ACTING DEPUTY PRESIDENT—Order! Senator Conroy, please address your remarks through the chair. I again ask other senators to cease interjecting.

Senator CONROY—You will very easily be able to tell because for the third, fourth and the fifth time that the government has moved a bill to sell Telstra, Labor will be opposing it. Senator Joyce went to the election and he told Queenslanders that he was going to oppose it. At least you, Senator Nash, did not fall for that one. At least you, with a clear conscience, can rat on the constituents of New South Wales. At least you have got a clean conscience; you did not promise to oppose it. I give you some credit, Senator Nash.

Senator Joyce—You can give me credit for the biggest telecommunications deal of all time.

Senator CONROY—What happened to the $6 billion?

Senator Joyce—I can explain it to you.

Senator CONROY—Excellent. I am looking forward to it. Even Senator Coonan and the Prime Minister will not get on board the $6 billion but you keep on peddling it, Barnaby. There is not one commentator in the country, not one journalist, not one other senator in the building who wants to tie themselves to it—and the PPP $6 billion is on the way. You go for it, Senator Joyce.

Like a drowning man searching for a life raft the Prime Minister sought refuge in the provisions of the Telstra Corporation Act. He claimed Kim Beazley introduced the obligations. We again heard this trotted out by Senator Coonan. Both of them got it wrong. The relevant provision, section 8AW, was introduced by John Howard in 1996 as part of the T1 sale, strike one. More importantly, there is nothing in the section that would prevent the government disclosing the information contained in the briefing paper that they received, especially to ASIC, the corporate regulator.

Senator Brandis—That is not correct.

Senator CONROY—That is the case; it is. So this was just a distraction thrown out. Feel free to read it, Senator Brandis. Our esteemed tax avoiding QC can stand up and give us a rundown—

Senator Ferris—you are a disgrace!

Senator CONROY—it is a court case. He had to pay the fine; not me. He paid the tax fine.

The ACTING DEPUTY PRESIDENT (Senator Marshall)—Order! Again, I ask
senators to cease interjecting. Again, Senator Conroy, please address your remarks through the chair.

Senator CONROY—Senator Brandis is one of my favourite senators. I know you are going to become one, Senator Joyce, but Senator Brandis tips you at the moment. When you actually read what the section says, as opposed to what the Prime Minister claims it says, Senator Brandis, I know you are going to support the Prime Minister as you always do. He sends you into the chamber to bail him out. We know what you said at the Liberal Party bribes meeting. We know what you said about the rodent at the meeting. You said, ‘I’ve got to go in there and rescue the rodent again.’ Here he is again, rescuing the rodent from his own misreading of the legislation and his false claim about the Leader of the Opposition.

ASIC could have been informed because they are public servants. They are officers of the Commonwealth.

Senator Wong interjecting—

Senator CONROY—We have got so much form on selling Telstra; we have only voted against it five times! We should not allow the Prime Minister to turn this into an argument about the legal interpretation. The key issue here is one of moral obligation, not of legal obligation. All John Howard had to do was say to his hand-picked board: ‘Guys, it’s time to tell the truth. Senator Barnaby Joyce would actually like to know the truth.’ And I think Senator Barnaby Joyce would like to know the truth about the state of affairs in the Telstra network, because I do believe that, deep down, he cares about it.

Yesterday the Prime Minister picked up the phone to tell his mate Mr McGauchie to get the Telstra executives to talk the stock up. As the Financial Review today noted, he actually asked them to breach the Corporations Act. Come on down again, Senator Brandis! Help the rodent out of this one as well. The obligation of the directors and officers is to tell the truth, not to simply propagandise on behalf of the government’s privatisation agenda. How much easier would it have been for the Prime Minister to ring up the chairman and ask the company to actually comply with the law? Of course he did not, though. It is pure political expediency. All he had to do was pick up the phone and say, ‘About the briefing you gave us on 11 August, I have seen that there have been some comments about how some of the issues in the briefing have gone public.’ All he had to do then was say: ‘I think it is now a market-sensitive issue. We have the information. It has been speculated on in the media. There are journalists who have been given copies of the briefing. Analysts have been given copies of the briefing. We think you should come clean.’ Why should he have done this? Because, when he encouraged investors—mums and dads of Australia—to buy T2 at $7.40, he told them it was a good deal; he encouraged them into this stock. He sat back for the last month at least and allowed trading to be going on while mum and dad Telstra shareholders have taken a bath.

Senator McGauran—You have attempted to run the shares down.

Senator CONROY—Oh, please! It is our fault today, is it, Senator McGauran? I thought it was the disgraceful Telstra management, or did you get your lines wrong? (Time expired)

Senator BRANDIS (Queensland) (4.02 pm)—If there is one thing the debate in the last couple of days has demonstrated beyond argument, it is the absurdity of the situation in which the government continues to be a majority shareholder in Telstra. As Senator Minchin said in question time today, there are impossible conflicts in a situation in which the government, which is the reposi-
tory of certain functions under the Telstra Corporation Act—including the receipt of information from the Telstra board itself—is also the majority shareholder.

Under division 3 of the Telstra Corporation Act, with which Senator Conroy is unfamiliar, there are obligations imposed upon Telstra to report information to the government. The things that the board of Telstra has to report to the government include its corporate plan. They include significant events which may or may not be market-sensitive information. They are the very sort of information which no board could, under the ordinary Corporations Act, report to a substantial shareholder to the exclusion of other shareholders without being in breach of the Corporations Act. But what do we find in section 8AI of the Telstra Corporation Act? We find that those bizarre obligations are exempted both from the provisions of the Corporations Act and from the general law. So you have this extraordinary situation in which there is a statutory obligation on Telstra to provide information that would not ordinarily be disclosed to the market or to other shareholders to one shareholder, namely, the Commonwealth government. It is conduct which, but for this act, would be the most flagrant breach of the Corporations Act. There is this inconsistency built into the legislation. It puts the company into a totally false position.

On 11 August, at this meeting of which we have heard so much during the course of the debate, Mr Trujillo and other senior officers of Telstra had a discussion with the Prime Minister and other senior members of the government and, in fulfilment of Telstra’s obligations under division 3 of the Telstra Corporation Act, they provided the Prime Minister with certain information—arguably market-sensitive information. That is certainly what ASIC seems to think. We have heard Senator Conroy ignorantly say that the Prime Minister ought to have revealed that information to the general public. I say ‘ignorantly’ because, when Senator Conroy makes that argument, he does it in ignorance of section 8AW of the Telstra Corporation Act, which specifically prohibits the recipients of reports under division 3 of the act from passing it on to others, to the general public or to other shareholders, except in defined circumstances.

What are those defined circumstances? They are that information provided under division 3 may be used in entering into or carrying out a Telstra sale scheme. That is a defined term, and, on any view, the discussion between Mr Trujillo and the Prime Minister was not that. Under section 8AW(3), we see that the information might be disclosed in formulating a Telstra sale scheme. On any view, the conversation between Mr Trujillo and the Prime Minister was not that. Another exception is created in subsection (4):

If subsection (2) or (3) does not apply, the Commonwealth, or an associated person, may use or disclose the information for a purpose in connection with the Commonwealth’s capacity as a shareholder in Telstra, so long as the use or disclosure does not involve giving the information to a person who is not an associated person.

This is the point that the Minister for Communications, Information Technology and the Arts, Senator Coonan, was at pains to make in question time today, but of course the Labor Party, who are not interested in where the legal rights and wrongs of this situation lie, were not prepared to listen to what she was saying. The Telstra Corporation Act specifically prohibits somebody like the Prime Minister, who has received information of the kind which, it is now common ground, was revealed to him on 11 August, from disclosing it except in the defined circumstances of section 8AW, of which on any view this was not one. So it is just a nonsense. It is absurd to say that the Prime Min-
ister did something wrong by obeying the law. It is absurd to say that the Prime Minister did something wrong in not disclosing this information to the market, when the very act that establishes and regulates Telstra prohibited him from revealing it to the market.

We even heard Senator Kirk before, who—and, if I may say so, Senator, as I know of your legal background I am a little disappointed in you; perhaps you had not read the section closely—suggested that if the Prime Minister did not have a legal obligation to disclose, he certainly had a moral obligation. Not so, Senator Kirk, not so. The Prime Minister not only did not have a legal obligation to disclose, he had a legal prohibition against disclosing. He would have been breaking the law if he had disclosed, as any of the participants in the meeting on 11 August—this celebrated meeting—would have done.

Listen carefully, Senator Allison, because I hope you are not going to say a few loose and untidy things when you participate in this discussion, as the Australian Democrats usually do. Just stick to the law. The law prohibited any participants in that meeting from making the disclosure that Senator Kirk and other Labor senators, including Senator Conroy, have declared they had a moral obligation to make. How can they have a moral obligation to breach the very statute itself? It is as simple as that. The Prime Minister, in saying nothing about the matter, was complying with the prohibition contained in section 8A W of the Telstra Corporation Act.

That is not the same question, of course, as to whether or not Telstra should have disclosed that information to the market at that time. Arguably, they should have—arguably. That is the matter which the Australian Securities and Investment Commission is now looking at. But if there was an obligation to disclose, it lay upon the party which did not suffer a legal prohibition against disclosure—that is, Telstra, not the members of the government.

There are a couple of other things that I want to say, because the Prime Minister is being chastised for having said that the comments, particularly of Mr Burgess, were outrageous. He is being chastised for saying in the House of Representatives, ‘I think it is the obligation of senior executives of Telstra to talk up the company’s interest not to talk them down,’—as if there is something wrong with saying that.

The obligation of directors and senior officers of a corporation is, first and foremost, an obligation to the corporation itself. So much is quite clear from section 181 of the Corporations Act. Beyond that, directors and senior officers also have an obligation to the shareholders of the corporation. They are fiduciaries. They have, as Senator Kirk, Senator Wong and you, Mr Acting Deputy President, know perfectly well, a fiduciary obligation to protect the shareholders’ interests. Wherein lie the shareholders’ interests? They lie, first and foremost, in the value of their asset—the value of their shares. That is where the Commonwealth of Australia and all the other shareholders of Telstra do have a commonality of interests. How can it not be a violation of the obligation to protect the interests of shareholders gratuitously to talk down the value of the shareholders’ assets? That is what Mr Burgess did. His remarks were foolish, fatuous and feckless. He was rightly chastised by the Prime Minister for doing so. The sooner this impossibly conflicted position is removed, the sooner Telstra can return to ordinary commercial operations and the sooner these problems will disappear.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (4.13 pm)—It will surprise Senator Brandis to know that I agree
with him. The Democrats have been saying that all day, Senator Brandis—that it is true that the Prime Minister did not have an obligation to reveal that information to the rest of the shareholders. It was certainly not the Prime Minister’s obligation, moral or otherwise. However, what he did have an obligation to do was to advise Telstra as the major shareholder that this information was not market sensitive—and I will go through why it was not market sensitive in a moment—and that it should be revealed to all of the shareholders, the public, the Stock Exchange and everybody else who needs to know about these matters. That is the obligation. It is all very well to come in here and quote chapter and verse out of the Corporations Act, but what we are talking about here is the government having very damaging information to hand in a report that it received from Telstra—in fact, part of the negotiations that Telstra was hoping to engage in with the government.

Let us just run through those so-called market-sensitive pieces of information. There is a table in this report headed ‘the problem’ and ‘what is required’. The first of those dot point problems was: ‘Received 14.3 million fault calls (over 14 per cent of all lines have faults).’ If Senator Brandis can explain to me why he thinks that is market sensitive I will be pleased to hear it, but it seems to me to be downright about the problems of Telstra in delivering services. The second point is: ‘Replacement of obsolete or non vendor supported equipment.’ What is required? ‘Replacing the obsolete equipment and technologies.’ Then there is ageing of the work force and lack of training of new workers. What is the solution? ‘Investment for tools, equipment and training to bring the work force to benchmark levels.’ The fourth dot point problem is: ‘Legacy IT systems not capable of handling the volumes and new services currently being offered.’ The solution is ‘investment in fixing and replacing IT systems to handle volume’. The proposal is:

- Telstra and the government commit to build a world-class, high-capacity broadband infrastructure within 3-5 years.

That would give 98 per cent of Australian homes and businesses access to high-capacity next generation broadband service—six megabytes—and advanced services. Roll-out would begin as early as next year and the build-out would be completed in three to five years. It goes on:

- The Government and Telstra, working together, would assume obligations to each other and to the public to build the network:
  - Telstra commits to provide next-generation ... broadband to 87% of homes and businesses ($3.1B)
  - Government covers the remaining 13% ($2.6B)
- Pricing at nationally averaged prices (both retail and wholesale)

Everyone would benefit under this proposal. There would be jobs to do the build-out, jobs and productivity increases resulting from the build-out, greater choices for ICE—that is, information, communications and entertainment—more flexibility and more choices at home, at work and on the move. This proposal would spur economic growth, create new opportunities for rural and remote Australia and encourage genuine and sustainable competition. That is what the government did not want either this place, as we consider the matter of the sale of Telstra, or the other shareholders to know. And it did not want its customers to know either, because that is exactly what they are asking for. What they want is a plan that tells them when they will get broadband that is affordable, fast and modern and that reaches the vast majority of Australians.

The government has knocked that back. The Minister for Communications, Informa-
tion Technology and the Arts today, in answer to my question, said, ‘No, we’ve got a better plan.’ The fact that it is only worth $1.1 billion in the first instance and then $100 million a year after that as a result of the interest on $2 billion and that that is well short of the proposal that Telstra is making seems to have gone by the minister in terms of her judgment as to what was the better plan. Let me tell you that customers would be delighted to know that there was actually a plan that Telstra has devised, and disappointed in the extreme that the government rejected that plan in favour of a far inferior plan which is not a plan at all. At least, we do not think it is a plan at all; we have not seen the details of it other than what is in Telstra’s proposal.

So all this stuff about the government having other ideas and the proposal falling through and the fact that the government just wants to put it under the carpet now and not let anybody know has fortunately been blown out of the water because everybody now knows what is in this report and everybody now knows that the government has rejected the most sensible proposal that could be on the books. That is the great pity of this debate. Whether the Prime Minister should have mentioned to Telstra that it was actually their obligation to let all the shareholders know about this appalling state of affairs, the underinvestment in infrastructure, the number of faults and all of that stuff ought to be out there in any case. Whether or not he told Telstra to do so is beside the point. The real issue here is Australia’s access to modern telecommunications infrastructure. That is what has been missing. That is what the Democrats have argued for, probably since 1996 when this government came to power.

Where is the plan? How do we know who is going to get what and when, and who is going to pay for it and how? We have never had any indication from the government that they were prepared to go down that path, despite so many complaints from people. I get them, so I am sure the government members do as well. There are the people who say: ‘The phone line keeps dropping out; it costs me a fortune. I’ve got to pay for it to be extended to my household from the exchange, and it’s a waste of time and money.’ There are people who say: ‘When are we getting fibre optics? When is something decent going to come down our street? When are we going to be able to access the sorts of services that are routine in many other parts of the world?’ That is the other point. The minister crows about how the uptake of broadband has been so successful in this country. That is only because we started from a very low base. Sure, people are applying for it but that does not mean that our rate of take-up is anywhere near comparable. In fact, we are No. 21 out of all OECD countries, and we have fallen backwards. That Telstra report reveals why. It is because of the underinvestment of money in infrastructure. (Time expired)

Senator WONG (South Australia) (4.20 pm)—I rise to speak on the matter of public importance tabled by Senator Ludwig, discussing the failure of this government to be open and honest with the Australian public and Telstra shareholders over the sale of Telstra. This week, what we have seen is a litany of revelations in the public domain which demonstrate absolutely categorically and clearly this government’s failure to be open and honest with the Australian people when it comes to how it is handling Telstra and the extent to which the government has deceived the Australian public when it comes to Telstra.

What do we know? We know that on 11 August there was a briefing provided to the government by Telstra management—a briefing which went to quite a number of
issues which I will come to shortly. It was a briefing which contained what is considered to be likely to be market-sensitive information. As a result of this and subsequent events, we now have an investigation by the corporate watchdog, ASIC. We know from public reports that the briefing included such gems of information as the fact that $2 billion to $3 billion in additional investment should have been spent over the last three to five years, that the IT systems of the company are not capable of handling the volumes and new services being offered, that Telstra received 14.3 million fault calls and over 14 per cent of all lines have faults, that retail sales on profitability decline has continued to accelerate and, perhaps most importantly, given that we are supposed to shortly be debating the legislation to enable the sale of Telstra, that Telstra is borrowing from reserves to pay dividends—that Telstra has an unsustainable dividend policy and that this has been disclosed to the government. Perhaps this is one of the most important things about the information which is in the public arena and which, frankly, suggests that this government has been party to a cover-up around a policy that it knows is unsustainable in order to keep the share price up and to try and fatten up Telstra for privatisation in its blind and ideological pursuit of a privatisation agenda.

In terms of the sequence of events, on 31 August Mr Phil Burgess made the comment, ‘I wouldn’t sell Telstra shares to my mother.’ Then on 4 September Senator Coonan said, ‘I don’t know whether or not there is such pressure on the share price that there would need to be any information given to the Stock Exchange.’ The minister responsible for Telstra, who some two or three weeks earlier had been given information that clearly went to the profitability and performance of the company, and clearly there was a reasonable argument that it was market sensitive and went to the issue of dividend policy, said, ‘I don’t know if there is actually any pressure on the share price such that there would need to be any information given to the Stock Exchange.’ The day after, on Sunday 4 September, Telstra announced that the government had been informed of a possible downgrade. Then on the Tuesday, ASIC announced its investigation.

It is important to remember the obligations in regard to continuous disclosure. There are provisions in the Corporations Act which require officers and directors of companies to continuously disclose appropriate information to the Stock Exchange. We also have the Australian Stock Exchange listing rules. Section 674 of the Corporations Act outlines the requirements as to continuous disclosure. The Stock Exchange listing rules say that, once an entity becomes aware of any information concerning it that a reasonable person would expect to have a material effect on the price or value of the entity’s securities, the entity must immediately tell the ASX that information. No-one on the other side of the chamber has said, ‘We don’t think that this was information that was covered by either the continuous disclosure provisions of the Corporations Act or the Stock Exchange listing rules.’ I do not recall anybody saying that. The minister certainly has not gone down that path in her answers. The government are saying that they did not have to ensure that this was complied with. I will come to that shortly.

What have we seen since the events I have just outlined? From what is on the public record, we understand that this briefing was given to the Prime Minister, to Senator Coonan and, I believe, also to Senator Minchin, and that there was selective provision of this document to certain journalists—certainly it was in the public domain. There is a suggestion that it was given to some
other bodies, but certainly it was not released publicly so that ordinary shareholders—families who bought Telstra shares—could have access to this information that was arguably going to have an effect on the share price. What have we seen since that time? We have seen the share price dive.

There are two very important questions this government is not answering. Firstly, after the government was briefed, why did it not ensure that the information was disclosed when, arguably, there was a very strong case for it to be disclosed under the ASX listing rules or the continuous disclosure provisions? The government has not answered that. What we have had in the parliament is a technical legal argument, ‘The Prime Minister could not actually disclose that because the particular division in the Telstra legislation, which talks about the provision of this information, does not enable him to disclose that.’ We had Senator Coonan in question time today saying something similar: ‘We don’t have the legal obligation to disclose.’ What the government is not answering is this: as the majority shareholder, if information was given to it that it knew ought to have been disclosed to other parties and ought to have been disclosed to the Stock Exchange—my colleague Senator Mason is smiling at me; I wonder if that means he agrees with me.

Senator Mason—I am always smiling.

Senator WONG—When the majority shareholder was in possession of that information, why didn’t it say in the meeting, ‘Is this information that you should be providing to the Stock Exchange and to the market in accordance with the law and in accordance with the listing rules?’ We have not yet heard from the Prime Minister or from any of the ministers responsible that that advice was given to the Telstra management. They say: ‘It’s not our fault. It’s not our responsibility.’ That is a case of, ‘See no evil, hear no evil.’ If the Prime Minister or Minister Coonan were of the view that it was appropriate for this information to be in the public arena, that this was information that actually was required to be disclosed under the act or under the listing rules, they should have said so to the Telstra management. As yet, we have not heard them say that. We have heard the Prime Minister—talk about compounding your errors—come out and have a whack at the senior executives of Telstra. We know that yesterday the Prime Minister advised parliament that he had told the chairman of the Telstra board, ‘The obligation of senior executives of Telstra is to talk up the company’s interests, not talk them down.’ It is pretty extraordinary when a Prime Minister of this country actually says, ‘We want you to talk up the company; that’s what you should be doing.’

Senator McGauran—That’s unusual?

Senator WONG—Yes, actually it is unusual, because the legal obligation on the directors, of which the Prime Minister should be aware, is to act in the best interests of the company and in good faith and to disclose truthfully information to the market. It is not to talk up the company’s prospects so that you can fatten this company up for sale. It is not their obligation to do that. In fact, suggesting that they do it is arguably to suggest that they breach the Corporations Act. It is not just us who are saying this. I am sure that senators on the other side have read the financial press today. Peter Morgan of 452 Capital wrote:

I find the Prime Minister’s comment that it is the obligation of senior executives of Telstra to talk up the company’s interests, not to talk them down, very disappointing. If I were to make similar comments in public, I would expect to have the regulators around and disciplinary action taken quickly. Quite frankly, such comments are what you would expect from one of the corporate
rogues of the 1980s, not the leader of Australia. Without a doubt, it is not the job of a management team to talk up a share price. It is their job to provide honest information to all investors so that they can make a fully informed investment decision.

That is pretty clear, isn’t it? What have we had in question time in this chamber and what have we had in this parliament from this Prime Minister? We have had no clear explanation of why the government did not require this information to be disclosed as it ought to have been. We have a legal argument that there was no legal obligation on the Prime Minister or on Minister Coonan, as joint majority shareholder, to require that the company disclose this information or even to encourage them to do so. What we do have is the revelation that was contained in the briefing that the dividend policy is unsustainable. We know that the dividend policy is one of the things in the corporate plan that, under the provisions of the Telstra legislation, the government receives a briefing on. (Time expired)

**Senator NASH** (New South Wales) (4.30 pm)—It is quite extraordinary to continually hear Labor tell us how much they care about telecommunications and how much they care about telecommunications in rural and regional areas. Labor do not care about the bush. They are continually—they always have been and always will be—dominated by city interests and doing things in the interests of the cities. We only have to look at Senator Conroy to see a perfect example of this. He is supposed to be trying to run the Labor show on telecommunications, and I notice he has not even bothered to stay in the chamber to be part of this debate. He is the quintessential city slicker. He rarely gets out of Melbourne, unless he is coming to Canberra, and he is trying to tell this place that he cares about rural and regional Australia!

He does not know where he stands on Telstra. He continues to contradict himself.

In just one interview yesterday, in the course of only a minute, Senator Conroy said that Telstra was ‘starved of capital and had not made the necessary capital investments to keep the company profitable’. ‘That is the real problem,’ he said. Less than a minute later, he said, ‘I mean, this is a company that under the current regulations has just posted the single largest corporate profit in Australia’s history—a few weeks ago—$4 billion.’ So which is it, Senator Conroy? He is not even here to answer. Is Telstra starved of capital and failing to maintain profitability or a rampant monopoly making enormous profits? You do not know where you are. On 28 July, he said:

Labor knows that the vast majority of Australians believe that the best way to ensure that Telstra provides reasonable services in rural and regional Australia is to keep it in majority public ownership.

Then, on 16 August, he said that the ownership structure of Telstra made no difference to most Australians one way or the other. So which one is it? Here is a senator who is trying to lead his side’s debate on telecommunications and he has no idea where he is on this entire issue.

The hypocrisy of Labor on this issue is nothing short of breathtaking. Who sold Qantas? Labor did. Who sold the Commonwealth Bank? Labor did. Make no mistake, they would sell Telstra too without doing anything to make sure that there is a way forward to improve services and infrastructure in our rural and regional communities. Their leader, Kim Beazley, has admitted that, as finance minister, he attended a meeting with BHP to discuss the sale of Telstra and that his department consulted with investment banks and prepared a strategy paper for a five-stage sale of Telstra. So we have Labor saying, ‘Don’t sell Telstra,’ and their
leader is on the record as previously having discussed how to do it. It is absolutely hypocritical.

Labor, in government, were the party that forced the abolition of the analog network in 2000. They took absolutely no steps to secure a replacement. They left a huge mess in rural and regional Australia and, as a person of the bush, I remember only too well the effect that that had. All I can say is: thank goodness that this government took steps to put the CDMA network in place, which was the only thing that saved us. And Labor try and tell us that they care about telecommunications in the regions. They have no plan for improving service and infrastructure in the regions—none at all. They bleat on, saying, ‘Don’t sell Telstra,’ but they have no constructive ideas at all on how to improve telecommunications not only in the bush, but right across this nation.

Just saying, ‘Don’t sell Telstra,’ will not fix telecommunications services in the bush. What will fix telecommunications services in the bush is this government’s package that we are putting in place to deliver to the people right across this nation. I would like to make a few comments about that. The Howard-Vail government has put forward a very honest and open package that addresses the key issues of competition, service delivery and infrastructure funding for telecommunications in the bush. Make no mistake, there is quite a simple comparison here: Labor has no plan; we do.

Under the Connect Australia program, $1.1 billion over the next four years will go to upgrading mobile and broadband internet services in regional Australia, and we expect to see a great deal of private sector investment going into the regions to make sure that we have the services and infrastructure we need. This government will spend $2 billion on a communications fund to future-proof regional telecommunications in the long term, help fund the roll-out of new technology and address areas of market failure. It is about getting those telecommunications technologies out there and in place to make sure that the platform goes forward into the future.

Make no mistake, the Howard-Vail government has a plan. Labor has nothing: nada; not a thing. We plan to boost competition by ensuring the operational separation of Telstra, which will enable greater transparency through the separation of the wholesale and retail arms of Telstra. It will ensure a fair and level playing field for new players entering the regional telecommunications marketplace and it will allow other telecommunications companies to access the Telstra network on the same conditions as Telstra’s own retail arm. We should not under any circumstances allow a monopoly telecommunications carrier to operate in rural and regional Australia.

Opposition senators interjecting—

Senator NASH—If you listen, you might learn something and you might come up with a plan. A monopoly carrier will not provide the level of telecommunications services and infrastructure necessary to grow our regions in the future. Unlike the Labor Party, this government realises that competition is the best mechanism to deliver services and infrastructure out into our rural and regional communities. We only ever hear bleating from the other side, who say, ‘Don’t sell Telstra.’ We hear nothing about the way forward for telecommunications. Under the current legislative framework, there is effectively little opportunity for competition to deliver other than basic telecommunications services, and there is little incentive for Telstra as the existing major provider to deliver services capable of carrying our regions into the future. Our rural and regional communities need a telecommunications platform that will
take them into the future, and that is exactly what the package that the Howard-Vaile government is proposing will do.

Senator Wong interjecting—

Senator NASH—Labor has done nothing. You sit over there and bleat and carry on, but you have not done a thing except to switch off the analog network—which worked so well in the bush—and you had no plan whatsoever to actually put things in place. This government’s package will deliver competition, it will deliver services, and it will deliver better infrastructure out into the regions so that we will have a better telecommunications platform for everyone in Australia—not just rural and regional areas but everybody right across this nation. We have a plan, you don’t, and we are going to implement ours.

Senator BOB BROWN (Tasmania) (4.38 pm)—This is very irresponsible of the Howard-Vaile government, or, to put it another way, the ‘veiled Howard’ government. The remarkable speech we have just heard from Senator Nash was a complete disappearance of everything that The Nationals have said they stood for in defending telecommunications in the bush over the years that I have been in this place. Central to that was the assurance that communications in the bush would be fixed up before any sale would be supported by The Nationals.

Let me read to the Senate the outcome of the secret report from Telstra which was dot pointed on the front page of today’s Canberra Times. Senator Nash might listen to this. Here is the situation that you are handing the government, on a platter, through acquiescence to the sale of Telstra:

- Retail sales and profitability decline continued to accelerate.
- Telstra received 14.3 million fault calls (over 14 per cent of all lines have faults).
- Workforce is ageing and there is a lack of training in new workers.
- IT systems are not capable of handling the volumes and new services being offered.
- $2-3 billion in additional investment should have been spent over the past 3-5 years—but wasn’t.
- Telstra is borrowing from reserves to pay dividend.
- Regulations to be imposed after the sale will stunt growth.

I do not think it has been worse. It has not been worse in the time I have been in this parliament. A report like that handed to regional and rural Australia is the opportunity for The Nationals to stand up. And what do they say? They have got a Future Fund which is not even equivalent to the shortfall of what should have been spent in recent years. The Prime Minister has said it will be good for us. This is a sell-out of the bush by The Nationals. Talk about the big city; The Nationals are selling out to the big end of town. This is The Nationals selling out to the big end of town while the bush can deal with all these problems. Millions of calls are coming in each month about the faults in the telecommunications system, and The Nationals roll over and say: ‘We’ll go with the government. We’ll sell out.’

Before the election The Nationals said, ‘We’ll stand by and have Telstra kept in public hands until the services are right.’ After the election they have rolled over to the Howard government, and not one of them has the gumption to stand up to it—not Senator Joyce, not Senator Nash. Not one of them has the gumption to stand up for the bush this side of the election. They get some biscuits; they collapse. (Time expired)

Senator MASON (Queensland) (4.41 pm)—It is Groundhog Day in the Senate. In my time in the Senate there have been two great debates that have taken up an awful lot of time. The first was the debate on the introduction of a goods and services tax. The
second, of course, is the sale of Telstra. On both occasions, the debates have been marked by hypocrisy from the Australian Labor Party. They are willing to sacrifice the medium- to long-term interests of this country for votes in the short term. They did it with the GST, and they will do it with Telstra.

I recall in the GST debate the sanctimony from the other side. When people like Mr Keating, Mr Beazley and former senator Gareth Evans were all in favour of the GST, this lot opposed it because they thought it would win them votes and they would coast to an election victory. It was against the medium-term interest of this country, and they were prepared to sacrifice it for votes. That is happening again with the sale of Telstra. Mr Beazley himself considered selling Telstra. He discussed it with investment banks.

Senator Sandy Macdonald—So did Mr Keating.

Senator MASON—And Mr Keating. They considered that Telstra should be sold. They thought that, as we moved into the 21st century, it was absolutely inappropriate that government should own Telstra. It was totally inappropriate. The government could not be both a player and a regulator. Yet, the ALP oppose the sale of Telstra, and they say it is because of concern for the bush.

I have never heard the ALP really being concerned about the bush. They do not hold any seats there, they never go there, and the inner-city swingers and bow-tie wearers never go there. The Liberal Party and The Nationals understand the bush. I accept what my friend Senator Nash said. I accept there is concern in the bush, and I understand that most Australians do not want Telstra sold. I agree with that, Senator Brown; you are right on that. I accept that. But they were also against the GST and they were also against the lowering of tariffs. But governments have to make decisions in the medium- to long-term interests of the country. That is where you fail, and that is where Labor fail. You are quite prepared, for short-term votes for a few inner-city trendies, to oppose it.

Senator Wong interjecting—

Senator MASON—No, Senator Wong, that is the problem. That is the difference between you and me, and between the Labor Party and the Liberal Party. You opposed the GST and it was good public policy, The Labor Party opposed it and the Labor Party was wrong.

Senator Wong interjecting—

The ACTING DEPUTY PRESIDENT (Senator Chapman)—Order! Senator Wong, you know that interjections are disorderly. You have had your opportunity to contribute to this debate; it is now Senator Mason’s opportunity.

Senator MASON—The Labor Party oppose good public policy for a few cheap votes. They did it on the goods and services tax and they will do it again on Telstra. It is pathetic. Even if we do privatise, the one thing about this government is that we have been honest with the Australian public about it. We have gone to four elections saying we will sell Telstra. The Australian Labor Party, however, always privatised by stealth. Remember Qantas. Mr Beazley said, ‘We’re not going to sell Qantas,’ and he sold a bit; ‘We’re not going to sell any more,’ and he sold a bit more, 49 per cent; and ‘But we’re not going to sell any more,’ and he sold the whole damn lot. It was the same with the Commonwealth Bank.

Senator Joyce—What did he leave behind for the bush?

Senator MASON—What did he leave behind for the bush? In fact, what did he leave behind for the country? Nothing. There is not one legacy from the sale of those two
great institutions. The difference is that the Australian Labor Party could not manage the economy. The living standards of the average Australian went down and unemployment went up. Those institutions were sold to pay the bill for Labor incompetence. That is the difference.

*Senator Bob Brown interjecting—*

*Senator MASON—*This time, when we sell Telstra, there will be a Future Fund, and it is to pay, Senator Brown, for the pensions of you, me and all the other public servants in this country and for other things. It is a good thing. It is better that we have a Future Fund than government continue to own Telstra. That is the difference.

Today we heard Senator Conroy, Senator Sherry and others in question time say, ‘The government said this,’ ‘Mr Howard’s complicit with Telstra,’ ‘They’re not doing the right thing by shareholders,’ ‘They’re fattening the calf,’ and so forth. That illustrates better than anything else why it is absolutely ridiculous for the government to own Telstra. It cannot be both a player and a regulator. It is inconsistent and ridiculous. You cannot be half pregnant, so they say. The only institution half pregnant in this country is Telstra. It cannot exist in this ridiculous twilight zone, as a pathetic hybrid where the shareholders are not being dealt with appropriately and Telstra cannot continue to invest. The current situation is absolutely untenable.

What is going to have to happen is for the Australian Labor Party to come to the party. They know that Telstra should be sold and that it is in the interests of the Australian people. While I accept that most Australian people do not want it sold, politics is about leadership; is not about cheap points. If anyone thinks the coalition are winning votes by selling Telstra, they are mad. We are not winning votes; we are doing what the country needs, just as we did with the introduction of the goods and services tax.

*Senator Bob Brown interjecting—*

*Senator MASON—*That is the difference, Senator Brown. Now everyone says the GST is a great idea. You opposed it, and now everyone thinks it is wonderful. I tell you what—in five years time the sale of Telstra will be the best thing this country ever did and it will be a great legacy of the Howard-Vale government.

The **ACTING DEPUTY PRESIDENT (Senator Chapman)**—Order! The discussion on the matter of public importance is concluded.

**COMMITTEES**

**Scrutiny of Bills Committee Report**


Ordered that the report be printed.

**BUDGET**

**Portfolio Supplementary Estimates Statements**

*Senator Patterson (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues) (4.48 pm)*—I table portfolio supplementary estimates statements 2005-06 for the Communications, Information Technology and the Arts portfolio, and particulars of proposed expenditure in relation to regional telecommunications services in respect of the year ending on 30 June 2006.
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 PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues) (4.50 pm)—by leave—I move:

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

Environment, Communications, Information Technology and the Arts Legislation Committee—
Appointed—
Participating members: Senators Brandis and Joyce
Substitute member: Senator Adams to replace Senator Santoro for the committee’s inquiry into the Telstra (Transition to Full Private Ownership) Bill 2005 and the Telecommunications Legislation Amendment (Competition and Consumer Issues) Bill 2005, and the provisions of related bills

Foreign Affairs, Defence and Trade Legislation Committee—
Appointed—Senator Stott Despoja

Native Title and the Aboriginal and Torres Strait Islander Land Account—Joint Statutory Committee—
Discharged—Senator Carr
Appointed—Senator Evans

Privileges—Standing Committee—

Procedure—Standing Committee—

Question agreed to.

TAX LAWS AMENDMENT (2005 MEASURES No. 5) BILL 2005
First Reading
Bill received from the House of Representatives.

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues) (4.50 pm)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading
Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues) (4.50 pm)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—
This bill amends various taxation laws to implement a range of changes and improvements to Australia’s taxation system.

Firstly, this bill modifies some aspects of the foreign employment income exemption. This tax exemption applies to the foreign earnings of Australian residents engaged in foreign service for a continuous period of 91 days. The existing credits and debits rule used in determining whether a taxpayer with breaks in their employment service
satisfies the 91 day period will be replaced with a simpler and more generous rule. The new rule—the one-sixth rule—states that a period of foreign service will not be considered to have been broken until the point when absences exceed one-sixth of the days in foreign service. This rule allows for more absences and reduces compliance costs for taxpayers.

The amendments reinstate the exemption where a taxpayer was employed in Iraq during the period that Iraq’s income tax system was suspended.

In addition, the amendments change the law to ensure that where a taxpayer dies before reaching 91 days of continuous service, the exemption applies.

Secondly, amendments to the film tax offset provisions, will allow qualifying high budget television series to claim the refundable 12.5 per cent offset against their qualifying Australian production expenditure. This amendment aims to attract large scale, high budget television series to Australia. This will help showcase Australian locations and talent, and help to increase spending on infrastructure development, local casts, crew, post-production facilities and other services.

Thirdly, this government is making further refinements to the consolidation regime. The refinements clarify the operation of the bad debt rules to multiple entry consolidated groups. They also ensure that the modifications to the bad debt rules for consolidated groups and multiple entry consolidated groups apply to determine whether those groups can deduct swap losses.

This measure also extends until 31 December 2005, the time in which head companies of consolidated groups and multiple entry consolidated groups can make or revoke certain choices in relation to setting the tax cost of assets and the utilisation of losses.

Schedule 4 of the bill amends the thin capitalisation regime to ensure that a taxpayer’s thin capitalisation position is not immediately affected by the alignment of the Australian accounting standards with the International Financial Reporting Standards when undertaking their thin capitalisation calculations.

Schedule 5 extends the operation of the ‘12-month rule’ for forestry managed investments from 30 June 2006 to 30 June 2008. This fulfils a 2005-06 Budget commitment by this Government that the 12-month rule would be extended for a further two years.

The 12-month rule provides a year-of-expenditure deduction in respect of expenditure incurred by a taxpayer under an agreement with a manager of a forestry scheme. The expenditure must cover ‘seasonally dependent agronomic activities’ that will be carried out during the establishment period of a particular planting of trees.

The provision currently applies to expenditure incurred on or after 2 October 2001 and on or before 30 June 2006. The two year extension will allow an extensive review to be conducted into all aspects of support for the plantation timber industry.

The final change recognises that the government is concerned about imposing compliance costs unduly on small businesses and is acting to keep compliance costs down. Under the general rules for determining whether an interest in a company is debt or equity for tax purposes, special advice may be needed, and the subsequent treatment of a related party at call loan as equity, would require the keeping of tax accounts. This means the compliance costs can be relatively high compared to treating the loan as debt in accordance with its legal form and commercial classification.

The proposed changes involve a simple test—the tax law will treat the at call loans of companies with an annual turnover under $20m as debt.

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

I commend this bill.

Debate (on motion by Senator Patterson) adjourned.

COMMITTEES

Membership

Message received from the House of Representatives notifying the Senate of the following appointments:
Mr Griffin to the Joint Standing Committee on Electoral Matters in place of Mr Melham, and
(b) Mr T Burke to the Joint Standing Committee on Migration in place of Mr Price.

PRIVILEGE

Senator FORSHAW (New South Wales)

(4.52 pm)—I move:

That the following matter be referred to the Committee of Privileges:

Having regard to the letter dated 17 August 2005 to the President from the Finance and Public Administration References Committee, whether any false or misleading evidence was given to the committee, and whether any contempt was committed in that regard.

I have to say at the outset that it comes as a shock to the opposition that the government has decided to oppose the referral of this matter to the Privileges Committee. I do not want to deal with that particular aspect at length because one of my colleagues will deal with what has been a longstanding practice that, where matters are brought before the chamber by the President in respect of a matter of privilege, those matters get referred to the Privileges Committee without dissent.

This is a serious matter and, because I am forced to outline the reasons in support of the motion to refer, I will need to traverse some history—as indeed will my colleague Senator O’Brien. I will start by referring to the statement that was made by the Acting President on behalf of the President on Monday of this week. The Acting President, Deputy President Hogg, read the statement in full into the record of the Senate. I therefore do not intend to repeat it in full but, so that senators understand precisely what is before them, I do want to particularly refer to the fact that the President, in his statement, noted the provisions of the Senate’s privilege resolution 6(12)(c). That resolution states:

A witness before the senate or committee shall not:

(c) give any evidence which the witness knows to be false or misleading in a material particular, or which the witness does not believe on reasonable grounds to be true or substantially true in every material particular.

It is also important to state that this matter, which arises out of the Senate Finance and Public Administration References Committee’s inquiry into the Regional Partnerships and the Sustainable Regions programs, is an extremely serious one.

The committee has been sitting for quite some time and has been taking evidence by way of submission and public hearing around the country. The inquiry is near its conclusion, with a report due in about a month’s time. It is an inquiry that is being conducted into the administration of two major programs, the Regional Partnerships program and the Sustainable Regions Program—programs which involve the expenditure by way of grants of taxpayers’ funds running into hundreds of millions of dollars. I think it has been clear throughout our inquiry that the issues that we have had to address have been very serious ones. As I say, they go to the heart of the administration of two major programs of financial grants administered by the Department of Transport and Regional Services.

At the outset of the inquiry, on the motion of a government senator, it was decided that all witnesses to this inquiry give their evidence under oath or by affirmation. That is not a normal practice of the committee. From my 11 years of experience in this parliament, it has not been the normal practice for committees to formally require witnesses to give their evidence under oath or by affirmation. I know that there are some committees of the parliament, such as the Joint Standing Committee on Public Works, where that is a statutory requirement, but it is not the normal
practice. That is, of course, not to say that people can give false or misleading evidence or are not required to tell the truth; in fact, the opposite is the case. They are required to tell the truth and they are required to give evidence which is not false or misleading.

Witnesses are always advised of that at the outset of the giving of their evidence in a public hearing. It is a serious requirement—as it should always be—and whether or not evidence is given under oath, the requirement to tell the truth and not give false or misleading evidence to an inquiry is viewed very seriously by this parliament. It can lead to contempt of the Senate if such false or misleading evidence is given. It was a requirement of this committee’s inquiry, following a proposal from a government senator which was accepted by the committee, that all witnesses give their evidence under oath or by affirmation. So it was probably taken even more seriously—if that is possible. It was specifically seen as a requirement that should be placed upon all witnesses.

In moving this motion, I want to read into the Hansard, for the benefit of all senators, the letter that I wrote as chair of the committee to the President on 17 August. The letter sets out succinctly the reasons behind the decisions by the committee, firstly, that the matter should be drawn to the attention of the President and, secondly, that there should be a motion to refer the matter to the Privileges Committee. My letter is addressed to the President and reads:

Dear President

Matter of Privilege—Possible False or Misleading Evidence

The Finance and Public Administration References Committee has resolved to raise a matter of privilege under standing order 81, and to ask that you give precedence to a motion to refer the matter to the Committee of Privileges in accordance with that standing order.
curred between Senator O’Brien and a third Council witness, Mayor Pavier:

Senator O’Brien—Mayor, were you or any other councillor made aware of any earlier decision to approve or a proposed decision to approve?

Mayor Pavier—No.

Subsequent evidence provided by the Council to the committee on 4 July 2005 casts doubt on the veracity of this response from Mayor Pavier. An email dated 9 August 2004—a copy of which was attached to the letter to the President—

from Mr Graeme Hallet, special adviser to the Minister for Local Government, Territories and Roads, to among others Mayor Pavier and the local federal member, Mr Ticehurst, opened with the following statement:

At 9am on 26 August the full measure of Tumbi Creek funding will be announced at the site.

The remainder of the email discussed arrangements for the funding announcement. It also indicates that Mr Hallet had had earlier communication with Mayor Pavier about the announcement of the second grant.

The committee considers that the email of 9 August 2004 contains prima facie evidence that Mayor Pavier made a false and misleading statement to the committee at the hearing of 24 February 2005 insofar as he claimed that he was not aware of approval or expected approval for the second grant application prior to the formal announcement on 26 August 2004.

The email’s advice that the ‘full measure’ of funding for Tumbi Creek was to be announced on 26 August 2004 would have left Mayor Pavier in no doubt that the second grant had been approved or its approval was imminent.

Following Senator O’Brien’s statement in the chamber on 9 August 2005 about this matter, Mayor Pavier wrote to the committee on 11 August 2005—and a copy of his letter was attached to my letter to the President.

His letter includes the following:

It has never been, nor is it, my intention to mislead a Senate enquiry.

I have reviewed past emails on Council files in relation to this matter, including the e-mail referred to by Senator O’Brien dated Monday, 9 August 2004.

In that email, advice was given that an announcement would be made at Tumbi Creek.

Neither the extent or details of what was to be announced was divulged to me, but Council obviously required advice that an announcement was to take place so it could plan for a Ministerial visit.

I interpose here just to say that Mayor Pavier was saying that the advice was given to them that an announcement was to take place so that the council could plan for a ministerial visit. Of course, as I am sure Senator O’Brien will detail in his remarks, the email actually deals with the fact that the planning for the announcement was not to be made by the council at all but rather by a campaign committee. I will go back to the letter:

When I was asked by the Senate committee if I was aware of ‘any earlier decision to approve or proposed decision to approve funding’ then I am still confident the answer I provided—‘no’—is correct.

I regret any misinterpretation of the question or my response.

Notwithstanding this letter, the committee considers Mayor Pavier’s statement made before it on 24 February 2005 was false or misleading. Mayor Pavier was not asked whether he knew prior to
26 August 2004 of the ‘extent or details of what was to be announced’ on that date. Rather, he was asked explicitly if he was made aware of ‘any earlier decision to approve or proposed decision to approve funding’ in relation to the second grant prior to 26 August 2004. For the reasons outlined earlier, the committee concludes that Mayor Pavier was at least aware of a proposed decision to approve funding for the second grant by virtue of the email of 9 August 2004.

With respect to Privilege Resolution 3(a), the committee considers that Mayor Pavier’s statement to the hearing has obstructed the committee’s work. As his answer was taken at face value it effectively halted members from pursuing a line of questioning central to the committee’s examination of the Tumbi Creek case. In particular, the answer deflected the committee from further examining the extent to which the Tumbi Creek grants process was intermeshed with planning for political campaigning by the local member and the minister’s office. As mentioned earlier, this is an area of major concern about this particular case, and indeed is one of the reasons for the Senate referring the matter to the committee for inquiry.

In sum, Mayor Pavier’s answer at a hearing in the early stages of the inquiry has constrained the committee’s examination of term of reference (d) on a project involving almost $1.5 million of public funding (GST included) which is of major significance to the inquiry.

I would appreciate your urgent consideration of this matter.

Yours sincerely
Senator Michael Forshaw
Chair

In conclusion: in my letter to the President, I succinctly and clearly identify what is potentially—and, indeed, it is hard to find any other conclusion—false or misleading evidence given to the committee’s inquiry by Mayor Pavier. His statement that he had no prior advice or indication that the grant had been approved or was about to be approved, was clearly misleading. As I said, it was taken by the committee as the truth, and that was seen at that time as the end of the questioning on that matter.

It came to light subsequently that there had been email correspondence between the minister’s adviser, the mayor and others, regarding, firstly, that an announcement would be made; secondly, that the full measure of the funding would be the subject of that announcement; and, thirdly, as I am sure Senator O’Brien will draw attention to, that requests were made by the minister’s adviser for the announcement to be made at a function—not organised and paid for by the Wyong Shire Council but, indeed, organised and paid for by a local campaign committee.

I refer to that because, in his letter to the committee, Mayor Pavier seeks to argue that all he was told was that an announcement would be made and that it was appropriate for the council to be told that an announcement was going to be made—to quote him—‘so it could plan for a ministerial visit’. That statement in his response letter to the committee is, in itself, I would submit, misleading and indeed is actually false because, as the earlier email made clear, the council was specifically requested by Mr Hallett in the email not to organise the visit. I think it might be appropriate to just read that part of the email from Graeme Hallett dated 9 August 2004 that was provided to the committee. It reads:

At 9 am on 26 August the full measure of Tumbi Creek funding will be announced at the site.

I recommend that we must make this announcement a little more professional that just standing on the jetty, speaking and moving off asap.

With a minister and parliamentary secretary present we must offer some sustenance and time to meet with the media and local residents.

I agree with Brenton that we should not seek WSC—that is, the Wyong Shire Council—expenditure on this.
Therefore a Dobell campaign should fund a simple barbeque breakfast with juice, tea and coffee. We can either hire equipment or use a supporters. We will punt on the fact that it won’t rain.

Finally I recommend that an addressed letter of invitation go to residents who live near by the creek to come and hear an ‘important announcement’ and share breakfast with Ken, the Mayor and Ministers.

Please advise your views so we can bed this down.

thanks
Graeme

I will leave my remarks there but I urge senators to support this motion. The privileges committee is the appropriate committee to examine this issue. I am disappointed that the government will not allow, on this occasion, the privileges committee to do the kind of work that it has done so excellently in the past, by inquiring into these matters and bringing a report back to the Senate.

Senator Barnett (Tasmania) (5.11 pm)—I stand in opposition to the motion moved by Senator Forshaw and in opposition to Labor’s reference to this Senate. A good deal of the information and evidence put to the Senate by Senator Forshaw is accurate because he has referred to much of the information that has been discussed in our committee and that has been debated, in fact, in our committee. I want to say at the outset that Senator Johnston and I, as members of the Senate Finance and Public Administration References Committee regarding the Regional Partnerships program, opposed—

Senator O’Brien—It is actually contempt to reveal the deliberations of the committee, so just be careful.

Senator Barnett—Yes. Senator Johnston will be speaking very shortly about it but certainly we oppose the motion, I think for good reason. Senator Forshaw has outlined that it was on 24 February 2005 that we had a hearing in The Entrance in New South Wales regarding the Regional Partnerships program and the Sustainable Regions Program. It related to the grants for the dredging of Tumbi Creek in the Wyong Shire on the Central Coast of New South Wales. The first grant was for $680,000, was approved on 24 June 2004 and was announced publicly on 5 July 2004. The second grant was approved on 11 July and announced publicly by the Prime Minister on 26 August 2004 during his visit to Tumbi Creek. In each case, the applicant for the grant was the Wyong Shire Council.

We have heard from Senator Forshaw, and it is on the record, that Brenton Pavier is a councillor and the mayor of that particular council. What is at issue here, in the first place at least—and we will come to a range of other arguments in opposition to the motion—is the evidence of the mayor to our committee. It is alleged by the other side that his evidence to our committee was false and misleading.

Let us make it clear that the email referred to by Senator Forshaw, dated 9 August, from Graeme Hallett, Special Adviser to the Minister for Local Government, Territories and Roads, did go to a range of councillors, including Mayor Pavier, but was not specifically to and only to Mayor Pavier. He was one of the recipients of that email that referred to the Tumbi Creek funding announcement. But it is the view of Senator Forshaw and others on the other side that Mayor Pavier’s evidence to our committee was that he said no, he was not aware of ‘any earlier decision to approve or a proposed decision to approve’ in response to a question from Senator O’Brien.

Senator Forshaw has, thankfully, referred to the letter from the mayor, Brenton Pavier, in response to the committee secretary’s letter. I want to make it clear that the mayor’s
letter does say very clearly that his view is that his evidence was not misleading, misrepresentative or false. He says:

I refer to the comments made by Senator O’Brien in the Senate on Tuesday, 9 August 2005 in relation to the Federal Government’s Regional Partnerships Program.

It has never been, nor is it, my intention, to mislead a Senate inquiry.

I have reviewed past emails on Councils files in relation to this matter, including the e-mail referred to by Senator O’Brien dated Monday, 9 August 2004.

This is the email I referred to in my earlier comments. The letter goes on:

In that email, advice was given that an announcement would be made at Tumbi Creek. Neither the extent or details of what was to be announced was divulged to me, but Council obviously required advice that an announcement was to take place so it could plan for a Ministerial visit.

When I was asked by the Senate committee if I was aware of “any earlier decision to approve or a proposed decision to approve funding” then I am still confident the answer I provided—‘no’—is correct.

I regret any misinterpretation of the question or my response.

I trust this clarifies the matter.

Yours sincerely

Brenton Pavier

MAYOR

That letter is dated 11 August 2005. In my view and on a prima facie basis, the evidence set out in this letter answers the queries put to the mayor by the committee secretary and responds to the allegations made by the Labor Party.

This is where we come to the consistent actions and deliberations of those opposite—that is, to besmirch the good character of certain individuals who have been involved in this Regional Partnerships program. From day one, the Labor Party have said that this program is merely a matter of pork-barrelling by the government for coalition seats, amongst other things. They have made all sorts of allegations with regard to the Regional Partnerships program, which in my view is one of the most successful programs the Howard government has undertaken in its history, since 1996.

We know the program started in July 2003, and I will come to that shortly, but I want to confirm to you, Madam Acting Deputy President, this consistent approach by the Labor Party. Let us start at Tumbi Creek and let us make it clear: Labor actually supported the dredging of Tumbi Creek. Then they went out publicly and said, ‘This is an amazing thing—the rain has washed the sludge away and there is no need for it anymore.’

The Leader of the Opposition, Kim Beazley, said in the parliament that this was ‘a conspiracy to defraud the Commonwealth’. That is the allegation that the Leader of the Opposition made with respect to the Wyong Shire Council. They totally denied it in answer to a question I put to Mayor Pavier at that hearing on 24 February, in which I said:

The Leader of the Opposition, Kim Beazley, has claimed that this whole project we are talking about, this inquiry today, is actually a ‘conspiracy to defraud the Commonwealth’ …

I then asked the mayor:

So you are not involved in any conspiracy?

The mayor said:

I have not been involved in any conspiracy …

The hearing went on to questions regarding the funding for this particular project. But it was Kim Beazley who made that allegation. Of course, earlier we had found out from the council, and it was put on the public record, that Labor’s candidate there, David Mehan, actually went out publicly and announced that Labor would be supporting the funding of the dredging of Tumbi Creek.
Senator Forshaw—Madam Acting Deputy President, I raise a point of order on relevance. I ask you to draw Senator Barnett’s attention to the motion before the chair. It is a motion to refer to the Privileges Committee a matter of possibly false or misleading evidence by a witness. That is what we should be debating here. I do not think, in this debate particularly, that it is appropriate for a senator to then traverse far and wide covering other issues that were raised in the Senate committee’s inquiry into Regional Partnerships. The policy position of the Labor candidate or the Labor government in New South Wales on this issue is totally irrelevant, because the issue we are dealing with here is referring this matter to the Privileges Committee. It would be the job of the Privileges Committee, if the matter were referred, to inquire into and report upon whether or not it believes that the allegation of false or misleading evidence is sustained, and it is important that this debate sticks to that issue rather than getting involved more broadly in policy issues of Regional Partnerships grants and so on. That is totally irrelevant to this issue.

Senator Johnston—Madam Acting Deputy President, I rise on the point of order. The motivations and the partisan political background of this motion should and will, I trust, always be relevant to debate in this chamber.

The ACTING DEPUTY PRESIDENT (Senator Kirk)—There is no point of order but, Senator Barnett, I do draw your attention to the terms of the motion that is before us.

Senator BARNETT—Consistent with the motives, in my view, behind the motion, I would like to provide further evidence to the Senate that this is a politically motivated motion, and I have evidence to support that view. It is evident not only in comments by the opposition leader about this Senate inquiry but in the views of the Labor Party and other people who are saying it is a pork-barrelling exercise, and in the views of David Mehan the Labor candidate, who said that he wished to support—and he announced support for—funding for the dredging of Tumbi Creek, with Mark Latham’s endorsement and support, of course. He says, in his material:

... Labor will fund the dredging of Tumbi Creek with a commitment of $1.3 million to continue the project. The health of the local environment is critically important. People want to know that they can enjoy the area, but they also need to be reassured that the danger of flooding to homes at the mouth of the creek will be reduced.

For goodness sake! Ken Ticehurst, the local member there, has been an adamant supporter of his local community and, with his support, the council got this funding grant. Ken Ticehurst has been like a dog with a bone to make this happen and he should be congratulated for the success he has had. There have been a few stumbling blocks vis-a-vis the state government in recent times, which I will come to shortly.

To further support the evidence that this motion is consistent with Labor’s opposition to the Regional Partnerships program, I refer to an article in the Australian Financial Review of 10 August 2005 for which the headline reads ‘Mayor accused of lying to Senate’. The article says:

Frontbencher and committee chairman Senator Kerry O’Brien last night asked the Senate to refer the matter to the Senate Privileges Committee to determine whether Mr Pavier is in contempt of the Senate.

Of course, this has been written by Lenore Taylor. Obviously Senator O’Brien has a very good relationship with Lenore Taylor from the Financial Review. There is nothing wrong with that. He is obviously an active senator. It just so happens that this particular story has been—
Senator O’Brien—Will you clarify that, please?

Senator Barnett—He obviously has a good professional relationship with the media and Lenore Taylor from the Financial Review. The headline reads ‘Mayor accused of lying to Senate’. This is consistent. Labor are trying to stir up the mud, as it were—the silt down at Tumbi Creek—to say that there is a lot of pork-barrelling going on, that there is a lot of underhandedness and that there is inappropriateness. Then here we get a headline reading ‘Mayor accused of lying to the Senate’. Notwithstanding the fact that the mayor has written a letter on the face of it responding quite adequately to the allegations made with respect to whether there have been false or misleading statements.

Here is another one. The Daily Telegraph from 12 August has a headline that reads ‘I didn’t lie to the Senate: Pavier denies accusation over Tumbi Creek evidence’. There is a reference in there again to Senator O’Brien. This is part of the strategy of the Labor Party, Senator O’Brien and his colleagues to try to besmirch the good name of some of these individuals and, specifically, Mayor Pavier.

We have not talked about former Deputy Prime Minister John Anderson and the absolutely disgraceful and dishonest allegations against him, his character, his honesty and his integrity—the besmirching of him. I hope that, in due course, an apology and a total withdrawal of those allegations against him and his character will come forth. I cannot pre-empt what will be in the report from our committee, but those allegations are shameful and are some of the worst allegations that could ever be thrown at anybody in this parliament.

I will refer to what has happened at Tumbi Creek in recent days, because it is consistent with Labor’s opposition to the Regional Partnerships program. This has been supported by the local council, it has been supported by the Australian government and it is requiring support from the state government. What does the New South Wales state government say about it? Guess what! It has just given approval for the dredging of up to 5,000 cubic metres.

Senator Forshaw—So what?

Senator Barnett—The state Labor government support it. The council wanted 15,000 cubic metres.

Senator Forshaw—Yes, but that is not the point; this is about whether the guy lied or not.

Senator Barnett—You look at the statement that Ken Ticehurst has put out. He said that he has worked hard for this project and he is saying that the state Labor government are not living up to the expectations of their local community. He is a fighter for his local community. He should be commended. He is putting his views forward. This is consistent with the Labor Party’s approach to the Regional Partnerships inquiry. We have had it. Of course I am referring to Senator O’Brien, because some of these articles are quoting Senator O’Brien. What you have been saying is right out there. Good men and good women are involved here and the reputations, credibility and character of these people have been besmirched.

What has happened in Senator O’Brien’s home town, my home town, of Launceston? What has he said about that? What has he said about the electorate of Bass? I will tell you what the Labor Party have said about the electorate of Bass: they say that the electorate of Bass has been ‘bought’. It has been ‘bought’ by the Howard government to win the election in Bass. Let us have a look at the evidence; let us see what the evidence is. You know what funding commitment was provided—a little bit over $16 million—by
the Australian government for the people of Bass in northern Tasmania, thanks to the hard work and efforts of Michael Ferguson, who is their federal member. Let us have a look at it. What did the Labor Party say? What did Senator O’Brien say? He said Bass had been bought. Well, what did Labor offer Bass? You know what they offered? They offered double what was offered by the coalition—they offered double. So who has bought Bass? You have a look at the evidence.

I am saying that this is consistent with the Labor Party approach, which is to try and besmirch the credibility and the reputation of people like Mayor Pavier. It is to besmirch the credibility of this government, just because this is a good program and it works. There is not one Regional Partnerships program that Senator O’Brien can name in Tasmania that is unworthy of receipt of the funding. I would like to hear if there is one. I want you to name it; I want you to identify the project. Please identify the project. This is consistent. This behaviour by the Labor Party is consistent all the way through.

Of course the Labor Party do not like what I am saying, but they know that this is a very successful program. They are trying to besmirch the program and its success. Yet to December last year there have been over 500 projects—$123 million. There are two key points I want to make about the program. The Labor Party accuse us of pork barrel—well, let us have a look at it. The success rates in terms of the applications put forward to the department through the area consultative committees—who are brilliant; they do a brilliant job; they are full of volunteers; they deserve a lot of credit—are exactly the same for Labor electorates and coalition electorates. You do not know; that is the evidence. It is all there. It is all part of the inquiry. You have seen the evidence, and there it is. The success rate is the same for Labor party electorates as for coalition electorates.

There is a final thing I want to make very clear about the program because the program has been besmirched by the Labor Party. This is another part of their strategy to downgrade the program and to make these allegations with respect to the Regional Partnerships program and the people involved in and applying to it. And do you know what? The reviews and the audits of this program have been substantial. There have been internal and external reviews and audits. There have been no less than—one, two, three, four—five external audits and three internal, from KPMG in 2004. They have all been there. That is part of the evidence. And what are you going to say about it?

Senator O’Brien—2004? They didn’t even know what the guidelines were in 2004.

Senator Barnett—Come on; you have besmirched the name of the Regional Partnerships program, and you know we have been all around Australia. We have been to the Kimberleys, the Pilbara, Perth, Tasmania, Queensland, New South Wales, Victoria—all around, and guess what? Everywhere we went we got a tremendous response from the local community. They love it. And they say: ‘We want more. We appreciate the Regional Partnerships program.’

Senator Forshaw—‘We want more’—that’s right; they do!

Senator Barnett—Senator Forshaw, you can laugh your head off, because you know what the facts are because you were part of the inquiry, and you know it is a great program and I am sure that that will be reflected. So no more of this besmirching—(Time expired)

Senator Faulkner (New South Wales) (5.34 pm)—Can I just say at the outset of my speech that I do not intend to respond to any of the issues that Senator Bar-
nett has raised; nor do I intend to canvass any of the issues that Senator Forshaw has raised in his speech, because I will be limiting my contribution on this matter to only the procedural issues that are before the Senate. I do not intend to deal in any way with the substantive matter that is addressed in Senator Forshaw’s motion as to whether any false or misleading evidence was provided to the Finance and Public Administration References Committee and if any contempt has been committed.

Even though it appears unlikely that the matter will be referred to the Privileges Committee, because the government is opposing the referral, I can only say on the substantive matter that, like other Privileges Committee members, I will need to deal with it if it is referred, so I do not intend to anticipate in any way any such consideration. It is, however, quite appropriate for me to address the crucial procedural issues that arise here, and those procedural issues concern me greatly.

President Calvert decided, taking into account the criteria contained in Parliamentary Privileges Resolution 4, that this matter met those criteria. This matter met those criteria and should be given precedence over other business. Let me remind the Senate about Parliamentary Privileges Resolution 4. It reads this way:

Notwithstanding anything contained in the standing orders, in determining whether a motion arising from a matter of privilege should have precedence over other business, the President shall have regard only to the following criteria:

(a) the principle that the Senate’s power to adjudge and deal with contempts should be used only where it is necessary to provide reasonable protection for the Senate and its committees and for senators against improper acts tending substantially to obstruct them in the performance of their functions, and should not be used in respect of matters

(b) the existence of any remedy other than that power for any act which may be held to be a contempt.

In other words, Senator Calvert, the Senate President, determined that this was not a trivial matter or a matter unworthy of the attention of the Senate. Furthermore, whatever the committee processes were that led the committee to decide to refer this matter to the President, under standing order 81, the referral does have the status of a formal decision of the Finance and Public Administration References Committee.

I say to the chamber that it is core business of the Senate Privileges Committee to ensure the integrity of evidence and committee processes, particularly the protection of witnesses. In fact, most cases that the committee has dealt with have been on those matters. So I can fairly say that it is core business of the Senate Privileges Committee. There has been no occasion since 1988 when such a matter has not been automatically referred to the Committee of Privileges. Since the passage of the Parliamentary Privileges Act in 1987 and the parliamentary privileges resolutions in 1988, on only one previous occasion—that was in early 1998—has any such referral been negatived. There has been one instance only. So I cannot say to the Senate that to negative such a referral is unprecedented; it is not. It is almost unprecedented.

Someone needs to explain to the chamber why the government is voting against this referral. What is the case for this not going to the Privileges Committee? That is the issue before us. What is the case for it not to be referred to the committee of this Senate that is charged with the responsibility for investigating these matters? Why is this matter so different from all the other matters that have been referred? For what it is worth, in every
case since 1998, the President of the Senate of the day has received advice on whether precedence should be given or not. On each and every occasion since that time, the President of the Senate of the day has followed that advice. But I would say to the chamber that the most important reason to support this proposed resolution—the most important reason not to negative it—is that, if it is negatived, it will inevitably degrade the Senate’s privilege system.

Whatever the partisan differences are in this chamber, they do not appear in the Privileges Committee. I hope that Senator Johnston, who is to speak in this debate, will be able to acknowledge that, because he knows it is true. I am sure he will acknowledge it. It is a committee which, while chaired by an opposition senator, has a government majority. So the government is proposing not to refer a matter to the appropriate committee of the Senate, which has a government majority. I can say quite straightforwardly to the Senate that partisan politics have no place in the Privileges Committee. Every senator knows that is the case. The committee has a proud record of nearly 30 years of unanimous reports. But here, on this occasion, in this instance, this matter is not to be referred. I ask the question: why on earth can’t the Privileges Committee be entrusted with dealing with this matter as it has dealt with all the other issues that have come before it?

To those in this chamber who actually care about the Senate as an institution—and I hope there are some—I say: forget about all the arguments that we have heard from both sides of the chamber about the rights and the wrongs, the disputation about the Regional Partnerships program and what did or did not happen at Tumbi Creek and who was or was not involved. Forget about all that. Those people who care about the Senate as an institution and think that some matters that come before this chamber—matters that are debated in the parliament like matters of privilege—should be dealt with in a non-partisan manner, ought to be extremely concerned that we are about to have a vote in this chamber which will represent a sea change about how matters of privilege are dealt with. That is what we are facing here. I say to the chamber that we should stick with a tried and true approach to dealing with matters of privilege. I actually say to the chamber that we should stick with the conventions of the place. I say to the chamber: send this matter to the Privileges Committee where, I believe, I and every member of that committee can guarantee that it will be handled in a proper, appropriate, fair and non-partisan manner. I say: send this matter to the committee that is charged by the Senate with the responsibility of dealing with these issues.

I genuinely believe that the government is committing a grievous error in opposing this motion. This is a motion that should pass the Senate formally, without debate and with the support of all senators, in my view, because that is the way it has always worked in the past. There is only one good thing about this: there is still time for the government to change its mind. There is still an opportunity to allow this motion to go through as all similar motions in the history of this chamber have gone through. Let the committee deal with this matter in the way it has dealt with all other similar privilege matters. Whether you believe they are matters of substance or not, leave it to the committee to do the job as it always has done in the past. I say to the government: ‘Don’t negative this referral; don’t do it.’ It is not too late to do the right thing here and that is the approach that this chamber should take.

Senator Johnston (Western Australia) (5.47 pm)—I do agree with the broad tenor of what Senator Faulkner has said. I am obliged to him for the tone in which he participated in this debate. However, there is
one exception—and I would have thought it is a fundamental exception. Of course, the exception is that there has to be at least the hint of a prima facie case. There has to be a scintill of evidence in this reference. We should not entertain partisan motions that hold no water and which would, in other places, constitute an abuse of process. For us to underline and support a motion that is in effect an abuse of process would be to do everything Senator Faulkner advises and counsels us wisely not to do.

This committee is founded upon the most partisan terms of reference that this chamber has seen for a long time. Indeed, it was born out of the opposition’s defeat in the last federal election. As this opposition wants to do, it decided to cast around seeking to apportion blame for its defeat. Its defeat flowed from having taken no seats in Queensland, no seats in New South Wales, particularly in the regions, and no seats anywhere else and having lost regional seats in Tasmania. The opposition said: ‘How can this be? It can’t be our fault. It must be something that the government has done in an underhand and corrupt way.’ Out of that self-denial and failure to acknowledge the bleeding obvious, with great respect to the opposition, we had the Regional Partnerships inquiry. What happened was that the coalition had been feeding its chickens and doing its work as the electorate requires it to do. It had been carrying out a very successful piece of public policy.

Let us turn to the allegation contained in this reference. The allegation is that a citizen, a mayor of a local government in a very vibrant shire—Wyong—deliberately misled the committee in an answer to a question. The person concerned is, as I have said, a mayor—an upright, upstanding civic leader. Senator O’Brien asked:

‘Mayor, were you or any other councillor made aware of any earlier decision to approve or a proposed decision to approve?’

That is a question upon which this whole matter is founded. That is the most inarticulate, ambiguous, meaningless question one would ever wish to entertain in this chamber. Senator O’Brien said:

‘Mayor, were you or any other councillor aware—

How would the mayor know another councillor’s state of mind? The mayor was not even asked whether he had any contact with another councillor or whether he had discussed it with any other councillor. It goes on:

of any earlier decision—

A decision about what? Made by whom?

There is more:

To approve—

What on earth is a proposed decision to approve?

In answer to Senator O’Brien’s question, the mayor said no. I am surprised that the mayor said no. The mayor probably should have said, ‘What are you talking about?’ but he said, ‘No.’ For that, we erect the scaffold and we begin the hanging.

This is the most partisan and utterly pathetic reference and waste of the Privileges Committee’s time, made on not one scintilla or foundation that holds a skerrick of water. Why is that? The committee is the most partisan committee since I have been in the Senate and has the most partisan terms of reference. Why do we want to hang, draw and quarter this mayor? The answer is very simple: he is a Liberal mayor. That is why we are doing him. He is a good, serving, elected member of the Liberal Party who won an election in Wyong, and that is why we are going to do him.
The other important reason why this never even had a feather to fly is because the annexed email to the learned chairman’s complaint to this chamber is addressed to a number of people: Councillor Brenton Pavier, Mayor; Ben.Morton@aph.gov.au; Ken.Ticehurst@aph.gov.au, MP and Lisa-Maree Bailey@aph.gov.au. The funny thing about that is that there does not appear to be an email reference for Councillor Brenton Pavier. There is no evidence whatsoever that this email was received by the learned councillor, the upright Mayor of Wyong. Yet we make the jump to hyperspace in this partisan committee, erect a scaffold and start the hanging, because it has his name on it. That is enough. We do not care whether he actually received it. That is good enough for us. We will proceed. We will refer the matter.

I have opposed this referral. I continue to oppose this referral. I will always oppose this referral because it is a charade, it is party political and it is an insult to a good civic citizen in a shire in a local government in New South Wales. This is a typical example of the Star Chamber, kangaroo court fashion in which any misunderstanding, inadvertence or vague inferential factual circumstance is sufficient to conduct an execution. The day that this chamber endorses this sort of practice, the day this chamber wants to send this off to the Privileges Committee, to seek to punish an innocent citizen, I will stand here and oppose it. This committee, at monumental expense, has travelled all over Australia, seeking to lift every rock to find a hint of corruption.

The Regional Partnerships program is about investment into regional Australia. This is an area that the opposition choke upon. Regional Australia is an area that the opposition have no understanding of, no knowledge of, no capacity to entertain and no empathy for. They reside in the cities. They reside in inner suburban capital cities. That is where their electorates are. I think that out of 150 lower house seats, they have only two regional seats. What did we do? We looked at regional investment. Seeking to attract private investment into development and into infrastructure in regional Australia has forever been a matter of public policy difficulty. Yet Regional Partnerships seeks to do that and has been very, very successful.

The criteria for Regional Partnerships funding comprise a three-pass system. We have area consultative committees. These are volunteers. These are people in the community who give up their valuable time and charge the taxpayer nothing. They assess the projects and applications that come before them. Those applications that are afforded the benefit of a tick by the area consultative committee go to DOTARS, the Department of Transport and Regional Services, where they are further vetted. If they meet the hard criteria, they go to the minister for final approval. It is a three-pass system. I will explain a little later on what this has delivered to regional Australia. One of the criteria is that for every Commonwealth dollar invested in Regional Partnership funding, $3 have to come from the state and local governments and the individual proponent. There has to be another $3. The leverage figure is one for three.

**Senator O’Brien**—Tell us about Primary Energy, then.

**Senator Johnston**—I know Senator O’Brien is terribly frustrated with the cold hard facts, because the only time he has been to regional Australia was when he was on this committee.
Senator O’Brien—I live there, so try that, mate.

Senator Johnston—Oh yes, in Tasmania. The employment component is vitally concerned in these applications, so the investment—

Senator O’Brien—Where do you live, Perth?

Senator Johnston—in Kalgoorlie. The investment comes forward with an employment component in which a number of people obtain employment. I say also in passing that we have heard of the outstanding performance of officers in DOTARS in virtually every state. I briefly compliment Ms Leslie Rigg, who has been one of the senior departmental officers administering this magnificent program and say what a very fine Australian public servant and public officer she is. Her performance in the committee and the evidence she has given, which is in the Hansard and is public, were outstanding.

The partnership aspect incorporates the individual proponent. Often the individual proponent is a local government, so local governments of whatever political colour have been the beneficiary of this. This is, of course, where the opposition in this place is further irked, because Labor local governments love Regional Partnership funding. Labor state governments love Regional Partnership funding.

Let us talk about the programs. Tumbi Creek was a program in which 16 flood prone residents were to have a risk management process put in place to alleviate their risk of being washed away in times of flooding. The opposition oppose that. They cannot stomach that. They do not want to see that sort of investment into the community.

The equestrian centre project at Tamworth is a regional infrastructure project of quality that encourages horsemanship in this region. May I pause to say that Senator Sandy McDonald, my friend and colleague in this place, is one of the prime movers of that project, it is a great tribute to him and to the hard work that he has put into his local community of Tamworth in New South Wales. Regional Partnerships are a significant player on the front line of delivering that.

In Perth there is a discovery centre for the Association of the Blind. That is a fantastic project that teaches students and businesses how to deal with blind people in a setting that lets them understand what the blind actually experience. What a magnificent Regional Partnerships project that is; but of course the Labor Party cannot stomach that. They do not want that.

Could I talk about prisoner trade training at Karnet rehabilitation centre—a prison in Western Australia—down at EG Greens, an abattoir. Long-term prisoners are receiving trade training there, and they come out earning up to $80,000 a year. It is a magnificent project. Could I also talk about the Shoestring Café for the homeless in Bunbury. Regional Partnerships funding has delivered that. It is a magnificent, benevolent presentation of funding for those in the relatively small city of Bunbury in Western Australia who cannot look after themselves and who are destitute. Of course, Labor is opposed to that.

May I pause to talk about the hydrotherapy pool in Augusta. Augusta has a higher than average population of aged people living within its community, including many arthritis sufferers. Regional Partnerships funding has delivered a hydrotherapy pool for them. Owen Jones, a man who is blind and who presented to the committee in Bunbury with his guide dog, was a prime mover in obtaining funding for the hydrotherapy pool in Augusta. I am sad to say that Owen
Jones passed away this week. He was a great community contributor, and Regional Partnerships was able to assist him and his community with the hydrotherapy pool that will be installed in that community in November.

Finally, may I talk about electrofishing, which cleans out waterways in Western Australia of feral and pest fish. It simply puts an electrical charge into the water, the fish float to the surface, and they are cleaned out. It is a magnificent scheme that Regional Partnerships has assisted in funding.

Having said all that, and having told you why this is the most partisan committee one would ever wish to be involved in, and why this reference to the Privileges Committee holds not one skerrick of water, may I turn briefly to the matter of privilege. The Privileges Committee is not a committee to be entertaining purely partisan political and, may I say, quite puerile matters of no substance and no consequence. Here we have a good person whose name is being smeared. There is no evidence against him whatsoever. The Privileges Committee should never be used in that way, and I, for one, urge all members of this chamber to reject this attack on the Privileges Committee.

Senator O’BRIEN (Tasmania) (6.03 pm)—I am glad that the last contribution contained about three minutes of relevance to the motion before the chamber. I suspect that the balance will be repeated at some stage—whatever the committee outcome is—when Senator Johnston is speaking to the tabling of the report. Maybe he did it now because he will get only 10 minutes then. The reality is that this is a motion about whether or not this matter ought to be referred to the Privileges Committee. The President has reviewed the matter and has determined that this is not a frivolous matter, in his view. The President believes that it is appropriate that the matter be referred to the committee, or else he would not have given this motion precedence.

I first raised the matter of Councillor Brenton Pavier’s evidence to the Finance and Public Administration References Committee during the adjournment debate on 9 August this year. At that time, I said that the matter of Councillor Pavier’s evidence went to the heart of the way this place does business, and specifically to the important role that truth plays in the deliberations of the Senate and its committees. I want to recount some of the matters I raised in that debate, because it is important that all senators understand the significance of their vote on this motion. I stated:

On 25 February 1988, the Senate resolved:
A witness before the Senate or a committee shall not:
… give any evidence which the witness knows to be false or misleading in a material particular, or which the witness does not believe on reasonable grounds to be true or substantially true in every material particular.

In simple terms, witnesses before the committees are required to tell the truth.

That is the only way that the committees of this parliament can do their jobs. In June and July last year, the Howard government approved two Regional Partnerships grants totalling $1,496,000 for the dredging of Tumbi Creek, located at The Entrance, on the New South Wales Central Coast. The proponent was Wyong Shire Council—the council of which Councillor Pavier is the mayor. The second grant of $748,000 was announced by the Prime Minister himself at Tumbi Creek on 26 August last year.

In December last year, the Senate referred matters related to the Regional Partnerships and Sustainable Regions programs to the Senate Finance and Public Administration References Committee for inquiry and report. On 24 February 2005, the committee
convened a public hearing at The Entrance to examine the Tumbi Creek grants. Key witnesses included councillors and officers of Wyong Shire Council. Among those witnesses was Councillor Brenton Pavier, the Liberal Mayor of Wyong Shire, who appeared before the committee in his official capacity. During the course of the regional funding inquiry, all witnesses were required to give evidence under oath or affirmation. All witnesses at the Central Coast hearing, including Councillor Pavier, swore an oath or gave an affirmation before giving evidence.

Immediately preceding the giving of evidence by councillors and officers of Wyong Shire, the committee chair, Senator Forshaw, advised all witnesses that ‘the giving of any false or misleading evidence may constitute a contempt of the Senate’. No witness before the committee could be under any misapprehension that truthful evidence was not required. During the course of the hearing I asked witnesses from Wyong Shire Council whether they received advice that the second Regional Partnerships grant of $748,000 had been approved. Mr David Cathers, council’s Director, Engineering Services, told the committee:

We received a letter from Minister De-Anne Kelly on 26 August advising that the second grant application was approved.

A few minutes later, and it is on the following page of the Hansard, I asked if any officer or councillor of Wyong Shire had received any advice about approval of the second grant before receipt of Mrs Kelly’s letter dated 26 August 2004. My question was:

In terms of that second approval, you had received written notification about it. Did any officer or councillor receive other less formal notification that the application had been successful?

There were three witnesses at the table. It was a generally directed question. Mr Cathers, director of engineering, answered:

I am not aware of that.

Mr Kerry Yates, the general manager, also at the table, answered:

I am not aware of any.

I then asked:

Mayor, were you or any other councillor made aware of any earlier decision to approve or a proposed decision to approve?

The Hansard records Councillor Pavier’s answer as:

Mayor Pavier—No.

As to the suggestion that one could take the question in isolation from all that had taken place and from the previous question, which was generally directed not just to the council officers but to councillors and, therefore, the mayor, it is nonsense. Councillor Pavier swore an oath to tell the truth. He heard the chair warn him that the giving of false or misleading evidence may constitute a contempt of the Senate. He went on to tell the committee, without equivocation or qualification, that he had not received advice about the approval of the second grant prior to 26 August. As I previously noted, I accepted Councillor Pavier at his word and moved on to questions about other matters.

At the hearing Wyong Shire Council was asked to provide the committee with correspondence received from the office of the Minister for Local Government, Territories and Roads. Wyong Shire Council subsequently provided copies of letters and emails, including two emails dated 9 August 2004 which definitively show that Councillor Pavier was aware of the approval of the second grant on or before that date. The evidence is clear and it ought to be put before the Privileges Committee for its consideration. At 2.34 pm on 9 August 2004, Mr Graeme Hallett, the special adviser to the Minister for Local Government, Territories and Roads, sent an email to, amongst others, Councillor Pavier, the Liberal member for
Dobell and two staffers in the member’s office. It began:

Dear people

At 9am on 26 August the full measure of Tumbi Creek funding will be announced at the site.

Remember that the first part of the funding had already been announced. The council had put in a second application. This was about the second application. The email went on to discuss details of the proposed announcement of the full measure of funding, including barbecue arrangements for the announcement. As part of the discussions, the email revealed evidence of earlier contact between Mr Hallett and Councillor Pavier in relation to the second grant announcement.

Mr Hallett wrote:

I agree with Brenton that we should not seek WSC—

that is, Wyong Shire Council—

expenditure on this.

The mayor was copied into this email. He was one of the ‘Dear people’ being referred to. At 3.04 pm on 9 August, Mr Ken Ticehurst’s office replied to Mr Hallett’s email, again copying Councillor Pavier into the message, about the full funding announcement. These emails demonstrate two simple facts: firstly, Councillor Pavier was aware of the second Tumbi Creek grant approval on or before 9 August 2004; and, secondly, Councilor Pavier’s evidence cannot be reconciled with the email traffic which demonstrates his prior knowledge. The letter which Mayor Pavier sent to the committee contains no denial of knowledge of the email at the time it was sent. One would have thought that, if that was germane to any defence that would be proffered on his behalf in that matter, he would have included it in the letter. He did not. He therefore concedes that he did see the email but he pleads that somehow he misunderstood the question.

When he wrote to the committee on 11 August he said he did not intend to mislead the Senate inquiry and that neither the extent nor the details of what was to be announced was divulged to him. This is surprising. I might say, in light of the fact that he was not just the mayor of Wyong when the second Tumbi funding application was lodged; he knew precisely what funding was sought and what the full measure of funding meant when Mr Hallett told him that that had been approved. He did not just know what funding was to be announced; he knew the details of the barbecue that was proposed for its announcement. It is inconceivable that Councillor Pavier could have misconstrued the meaning of Mr Hallett’s advice to him. He was not just the mayor of a regional council; he was the local Liberal Party powerbroker in the line of communication that stretched all the way into the office of the Minister for Local Government, Territories and Roads.

Frankly, that is the reason that the government has not supported, as the Senate normally would have, the passage of a resolution such as this one, which has been given precedence by the President. The government is opposing this. It has nothing to do with the substance of the complaint, nothing to do with protecting this place from improper interference in its work and nothing to do with the truth. The government’s attitude has everything to do with covering up the Tumbi Creek scandal, a scandal in which Councillor Pavier is implicated up to his eyeballs.

Let us not forget that the emails subject to this privilege matter are not the only evidence on the public record about the relationship between Councillor Pavier and Mr Hallett. Mr Hallett was the author of the infamous ‘keep your counsel’ email that told Wyong officials, including Councillor Pavier, to shut their traps over the true state of Tumbi Creek—after the election when it
was revealed that there had been some washing out of the creek by rain. It blew the lid off that scandal because it revealed the extent to which Mr Hallett was permitted to interfere in departmental negotiations with Wyong Shire over the payment of Regional Partnerships funding for the dredging of Tumbi Creek. Having failed in that attempt to heavy the Department of Transport and Regional Services, Mr Hallett shifted his focus to Wyong Shire, headed by Councillor Pavier. This government has tried to cover up the Tumbi Creek scandal and now, by refusing to permit this matter to be examined by the Privileges Committee, the government is using its numbers to cover up on this as well.

Let me remind the Senate that the committee formed the view that Councillor Pavier’s answer to my question had the tendency to interfere with the committee’s inquiry because it altered the direction of further questioning. The President’s statement on this matter contained these words:

In past cases the Privileges Committee and the Senate have always taken very seriously any suggestion that false or misleading evidence has been given. In its reports, the Privileges Committee has made it clear that the offence may be constituted by the giving of evidence which leaves a committee with a misleading impression as to the facts.

So matters of privilege related to the giving of false or misleading evidence should be taken seriously. And so should we take seriously the abuse of the Senate by a power-drunken government that thinks it can treat this place with the same contempt that it treats the electorate. It is interesting to note that Senator Johnston approvingly says that the coalition has ‘been feeding its chickens in the context of the debate about the regional rorts program’—feeding its chickens with public money for the purpose of them laying eggs in the coalition boxes on election day. That is the extension of what Senator Johnston said.

Frankly, the government has the numbers to win this vote. But I do urge government senators to think carefully about the decision they make. The privilege of this place protects us all, and an abuse of privilege—a right which all witnesses before inquiries have to protect them—demeans us all equally and demeanes privilege. If witnesses can come before an inquiry and mislead the committee without proper examination even by the Privileges Committee, the question of privilege will be demeaned and undermined for the future. So it is a serious matter for the government to reject this proposition.

It is curious—I am not sure that it is appropriate—for senators on the other side to purport to reveal the deliberations of a committee in relation to this matter. But I suppose they might believe they can do that with impunity, given the approach of the government on a matter such as this. I think that is also regrettable. I also think that certain matters have been misrepresented, but I will deal with those matters at another, more appropriate time in relation to comments by Senator Barnett, who has misrepresented the matters which he attributes to me which I have not said.

Senator FORSHAW (New South Wales) (6.18 pm)—I do not want to take too long, but I do have to respond to a couple of the assertions and arguments put by government senators. There is not much to really respond to because about 99 per cent of their contribution was totally unrelated to the issue that is before the Senate. I remind the senators that the issue that is before the Senate is a motion to refer a matter to the Privileges Committee, and the motion arises because the President has decided and has made a statement to this chamber to give precedence to that motion. So, when the government senators today vote to defeat this motion, they are really voting against a process that
has been set in train by a decision of the President.

I remind senators that it was a decision of the committee that I write to the President drawing his attention to a possible contempt of the parliament, of the Senate committee, by the giving of false or misleading evidence. The President, as he is clearly required to do, gave that consideration and brought forth a statement to this Senate giving precedence to the motion. If the President was of the view that there was not a hint of evidence or there was no evidence or prima facie evidence that the assertion regarding the giving of false or misleading evidence should be considered by the Privileges Committee then he would have so determined and there would have been no statement and no decision to give precedence to the motion. That is who you are voting against. Understand that that is what you are voting against when you vote this motion down.

The comments made by Senator Faulkner are totally appropriate to the real issue here. This is not a debate about the merits of the Regional Partnerships program. Despite the speeches made by Senator Barnett and Senator Johnston, it is not about the merits of that program. Indeed, they have stood up here today and effectively given their report, if you like, on that inquiry. That inquiry is at a stage where the public hearings are effectively finished, except for one further witness that is due to appear.

Senator O’Brien—Unless Mr Anderson wants to come.

Senator FORSHAW—Unless Mr Anderson, I am advised, wants to appear before the committee, as he was invited to do. The secretariat is in the process of preparing the chair’s draft. We anticipate that by the reporting date of early October we will be tabling the report. The government senators here today have jumped the gun and have come out and said what their view is on all of that evidence—it is an inquiry that has been going on for some time. I think that is totally inappropriate, but it is clear that they had nothing to contribute on the fundamental question before the chamber. I do not want to respond to all of that; it is not the appropriate time to do so. But I do want to point out to senators, and to remind Senators Barnett and Johnston, that during this inquiry, and the Hansard makes this clear, they have seen evidence of problems—I will use that word—in the processes involved in determining grants for Regional Partnerships and Sustainable Regions applications, and I can mention two: A2 Dairy and Beaudesert Rail. I do not want to take that any further, but they know there is evidence of significant problems, so that inquiry has been worth while.

They also know—and it is important for the Senate to know—that one of the issues in this wide-ranging inquiry has been the processes involved in determining whether an application for a grant would be successful or not and, if it were successful, how that would be communicated to the applicants. There is evidence right through the inquiry that certainly many MPs were given advance notice of a grant. That is not necessarily inappropriate. That will be a matter for the committee to comment on. But there is evidence that prior notice was given, and that is the context in which Senator O’Brien was asking the questions of Mayor Pavier as to whether he was advised earlier about the success of the application made by Wyong Shire Council. It was a very specific question and there was a line of questioning on the issue. Mayor Pavier understood quite clearly what he was being questioned about and his answer was no. He said he had not been informed. That was the end of the matter at the hearing. It came to light because documenta-
tion of correspondence and contact between the council and the New South Wales government and the council and the federal government was provided to the committee at the request of senators, including the government senators. It was when copies of the emails were provided to the committee that it was discovered that in fact there had been direct communication between the mayor and Mr Hallett on not one occasion but at least two occasions, as Senator O’Brien has just elaborated upon. That is at the crux of this issue.

The committee was told that that had not happened, but the documentation proved that it had. Mayor Pavier’s explanation, frankly, is not satisfactory, certainly in the view of the committee. The appropriate place then to test that is the Privileges Committee. As Senator Faulkner said, it is the appropriate body: it carries out its duties in a nonpartisan and proper manner when examining the issues. What should happen is that the matter should go to the Privileges Committee, as the President clearly anticipated it would by putting forward the statement to the Senate, and we can clear the matter up. It is in the interests of Mayor Pavier that it go to the Privileges Committee so the matter can be tested. By not referring it to the Privileges Committee you are leaving the matter hanging. The question has to be asked, as Senator Faulkner asked: what is the reason for not referring it? By voting against this today without any real argument against it, you leave a position where there is potentially false or misleading evidence presented by Mayor Pavier before the committee. I think we owe Mayor Pavier the opportunity for that issue to be resolved. The question has to be asked: what do you have to hide by not referring it?

Mr Acting Deputy President, let us do the right thing. Let the Privileges Committee determine this issue. I have been chair of this committee for some time and I have been a chair of other Senate committees, and I think people in this chamber know that I would not support the reference of a matter to the Privileges Committee unless I thought it was the right thing to do. This is the first one I have ever been involved in. The reason is not partisan or political. I will argue the politics in that elsewhere. I will argue the merits of the program at another time. But I would not associate myself with a matter as serious as this unless I believed that it was the right thing to do to clarify the issue. I urge government senators to think again and vote to support this motion so that the matter can be clarified once and for all.

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

The Senate divided. [6.33 pm]
(The Deputy President—Senator JJ Hogg)
Ayes............ 33
Noes............ 35
Majority......... 2

AYES

Allison, L.F.
Bartlett, A.J.J.
Bishop, T.M.
Brown, B.J.
Brown, C.L.
Campbell, G. *
Carr, K.J.
Evans, C.V.
Faulkner, J.P.
Fielding, S.
Forschaw, M.G.
Hogg, J.J.
Hurley, A.
Hutchins, S.P.
Kirk, L.
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.
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.
Chapman, H.G.P.
Senator SANDY MACDONALD (New South Wales—Parliamentary Secretary to the Minister for Trade) (6.36 pm)—I move:

That government business notice of motion No. 2, proposing to vary the hours of meeting and routine of business for Monday and Tuesday next week, be postponed to a later hour of this day.

Question agreed to.

Consideration of Legislation

Debate resumed.

Senator GEORGE CAMPBELL (New South Wales) (6.37 pm)—When this matter was before the chamber earlier I was making some comments on the reasons for the Telstra (Transition to Full Private Ownership) Bill 2005 and the related bill being brought forward. In particular, I was asking how any senator can be expected to make a rational contribution to the second reading debate on these bills, given that we have not seen the bills, we are not aware of the contents of the bills and we do not know what direction they take or what the ground rules are for the proposed sale of Telstra. In fact, we are being pretty much kept in the dark in terms of what is likely to end up before this parliament.

I cannot understand what the hurry is. Why can’t the normal procedures of the Senate be followed? Labor put forward a pretty modest proposal for an inquiry over 33 days which, in the normal course of things, would not have delayed the government unduly in terms of proceeding with this legislation. In fact it is quite modest, given that the Minister for Finance and Administration said in an address to the National Press Club that, as the minister who has the responsibility for the sale of government assets, his dream was that it would be ‘our Christmas present to the nation in December 2006’. So he does not even have any intention of taking it anywhere near the market until the end of next year. So why the haste? The hurry and the secrecy have to give people concern. Certainly, people on this side of the chamber are concerned about just what the government is doing in respect of this matter.

Look at the process we are being confronted with. We have had this debate today to avoid the cut-off. We have been refused copies of the bill—no-one has seen it. We are being asked to commence the second reading debate without having seen the bill or having access to the bill, and before the inquiry is held. We are going to have an inquiry of which people will have two days notice and where there is no bill to base any submissions on. People will have to try to make submissions to a Senate committee in a couple of days and get themselves to Canberra for a hearing on Friday which will probably last, I don’t know, five or six hours. It will all be over and we will back here on Monday finalising the matter. One has to say, this is farce in its absolute form. The Financial Re-
view editorial yesterday was right: this is Fawlty Towers with a capital F.

The government ought to hang their heads in shame for adopting these sorts of procedures on a bill of such significance to the Australian economy as this bill on the sale of Telstra. They ought to have a hard look at themselves. Obviously, they are not going to change their position now. We are going to have to face up to dealing with these circumstances, because that is the direction in which they intended to take this issue. But this is a very clear demonstration of the arrogance of this government and their absolute disdain for the democratic processes of this society. As I said, they ought to hang their heads in shame.

Senator FIELDING (Victoria) (6.41 pm)—The Telstra (Transition to Full Private Ownership) Bill 2005 is an important bill. It is an important bill for Australian families. It is too important to rush. It also involves a complex issue which requires careful consideration and debate. It is precisely because of bills like this that the standard procedures in this place allow a delay between the introduction of a bill and the debate on that bill. The Senate should only forgo this opportunity in exceptional circumstances. This bill is not such a case. There is no need for urgency, because the government itself has said that, even if this bill is passed, it is not going to sell Telstra immediately anyhow. A cynic would be entitled to think that the rushing of this bill has more to do with internal coalition dynamics than it has to do with public interest. Internal coalition dynamics are not sufficient grounds for stifling Senate processes.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.42 pm)—Can I say firstly, in relation to Senator Brown’s amendment to the motion, that the issue here with regard to Telstra is not what the Prime Minister or any other member of parliament might say but what Telstra itself is saying. The government, like all shareholders, is interested in the fortunes of Telstra—of course; it is a major shareholder—but, having said that, the government’s job is not to run Telstra. The government’s job is also regulatory, might I say. And this is the impossible task that the government faces when it is neither fish nor fowl, in that it is both shareholder and regulator, and of course the government has to focus on regulating the whole industry.

What the government expects from Telstra is that the board and management run the company in the best interests of all shareholders. Telstra is a company with a great history and great potential. The management of that company should therefore focus on taking advantage of commercial opportunities. This whole debate demonstrates, as I say, the ridiculous situation that the government finds itself in by being both a shareholder of Telstra and a regulator of the industry. What we want to do is to enable the government to focus on regulating for the whole industry and delivering services for all Australians. Certainly, we do not agree with the implication in Senator Brown’s amendment—the reference to ‘injudicious influence on Telstra’. That is rejected by the government.

The cut-off is a matter which is very important for all Australians. It has been around now for some nine years. I mentioned yesterday the reference of committees under the previous Labor government for which as little as two days were allowed. I did mention the time frame of seven days for the native title committee. I have checked my records, and it was in fact 14 days but, nonetheless, it was a short period of time for the consideration of a bill which dealt with an issue that had had little exposure prior to that.
This is very urgent, and it is urgent for a number of reasons. We have to get on with the sale of Telstra and we must deal with it so that we have everything in place for 1 January next year. As I said yesterday, we have an ambitious legislative program for the government. That is one which has in its contemplation the industrial relations reform. That legislation will require time in this chamber. As I said, after this week, I think we have only five weeks. The reference by Senator Conroy was to come back on 10 October, which is in the middle of the next sitting fortnight, not at the beginning. With subsequent debate after that, you could well have found the debate on Telstra going on to November and even December with a debating time that people would have no doubt engaged in. That is why it is so important that we deliver on this. It was an election commitment. It has now been dealt with in many inquiries and over a lengthy period of time. The question of the cut-off is urgent and of great importance to the people of Australia so that we can get on with this legislation and get on with the sale of Telstra.

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

The Senate divided. [6.50 pm]
(The Deputy President—Senator JJ Hogg)

Ayes…………… 32
Noes…………… 34
Majority……… 2

AYES
Allison, L.F. Bartlett, A.J.J.
Bishop, T.M. Brown, B.J.
Brown, C.L. Campbell, G. *
Carr, K.J. Evans, C.V.
Faulkner, J.P. Forshaw, M.G.
Hogg, J.J. Hurley, A.
Hutchins, S.P. Kirk, L.
Ludwig, J.W. Marshall, G.
McEwen, A. McLucas, J.E.

NOES
Milne, C. Moore, C.
Murray, A.J.M. Nettle, K.
O’Brien, K.W.K. Polley, H.
Sherry, N.J. Siewert, R.
Stephens, U. Sterle, G.
Stott Despoja, N. Webber, R.
Wong, P. Wortley, D.

Question negatived.

Original question put:
That the motion (Senator Ellison’s) be agreed to.

The Senate divided. [6.56 pm]
(The Deputy President—Senator JJ Hogg)

Ayes…………… 34
Noes…………… 33
Majority……… 1

AYES
Abetz, E. Adams, J.
Barnett, G. Boswell, R.L.D.
Brandis, G.H. Chapman, H.G.P.
Colbeck, R. Coonan, H.L.
Eggleston, A. Ellison, C.M.
Ferguson, A.B. Ferris, J.M. *
Fierravanti-Wells, C. Fifield, M.P.
Heffernan, W. Humphries, G.
Johnston, D. Joyce, B.
Kemp, C.R. Lightfoot, P.R.
Macdonald, I. Macdonald, J.A.L.
Mason, B.J. Nash, F.
Parry, S. Patterson, K.C.
Payne, M.A. Ronaldson, M.
Santoro, S. Scullion, N.G.
Troeth, J.M. Troost, R.
Vanstone, A.E. Watson, J.O.W.
Vanstone, A.E. Watson, J.O.W.

PAIRS
Conroy, S.M. McGauran, J.J.J.
Crossin, P.M. Minchin, N.H.
Lundy, K.A. Calvert, P.H.
Ray, R.F. Campbell, I.G.

* denotes teller
The tabling of this statement of corporate intent is not, it must be said at the outset, a matter of any great importance or consequence. In fact, the statement is little more than a glossy statement of mission and values. As such, it looks good and it is warm and friendly. Underneath that veneer, however, there are some real issues that need to be addressed. Those issues are revealed in much greater detail in the annual report of the corporation. The last of these, for the financial year 2004, was tabled late last year. On the basis of the 2004 annual report, we certainly look forward to reviewing the 2005 report when it is tabled in due course.

It is common knowledge that much has happened recently with respect to decisions on naval shipbuilding in this country. Putting aside all of the years of drama connected with the Collins class submarines, it does seem to be fair to comment that the future for the ASC is indeed a bright one. The corporate history and the whole sorry saga of a major defence procurement project way over budget and way over time are now, it must be said, matters for the past and matters of academic interest to historians. Unfortunately, though, we keep seeing the same pattern developing over and over again within the realm of defence procurement.

From the ASC’s viewpoint, though, we are pleased to see the state of its current corporate good health. Last year’s annual report showed a healthy profit stream. With the finalisation of the through-life support contract for the submarine fleet, that result should continue. Indeed, it would be surprising if it did not. Certainly as a centre of excellence for submarine construction and maintenance, the ASC has now established itself. That is a tribute to its board and to its work force. It goes without saying that the ASC has now become a base element of industry in South Australia. It is of course important for West Australian industry as well. It goes without
saying that the ASC has now also become, and should be into the future, a major part of the Australian shipbuilding industry.

The successful bid for the three air warfare destroyers can, I believe, only be interpreted as a vote of confidence in the ASC. This massive project is important for a number of reasons. First of all, it will employ many Australians, all around the country. These ships are to be constructed in modular fashion in both the west and in New South Wales. These sections will be brought together at the ASC site in Adelaide, which is now being prepared for expansion. As a consequence of that, there will be demand for a whole new set of skills.

It should be noted, too, that the cooperative approach with the South Australia government will see a whole new phase of training begin. That was one of the commitments that that government gave to the Commonwealth as an aid to getting the project into South Australia. At a time when the motor vehicle industry in that state has taken some knocks, it is fair to say that this is a useful development. It is also pleasing to see that the government did not procrastinate with the question of local construction and the alleged price advantage of overseas options. No doubt the needs of South Australia had a part in that decision—as, one could say, given that the state is doing it tough, it should. No doubt establishing the company on a sound basis for future sale was also part of it.

But it is a great pity that, when it came to the decision to build the two amphibious lift ships, the same commitment was not forthcoming. In fact, the government has reneged on its election promise. That promise was unequivocal: both these ships were to be built in Australia with Australian labour. One might ask, then: what happened between the decision to tender in Australia for the three AWDs and the decision for these two heavy lift ships? As a warning shot to Australian industry to get serious on pricing, it may be a legitimate ploy. But let us hope it is only that. We as a nation have to take shipbuilding seriously. We need to recognise that, competitively, we will struggle with the gross construction task. That is of course simply a feature of relative cost structures around the world.

But where we can be competitive, to balance the issue, is in the value added components. The experience of the ASC in juggling competing technologies should be of great value. The learning curve of the submarines, while no doubt painful and expensive, should be an asset in this matter. We welcome these developments, and we will monitor them over time.

Senator McEWEN (South Australia) (7.06 pm)—I also rise to take note of ASC’s statement of corporate intent for the period 2005-08. The document outlines the future plans of ASC Pty Ltd, better known in its home state of South Australia as the Australian Submarine Corporation or Sub Corp. Of special mention in the document is ASC’s intention to prepare to build the three SEA 4000 air warfare destroyers. As Senator Bishop has mentioned, the ASC was awarded the contract as preferred shipbuilder for this $6 billion project earlier this year. It is certainly a welcome addition to the work of the ASC.

I note also that in order to get the nod from the federal government for the air warfare destroyer project, the South Australian based company had to fight off strong competition from other states, in particular from Victoria. Just as we beat the Victorians in the 2004 AFL grand final, we beat the Victorians in this fight and we won the main prize. And what a prize it is—a project that will provide additional employment for more than 1,000
people in South Australia and keep South Australia at the forefront of innovation in defence technology and manufacturing.

I note in the foreword to the document that the managing director of ASC, Mr Greg Tunny, says:

The progress made by ASC can be directly attributed to its people.

A truer word has rarely been spoken. The workers at ASC are to be commended on the work that they have already done on the Collins class submarine project. I know they are looking forward to the work that this new project is going to bring to them. I also mention a comment by Mr John Prescott, chairman of ASC, in a press release dated 31 May 2005. Mr Prescott said:

The company also recognises South Australia’s union leadership for negotiating a groundbreaking enterprise agreement.

That groundbreaking enterprise agreement he is referring to would be a collective bargaining agreement. That agreement was negotiated with the members of three trade unions: the AMWU, the CEPU and the AWU. Those three trade unions worked together with an enlightened management of ASC to come up with an agreement that set out the terms and conditions of employment for all the organisations tendering for the air warfare destroyer project—a collective union agreement that will provide companies tendering for this project with certainty about the employment conditions that will apply. It meant that those companies could work out exactly what kind of staffing requirements they would need. It is a collective union agreement that includes this provision:

The parties commit themselves to achieve a competitive advantage based on the utilisation of high skills, effective utilisation of technology and effective teamwork and flexibility.

It is a collective union agreement that says the union will cooperate to:

... ensure the ASC is internationally competitive.

All this from three trade unions who are also participants in the building industry. The very same building industry that has been the subject of a tirade of abuse from the government over the last few days. The very same building industry unions who have been attacked by the government over the last few days.

Those of us who do not live in an imaginary industrial world that the government has invented to justify its extreme ideological assault on working people know that unions, like the three unions quoted, and enlightened employers are reaching collective agreements every day that are all about making new and innovative industries competitive, modern and flexible. But the government would not know that because it is completely out of touch with the real world of working Australians and their unions. It is out of touch and hell-bent on imposing its extreme ideological agenda and arrogantly using the Senate majority to ram through its legislation.

I would like to congratulate the members of all the unions at the ASC on their efforts to assist the ASC win the air warfare destroyer project for South Australia. I look forward very much to seeing a future Labor Prime Minister, Kim Beazley, launch the first destroyer in the not too distant future. However, to get that destroyer built, we are going to need South Australians with the skills to be able to build it. At the moment, because of this government’s neglect of training, there is shortfall of some 270,000 people with the skills necessary to take forward Australia’s manufacturing industry. Fortunately, the unions in South Australia and the employers are working together to address that skills gap, and I am confident that the skills will be provided to enable it— \( \text{Time expired} \)
Senator WORTLEY (South Australia) (7.11 pm)—I also rise to take to note of the document. The document tabled states that there are over 1,000 ASC highly skilled and experienced employees and subcontractors, predominately located in South Australia and Western Australia. On 31 May this year, it was announced that the Osborne Maritime Precinct in South Australia was the chosen site for consolidation of the $6 billion air warfare destroyer contract. Not only will it be the site for the production of many of the air warfare destroyer modules, but South Australia will also undertake final assembly of the ships, as well as contribute towards the sophisticated systems integration, IT and electronics functions required by the project.

The South Australian Labor government has been prepared to make a major investment in skills and infrastructure at the site, amounting to $140 million. It will provide for South Australia up to 3,000 additional direct and indirect jobs, a major boost to the state’s economy over the next decade or more and the potential for new technologies and spin-offs to other parts of South Australian industry. The state’s $140 million investment includes a massive shift lift, transfer system, wharf and associated dredging; more than 30 hectares for subcontractors to set up operations on site and establish strong and efficient supply chains; a new on-site maritime skills centre that will train the workforce to support the destroyer contract; $8 million to be spent on various work force and skilled migration programs; and a centre for excellence in defence industry systems capability—a partnership between the South Australian government, the Defence Science and Technology Organisation and the University of South Australia that will build strengths and capabilities in systems engineering and software systems research.

The ASC’s statement of corporate intent 2005-08 has as its vision:

To be Australia’s leading designer and builders of sophisticated naval vessels.

Surely this vision is only achievable if shipbuilding projects are carried out in Australia by Australian workers. Pre election, the Howard government told the Australian people that the air warfare destroyers and the amphibious ships would be built in Australia. The Minister for Defence, Senator Hill, gave an election promise on 5 October 2004 when he said: ‘The two amphibious ships, the largest ever operated by the Royal Australian Navy, will be built in Australia.’ Now the government says that it is only a preference for the amphibious ships to be built in Australia.

In a press release dated 11 August this year, the Howard government stated:

A Request for Tender will be released to the Australian shipbuilding industry in the second quarter of 2006.

Senator Hill said the ship builder would be determined once a thorough financial and technical comparison was made between Australian bids and overseas build options

“The Government’s preference is to see the ships built in Australia, however Australian industry will need to demonstrate it can deliver the project at a competitive price,” Senator Hill said.

This sounds like a government which is prepared to give up on jobs for Australian workers: skilled trade jobs, IT jobs and advanced manufacturing jobs—jobs that bring in real money, pay the mortgage, put the food on the table and pay the bills; jobs for Australian workers with real benefits for Australian workers and their families. We need to take advantage of every opportunity to secure the future of Australia’s shipbuilding industry.

Any move by the Howard government to construct the Navy’s two amphibious ships offshore would be unacceptable and contradict the government’s election promise.

Senator Hill said the two shipbuilding projects—not one but both projects—would
give enormous opportunities for growth in terms of naval shipbuilding capabilities across a range of trades and specialities. This will only occur if the amphibious ships are built in Australia by Australian workers. The government needs to commit to investing in Australian workers, in their knowledge and skills. It needs to honour its election promise and ensure the $2 billion amphibious ships project is contracted to the Australian shipbuilding industry.

Senator HOGG (Queensland) (7.16 pm)—Following on my colleagues from South Australia, I can understand their pleasure at the construction of the air warfare destroyers being awarded to the ASC in South Australia. The ASC have a proven track record with the construction of the Collins class submarines, which are now recognised as being in a class all of their own. That has been demonstrated in various exercises that they have participated in over a long period of time. However, I think my colleagues have rightly drawn attention to the important issue of the replacements for HMAS Manoora and HMAS Kanimbla. That is going to be important for the defence shipbuilding industry in Australia.

Senator McGauran interjecting—

Senator HOGG—I hear from Senator McGauran across the chamber, who seems all of a sudden to have become the new Minister for Defence. I do not know if Minister Hill is aware of that at this stage, but it is interesting to hear Senator McGauran intervene. As has been pointed out by my colleague Senator Wortley, Senator Hill made the point that at this stage the government have gone from saying that the ships will be built in Australia to it being a preference that the ships be built in Australia. Whilst one might understand the position the minister is coming from, it would be interesting to hear—if he gets time in this debate—whether Senator McGauran shares the same views as the minister or whether the minister is lagging behind Senator McGauran. I do not think the latter is likely to be the case.

However, what is really at risk here is the importance of a skilled workforce in Australia able to support the building of a platform essential for our defence purposes. It is one thing to look at the designs that might be picked up from overseas, but it is another thing to ensure that those defence platforms are constructed in Australia using Australian labour and having as high an Australian content as one can possibly have to ensure that we are in command of our own future. There is nothing worse than trying to buy an off-the-shelf product and then finding that one’s nation is stranded, particularly in the important area of defence.

One would hope that, after nine long years in government, this government would have learnt to not just go down the path of a preference for Australian shipbuilding but to go down the path of insisting that Australian companies have equal opportunity to participate in the building of these two replacement ships that are going to be considered at in 2006. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Moore)—Order! It being 7.20 pm, I propose the question:

That the Senate do now adjourn.

Victoria: Fast Trains
Prostate Cancer

Senator RONALDSON (Victoria) (7.20 pm)—It is a great pleasure for me to speak in the adjournment debate tonight. I want to talk about a farcical situation in Victoria with the state government and their so-called fast trains. The Bracks Labor government con-
continue to fail people in regional Victoria through continued disruptions to the state’s rail network. In a 1999 election promise, Steve Bracks and the Victorian ALP committed themselves to improving the Victorian regional rail network by providing Geelong, Ballarat, Bendigo and Traralgon in the Latrobe Valley with fast rail links to Melbourne. Indeed, some would say they were elected on the basis of those promises to regional communities.

The state-wide estimated cost of the project was presented to Victorians as $80 million. It now exceeds $750 million and the farce of that will become clearer when I explain to the Senate just how much improved—or not improved—the rail links are. Certainly, the times have not improved. To date we have not seen one fast train run. Rather, we have seen cost blow-outs, construction timetable blow-outs and estimated travel time blow-outs. In particular, the Bendigo fast rail link was scheduled for completion in October 2004, nearly 12 months ago. That is a very interesting date, considering that the rail construction and improvement works are still being carried out on the Bendigo line. Currently, not only is there no fast train servicing Bendigo but, since 17 January this year, there have been no trains at all. Remember, this project was due to be completed in October 2004.

The people of Bendigo were told that, as part of the rail improvement construction, they would need to go without trains for 29 weeks. The people of Kyneton were told 12 weeks. These interruptions were meant to be in exchange for the far superior services to be provided by the promised sleek fast rail trains. These promises have since fallen apart. A document recently obtained by the Victorian Liberal opposition states that the promised periods of so-called minimal disruption would be extended to 11 months for Bendigo and nine months for Kyneton. So we have gone from 29 weeks to nearly 12 months and from 12 weeks to nine months—no rail services and another broken Bracks Labor promise. The new date for resumed services to Kyneton is 16 October. Bendigo will have to wait until 17 December before services are scheduled to be restored.

In case honourable senators think I have been a bit churlish talking about this at the end of the 12-month process, I advise honourable senators that, once the fast rail services commence, the promised 82-minute travel time between Bendigo and Melbourne will occur only once in the morning to Melbourne and once in the evening to Bendigo. For $750 million—nearly $200 million for Bendigo—you get two services: one down and one back. Should you miss these trains, supplementary services are expected to take 112.5 minutes. So much for the fast train. Senator McGauran is quite rightly shaking his head in utter disbelief. This is barely 2½ minutes off the standard V-Line travel times experienced before the fast rail project—I use the term ‘fast rail’ loosely—was undertaken. It is ‘snail rail’, not ‘fast rail’.

The original costing for the single express train in the morning and evening peak hours and the 2½ minute saving in travel time for all other commutes was $80 million, but then it was revised to $182.8 million—for the Bendigo project alone. That figure has increased again, to $208 million. So it is 2½ times the original cost and it still has the potential to continue growing the longer the project drags on. Services to Bendigo are further hamstrung by the Bracks government’s short cuts in attempting to provide the fabled fast rail.

The dual tracks between Sunbury and the township of Kyneton have the interesting honour of having only one of these parallel tracks upgraded for the fast rail trains in order to safely achieve their 160 kilometre per
hour maximum speed. Between Kyneton and the regional centre of Bendigo, the once dual tracks have been torn out and replaced by a single fast rail track. Apart from three passing loops, the longest of which is 9.5 kilometres at Taradale, this rail line has been stripped back, bottlenecking a vital central Victorian rail link.

The fast rail project failure is quickly taking on the tag ‘farce rail’. Commuters are sick of the continued disruption. People living in Victoria’s regional centres are tired of waiting. Victorian taxpayers do not want to continue feeding this project with more and more funds without seeing the espoused benefits. The people of Victoria want the services they were promised—not this joke which the Bracks government is attempting to palm off as the first-class regional rail system promised to Victorians by the Victorian ALP in 1999. If this were their only broken promise, you might say that, in six or seven years, it is not too bad, but I intend to bring to the Senate’s attention a litany of broken promises by the Bracks Labor government.

On an entirely different matter—and this is not directed to Senator Coonan or Senator Moore—I received a letter the other day co-signed by our parliamentary colleagues in the other place, the Hon. Jim Lloyd and Mr Wayne Swan MP. They are behind a program of the Prostate Cancer Foundation of Australia called Be a Man. The letter states:

As many men die from prostate cancer as women die from breast cancer. Each year approximately 2600 men die from prostate cancer in Australia. These facts were new to many Australians when, in January this year, we launched the Be A Man campaign with some well known celebrities …

This is a very personal letter from these two gentlemen, who have suffered from prostate cancer. As some honourable senators will know, I have also suffered from cancer, although not the same form as they had. The letter says:

Both of us were in our 40’s when we were diagnosed with prostate cancer. Neither of us knew the risks from family history despite one of our fathers dying from this disease.

The letter is addressed to all senators and members, and it finishes:

We would like your support in bringing this serious disease to the attention of Parliament. We have enclosed copies of Prostate News from PCFA and Beyond 50 the Australian Pensioners Insurance magazine which profiles this important campaign.

While I am not going to be talking about particular commercial enterprises during my time in this chamber, I think it is fair to give appropriate credit to the Australian Pensioners Insurance Agency, which has sponsored a $2 million advertising campaign. Given that our colleagues in the other place have referred to their contribution, I feel safe in doing so.

**Foetal Alcohol Spectrum Disorder**

Senator MOORE (Queensland) (7.29 pm)—Friday is international FASD Awareness Day. Foetal alcohol spectrum disorder is a bit of a mouthful. It covers a whole range of conditions which we are slowly being made aware of as a result of continuing research, particularly overseas, and I hope more will be done in Australia. Recently we have talked about FAS, foetal alcohol syndrome, and I think we know it a little bit better by that name.

Nonetheless, 9 September marks the sixth anniversary of the first international FAS Awareness Day. People all around the world are now beginning to plan events and look at ways of making people more aware of the impact of alcohol on unborn children and that, when they make the choice to have a child and to drink during their pregnancy, the impacts can be significant for the child, not just in infancy but throughout its life. The day of 9 September was chosen, and I did not know this until quite recently, so that on
the ninth day of the ninth month of the year
the world would remember that during the
nine months of pregnancy a mother should
refrain from drinking alcohol. It is a good
time to make people aware of that.

Foetal alcohol syndrome—and I will keep
calling it that because it is easier to remem-
er—is a hidden epidemic, and I believe it is
not being adequately addressed by health
authorities in our country. It is an umbrella
term that covers a wide range of conse-
quences that can be suffered, and that is the
only word to use, by children who are totally
innocent. The consequences fall along a con-
tinuum from quite mild disorders, such as
learning disorders or developmental prob-
lems, to quite serious illnesses and condi-
tions that threaten people throughout their
lives. The concerning thing is that we know
that this condition exists. We have known for
many years, and there is a great lack of re-
search in our country. Internationally this is
not unknown. The sad thing is that we do not
seem to be doing enough about it in our own
country.

The issues around foetal alcohol syn-
drome have been drawn to my attention by a
group of women in Queensland who network
with people around Australia. Recently a few
of the Queensland women had the opportu-
nity to visit Canada, which seems to be
where the most significant research is taking
place. There is a wide range of knowledge
there which is now accessible through the
internet. It seems to me almost criminal that
within our own community there is not wider
knowledge about the impact of drinking
while pregnant. Whilst every person should
have the open choice to make decisions
about what they are going to do during that
time, I think it is important that the choices
should be informed.

Quite recently I was fortunate enough to
visit the Royal Brisbane Hospital and talk
with some people who work in the Indige-
nous health unit there. They showed me
some quite stark evidence regarding wine
bottle labels. I was not particularly familiar
with the brand, but they showed me wine, I
believe high-quality wine, that is being pro-
duced in Australia and exported to the over-
seas market. Wine that is exported needs to
have on the label a quite clear warning that
says, ‘Warning: drinking while pregnant can
have an impact on children.’ I do not know
the exact words of this warning, but it is
clearly there on the label. The same product
being produced in Australia for Australian
domestic consumption does not have this
warning on it; it does not need to have this
warning on it. People purchasing alcohol
have not even been given the opportunity to
have the warning before them, so they are
not aware of the risks that they are taking—
you could say ‘could be taking’, but I think
the research has moved far beyond that.

There is now evidence based research that
indicates that, not for everybody but for a
large number of people, drinking while preg-
nant can cause real harm to the child. I be-
lieve that that is the kind of information that
every parent needs to have so that they can
make the choice. An informed choice is the
least we can have. The overseas research has
shown that a significant number of children
who have been exposed to alcohol suffer
from learning disabilities, social disabilities
and lower intelligence levels and can be
more susceptible to other conditions as they
grow older. Children are not given an open
chance because of choices taken by parents.

That is something about which we should
all be concerned, and that is the thrust of the
awareness day on Friday. It happens to occur
during Child Protection Week, and I think
there is a certain symmetry in the fact that
during Child Protection Week the damage to
unborn children through foetal alcohol syn-
drome is being made clearly known.
Queensland there are going to be a number of events, mainly public awareness seminars and displays in public places like the mall in Brisbane, drawing the attention of the community to the issue. We have found out that the ignorance level is high, and that is what I am raising tonight in this chamber—we need to raise the awareness levels. That is certainly the focus of some events that are taking place in Australia to link in with Friday.

We need to make people understand the issue. We need people to access the research and make informed choices. One of the clear things that have come out is that there is a suggestion that only people who are very heavy drinkers, who would be defined as having an alcohol problem, would have this issue with their unborn children. That is not true. I think that is a very unsafe way of looking at things. The research in Canada and Europe indicates that there is no clear pattern. For some women, as few as one or two drinks while pregnant can have this impact. There is no safe level. We should be aware of this, because there are still people in our community who are peddling the line that there are safe levels of alcohol consumption. There may be, but I would go so far as to say there is no safe level for pregnant women. That kind of information must be made clear.

We also need to have many organisations on side in providing this information. We need much wider knowledge and understanding in the medical community and an information campaign through posters and prenatal training that women go to for other reasons. People should have the information on alcohol consumption as well as all drug use, and I include tobacco. Sometimes in Australia there is still the view that alcohol is the safer option. Because it has been around so long and it is somehow part of our culture, we do not look at it in the same way as we look at other drugs. I think the message for us in looking at foetal alcohol syndrome is that alcohol during pregnancy is dangerous.

I want to end my speech tonight with some quotes from a letter that was sent to the Minister for Health and Ageing earlier this year by the National Women’s Christian Temperance Union—a wonderful organisation which is still alive and well. Their President, Margaret Martin, is located just outside Perth in Western Australia. The National Women’s Christian Temperance Union is very much concerned about this issue, and they wrote to the minister and talked about their concern about health. They also talked about the need to have clear posters available that indicate the danger—a warning to women and their partners about what can happen to an unborn child if alcohol is consumed during pregnancy. In her letter, President Margaret Martin says:

However, foetal alcohol spectrum disorders are entirely preventable if women do not drink alcohol when contemplating pregnancy or when pregnant. But we are all aware that young women are now drinking more than ever before and action is needed urgently. Appropriate warnings of the possible risks involved should not be too hard to be implemented. Posters at the point of sale would also be of some assistance as well as education programs in schools for adolescent girls.

As part of our acknowledgment of Foetal Alcohol Spectrum Disorder Awareness Day 2005 we should continue to agitate for better education and for clear labelling so that good choices can be made.

**Television: Program Content**

**Senator BARTLETT** (Queensland) (7.38 pm)—Tonight I want to speak about a general topic that has been covered a few times both in the Senate and in the other place in this parliament, and that is the issue of content on television and the appropriateness of certain types of content at various times. We have had some speeches made in the parliament and there have also been comments
made in the general community about the appropriateness of content on *Big Brother* and whether something should be done about that. For those of you who are not aware, *Big Brother* is a television show. I will get to that in a moment but I would like to firstly highlight some comments made by the head of the Australian Children’s Television Foundation, Janet Holmes a Court. She made some comments which I very much concur with.

I recognise that any attempt to determine what type of content should be on television at particular hours is always going to be a matter of opinion. But, if you are looking at what is viewed by children, I do think there is a wider recognition and agreement amongst the community that we need to be aware of what sort of content may be readily available to children and whether or not it is appropriate or potentially harmful. Ms Holmes a Court was particularly talking about the need to consider restricting the amount of violent or distressing news images in the early evening. This is particularly appropriate at the moment, with some of the awful images coming from New Orleans and other parts of the USA. But of course we all know that, sadly, pretty much every night on the television there will be fairly distressing images of death, destruction or violence of some sort of another in some part of the world.

Frankly, I very much agree with the need to focus on this aspect. Whilst I understand the concern of others who are a bit worried about naked breasts and bottoms on *Big Brother* late at night, I think there is a much bigger problem and a much bigger concern about potentially distressing images—images that I sometimes find distressing, let alone wondering how they might appear to young children—that appear not only on the 6 pm news but sometimes on news updates throughout the afternoon, the midday news and at all sorts of times of the day.

It is not just a matter of saying that more parental guidance and appropriate guardianship should be applied, though that might be arguable if you are talking about 8.30 or 9.30 at night. My daughter seems to want to stay up until midnight even though she is only three, so it gets a bit hard—but that is my problem. But I think it is reasonable to assume that people have the television on in the house at 6 pm and you can expect that children of any age are likely to be around, and it is unrealistic to expect parents to have to be perpetually keeping half an eye on what might be flashing on the television. I am not saying that these issues should not be reported; I am simply talking about disturbing images, violent or distressing news images, in the early evening or other hours of the day.

I would like to draw attention to the call by Janet Holmes a Court in her capacity as head of the Australian Children’s Television Foundation, because there are, as she says, horrendous images on the news all the time and there is no attempt in Australia to modify it when young people may be watching. I agree with her that we should look at it. I am not putting forward a specific proposal or a specific set of criteria; I would simply call on the government to take this comment on board. Indeed, I think the relevant minister is Senator Coonan, who is in the chamber at the moment. I am sure she is listening closely to everything I say, as she always does. I would ask her to take this comment on board, as she has done in considering some of the comments by others about *Big Brother*.

With regard to some of the comments that others have made about *Big Brother*, I would have to say that, if you are looking at programs at 9.30 or 10.30 at night, I am not so convinced that images of naked breasts and bottoms or even stupid, inane or offensive behaviour by adults is necessarily something that we should be rushing to ban or some-
thing that should be able to be dragged off the TV screens. I do think there is an argument that people can decide for themselves what they want to watch and, if they want to watch that, it is up to them—and I say that as somebody who has not watched Big Brother for a while.

I must say that I really could not stomach watching Big Brother anymore after the treatment that poor old Merlin Luck got when he was evicted. He decided to come out and use his 15 minutes of fame to make a political statement about refugees. For his trouble, he was roundly slagged off by the host of Big Brother not just on that night but indeed for weeks to come. He was regularly ridiculed. I recall seeing him being ridiculed by the host and by Rove on Rove Live a few weeks later for being such an ‘idiot’ as to waste his moment in the sun by making a statement about refugees. I thought it was pretty tragic, frankly, that someone who wanted to express an opinion, as opposed to coming out with the sort of nonsense that people normally say when they leave the Big Brother house, should be ridiculed. But that is for them to do, of course, and it is for others to decide whether or not they want to watch that show.

I have to also say that, whilst I do not advocate censorship with regard to violent images late at night, I personally believe that it is violence and distressing images of violence and murder that are much more problematic than what is on so-called reality TV. Quite clearly what is on Big Brother is not reality. You can do things inside the Big Brother house, get lots of headlines and lots of controversy, and it gives us an opportunity to discuss amongst the community what sorts of behaviour are appropriate or not. If you try some of those behaviours outside in the real world, as opposed to the so-called reality TV world, then you can find yourself in a lot of trouble, as I think one of the Big Brother contestants found when they allegedly did something out in the street in North Queensland and found themselves arrested for their trouble.

I think some of the crime shows and others that are on late at night have images that are far more problematic in terms of violence and their distressing and confronting nature. If anything were to be looked at, I would have to say that those are a much bigger problem than young people acting like some young people tend to act—so I am told, not been so young anymore. I think the bigger concern is not what is on late night TV but what is on during normal hours early in the evening. If you want to talk about so-called pornographic images, as some people have described Big Brother, I have to say—once again showing my age—that some of the music clips on the video shows on Saturday morning TV are much closer to virtual pornography than I am comfortable with at a time when children are watching them.

I want to emphasise that the issue of much greater concern is violence, death and destruction and those sorts of much more confronting images, particularly for young children. I think it is children that we need to be particularly concerned about rather than adults. It is the comments of people like the Children’s Television Foundation that we should be taking heed of. I urge the relevant minister to take those views into account. Indeed, I urge the news networks to give a bit more thought to this. It is preferable not to bring in some hard and fast regulation if we can get a generally accepted practice beforehand. The occasional disclaimers such as ‘images contained in this news report may be distressing’ could probably be used rather more often. Or perhaps a little more often they could think about not using some of the more distressing images at all.
Mr Do Nam Hai

Senator HUMPHRIES (Australian Capital Territory) (7.48 pm)—I want to raise in the adjournment debate the position of a dissident in Vietnam, Do Nam Hai. Mr Do Nam Hai’s dissidence was fired by a period of stay in Australia in the last decade. He arrived in Melbourne with his wife and daughter in 1994 under an educational sponsored program. During that time in Australia he developed a great affection and passion for the Australian principles of freedom, democracy and reliance on and value in human rights. During his time in this country he was so inspired by those values that he wrote under a pseudonym a number of essays on them with respect to his home country, Vietnam.

He returned to Vietnam in 2002. In October 2004 he was interviewed by Radio Free Asia, where he recaptured the same views he had presented in his essays. In his essay ‘Continued writing on reassessment’ Do Nam Hai wrote:

To fight injustice, impoverishment, destitution, to accomplish new objectives for the new Vietnam, to integrate into the modern world, we have no other choice except to choose the road of democracy, pluralism and the rule of law.

He also called for a referendum on whether Vietnam should adopt a multiparty system.

Mr Do Nam Hai was detained and his computer was confiscated in December 2004 for posting literature supporting democracy on the internet. Since that time he has frequently been harassed by local authorities, including two days of arrest and interrogation on several occasions. He was dismissed from his position as a bank officer in February 2005 for refusing to cease his activities. Even though Do Nam Hai has been economically isolated and watched very closely by Vietnam’s secret police, he has not stopped expressing his beliefs in the values of a democratic society of the kind that he experienced when in Australia. His main concern has always been the regressiveness of his country’s political system and his belief that that is linked to the concept of single-party government. He states:

It has been, is now, and will always be the underlying problem of all problems, the fundamental cause of all causes which will create countless disasters and innumerable pains leading to the current disgraceful regressiveness of this country, of my people.

He has condemned the poor leadership of the current regime but harbours a great belief in the potential and the capacity of the Vietnamese people to rebuild their country in a post-Communist era. He has called on the Communist Party and the Vietnamese government to ‘engage in a sincere dialogue with the democratic advocates in Vietnam to find the best solutions for rebuilding and developing the country’. He continues:

We are not afraid of not having a correct solution for development but we are afraid of an incorrect direction being chosen again. We have chosen the wrong path in the past, now we must have the courage to overcome our weaknesses, learn from the mistakes of history and be able to choose the right one. If the government procrastinates and plays for time, if they refuse to renovate the political system or if they renovate merely by halves as token gestures like now, they will continue to lead our nation to another dead end. And the slave-born circumstances of our people, once thought liberated 60 years ago ... now continues to remain the same.

Hardly an incitement to violence, but certainly a plea from the heart for fundamental change in his country.

Of course, Do Nam Hai is not the only person to have been persecuted for speaking out on human rights in Vietnam. Le Thi Hong Lien, a young teacher, was arrested in May last year and sentenced to 12 months in prison for practising her religious convictions. Amnesty International considers her to be a prisoner of conscience. While in prison...
she was so brutally tortured that she was severely damaged both physically and mentally. Lan Anh, a reporter, was recently persecuted for ‘disclosing state secrets’ stemming from a series of articles she wrote, which detailed the corrupt practices of a drug company in collaboration with corrupt officials who were destabilising the Vietnamese pharmaceuticals industry.

In fact, dissent is a well-travelled path in Vietnam and it is a path being travelled by more and more people. A group of former Communist Party members in a letter addressed to the national conference of the Central Committee of the Communist Party of Vietnam in June of this year observed that the Vietnamese people have to endure two national shames and five national disasters. The national shames are poverty and corruption, which is ranked as among the worst in the world. The five national disasters are red tape and bureaucracy; a polluted environment; extremely dangerous transportation; educational crises, involving both teachers and students; and widespread prostitution with its consequent cascading social problems.

While there is a long list of religious leaders, political dissidents and academics who have spoken on human rights and who have been persecuted for speaking out on those subjects, Do Nam Hai, Ms Lien and Ms Anh typify not intellectuals but ordinary Vietnamese who are standing up for democratic values and are part of a quite substantial movement for change in Vietnam. The human rights group Reporters Without Borders have praised Do Nam Hai for daring to openly criticise the authorities in the articles he has posted on the internet. They have said:

Do Nam Hai has chosen to express his convictions despite the risks he runs. His courage is remarkable in a country where any questioning of the regime can lead straight to prison, and we call on the Vietnamese authorities to stop harassing him and thereby show they respect free expression.

I was very privileged to attend the inauguration ceremony of the Vietnam Reform Party, Viet Tan, in Sydney last November and to also co-sponsor Viet Tan’s visit to Parliament House in March of this year. At those functions I witnessed a strong and determined desire for peaceful change in Vietnam. That spirit, I believe, is a spirit that is seen not only in many parts of the world where Vietnamese have migrated to but also in Vietnam, and change which is very powerfully influenced by that is very evident already.

This year, of course, marks the 30th anniversary of the end of the Vietnam War. There were great celebrations in Vietnam itself, including marches, and no doubt some quieter celebrations in Australia by some people, ageing though they might be, who took part in activities to bring Australia’s involvement in that war to an end. I would ask those people that perhaps in honouring a spirit which had a place in its time in Australia to reflect on what their social conscience would say today about the position of the Vietnamese people after 30 years of the rule that they obviously argued for at that time.

Thirty years on, Vietnam’s government still manages such accolades as being included in Freedom House’s ‘The Worst of the Worst 2004’ list, which lists the 15 most repressive countries in the world. Vietnam was also listed as one of eight countries of particular concern in September 2004 by the US Department of State under the International Religious Freedom Act for particularly severe violations of human freedom. The Most Venerable Thich Huyen Quang, an 85-year old Vietnamese monk, is still under house arrest in Vietnam for insisting on practising in an independent Buddhist church.
I welcome the spirit of freedom that is evident in Vietnam today. I believe that we still have a role, as a country with a long involvement in Vietnam, to promote and sponsor values that we hold dear in Australia in Vietnam and anywhere and everywhere in the world, and I hope that that spirit is one that is very evident today in Vietnam. Indeed, I believe it is. I welcome moves by people like Do Nam Hai to ensure that it prevails ultimately in the government of Vietnam.

Senate adjourned at 7.58 pm

DOCUMENTS

Tabling

The following government document was tabled:

ASC Pty Ltd—Statement of corporate intent 2005-08.

Indexed Lists of Files

The following documents were tabled pursuant to the order of the Senate of 30 May 1996, as amended:

Indexed lists of departmental and agency files for the period 1 January to 30 June 2005—Statements of compliance—
Australian Trade Commission.
Communications, Information Technology and the Arts portfolio agencies.
Defence.
Department of Foreign Affairs and Trade.
Department of the Environment and Heritage and Environment and Heritage portfolio agencies.
Department of Industry, Tourism and Resources and Industry, Tourism and Resources portfolio agencies.
Treasury portfolio agencies [except for Australian Taxation Office].

Departmental and Agency Contracts

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—
Defence.
Department of Transport and Regional Services and National Capital Authority.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Workplace Relations**

(Question No. 1021)

Senator Murray asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 8 July 2005:

(1) Can the Minister confirm that at the estimates hearings of the Employment, Workplace Relations and Education Legislation Committee on 17 February 2005, (Committee Hansard p. 33) he said, ‘There is one piece that has been knocked back 44 times; we know that’.

(2) Can details be provided of those 44 times.

(3) Can the Minister indicate whether the list below is an accurate Senate history of the rejection of the small business unfair dismissal exemption proposal: the measures which have sought a small business exemption were rejected by the Senate over the 38th to 40th Parliaments on eight occasions and are: (a) two attempts via regulations disallowed; (b) the Workplace Relations Amendment Bill 1997; (c) the Workplace Relations Amendment Bill 1997 (No. 2); (d) the Workplace Relations Amendment (Unfair Dismissals) Bill 1998; (e) the Workplace Relations Amendment (Unfair Dismissals) Bill 1998 (No. 2); (f) the Workplace Relations Amendment (Fair Dismissal) Bill 2002; and (g) the Workplace Relations Amendment (Fair Dismissal) Bill 2002 (No. 2).

Senator Abetz—The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator’s question:

(1) Yes. Hansard reflects the statement made by Senator Abetz.

(2) Since 1996, Government reforms generally relating to termination of employment have been voted against or amended 41 times by the Opposition. That includes votes in the House of Representatives and the Senate, amendments by the Senate not accepted by the Government, and the disallowance of regulations.

(3) Yes.

**Majura International Training Complex**

(Question No. 1060)

Senator Ludwig asked the Minister for Justice and Customs, upon notice, on 4 August 2005:

(1) How many personnel will be stationed at the Majura International Training Complex.

(2) What is the budgeted annual running cost of the complex.

(3) Annually, how many personnel can be trained at the complex

(4) (a) How many police from foreign jurisdictions have undergone training at the complex: (b) what was the cost of their training: and (c) from which countries did they come from.

(5) (a) What role did the Canberra Institute of Technology (CIT) play in the construction of the facility: (b) what role will the CIT play in the upkeep and maintenance of the facility: and (c) is CIT receiving any remuneration for its part in the upkeep and maintenance of the facility.

(6) What personnel will be trained at this facility

(7) Are other similar centres planned.

Senator Ellison—The answer to the honourable senator’s question is as follows:
(1) It is proposed that 15 training staff will be located at the International Training Complex.
(2) $191,000 for the 2005/2006 Financial Year.
(3) Based on 24 programs in a calendar year with 36 participants, up to 864 people can be trained.
(4) (a) Fifty one. (b) Approximately $5,500.00 per person. (c) Fiji, Kiribati, Nauru, Tonga, Vanuatu, Cook Islands, Tuvalu, Samoa and PNG.
(5) (a) The Canberra Institute of Technology (CIT), under a Memorandum of Understanding with the AFP, was provided with an opportunity to have apprentices and trainees assist with the building of the complex including fit out and landscaping.
(b) The CIT will be involved with the ongoing project planning and maintenance, including landscaping of the complex as required.
(c) The CIT receives no remuneration from the AFP.
(6) Police and unsworn staff that are to be deployed overseas on Police Led Missions, Capacity Development Projects and United Nations Missions.
(7) No other similar centres are planned.

Defence: Explosives
(Question No. 1064)

Senator Mark Bishop asked the Minister for Defence, upon notice, on 8 August 2005:
(1) Is the Minister aware of the Article in *The West Australian* of 4 August 2005 entitled ‘Military explosives left in car’, which reported that explosives were found in an abandoned car and that they were marked with a military serial number.
(2) Were the explosives part of an ongoing investigation of the theft of the ordnance; if so (a) at what facilities were the ordnance stored; (b) when did the theft take place; (c) when was it reported; who reported the theft; and (e) to which agencies was the report made.
(3) What amount and type of ordnance was taken during the theft and were any other items stolen at the time.
(4) Have all stolen ordnance items been recovered; if not, what types of ordnance are still unaccounted for.
(5) Over the past 5 years, have there been any other incidents of theft at these facilities; if so: (a) when did they occur; and (b) what was taken.
(6) (a) what action has been taken, as a result of the thefts, to improve security at the facilities which are used for ordnance storage; and (b) when were the new security measures put in place.

Senator Hill—The answer to the honourable senator’s question is as follows:
(1) Yes; however, the West Australian Police are conducting the investigation into this incident and no details have been released as to the identity of the individual, nor where the ordnance came from.
(2) As no information has been made available to the Department, this question would have to be referred to the West Australian Police.
(3) (4), (5) and (6) See response to (2) above.

QUESTIONS ON NOTICE