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FORTY-FIRST PARLIAMENT
FIRST SESSION—FOURTH PERIOD

Governor-General

His Excellency Major-General Michael Jeffery, Companion in the Order of Australia, Commandant 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 Jeanie 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
Leader of the Family First Party—Senator Steve Fielding

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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

Prime Minister  The Hon. John Winston Howard MP
Minister for Trade and Deputy Prime Minister  The Hon. Mark Anthony James Vaile MP
Treasurer  The Hon. Peter Howard Costello MP
Minister for Transport and Regional Services  The Hon. Warren Errol Truss MP
Minister for Defence and Leader of the Government in the Senate  Senator the Hon. Robert Murray Hill
Minister for Foreign Affairs  The Hon. Alexander John Gosse Downer MP
Minister for Health and Ageing and Leader of the House  The Hon. Anthony John Abbott MP
Attorney-General  The Hon. Philip Maxwell Ruddock MP
Minister for Finance and Administration, Deputy Leader of the Government in the Senate and Vice-President of the Executive Council  Senator the Hon. Nicholas Hugh Minchin
Minister for Agriculture, Fisheries and Forestry and Deputy Leader of the House  The Hon. Peter John McGauran MP
Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Indigenous Affairs  Senator the Hon. Amanda Eloise Vanstone
Minister for Education, Science and Training  The Hon. Dr Brendan John Nelson MP
Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues  Senator the Hon. Kay Christine Lesley Patterson
Minister for Industry, Tourism and Resources  The Hon. Ian Elgin Macfarlane MP
Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service  The Hon. Kevin James Andrews MP
Minister for Communications, Information Technology and the Arts  Senator the Hon. Helen Lloyd Coonan
Minister for the Environment and Heritage  Senator the Hon. Ian Gordon Campbell

(The above ministers constitute the cabinet)
HOWARD MINISTRY—continued

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

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

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

Minister for Human Services
The Hon. Joseph Benedict Hockey MP

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

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

Special Minister of State
Senator the Hon. Eric Abetz

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

and Minister Assisting the Prime Minister

Minister for Ageing
The Hon. Julie Isabel Bishop MP

Minister for Small Business and Tourism
The Hon. Frances Esther Bailey MP

Minister for Local Government, Territories and Roads
The Hon. James Eric Lloyd MP

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

Minister for Workforce Participation
The Hon. Peter Craig Dutton MP

Parliamentary Secretary to the Minister for Finance and Administration
The Hon. Dr Sharman Nancy Stone MP

Parliamentary Secretary to the Minister for Industry, Tourism and Resources
The Hon. Warren George Entsch MP

Parliamentary Secretary to the Minister for Health and Ageing
The Hon. Christopher Maurice Pyne MP

Parliamentary Secretary to the Minister for Defence
The Hon. Teresa Gambaro MP

Parliamentary Secretary (Trade)
Senator the Hon. John Alexander Lindsay (Sandy) Macdonald

Parliamentary Secretary (Foreign Affairs) and Parliamentary Secretary to the Minister for Immigration and Multicultural and Indigenous Affairs
The Hon. Bruce Fredrick Billson MP

Parliamentary Secretary to the Prime Minister
The Hon. Gary Roy Nairn MP

Parliamentary Secretary to the Treasurer
The Hon. Christopher John Pearce MP

Parliamentary Secretary to the Minister for the Environment and Heritage
The Hon. Gregory Andrew Hunt MP

Parliamentary Secretary (Children and Youth Affairs)
The Hon. Sussan Penelope Ley MP

Parliamentary Secretary to the Minister for Education, Science and Training
The Hon. Patrick Francis Farmer MP

Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry
Senator the Hon. Richard Mansell Colbeck
SHADOW MINISTRY

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
Shadow Minister for Population Health 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
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Thursday, 15 September 2005

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

NOTICES
Presentation

Senator Scullion to move on the next day of sitting:

(1) That the Senate:
   (a) notes that despite the efforts of communities and governments, the problem of petrol sniffing remains widespread and endemic in remote Aboriginal communities;
   (b) acknowledges the efforts of the Government to work in collaboration with the Northern Territory, Western Australia and South Australian Governments to assist them to implement a comprehensive strategy to tackle petrol sniffing;
   (c) congratulates the Government for providing an additional $6 million over 2 years to expand the roll out of Opal petrol in the central desert region;
   (d) notes that:
      (i) total expenditure for Opal subsidies has now reached $19.6 million over 4 years, and
      (ii) the Government is considering a limited supply of Opal petrol in Alice Springs for residents of affected Indigenous communities and for people visiting those communities;
   (e) calls on the Government, should it proceed with the limited supply of Opal petrol in Alice Springs, to work with petrol retailers and communities to develop a code of practice and an education strategy in relation to responsible trading;
   (f) notes that the roll out of non-sniffable Opal petrol can only be one part of the solution;
   (g) congratulates the Government for its initiative to provide funds, to address trafficking in petrol and to implement rehabilitation and diversionary programs;
   (h) endorses the principles contained in the comprehensive 8 point plan developed between state, territory and Australian government officials; and
   (i) encourages all governments to adopt the plan recommended by officials.

(2) That the following matters be referred to the Community Affairs References Committee for inquiry and report by 9 November 2005:
   (a) the appropriateness of laws and policing with respect to petrol sniffing in affected Indigenous communities;
   (b) diversionary initiatives and community responsibility; and
   (c) lessons that can be learned from the success some communities have had in reducing petrol sniffing.

Senator ELLISON (Western Australia—Manager of Government Business in the Senate) (9.31 am)—I give notice that, on the next day of sitting, I shall move:

That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

Customs Tariff Amendment (Commonwealth Games) Bill 2005
Education Services for Overseas Students Amendment Bill 2005
Energy Efficiency Opportunities Bill 2005
Health Legislation Amendment Bill 2005
Higher Education Legislation Amendment (Measures No. 4) Bill 2005
Law and Justice Legislation Amendment (Video Link Evidence and Other Measures) Bill 2005
Migration and Ombudsman Legislation Amendment Bill 2005
National Health Amendment (Budget Measures—Pharmaceutical Benefits Safety Net) Bill 2005
National Health Amendment (Immunisation Program) Bill 2005
Tax Laws Amendment (Loss Recoupment Rules and Other Measures) Bill 2005
Telecommunications (Interception) Amendment (Stored Communications and Other Measures) Bill 2005
Therapeutic Goods Amendment Bill (No. 2) 2005.

I table statements of reasons justifying the need for these bills to be considered during these sittings and seek leave to have the statements incorporated in Hansard.

Leave granted.

The statements read as follows—

CUSTOMS TARIFF AMENDMENT (COMMONWEALTH GAMES) BILL 2005

Purpose of the bill
The bill amends the Customs Tariff Act 1995 to replace concessional item 64 in Schedule 4 of the Act. The new item 64 allows the duty free entry of non-commercial goods by Commonwealth Games Family members for use in events associated with the Melbourne 2006 Commonwealth Games (the Games).

Reasons for Urgency
To enable the Commonwealth Games Family members to receive duty free entry of non-commercial goods for use in events associated with the Games it will be necessary for new item 64 to have a date of effect some time prior to the commencement of those Games on 15 March 2006.

(Circulated by authority of the Minister for Justice and Customs)

EDUCATION SERVICES FOR OVERSEAS STUDENTS AMENDMENT BILL 2005

Purpose of the bill
The bill gives effect to changes proposed by the Higher Education Legislation Amendment (2005 Measures No. 4) Bill to enable named high-quality overseas education providers to establish educational institutions in Australia and offer education and training services to overseas students within Australia. These amendments to the Education Services for Overseas Students Act 2000 (the ESOS Act) are required as a consequence.

The bill also amends the ESOS Act to enable the providers of education and training services to international students in Australia to charge a fee for the provision of services prescribed by the ESOS Act and its National Code of Practice for registration Authorities and Providers of Education and Training to Overseas Students.

Reasons for Urgency
The bill must be passed by the end of 2005 to enable high-quality overseas education providers (as named through changes proposed to the Higher Education Support Act 2003) to offer education and training services to overseas students in Australia from the beginning of the 2006 academic year.

(Circulated by authority of the Minister for Education, Science and Training)

ENERGY EFFICIENCY OPPORTUNITIES BILL 2005

Purpose of the bill
The bill establishes the legislative base for the Energy Efficiency Opportunities measure.

Reasons for Urgency
The Energy Efficiency Opportunities measure was announced in the Energy White Paper in June 2004. From 2006 the government will require large energy using businesses (those using more than 0.5 petajoules per year) to undertake an energy efficiency opportunities assessment and report publicly on the outcomes and their business response.

Passage of the bill in the 2005 Spring sittings of Parliament is essential to meet the government’s commitment of having the measure take effect in 2006. Regulations and guidelines must be prepared under the authority of the bill, and are reliant on its passage. Large energy using businesses require sufficient lead time to become adequately informed and to prepare for the measure. To this
end, it is proposed that the measure will be launched in March 2006.
(Circulated by authority of the Minister for Industry, Tourism and Resources)

HEALTH LEGISLATION AMENDMENT BILL 2005

Purpose of the bill
The bill proposes a number of amendments to legislation within the Health and Ageing portfolio.

Schedule 1 of the bill extends, until 30 June 2006, the existing arrangements in the National Health Act 1953 (NHA) for approving pharmacists to supply medicines subsidised under the Pharmaceutical Benefits Scheme (PBS). The NHA currently provides for the establishment of the Australian Community Pharmacy Authority (the ACPA). The ACPA’s role is to consider applications made by pharmacists for approval to supply PBS medicines, in accordance with the pharmacy location rules as determined under the NHA by the Minister for Health and Ageing, and to make recommendations as to whether or not such applications should be approved.

The ACPA must comply with the rules determined by the Minister for Health and Ageing, in accordance with the NHA. These rules, known as the pharmacy location rules, prescribe location-based criteria which must be satisfied in order for a pharmacist to obtain a recommendation from the ACPA that their application to supply PBS medicines from particular premises be approved.

Schedule 2 of the bill ensures that certain regulatory provisions in the NHA clearly indicate that the “dependants” of the contributor, as well as the “contributor”, are adequately covered by the regulatory scheme governing registered health benefits organisations (health funds). Following recent amendments contained in the National Health Amendment (Prostheses) Act 2005 (NHAPA), which received Royal Assent on 21 March 2005, it became evident that a number of the regulatory provisions in the NHA incorrectly refer only to the “contributor”. Technical amendments are required to be made to the NHA and NHAPA in order to ensure that the NHA adequately covers the contributor’s “dependants” with appropriate insurance cover.

Schedule 3 of the bill provides clarification as to the regulation making power of the Health Insurance Act 1973 (HIA), to make it clear that Medicare items may specify restrictions within the tables prescribed using the power of the HIA.

Reasons for Urgency
The NHA currently provides for the pharmacy location rules and the ACPA to cease to operate at the end of 31 December 2005. The amendments set out in Schedule 1 in the bill allow the government, in consultation with the Pharmacy Guild of Australia, adequate time to carefully consider the findings and recommendations of a review in relation to the pharmacy location rules, and the role of the ACPA.

The proposed amendments to the NHA set out in Schedule 2 in the bill are considered urgent on the basis that the potential impact, should the proposed technical amendments not be made, could be very high. Reliance on the existing provisions in the NHA creates the potential situation that a registered health benefits organisation may choose to avoid coverage of a person receiving hospital treatment where that patient is classified as a “dependant” of a contributor, rather than the “contributor” to a private health fund.

(Circulated by authority of the Minister for Health and Ageing)

HIGHER EDUCATION LEGISLATION AMENDMENT (2005 MEASURES No. 4) BILL 2005

Purpose of the bill
The bill makes amendments to the Higher Education Support Act 2003 (HESA) to make revisions to the quality and accountability requirements in relation to tuition assurance arrangements, to enable high quality overseas education providers to establish institutions in Australia and offer education and training services to overseas students, to enable Carnegie Mellon University to access Commonwealth assistance such as allowing it to offer FEE-HELP assistance to Australian students, and to make other technical amendments.
Reasons for Urgency
The amendments in the bill must be passed before the end of 2005 so that Carnegie Mellon University can access assistance under HESA before the beginning of the 2006 academic year.

(Circulated by authority of the Minister for Education, Science and Training)

LAW AND JUSTICE LEGISLATION AMENDMENT (VIDEO LINK EVIDENCE AND OTHER MEASURES) BILL 2005

Purpose of the bill
The primary purpose of the bill is to create new video link evidence provisions in the Crimes Act 1914 that apply to proceedings for terrorism and other related offences and proceeds of crime proceedings relating to those offences.

The amendments will facilitate the prosecution of terrorism offences by ensuring that in the absence of compelling reasons to the contrary, important evidence from overseas witnesses that are unable to travel to Australia can be put before the court using video link technology.

Reasons for Urgency
It is important that the bill is passed and the provisions have come into effect by 21 November 2005 so that the video link evidence provisions can be utilised in an upcoming counter-terrorism trial. Further such cases may arise at any time. If the law is going to be amended in this area, it is important that the change be made as soon as possible to avoid the risk that one or more terrorist prosecutions may fail due to the inability of the DPP to adduce evidence from a foreign witness.

(Circulated by authority of the Attorney-General)

MIGRATION AND OMBUDSMAN LEGISLATION AMENDMENT BILL 2005

Purpose of the bill
The bill amends the Migration Act 1958 (the Migration Act) to:

• introduce 90 day processing time limits for the determination of Protection Visa applications and for the completion of reviews by the Refugee Review Tribunal (the RRT);
• permit disclosure of identifying information to individuals or the public to assist with identifying or locating a person who is otherwise unable to be identified or located; and
• enable the Ombudsman to contact an immigration detainee where that person has not made a complaint to the Ombudsman.

The bill amends the Ombudsman Act 1976 (the Ombudsman Act) to:

• allow the Ombudsman to use the title “Immigration Ombudsman” when performing functions in relation to immigration and detention;
• make it explicit that the Ombudsman can perform functions and exercise powers under other Commonwealth or ACT legislation;
• enable an agency or person to provide information to the Ombudsman notwithstanding any law that would otherwise prevent them doing so; and
• clarify that the actions of contractors and subcontractors, in exercising powers or performing functions for on behalf of Australian Government agencies, will be taken to be the actions of the relevant agency.

The bill also amends the Migration Act and the Migration Legislation Amendment Act (No. 1) 2001 to make technical amendments as a consequence of the commencement of the Legislative Instruments Act 2003.

Reasons for Urgency
Protection Visa Decision Making Time Limits
On 17 June 2005 the Prime Minister announced that the Migration Act would be amended to require all primary protection visa applications to be determined within three months of the receipt of the application. Likewise, reviews by the RRT will be completed within three months.

While these requirements have been implemented through instructions to the Department of Immigration and Multicultural and Indigenous Affairs (the Department) and the RRT, the government believes these amendments should be made as soon as possible to provide statutory time limits for determining these applications for protection.

Disclosure of Personal Identifiers and Relevant Information
Prohibitions in the Migration Act on the disclosure of personal identifiers have impeded the Department when seeking to identify a person, particularly when the person is in immigration detention. The proposed amendments are necessary to ensure that investigations into a person’s identity, or location, can be undertaken expeditiously by disclosing identifying information to either individuals or the public (in certain circumstances). This will enable the Department to determine a person’s identity or location where other methods of investigation have not succeeded. The disclosure of an Australian citizen’s personal identifiers will only be permitted if it is in connection with the administration of the Migration Act.

Ombudsman’s functions and powers
On 14 July 2005 the Minister for Immigration and Multicultural and Indigenous Affairs announced the government’s decision that the Ombudsman should have a strengthened role in immigration and detention matters. The government has requested that the Ombudsman complete investigations into 200 detention cases referred to Mr Palmer and Mr Comrie. The proposed amendments will assist the Ombudsman in completing these investigations expeditiously.

Legislative Instrument Amendments
Gazette Notices are used by the Department to make minor adjustments to regulatory requirements, enabling the government to effectively manage its migration program.

Following the commencement of the Legislative Instruments Act 2003 on 1 January 2005, the ability to remake Gazette Notices from time-to-time has been temporarily preserved by the making of the Legislative Instruments (Transitional Provisions and Consequential Amendments) Regulations 2005. These regulations will expire on 31 December 2005.

In order to allow instruments in writing to continue to be made from time-to-time under regulations, it is necessary for these amendments to be made prior to the expiry of the transitional regulations.

(Circulated by authority of the Minister for Immigration and Multicultural and Indigenous Affairs)

NATIONAL HEALTH AMENDMENT (BUDGET MEASURES – PHARMACEUTICAL BENEFITS SAFETY NET) BILL 2005

Purpose of the bill
The bill increases the PBS Safety Net threshold by the equivalent of two patient co-payments, in addition to usual indexation, on 1 January of each year for the next four years from 2006 to 2009. Usual indexation will apply to the patient co-payment amounts used to calculate the increases in the Safety Net.

The bill also reinforces Safety Net and co-payment arrangements for some PBS medicines supplied earlier than 21 days after a previous supply of the same medicine. Where an early supply occurs before the Safety Net is reached, the co-payment does not accrue to the Safety Net. Where an early supply occurs after the Safety Net is reached, the person’s usual co-payment (not the reduced Safety Net co-payment) applies. Safety Net arrangements and entitlements apply to PBS expenditure by calendar year.

Reason for Urgency
The bill requires passage in the 2005 Spring sittings to enable commencement from 1 January 2006, as announced in the 2005-2006 Budget.

(Circulated by authority of the Minister for Health and Ageing)

NATIONAL HEALTH AMENDMENT (IMMUNISATION PROGRAM) BILL 2005

Purpose of the bill
The bill expands the functions of the Pharmaceutical Benefits Advisory Committee (PBAC) to consider from time to time recommending vaccines be funded for the purposes of immunisation as an alternative option to recommending listing as a Pharmaceutical Benefit, and to consider matters in relation to the provision of vaccines for the purposes of immunisation.

The bill also increases the total membership of the PBAC by two members, make the PBAC chairperson a full-time position appointed by the Minister with appropriate remuneration as determined by the Remuneration Tribunal.

(Circulated by authority of the Minister for Immigration and Multicultural and Indigenous Affairs)
**Reason for Urgency**
The bill requires passage in the 2005 Spring sittings to enable commencement from 1 January 2006, as announced in the 2005-2006 Budget.
(Circulated by authority of the Minister for Health and Ageing)

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**TAX LAWS AMENDMENT (LOSS RECOUPMENT RULES AND OTHER MEASURES) BILL 2005**

**Purpose of the bill**
The bill amends various taxation laws.

**Reasons for Urgency**
These measures need to be enacted as early as possible to provide certainty for business and taxpayers in relation to how the tax law applies. Passage in the 2005 Spring sittings is required as several of the measures are retrospective or are to commence in 2005.
(Circulated by authority of the Treasurer)

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**TELECOMMUNICATIONS INTERCEPTION AMENDMENT (STORED COMMUNICATIONS AND OTHER MEASURES) BILL 2005**

**Purpose of the bill**
The bill amends the exemption from the warrant based regime under the Telecommunications (Interception) Act 1979 that exists for stored communications and which sunsets on 14 December 2005.

**Reasons for Urgency**
The exemption from the requirement to obtain a warrant under the Telecommunications (Interception) Act 1979 to access stored communications will cease on 14 December 2005, twelve months after the provisions were inserted into that Act by the Telecommunications (Interception) Amendment (Stored Communications) Act 2004. A review of the regulation of access to communications is currently being conducted and will determine whether the exemption should remain, be modified or be removed.
(Circulated by authority of the Attorney-General)

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**THERAPEUTIC GOODS AMENDMENT BILL (No. 2) 2005**

**Purpose of the bill**
The Australia United States Free Trade Agreement (AUSFTA) came into force on 1 January 2005. In order to meet our obligations under the AUSFTA, changes were made to the Therapeutic Goods Act 1989 (the Act). The Australian complementary medicines industry and the over the counter medicines sector have raised concerns about the current arrangements for implementing the AUSFTA. Australian industry’s main complaint to date has been that the legislation to give effect to the requirements of Article 17.10(4) of the AUSFTA has been drafted to capture a far broader group of products than are captured in the United States.
The purpose of this bill is to limit certification provisions in relation to complementary medicines so that only those who have to submit safety or efficacy data and who have relied on third party data are subject to certification requirements.

**Reasons for Urgency**
In light of the claims by the Australian complementary medicines industry that they are currently incurring unnecessary and unreasonable costs because of an unintended drafting error, I consider that the government should move quickly to rectify the situation.
(Circulated by authority of the Minister for Health and Ageing)

**Senator Bob Brown**—I ask that the reasons for the urgency of these bills be circulated to all members.

**The PRESIDENT**—That will be done.

**BUSINESS**

**Rearrangement**

**Senator ELLISON** (Western Australia—Manager of Government Business in the Senate) (9.32 am)—I move:
That the government business order of the day relating to the Protection of the Sea (Shipping Levy) Amendment Bill 2005 be considered from 12.45 pm till not later than 2 pm today.
Question agreed to.

Rearrangement

Senator ELLISON (Western Australia—Manager of Government Business in the Senate) (9.32 am)—I move:

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

(1) general business order of the day No. 38—Truth in Food Labelling Bill 2003 [2005]; and
(2) consideration of government documents.

Question agreed to.

COMMITTEES

Finance and Public Administration
References Committee

Meeting

Senator FORSHA W (New South Wales) (9.32 am)—by leave—I move:

That the Finance and Public Administration References Committee be authorised to hold a public meeting during the sitting of the Senate today, from 4.30 pm to 7 pm, to take evidence for the committee’s inquiry into the Regional Partnerships program.

Question agreed to.

PETROL SNIFFING

Senator BOB BROWN (Tasmania) (9.33 am)—I move:

(1) That the Senate notes that:

(a) the problem of petrol sniffing remains widespread and endemic in remote Aboriginal communities; and
(b) this problem is exacerbated by the proximity and availability of aromatic petrol in major town centres.

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

(a) the means, including costs, of implementing a comprehensive roll out of Opal fuel throughout the central desert region of Australia (defined for these purposes as extending from Coober Pedy in South Australia to Tennant Creek in the Northern Territory and Laverton in Western Australia), and specifically to the town centres of Alice Springs and Tennant Creek;
(b) the recommendation of strategies to enable the comprehensive roll out of Opal fuel throughout the central desert region of Australia, including:
(i) proposals for any legislative amendments which may be required,
(ii) the identification of and assignment of a clear delineation of Commonwealth and state responsibilities for the matter, to ensure the rapid and streamlined Commonwealth/state coordination of the roll out, and
(iii) ensuring that mechanisms are in place to guarantee price parity throughout the specified region; and
(c) any related matters.

Question put.

The Senate divided. [9.38 am]

(The President—Senator the Hon. Paul Calvert)

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

AYES

Bartlett, A.J.J.  Bishop, T.M.
Brown, B.J.  Brown, C.L.
Campbell, G.  Crossin, P.M.
Conroy, S.M.  Carr, K.J.
Faulkner, J.P.  Forshaw, M.G.
Hogg, J.J.  Hurley, A.
Hutchins, S.P.  Kirk, L.
Ludwig, J.W.  Lundy, K.A.
Marshall, G.  McEwen, A.
McLucas, J.E.  Milne, C.
Moore, C.  Murray, A.J.M.
Nettle, K.  Polley, H.
Sherry, N.J.  Siewert, R.
Stephens, U.  Sterle, G.
Stott Despoja, N.  Webber, R.
Wong, P.  Wortley, D.
Second Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.42 am)—I table an explanatory memorandum relating to the bill and draft migration amendment regulations and move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

MIGRATION AND OMBUDSMAN LEGISLATION AMENDMENT BILL 2005

This bill makes some important amendments to the Migration Act 1958 and the Ombudsman Act 1976.

The amendments, together with those earlier implemented by the Migration Amendment (Detention Arrangements) Act 2005, generally build on reforms to immigration detention arrangements announced by the Prime Minister in June of this year, and on other arrangements that the Government has introduced over recent years.

These amendments do not alter the Government’s approach to immigration or mandatory detention. They show, however, the responsiveness of the Government by ensuring that our existing policy is administered with flexibility and fairness, and in a timely manner.

Protection Visa Decision Time Limits

On 17 June, the Prime Minister made a commitment that all primary protection visa applications will be decided within three months of the receipt of the application.

This three month time limit also applies to decisions by the Refugee Review Tribunal (RRT) when reviewing protection visa decisions.

Schedule 1 to this bill provides a 90 day time limit for decision on all primary protection visa applications, and any subsequent RRT review of such decisions. This implements the commitment made by the Prime Minister that primary decisions be made within three months.

This time limit also applies to repeat protection visa applications allowed by the Minister under...
section 48B of the Migration Act, and to cases remitted to the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) or the RRT by any court or tribunal.

This bill will also allow for the 90 day time limit for decision-making to be applied to the processing of applications for permanent protection by temporary protection visa holders and certain temporary humanitarian visa holders.

A key feature of protection visa arrangements is that persons granted temporary protection are unable to access a permanent protection visa until they have held their original visa for a specified minimum period of time – in most cases either 30 or 54 months. As a matter of fairness to applicants, decision-making on these applications for further protection does not commence until the specified minimum period of time has passed.

Accordingly, the commencement of the 90 day time limit is to be prescribed in regulations. The regulations will provide that the time starts from the point at which the applicant has held their temporary visa long enough to be able to access a permanent visa, or from the date of lodgement of their further protection visa application, whichever is the later.

The proposed amendments to the Migration Regulations 1994 to achieve this have been drafted by the Office of Legislative Drafting and Publishing and I table a copy to accompany this bill.

In his June announcement, the Prime Minister also set a deadline for DIMIA to complete all assessments of applications for permanent protection visas from the existing case load of temporary protection visa holders by 31 October 2005. The 31 October 2005 deadline applies to those further protection visa applications on hand at the time of the Prime Minister’s announcement where the applicant had already held their temporary visa for the specified minimum period needed to be able to access a permanent protection visa. This deadline has not been incorporated into this bill, as most of these applications will have been decided by the time it commences.

The emphasis contained in this bill on clear time limits for the prompt finalisation of applications does not mean that cases should be decided irrespective of whether there are critical issues still outstanding which are beyond the control of DIMIA and the RRT.

Nor will the new time limits operate to the disadvantage of applicants.

On the contrary, DIMIA officers and RRT members will continue to be obliged to make fair decisions in a manner that gives applicants a proper opportunity to present their case.

In the 2004-05 program year, where there were not factors outside DIMIA’s control which prevented finalisation, DIMIA decision-makers completed almost 80% of the initial primary protection visa caseload in the community within 90 days.

In this regard, Australia’s average processing time for protection visa applications already compares well with European countries and is on a similar level to that of the United Kingdom and the United States of America.

DIMIA and the RRT will now aim to ensure that all cases will be decided within 90 days.

Where these time limits have not been met, this bill requires that periodic reports will be provided to the Minister for Immigration and Multicultural and Indigenous Affairs by the Secretary and Principal Member of the RRT on the reasons why these time limits were not met. The Minister will then table these reports in Parliament.

These reports will provide additional assurance to the Parliament and to the public that protection visa and review applications are dealt with in a timely manner.

It should be noted that delays to decision making can occur which are beyond DIMIA or the RRT’s control. These include cases where the applicant fails to co-operate, there are delays with security checks or the receipt of information from other Governments, or there are major increases in protection visa applications.

Reasons why protection visa decisions take longer than 90 days to decide will need to be specified in any reports provided to the Minister.

Other than the reporting requirement, no right, obligation or liability is created should DIMIA or the RRT fail to make a protection visa decision within the time limit.
It should be noted that priority processing will continue to be given to those applications made by people in immigration detention.

**Commonwealth Ombudsman**

Schedule 2 to the bill concerns the Commonwealth Ombudsman. The Government announced on 14 July 2005 that the Ombudsman would be given an enhanced role as the Immigration Ombudsman. This bill will enable the Ombudsman, when investigating matters of immigration and detention, to call him or herself the Immigration Ombudsman, and contains a range of other provisions to support and facilitate the Ombudsman dealing with immigration and detention complaints and inquiries as expeditiously as possible.

The bill will facilitate the early provision of information to the Ombudsman, through amendments to provide that disclosure of information to the Ombudsman during a preliminary inquiry or investigation will be taken to be authorised by law for the purposes of the Privacy Act, and not prevented by any other Commonwealth enactment. It should be noted that disclosure of information under these provisions will still be discretionary; a person or agency will be entitled not to provide information at this stage, but the Ombudsman could then consider issuing a section 9 notice compelling provision of the information.

The bill will also provide that action by Commonwealth contractors and subcontractors in the exercise of a power or the performance of a function for or on behalf of an agency will be taken, for the purposes of the Ombudsman Act, to be action by the agency, where the contract is for the provision of goods or services to the public. These amendments implement the Government’s response to the recommendation in the Joint Committee of Public Accounts and Audit Report 379, Contract Management in the Australian Public Service, that the Ombudsman Act be amended to extend the jurisdiction of the Ombudsman to include all government contractors. The Government agreed that the Ombudsman should have jurisdiction to investigate government contractors providing goods or services to the public. These amendments remove uncertainty about the Ombudsman’s jurisdiction over government contractors.

The amendments relating to disclosure of information and the Ombudsman’s jurisdiction over contractors will apply to all matters within the Ombudsman’s jurisdiction, not only when the Ombudsman is investigating an immigration or detention matter.

The bill also repeals the current provision which excludes immigration detainees who have not made a complaint to the Ombudsman from the entitlement which would otherwise apply to receive mail from the Ombudsman. This will enable the Ombudsman to contact immigration detainees at his or her own initiative, for example when performing functions under Part 8C of the Migration Act, concerning reports and assessments of the adequacy of detention arrangements of long-term detainees. Technical consequential amendments are provided for, in relation to the Ombudsman’s role as Postal Industry Ombudsman, to be established under separate legislation.

**Disclosure of Identifying Information**

The immigration identification and authentication scheme in the Migration Act, allowing the collection of personal identifiers in various immigration circumstances, has now been in effect for almost a year. This scheme contains strict controls for the collection, access and disclosure of personal identifiers such as photographs, fingerprints and iris scans.

In the Migration Act, the disclosure of personal identifiers is subject to robust protections, which prevent the disclosure of information, such as photographs, except in clearly specified circumstances.

These circumstances allowing for disclosure do not include situations where DIMIA believes disclosure is reasonably required to identify, authenticate the identity of, or locate persons of interest. An illustration of this is that an immigration officer is currently unable to show a member of the Australian community a photograph of a person who is a suspected non-citizen to confirm who the person is.

The prohibition against disclosing personal information when trying to identify or locate a person significantly detracts from the ability of im-
migration officers to perform their functions under the Migration Act.

One of the concerns of the Inquiry into the Circumstances of the Immigration Detention of Cornelia Rau about the handling of Ms Rau’s case was that DIMIA had been reluctant to publicly release photographs of Ms Rau in an effort to identify her.

The amendments in Schedule 3 to the bill are part of the Government’s response to the recommendations of the Inquiry.

The amendments feature provisions allowing the Secretary of the Department to authorise the release of a person’s identifying information to the public to identify or locate the person in connection with the administration of the Migration Act. Public release of personal information will only be permitted when other reasonable efforts to identify or locate the person have failed.

Safeguards have been built into the amendments to ensure that public disclosure can only be authorised after the person’s views have been taken into consideration (if possible), the sensitivity of the information has been assessed, and it is reasonably necessary to disclose the information.

This will be an important mechanism in making absolutely sure that all possible steps are taken to identify or locate persons of interest to DIMIA, particularly where the person is in immigration detention.

**Legislative Instrument Technical Amendments**

Schedule 4 to the bill proposes technical amendments to the Migration Act and Migration Legislation Amendment Act (No. 1) 2001 which are consequential to the commencement of the Legislative Instruments Act 2003 on 1 January 2005.

These amendments are to preserve the operation which various migration legislation provisions had prior to the Legislative Instruments Act, which has to date been preserved by regulations under the Legislative Instruments (Transitional Provisions and Consequential Amendments) Act 2003, as an interim measure. The amendments in Schedule 4 also ensure that migration legislation is otherwise consistent with the new legal and procedural framework created by the Legislative Instruments Act.

**Summary**

In summary, the bill will improve the speed and transparency of protection visa decision making by DIMIA and the RRT.

It will ensure a greater level of accountability and explanation of the protection visa determination process overall.

It will also assist the Ombudsman to handle immigration and detention complaints and inquiries quickly and efficiently.

It will fine tune the very important protections surrounding the release of personal identifiers and allow immigration officers to better identify or locate persons in connection with the administration of the Migration Act.

These changes contribute to the continuing development and improvement of migration law and administration in Australia.

Ordered that further consideration of this bill be adjourned to the first day of the next period of sittings, in accordance with standing order 111.

**AUSTRALIAN BOOK INDUSTRY AWARDS**

Senator STOTT DESPOJA (South Australia) (9.43 am)—I move:

That the Senate—

(a) notes that:

(i) the annual Australian Book Industry Awards took place on 12 September 2005, and

(ii) award recipients included Harper-Collins Publishers Australia (Publisher of the Year); Dymocks Booksellers Rundle Mall and The Avenue Bookstore (joint winners of Bookshop of the Year); Alliance Distribution Services (Distributor of the Year); *the CSIRO total wellbeing diet*, published by Penguin Group (Australia) (Publishing Project 2005); Sue Donovan (the Lloyd O’Neil Award for Services to Publishing); Rosalind Price (the Pixie O’Harris Award for Children’s Publishing); and Helen Garner for *Joe Cinque’s Consolation* (the Booksellers’ Choice Award);
(b) acknowledges the important contribution of the book industry in Australia; and
(c) recognises that books are integral to literacy, knowledge-building and education, and should be affordable and accessible to all.

Question agreed to.

MR SCOTT PARKIN

Senator BOB BROWN (Tasmania) (9.43 am)—I move:

That the Government give the Senate a detailed explanation for the detention of United States’ citizen, Mr Scott Parkin, before he is deprived of his right to remain in Australia.

Senator LUDWIG (Queensland) (9.44 am)—I seek leave to make a short statement in relation to this motion.

Leave granted.

Senator LUDWIG—Labor has made clear on many occasions in relation to these types of motions that it does not believe that involvement in peaceful protest on any issue is a good reason to deport a person. Peaceful political activity should not be the basis of deportation or the application of ASIO powers. Indeed, section 17A of the ASIO Act makes this clear. It says:

This Act shall not limit the right of persons to engage in lawful advocacy, protest or dissent and the exercise of that right shall not, by itself, be regarded as prejudicial to security, and the functions of the Organisation shall be construed accordingly.

When this matter first arose, Labor announced that it would be seeking a briefing in relation to Mr Parkin’s detention and deportation. That briefing has been provided to the Leader of the Opposition, Mr Kim Beazley, and to the shadow minister for homeland security, Mr Arch Bevis. Naturally, we are not in a situation to comment on the specifics of the case. Senator Brown’s motion seeks to have the details surrounding Mr Parkin’s deportation explained in the open forum of the Senate. Labor does not support the details of sensitive security operations being disclosed in an open forum. This is particularly important given the complex and sensitive security environment in which we now operate. In view of the interest and concern in this matter that Senator Brown has displayed, it would be more appropriate and useful if Senator Brown were to seek a briefing from the government on this matter, and we would encourage the government to arrange an appropriate briefing. As a consequence of what I have just said, Labor will be opposing Senator Brown’s motion.

Senator BOB BROWN (Tasmania) (9.46 am)—I seek leave to make a short statement on this matter.

Leave granted.

Senator BOB BROWN—Yesterday I sought a briefing from the government with ASIO or the Federal Police on this matter and was refused. I urge the opposition to look again at this motion in the light of that information. This is not a police state; this is an open and free democracy. The opposition says that there are security matters at stake here. I do not think there are. I do not believe there is any security matter at stake here at all. To tie Mr Parkin in by implication with the current climate of fear of terrorism that the government has embellished is a very big mistake indeed. I also think that it is very unwise of the Leader of the Opposition to get a briefing and to then dissemble from a stand on the rights of individuals to be abroad in this country speaking up on issues that are germane to the functioning of a proper democracy. For goodness sake! Here we have a strident advocate for peace being arrested and deported because of legal activities undertaken in this country.

If you ask me, it is inescapable that his arrest and deportation have come in the wake of extensive communications between Can-
berra and Washington. It is inescapable that Washington has conveyed to this government in the strongest terms its concern that this man is an embarrassment to them because of his revelations of the extensive profiteering of Halliburton, the armaments manufacturer, in Iraq and elsewhere—including in this country—and the connections between Halliburton and its former CEO now Vice President of the United States, Dick Cheney. I cannot believe that his arrest was not a consequence of such communications with Washington. I think it is appalling that the Leader of the Opposition has not stood up for this man’s rights and has not done so on the basis of a secret briefing which he is not prepared to convey in any terms at all—not even in general terms—to the public.

My motion calls for the Senate to have a briefing. The individual concerned has not indicated any opposition to that. There is nothing to hide here. It is outrageous that this man is being deported. I reiterate that this is not a police state, nor should it be. The use of legislation that has gone through this Senate to truncate civil and democratic rights in this country against this peace activist is a very worrying sign indeed. We are on a slippery slope here, and it is our liberties and democratic rights as Australians that are at stake. The Greens and I object in the strongest possible terms. This is a very serious matter. This is happening today. The Senate should take action. I reiterate that the government is not prepared to give me a briefing on the matter. What has the government to hide here? It is the government that is hiding, being covert and dangerous. It is not Mr Parkin that is the dangerous entity here; it is the Howard government. All of us have read history. All of us know that we must stand up against this covert slide or else face the consequences.

Senator Ellison—Mr President, I rise on a point of order. The practice is that senators seek leave to make a short statement and leave is granted in good faith for them to make a short statement. I understood that that was the request from Senator Brown, and the government agreed for leave to be granted for that short statement to be made. I think that Senator Brown is now going beyond a short statement, and I would ask you to rule to that effect or else we might have to look again at the basis for leave being granted in these matters. It is a matter of practice that it is a short statement. It is an abuse if it goes on beyond that. That is what I understood Senator Brown to be seeking leave for, and that is the basis on which the government agreed to grant leave.

The PRESIDENT—Senator Brown was granted leave, and I believe he is coming to the completion of his statement. Is that correct, Senator?

Senator BOB BROWN—You are quite right, Mr President. In doing so, I want to quote Mr Parkin’s words today. He said, ‘I am strongly opposed to any violence and do not believe that violence delivers any political gain and, in fact, detracts from positive political engagement.’ That is the person who is being deported here with the support of the Leader of the Opposition, Kim Beazley. It is deplorable that this is happening in our country. It is outrageous, and it is up to us to stand against it. I unreservedly appeal to the opposition and to the government to support this motion. In conclusion, it is simply a request for valid information and for an explanation of what must be seen as a travesty of justice in this country—a travesty we should not be supporting.

Senator STOTT DESPOJA (South Australia) (9.52 am)—I seek leave to make a comment on behalf of the Australian Democrats on this motion.

Leave granted.
Senator STOTT DESPOJA—I was going to say getting gagged for a second time in two days would be a bit much for me in the last 10 years, guys. I am sorry, through you—

Senator Ellison interjecting—

Senator Ferris interjecting—

Senator STOTT DESPOJA—Mr President, can I—

The PRESIDENT—Order!

Senator STOTT DESPOJA—Thank you. This is a very serious motion and it is not one, as Senator Brown will attest, on which instantly the Democrats said, ‘We will support this.’ We are grappling with the balance of public interest, the right to know and security issues. As honourable senators would be aware, under the ASIO Act there is a statutory obligation to inform the Leader of the Opposition through a briefing. No such responsibility or obligation exists for minor parties and other people in this place. That means we are in the dark. I understand there are some jurisdictional operational matters and national security issues that probably not everyone should know about and I understand that that is how the security system works in this country. Sometimes I have qualms about that; other times I see the necessity and the sense of it. What I am grappling with on behalf of my party is the fact that there has been absolutely no information about this case.

Senator Brown has apparently been denied a briefing by the government. I put on record that my effort to get a briefing from the Attorney-General’s office has been responded to positively on the basis of process grounds but obviously not a willingness to reveal more information. I am very worried that we are setting a precedent in relation to the deportation of a peace activist, not an Australian citizen, but nonetheless it is something we should be worried about.

I call on the government and I ask them to perhaps respond to Senator Brown’s motion not simply with opposition as in voting it down but perhaps by coming to this place with a more detailed explanation as to the rationale behind the solitary confinement and the detention of this man—he is also being charged—and also the grounds on which he is being deported. I understand that national character grounds are not the issue any longer, because that was in answer to my question in the Senate this week, but that it is to do with an adverse security assessment—the government’s words, not mine. We need more information about that because otherwise I think we are setting a dangerous precedent. It is on those grounds that the Democrats support the intent and the motion before us. I say that not because it was a laydown misere; this was a hard one because I acknowledge the role of security agencies in this country to have certain information that I as a citizen may not always have. It does not always suit my civil libertarian principles.

Before I get cut off from speaking, I want to make very clear that this is a fundamental issue with which the Senate has to grapple not just when we are talking about US citizens but when we are talking about our own people. According to law, I have no right to a briefing, nor does my leader. Senator Brown has no right to a briefing. It is up to the government as to whether or not they want to tell us. I hope supporting this motion today, which is going to go down clearly, might inspire the government or Senator Ellison, through the chair, on behalf of the Attorney-General to give us some more information.

I will tell you one thing that is completely outrageous: the fact that Mr Parkin and his lawyers were denied a detailed explanation as to what is going on. If that has changed, please alert the Senate. It is completely outrageous, so on those grounds we are supporting the motion. I want to explain, which I
could not do in 20 seconds, why for us this was not instant outrage. The case is outrageous, but I understand the motion is a little more complex. We will be supporting the motion, but I hope that the government will respond to it. I would like a little more debate and discussion in this place, if that is okay with everybody else.

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

The Senate divided. [9.59 am]
(The President—Senator the Hon. Paul Calvert)

Ayes………… 7
Noes………… 45
Majority……… 38

AYES
Bartlett, A.J.J.  Brown, B.J.
Milne, C.  Murray, A.J.M.
Nettle, K.  Siewert, R. *
Stott Despoja, N.

NOES
Abetz, E.  Adams, J.
Barnett, G.  Boswell, R.L.D.
Brown, C.L.  Calvert, P.H.
Campbell, G.  Carr, K.J.
Chapman, H.G.P.  Colbeck, R.
Crossin, P.M.  Eggleston, A.
Ellison, C.M.  Ferguson, A.B.
Ferris, J.M. *  Fierravanti-Wells, C.
Field, M.P.  Heffernan, W.
Humphries, G.  Hurley, A.
Hutchins, S.P.  Johnston, D.
Joyce, B.  Kirk, L.
Lightfoot, P.R.  Ludwig, J.W.
Lundy, K.A.  Macdonald, J.A.L.
Marshall, G.  McEwen, A.
McGauran, J.J.J.  McLucas, J.E.
Minchin, N.H.  Moore, C.
Nash, F.  Parry, S.
Patterson, K.C.  Payne, M.A.
Polley, H.  Ronaldson, M.
Santoro, S.  Scullion, N.G.
Trood, R.  Watson, J.O.W.
Wortley, D.

* denotes teller

Question negatived.

COMMITTEES
Publications Committee
Report
Senator WATSON (Tasmania) (10.03 am)—I present the 6th report of the Standing Committee on Publications.

Ordered that the report be adopted.

BUDGET
Consideration by Legislation Committees
Additional Information
Senator McGAURAN (Victoria) (10.03 am)—On behalf of the respective chairs, I present additional information received by the Community Affairs; Employment, Workplace Relations and Education; Finance and Public Administration; and Rural and Regional Affairs and Transport legislation committees relating to hearings on the 2005-06 budget estimates.

COMMITTEES
Senators’ Interests Committee
Report
Senator GEORGE CAMPBELL (New South Wales) (10.04 am)—On behalf of Senator Webber and the Standing Committee on Senators’ Interests, and in accordance with the Senate resolution of 17 March 1994 on the declaration of senators’ interests, I present the Register of Senators’ Interests incorporating statements of interests and notifications of alterations of interests of senators lodged between 21 June and 12 September 2005.

TRADE PRACTICES AMENDMENT (PERSONAL INJURIES AND DEATH) BILL 2004
First Reading

Bill received from the House of Representatives.
Senator MINCHIN (South Australia—Minister for Finance and Administration)
(10.05 am)—I move:
That this bill may proceed without formalities and be now read a first time.
Question agreed to.
Bill read a first time.

Second Reading
Senator MINCHIN (South Australia—Minister for Finance and Administration)
(10.05 am)—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—

At the May 2002 ministerial meeting on public liability insurance, the Commonwealth, state and territory ministers agreed to a range of measures to address insurance industry concerns. These measures included the establishment of a panel of experts to review the law of negligence.

This review was established to assist governments to formulate a consistent approach to the problems of rising premiums and reduced availability of public liability insurance.

The members of the review were the Hon Justice David Ipp, Professor Peter Cane, Associate Professor Donald Sheldon and Mr Ian Macintosh.

The terms of reference of the review were broad and required it to consider, amongst other things, the application, effectiveness and operation of common law principles applied in negligence to limit liability arising from personal injury or death. The review was also asked to develop and evaluate principled options to limit liability and the amount of damages awarded in a given case.

In addition, the review was asked to consider the interaction of the Trade Practices Act 1974 with the common law principles applied in negligence.

The review recommended a number of changes to the Trade Practices Act. The Trade Practices Amendment (Personal Injuries and Death) Act (No. 2) 2004 implemented a number of these recommendations. The Trade Practices Amendment (Personal Injuries and Death) Bill 2004 will implement remaining review recommendations and complete the Government’s tort law reforms.

In particular, this bill will implement review recommendations 19 and 20. Recommendation 19 recommends that the Trade Practices Act be amended to prevent individuals bringing actions for damages for personal injury and death under the misleading and deceptive conduct and other unfair practices provisions of Part 5 Division 1. Recommendation 20 recommends that the Act be amended to remove the power of the Australian Competition and Consumer Commission (ACCC) to bring representative actions for damages for personal injury and death resulting from contraventions of Part 5 Division 1.

Part 5 Division 1 of the Trade Practices Act prohibits, under civil law, unfair practices in trade and commerce, including misleading and deceptive conduct. Part 5C Division 2 of the Act, containing the offences provisions, applies criminal sanctions to similar conduct.

The measures contained in this bill will amend the Trade Practices Act to prevent individuals, and the ACCC in a representative capacity, from bringing civil actions for damages for personal injury or death resulting from contraventions of Part 5 Division 1 of the Trade Practices Act. As a consequence, these measures will ensure that plaintiffs continue to seek damages for personal injury or death by pursuing a right of action under the common law rather than by relying on Part 5 Division 1 of the Trade Practices Act.

These reforms are aimed at limiting public liability claims costs in order to reduce pressure on insurance premiums and assist in delivering affordable public liability insurance.

To date, there have been some claims for damages for personal injury or death brought under Part 5 Division 1 of the Trade Practices Act. By introducing these measures, this bill will ensure that the Trade Practices Act cannot be used to undermine state and territory civil liability reforms.

The bill does not amend the range of other civil orders and remedies that are available under the Trade Practices Act for unfair practices in trade and commerce that are in contravention of Part 5.
Division 1. The bill will have no impact on the availability of criminal sanctions under Part 5C Division 2.

The bill will also continue to allow actions for damages for contraventions of Part 5 Division 1 for personal injury or death which result from smoking or other use of tobacco products, subject to a limitation period of three years from the date of discoverability.

I commend the bill.

Debate (on motion by Senator Minchin) adjourned.

PROTECTION OF THE SEA (SHIPPING LEVY) AMENDMENT BILL 2005

First Reading

Bill received from the House of Representatives.

Senator MINCHIN (South Australia—Minister for Finance and Administration) (10.05 am)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator MINCHIN (South Australia—Minister for Finance and Administration) (10.06 am)—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—

PROTECTION OF THE SEA (SHIPPING LEVY) AMENDMENT BILL 2005

The Protection of the Sea (Shipping Levy) Amendment Bill 2005 amends the Protection of the Sea (Shipping Levy) Act 1981 (the Act), which enables the Australian Government to impose a levy on shipping for funding of pollution prevention, response and mitigation measures. It will remove the maximum level of the levy rate, enabling prescription of an appropriate levy rate through the relevant regulations.

The Act prescribes that a quarterly levy will be payable by ships visiting Australian ports in that quarter which are of 24 metres or more in length and carrying a quantity of ten tonnes or more of oil in bulk on board. The Act sets the upper and lower limits of the levy but the actual rate of levy, prescribed in terms of cents per ton, where ton is a unit of the net tonnage of the ship, is prescribed through the Protection of the Sea (Shipping Levy) Regulations.

The Australian Maritime Safety Authority (AMSA) administers the functions associated with the levy, with the levy revenue used to fund the National Plan to Combat Pollution of the Sea by Oil and other Noxious and Hazardous Substances. The Act currently prescribes a maximum rate of six cents per ton. The actual rate at present is 3.3 cents per ton. This rate has been unchanged since 1 July 1995.

Shipping is a vital service that supports Australia’s strong trading performance. The overall standard of shipping in Australian waters is steadily improving, and thankfully incidents are becoming much less frequent. This is due in no small part to the considerable efforts of the industry and maritime safety regulators to enhance the quality of shipping.

Australia to date has avoided a major pollution problem such as those experienced overseas. Nevertheless there is always the risk of an incident occurring, and even a single incident can have major harmful consequences.

Incidents overseas have shown the severe impacts of a major pollution incident, and that while international compensation regimes are generally highly effective, on occasions the cost of responding to an incident can exceed the liability and compensation limits that are available. In those cases, governments and affected citizens have had to bear the surplus costs, which may be many hundreds of millions of dollars.

The remaining 2.7 cents available within the current cap on the Protection of the Sea Levy (PSL) is intended to permit the recovery of costs to Government of any oil or chemical spill which would be irrecoverable from the polluter. In light
of recent overseas experiences in dealing with major oil spills, it is likely that this buffer now could be inadequate to recover costs that the Government may have to meet in the event of a major incident.

In addition, the Australian, State and Northern Territory Government Transport Ministers, meeting as the Australian Transport Council (ATC) in June 2005, agreed in-principle to the introduction of a national approach to maritime emergency towage around the Australian coastline to minimise the risks of ship-sourced marine pollution. The unanimous preferred option for funding the national system, if it is to proceed, involves full cost recovery from the shipping industry via a single national levy and the PSL has been identified as the most appropriate vehicle for this purpose. A final decision will be taken later this year on the national approach, and the Government sees a strong prima facie case for proceeding with it.

A key element of the proposed national approach to emergency towage is the provisioning of a dedicated emergency towage service in the northern section of the Great Barrier Reef and the Torres Strait region. The service will be provided by an AMSA contracted vessel that will combine its emergency towage role with the provision of navigation aid maintenance services in the region. The combined role will minimise the costs of the new arrangements and, as the current navigation aids contract expires in June 2006, this will necessitate the new tender proceeding in the fourth quarter of 2005.

Owing to the likely cost of the vessel resulting from the tender, and the associated PSL revenue required, this will necessitate removal of the current legislative cap on the levy in time for the tendering arrangements to proceed. Removal of the cap will enable adequate funding to be made available through subsequent amendments in the relevant regulations. Removal of the cap is required by end October 2005 in order to meet contracting/tendering timelines associated with the new emergency towage arrangements.

The removal of the levy cap will facilitate the introduction of streamlined administration of the two principal ship-sourced pollution prevention and combat regimes, namely the National Plan and the National Emergency Towage proposal. Removing the levy cap will result in more expeditious access to required funding by removing the need for adjusting the legislative cap repeatedly as costs become progressively apparent. Given the burden of legislation on the House in any sitting period, it does not appear prudent that repeated amendments of the Act to adjust the cap are desirable.

There is sufficient safeguard in the system to ensure that this amendment effecting the removal of the cap will not enable unjustifiable levy rates to be set. The levy rate for any quarter will be prescribed by the regulations and, as these are a disallowable instrument, any amendments to these will be subject to the usual Parliamentary and regulatory scrutinies to justify the proposed rate of levy at any time.

Debate (on motion by Senator Minchin) adjourned.

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

SENATE PROCEDURES

Ruling of the President

Debate resumed from 14 September, on motion by Senator Bob Brown:

That the ruling of the President on 14 September 2005 (that the Chair could not accept repeated motions to suspend standing orders to allow senators to make statements) be dissented from.

Senator BOB BROWN (Tasmania)

(10.06 am)—Mr President, I dissented from your ruling yesterday because you were wrong. Consequent upon Senator Conroy being refused leave and moving that he make a statement under contingent orders, the Senate debated that matter and voted on it. There was no reference in Senator Conroy’s motion to there being other matters than his request to make a statement. I then made a request to make a statement. Leave was refused. That matter ought to have been debated by the Senate because it is the Senate that is in control here. The President does not own the Senate and does not make rulings which
chart new territory without the assent of the Senate. Your rulings were presumably based on those of President Sibraa in 1991 and 1993. These rulings, however, related to repeated use of the contingent notices of motion to suspend standing orders, rearrange the business or bring on new items of business. The rationale of those rulings was that, by rejecting a suspension motion once, the Senate had determined that its business should not be rearranged or a new item of business brought on at that time. It is notable that those rulings were made by repeated efforts of a party—an opposition party.

The current President’s ruling, however, extends the Sibraa ruling and is not confined to that Sibraa ruling, and it goes on to affect motions to suspend standing orders to allow statements to be made by senators where leave has been refused, as happened yesterday. The fact that the Senate has rejected a suspension motion to allow one senator to make a statement does not mean that the Senate has rejected the possibility of any other senator making a statement. A different suspension motion to allow a different senator to make a statement or a statement on a different subject should therefore be accepted by the President, and the Senate should be allowed to determine whether it wishes to allow that particular senator to make the statement or to allow a statement on that particular subject. The President should not close off the possibility of any senator making a statement on any subject.

I put this to the Senate: what would have happened yesterday, consequent on Senator Conroy making his moves and a vote being held by the Senate, if Senator Hill, the Leader of the Government in the Senate, had got up and said, ‘I want to make a statement’? He would have made that statement. We could have forced a vote on it. The government would have had the numbers, but the Senate would have made a determination on that. One thing I guarantee, Mr President, is that you would not have intervened. You would not have stopped the Leader of the Government from making a statement yesterday. I contend here that your judgment was imbued with political bias, and that is a very—

The PRESIDENT—Senator, are you reflecting on the chair?

Senator BOB BROWN—No, I am making a contention in a debate.

The PRESIDENT—I believe you are reflecting on the chair by accusing me of political bias and I take exception to that. I would ask you to withdraw that.

Senator BOB BROWN—I withdraw that.

The PRESIDENT—Thank you.

Senator BOB BROWN—But I ask you to look at that ruling that you have just made. This is a debate about dissent from a ruling you have made. That allows a wider debate about your actions and your failures. We cannot have a debate in here if any time you get criticised you rule that that is a reflection on you. That is just not sensible and that, again, is a failure.

Senator Watson—Mr President, on a point of order: he is casting a reflection on the chair in talking about your actions and your failures. If that is not a reflection on the chair—I would like the Clerk to give us some views on that, through you.

The PRESIDENT—Senator, I thank you for your attempts to protect me. This is a motion of dissent from a ruling of the President, and I expect some comments to be made that perhaps might somewhat reflect on the chair. I have already taken Senator Brown to task on one comment he made. I will allow him to continue.

Senator Watson—How far is he allowed to go in terms of his adverse comments?
The PRESIDENT—I will listen very carefully.

Senator BOB BROWN—That ruling is correct. This is a dissent motion. We cannot be tramelled in canvassing the reasons for a mistake which I believe you made yesterday and that has motivated me to dissent from your ruling. I have been involved in the examination of standing orders far more than the interjecting senator opposite. What he does not perhaps understand is that he is breaking one of the basic rules in the standing orders: you do not interject, particularly on a serious matter like this.

It is incumbent upon you to ensure that, in a chamber where the presiding officers are elected from the component parties but retain their membership of those parties, political bias does not come into the rulings coming from the chair. You would agree with that, and nobody here would disagree with that. I will be watching this very closely. It is a grave concern that there should be any intrusion of politics into decisions coming from the chair. I state that clearly because I hope we do not have to return to this debate further on in this session.

You ruled yesterday that I could not seek leave to make a statement. You had no right to make that ruling. The Senate has no precedents for that ruling. You ought to have put the matter to the Senate for debate. A chair that is acting correctly will understand that the chair is the servant of the Senate; it is not the other way around. Otherwise the chair becomes a dictatorship, and we must not entertain that possibility. I would have no cavil with a debate in this place which involved a vote where the Senate made a determination, but I do have a cavil where the chair, the President, makes a decision, without reference to the Senate, which extends the rules against the interests, in particular, of individual senators and people who are not in government.

Of course, this has to be seen in the light of the government having the dominance of numbers. It is all the more important in this situation that the President protect the rights of those who are in the minority. But, within weeks of the government’s new dominance of numbers in the Senate, we have the President making a ruling that a senator from another part of the chamber does not have the right to make a statement, or at least seek leave to make a statement—a right which has been inherent in the Senate’s proceedings for the last century. Is this what we are going to see more of further down the line—new, restrictive grounds on a ruling from the chair without reference to the Senate? Is that what we are going to see coming from this presidency?

I counsel against it, Mr President. You were wrong yesterday. You ought to have put the matter to the chamber. Let the government take the rap, as it inevitably will, for truncating debate, as it did yesterday on the Telstra issue. That is politics. That is how it has to be. But that must not come from the chair. You, sir, are the servant of the Senate and all senators equally. I would prefer that we had either a system whereby an independent person became the President—but that would require a change to the Constitution—or the same system as the House of Commons in Britain where, when one assumes the chair, one sheds political allegiance and there is some guarantee about one’s ability to survive consequent elections. That became necessary in the House of Commons to try to give greater independence from the government dominance of the day. One can see why. It is very important in the situation in which you find yourself, Mr President, as a member from the government in the presidency, that you be very careful that you be independent, fearlessly fair and
even-handed. You failed in that duty yesterday. That is my opinion. That is why I have moved this motion of dissent.

Senator LUDWIG (Queensland) (10.17 am)—This obviously is a very serious matter. Senator Brown went to the point, and I think the point was taken, that we will during this debate reflect on the chair. I sincerely hope the President will ensure that I do not reflect too far. The issue in its entirety needs to be laid out. I foreshadow that I will move an amendment as well, to refer the matter to the Standing Committee on Procedure on the basis of the argument that I am going to put. I am happy to circulate that amendment. I have already spoken to the government in respect of this matter. The government have indicated that at this point they are not minded to support that amendment. As a consequence, the amendment might not be successful. But I hope that, during the debate, they might be persuaded by the force of the argument to change their minds. It would be novel for the government to change their minds, but it is nonetheless worth an attempt. I certainly suspect that the force of the argument may change your mind, Mr President. I will address the substance of the argument. The Journals of the Senate describe the ruling that was made yesterday this way:

Ruling of the President: The President ruled that he could not receive any further motions for the suspension of standing orders. The majority of the Senate had determined that the bills be considered as urgent bills and had also declined to suspend standing orders in its earlier votes. The majority of the Senate having determined that it should proceed with the bills as urgent bills and that standing orders should not be suspended at this time to allow other matters to be considered, he was obliged to call on the Clerk to read the order of the day for the consideration of the bills.

They go on to describe the justification for that:

This is in accordance with the rationale of the rulings made by President Sibraa between 1991 and 1993 and supported by the Procedure Committee, as recorded in Odgers’ Australian Senate Practice, 11th ed, 2004, p. 169.

When we look in a little bit more detail at what in fact occurred yesterday, Labor’s view is that, as a matter of technicality and perhaps form, that is closer to being right than wrong. The argument that Senator Brown has put is a more technical argument—that he could move his motion because it was from a different senator. The rationale for that, as I understand it, was that Senator Conroy had moved a contingent notice of motion based on denial of leave to make a statement. Senator Brown sought to move the same motion, and therefore Senator Brown’s argument, if I have it right—perhaps he could nod—is that, because a different senator went to move, although it was the same motion, it was materially different—

Senator Bob Brown—And a different party.

Senator LUDWIG—And a different party—although, because parties are not formally recognised in here, we will say a different senator.

Senator Bob Brown interjecting—

Senator LUDWIG—Yes, that is right. I take that interjection. But, as a matter of substance, it was different senator that moved the motion and therefore it could be sustained. That was not what President Sibraa ruled on. As I see it, he ruled on a matter in 1993 where Senator Hill moved the same suspension motion twice. President Sibraa took issue with that. I can see Senator Brown’s argument, but I think in a general way the current President ruled in accordance with the former President Sibraa, in that statements by leave were sought twice.
The substance of what happened in the debate is this. First of all, pursuant to contingent notice of motion, I moved for a suspension of standing orders relating to the urgency of the bills and I was able to speak. As you know, Mr President, it is a half-hour debate in which we have five minutes each to talk. I had an opportunity to speak for five minutes. Senator Brown and Senator Bartlett also had an opportunity to speak in relation to that motion. Then Senator Ellison spoke and closed the debate at that point. So the government, using its numbers, closed the debate after five speeches. The allotted time was not exhausted, given the 30 minutes allowed for the debate, because a gag was put in place. This is the context—in other words, the substance—upon which I am arguing that it should be sent off to the procedures committee, and I will come to that.

The next debate was on the allotment of hours, which was moved by the Leader of the Opposition in the Senate. Senator Ellison, without debate, gagged that so another opportunity for the minor parties, and the government, to make five-minute speeches for 30 minutes was denied by the government, by the majority. Next, Senator Conroy moved to make a statement, which was denied. A suspension was sought and Senator Conroy argued why he should be heard. The government, without debate, moved the gag again so that, in that instance, the minor parties were gagged—the Greens, the Democrats and the National Party. The National Party obviously were gagged as well, if they regard themselves as separate from the coalition in this instance. The government refused to answer. There was no debate from the other senators in relation to why Senator Conroy should be heard in relation to that statement. That statement might have—I do not know, and I do not like to raise the issue of what might or might not have been argued—been an argument for the reasons why others, like Senator Brown, should be heard. Even the National Party may have wanted to be heard. But the National Party also accepted that they could be gagged in this debate by the coalition. I have heard they do participate sometimes in these types of arrangements.

So that was the context. Mr President, you were faced with a second request for a statement-by-leave suspension—if I can use that shorthand way of putting it. The government did not allow the first statement to be progressed by way of a debate before you and then, again, they did not allow debate on the allotment of hours, by using a gag motion—twice in a row. Again, they did not suspend standing orders and allow that debate. So the form, then, is that, in following the ruling that you did, it can be argued that the context was not taken into account. You did not take into account the fact that, in this instance, Senator Brown was not able to put his case for five minutes, given that it was more likely than not that the government would at that point gag him. We are not talking of the rationale that was adopted by the ruling that you relied on. That rationale was that it would frustrate and prolong the proceedings—in other words you wanted to get on with the business. Given the government’s attitude, what would have happened is that proceedings would have been delayed by a five-minute speech by Senator Brown as to why he should seek leave to make a short statement. He could have then argued that succinctly, with the government, without debate, moving the gag. The government deliberately pointed out twice in a row that they were going to do that. Then there would have been a division. It would have taken maybe 10 minutes maximum. That would have been the level of frustration that would have been put on this chamber and it would have avoided what we are now doing.
If a suspension had been sought again on the same matter, then I think you could have formed the view that it was a frustrating action being sought by senators to prevent the will of the majority of senators. I submit to you, Mr President, that we did not get to that point when you made your ruling. If we look back for support for that, we do find that support. When President Sibraa found himself in the same position, which he did in a similar way, in the debate that was being proposed on a matter back in December 1993, he made another ruling on the Native Title Bill 1993. That was a debate that I would have enjoyed and am sorry to have missed. I was not in the Senate at that time. Senator Hill also moved a number of suspensions of standing orders at that time to be heard. He held the principles of this place in reasonably high esteem—he seems to have slipped since those times. It is worth going through the ruling that was made. It reads:

The President pointed out that the motion by Senator Alston was technically contrary to his rulings of 3 and 5 December 1991 and 16 November 1992 ...

It was recognised by the President then that the ruling he made that you have relied on was ‘technically contrary to his ruling of 3 and 5 December’. He accepted that in a technical way his ruling was right and that it should be upheld. The ruling goes on:

... relating to repeated motions to suspend standing orders pursuant to contingent notice, which were analysed and upheld unanimously by the Procedure Committee in its First Report of 1993.

It was upheld and considered right in relation to those circumstances at that time, given that eventuality. The ruling goes on:

He had allowed the motion to proceed on the basis that it had a different substantive motion as its object, but if there were any further attempts to use the same contingent notice of motion he would have to consider applying his rulings.

What he looked at was the substance, and he said:

... on the basis that it had a different substantive motion as its object ...

In that instance it is slightly different, but by analogy it can be argued that in this instance and in the context of the debate we had yesterday it would have been open to you to do two things, Mr President. It would have been open to you to say to Senator Brown: ‘Senator Brown, we’ve already had a contingent notice in relation to a leave statement, but you can move another statement, another substantive reordering of the business or some other slightly different motion to allow the debate to be proceeded with.’ You could have advised him of that. Maybe that was not the argument that you felt minded to put, but as you are the President it was certainly open to you to advise Senator Brown of that or, alternatively, to take the substance in context of what had actually occurred and to have said to Senator Brown, ‘In this instance you have the ability to move the suspension,’ but if it was going to be repeated by Senator Brown or by anyone else at that next juncture then you would rule as you did. In other words, you would then defer to what the President did back in the native title debate in 1993: recognise how the debate had actually proceeded and take into account the context of the debate that was being proceeded with and, in this instance, the government’s attitude. I move:

Omit “dissented from”, insert “referred to the Procedure Committee for inquiry and report, particularly considering whether the President should exercise a discretion in applying the rulings of President Sibraa of 1991 to 1993 to ensure that adequate opportunity is given to non-government senators to state a case for a suspension of standing orders.”

This amendment would then allow the procedure committee to consider the reality of what can happen, because what happened in
this instance was that the government closed the debate down to prevent any other senator or non-government member from being able to put their position—twice. It effectively meant that in this instance Senator Conroy could move his statement but Senator Brown could not then have his five minutes to argue his case.

Mr President, maybe it is not your responsibility at the end of the day. Maybe it is the responsibility of the government in taking the action they did in moving the gag in that way. But, Mr President, I think you have to take that into consideration when you make your rulings now and in the future; that was the action that the government took and, as an independent, as far as you rule in here, then you look at the circumstances that surround the case that is being played out in front of you and rule accordingly. Simply to rely on the technical ruling that was made is, I think—and I have to be careful here, because at the end of the day we will support the President’s ruling in any event if the amendment is lost—in terms of technically being within the scope of being right, right, but within the substance and the arguments that I have put, I think the President should have exercised a broader discretion. He should have exercised the broader discretion that was exercised by Sibraa, who made the original ruling in the first place to ensure that proper debate could be allowed and had in the chamber without it moving to a frustrating object.

Mr President, I think in this instance you could not have formed the view that the proceedings were being frustrated at that point, because at that point it was in fact the government frustrating the ability of senators on this side to make their argument of why leave should be granted to make a statement, given the context that the urgency was gagged, the allotment of time was gagged and the first statement moved by Senator Conroy for the leave to be heard was gagged. If you look at that context, what I am putting is that the government senators, not the non-government senators, were in fact frustrating the proceedings at that point. I realise that that was a matter that, in the emotions that were flying, might have been missed. It is obviously now the next day and, in the cold light of considering both the transcript and the issues, I ask the President and the government to consider my amendment as a practical way of moving this issue forward to ensure that the procedure committee can adequately deal with this issue should it arise again.

Senator BARTLETT (Queensland) (10.37 am)—Dissent rulings are quite significant, not least for the reason shown by this debate: that rulings set precedents that can be relied on for decades to come. It is important to set out the arguments at stake not just in the context of the immediate political points that people want to make but, as much as is possible, in the broader contextual reality. The precedent lasts far beyond the immediate political context in which the ruling was made. I remember the native title debates in 1993. They were very acrimonious, very heated and very long—much longer, I might say, than the debates the government allowed in relation to Telstra. I understand that those native title rulings, in part, were relied on for the ruling made yesterday.

Senator Ludwig has outlined at length the context and lead-up to the ruling. I will do the same, hopefully in a shorter time, because it is important to emphasise precisely the ruling that was made, as it would be easy to misconstrue what the ruling was. When the Senate commenced proceedings yesterday at 9.30 am, the government moved that a matter, namely the Telstra bills, be considered urgent. The Senate then voted not to allow a full debate on that motion and made
a decision—one that I opposed—to declare those bills urgent. The government then moved to allocate time for debate on those urgent bills. The Senate again voted not to allow a full debate on that motion.

At approximately half past 10 the decision was made by government senators, constituting a majority, as to the allocation of time for debate on the five Telstra bills. It was a derisory allocation of time, but that is not particularly relevant to the ruling that we are debating today. The government, having made those decisions—which I and every single one of the nongovernment senators in this place opposed—to give priority to those bills over other business and to allocate time for debate on them, Labor Senator Conroy sought to suspend the standing orders and suspend the arrangement that had just been agreed to by virtue of the government majority so that he could make a statement. Leave was not granted and his attempt to suspend the standing orders was not agreed to by the Senate, although he had five minutes to make his case as to why it should have been.

Senator Brown then sought leave to make a statement. He is from a different party. I am not sure if that is relevant to part of the ruling; possibly it is and possibly it is not. Senator Brown’s leave was denied by the Senate—not by the President. The President then ruled that Senator Brown could not make the case as to why he should be able to suspend the arrangement that had been agreed to in order to make a statement. That is the ruling that we are debating and about which the dissent motion has been moved. One of the strange things is that in this context we are relying on past precedents as to how the Senate has decided to do things. The President has the role of presiding over the conduct of proceedings and he has to do so according to the standing orders. Interpretation of those standing orders includes relying on precedent.

Given the totally unprecedented contempt—not any remote degree of respect—that was shown yesterday for the core role of the Senate as defined in our Constitution, it is tempting to think that precedent obviously does not matter except when it suits the government, that all bets are off and that the attempt that I am making to be balanced in this regard is a waste of time. It is tempting to think that we may as well just accept—as was made brutally clear yesterday and was openly stated by a couple of government senators whilst they were chortling away during various divisions—that they have the numbers now and they can do anything, that that is the be-all and end-all of the issue and that we should stop deluding ourselves that the standing orders, precedents, understandings, negotiations, consultation and all of those things matter. They will matter when the government care enough to bother but when they do not, we should stop wasting our time.

It is very tempting to take that view, based on the bucket of garbage that was tipped over the Senate and parliamentary procedure yesterday. But, for the moment, I will soldier on—probably naively, foolishly and futilely—to attempt to continue to act as though the Senate is an independent house of review and will take a fair, balanced and independent approach. I believe it is important to continue to fight for that, however futile the attempt might be.

There are a number of competing principles, and that is where rulings become important. The principle of allowing any senator to at least be able to speak in order to outline the reasons for what they are attempting to do is an important one. The need to not silence minority voices is an important part of a properly functioning democracy. It is one I am quite keen on, not least because I tend to be a minority voice a lot of the time here on the crossbenches, as is Senator
Brown. Nonetheless, despite my keen liking for minority voices being able to be heard in all contexts, we need to be cognisant of the need to balance that by ensuring that a minority of voices—whether it is a small minority such as that of the crossbenchers, or a wafer thin minority such as we saw yesterday in the result of most votes—does not end up subverting the will of the majority. As much as I totally oppose many of the decisions that the majority made yesterday, they were the majority and that is the way, in the end, that you determine votes.

We do have to acknowledge and make sure that a minority—whether it is a small minority or a sizeable minority—cannot perpetually frustrate a decision that has been made by the majority. Leaving aside the specifics of the precedents, my sense of it is that that is the basis of the ruling that has been made—that enough things had been done to make clear what the majority view was, and that precedent applied in that circumstance. In particular, where proceedings had already been declared urgent and thus took precedence over all other business, the majority view should not continue to be frustrated. It is a balancing act, and I acknowledge that.

Although arguments could be made on both sides about whether the interpretation of precedent yesterday was valid, a credible argument can be put that it was appropriate. I am not saying that I agree with it, but I think there is a credible argument. I am not sure why I am bothering to try to be fair and balanced, but, nonetheless, I do not believe it was necessarily a politically driven decision—partly because I imagine that advice from the Clerk was provided in relation to it; and obviously that would not be politically driven.

To some extent all of that is irrelevant. It does not matter whether there was political motivation or not. It does not matter whether the most impartial, objective decision was made. Even if we did have an independent person in the chair, as Senator Brown suggested—a suggestion for which I have a lot of sympathy—the fact is that we can still dissent from the ruling, however impartial its derivation may have been. The reason we need to consider these issues is that they do provide precedents for the future. That would be a fact whether a government member was in the President’s chair or whether it was an opposition member, a crossbench member—which is another idea that has some merit, not that I think it is ever going to happen—or a totally independent, outside person. We obviously have to have the ability to move for and consider dissent from particular rulings and decide where to go from there.

On the amendment moved by Senator Ludwig, again I think there are a few different sides one could take. Referring the issues contained in the ruling to the Procedure Committee is one way of taking them out of the political context within which the ruling was made, thereby enabling consideration to be made in a slightly less charged atmosphere. It would also mean that it could be looked at in terms of how it would apply in a more global sense in all sorts of circumstances for the future—rather than just whether a one-off decision was right or wrong. Even if a dissent motion were to be successful today, the effect it might have in the future is debatable without specific amendments being made to the standing orders.

In that sense, I think there is a lot of value in sending it off to the Procedure Committee so that the broader issues can be looked at to see whether the competing principles involved can be more precisely balanced so that it is clear for everybody. One reason why I think that is particularly important at the moment is that, again, as events yesterday showed, in relying on goodwill and de-
cency, let alone past practice and understandings—as Senator Ellison said this morning in fleetingly raising a point about how long constitutes a brief statement—it is pretty clear that general practice in the past is not worth a pinch of salt. In that context, where we clearly cannot rely on goodwill, decent consultation or any semblance of willingness to acknowledge due process from the government, maybe we do need to look at codifying these things a bit more.

It is probably less than ideal but, in such an environment, codifying them more precisely through standing orders may be the way we need to go. With things like seeking leave, pairs and the like, the rules seem to be a constant shifting sand because it is always by agreement—and, as we have now seen, now that the government has a total majority, ‘by agreement’ means ‘if we feel like it, and if we don’t you can’t do anything about it’.

We are in a new environment in the Senate now—a brave new world, perhaps—and that means we need to consider whether taking a different, more formal, codified approach may be the best protection we have for preventing further degradation of the Senate’s role over the next couple of years. Therefore, Procedure Committee inquiries into these and possibly other sorts of things may be the best way to go, assuming the Procedure Committee does not also become just another mechanism for the government to crunch its numbers. Certainly, it has not operated that way to date. By way of convention and goodwill, I hope that at least that part of the fine history of the Senate remains for some time. I think there is a lot to be said for Senator Ludwig’s approach, not just in terms of this specific ruling but in terms of some of the broader issues that it throws up. It does, of course, still leave the issue of dissent and making a determination in that regard.

One of the other issues with precedent is that, if you move dissent and fail—I think it is a reasonably fair bet that will happen here—then the ruling actually gets more firmly entrenched than if no final determination had been made. So it can actually be counterproductive to move an unsuccessful dissent motion, because it entrenches the validity of the ruling that people disagree with. That is a concern I have as well. Having said that, I am never particularly keen on supporting rulings that I do not agree with either. There are a lot of competing things here, and I think we need to approach them not just from the point of view of the immediacy of the specific decision but with a view to the longer term and what it means in a whole range of other contexts.

For that reason as well, I should clarify that most of the remarks I have made are my individual views rather than a block Democrat position. Because there are a lot of competing issues and principles here, I do not seek to present my words as a representation of an entire Democrat bloc, not least because one of our senators is not present at the moment. Nonetheless, the principles I have enunciated are obviously ones that are core to the Democrats. As our party name suggests, democracy is more important to us than almost anything else, even individual policy issues. That is why yesterday was so distressing—not because of the policy decision that was made but because of the total gutting of any semblance of decent parliamentary process, which was done with such casual, blase disregard. That is far more concerning, far more worrying and far more inexcusable than the simple decision whether to vote yes or no to a particular piece of legislation.

The issues here are important. They should be disconnected from the people, personalities and parties involved. I think they are worthy of further consideration by the
Procedure Committee, as Senator Ludwig has said. As I have also said, I think there are credible arguments to be put on both sides of the case about the correctness of the ruling that was made by the President yesterday.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.53 am)—Mr President, the ruling that you made not to entertain a further contingent notice of motion from Senator Bob Brown and to call the Clerk to read the order was entirely consistent with precedent and the ruling of your predecessors. I think I should correct something at the outset—that is, a misrepresentation by Senator Brown of the nature of what was sought yesterday. Senator Brown said—and he referred to this several times when speaking to this motion—that he was not granted leave to make a statement. Of course, when you look at the motion of dissend before us, the Notice Paper states:

Consideration of the motion moved by Senator Bob Brown—that the ruling of the President on 14 September 2005 (that the Chair could not accept repeated motions to suspend standing orders to allow senators to make statements) be dis send from.

Of course, the ruling by the chair related to a motion to suspend standing orders. It was not simply about seeking leave to make a statement. When Senator Brown says that, had someone else sought leave to make a statement, they would have been granted it, it is irrelevant to this debate because what we are talking about here is a motion to suspend standing orders. So let us get that right from the outset. The 11th edition of Odgers’ Australian Senate Practice states:

It has been ruled that a contingent notice of motion of this type may be used only once by any senator at each occurrence of the contingency to which it refers. The rationale of this ruling is that once the Senate has been asked to suspend the standing orders to depart from the order of business on one such occasion and has declined to do so, the request should not be capable of being repeatedly made, because this would provide a means of permanently obstructing the business of the Senate.

President Sibraa made rulings to this effect on 3 and 5 December 1991 in relation to the Political Broadcasts and Political Disclosures Bill 1991. In fact, the Procedure Committee examined this question in 1993 and recommended that the Senate uphold the President’s rulings. Those recommendations were tabled on 29 September 1993 in the first report of the committee for that year. It is useful to refer to that first report by the Procedure Committee of 1993, because that really does set down the ruling and the precedent, and it does so in a concise manner. The first report of 1993, which still stands today and which we believe should not be revisited, provides ‘the rationale of the rulings’. In that case, it stated:

The President’s rulings would prevent any repeated use on the same occasion of the same contingent notice—that is, the contingent notice for the suspension of standing orders to allow a motion to be moved to rearrange business or to bring on a new item of business. It goes on to say:

The rationale of the President’s rulings is that, once the Senate has been called upon once to suspend standing orders to allow a motion to rearrange business or to bring on a new item of business and has declined to do so, it should not repeatedly be asked to do so.

It goes on:

By moving an endless series of motions to suspend standing orders pursuant to the same contingent notice, a senator or different senators in turn could prevent the Senate proceeding to its next business, notwithstanding that the Senate had indicated that it did not wish to suspend standing orders to allow its business to be rearranged or to allow new business to be brought on and notwithstanding that the Senate had determined the business it wished to be dealt with.
Mr President, this squarely backs up the course of action that you took yesterday. In fact, it does refer to ‘a senator or different senators’. It goes on to address that even further. This is a point which squarely causes Senator Bob Brown’s argument to fall to the ground—and conclusively so. The report states:

The rationale of the rulings is not affected by different senators seeking to employ the contingent notice of motion to seek the suspension of standing orders or the suspension of standing orders being sought to allow different rearrangements of business or different new items of business to be brought on.

You could not get a more concise statement of the rule. The Procedure Committee spelt it out very clearly. Senator Brown tried to distinguish the case in point by saying that there were two different senators moving what was ostensibly the same motion. The Procedure Committee deals with that very squarely. It deals with the fact that it would also be an obstruction where the Senate had made it very clear that it did not want standing orders to be suspended.

With respect, I might say that the President spelt out his ruling very well. I refer to the Journals of the Senate dated 14 September 2005:

Ruling of President: The President ruled that he could not receive any further motions for the suspension of standing orders. The majority of the Senate had determined that the bills be considered as urgent bills and had also declined to suspend standing orders in its earlier votes. The majority of the Senate having determined that it should proceed with the bills as urgent bills and that standing orders should not be suspended at this time to allow other matters to be considered, he was obliged to call on the Clerk to read the order of the day for the consideration of the bills. This is in accordance with the rationale of the rulings made by President Sibraa between 1991 and 1993 and supported by the Procedure Committee, as recorded in Odgers’ Australian Senate Practice, 11th ed, 2004, p. 169.

That ruling was very clear. It dealt with the matter on all fours and it is inviolate. It is a ruling which stands the test of time along with the Procedure Committee’s first report of 1993. Therefore, why should it be revisited? That is the reason for the government’s opposition to the amendment proposed by Senator Ludwig.

Senator Ludwig presented a comprehensive argument, one which had a lot more intellectual rigour and, I might say, clarity, than that presented by Senator Bob Brown for the motion of dissent. However, having listened carefully to Senator Ludwig’s argument for the amendment, the government is not of a mind to support it, on the basis that it believes that the first report of 1993 of the Procedure Committee is a seminal piece of work and one which is very clear and should stand. Nonetheless, I accept the arguments raised by Senator Ludwig as to the reasons for his putting forward that amendment.

As for Senator Brown’s motion of dissent, can I say that, firstly, to say that he was seeking leave to make a statement was wrong. It clearly misrepresents the motion that is stated in the Notice Paper. To say that the matter is capable of distinction because there were different senators moving the same motion is again wrong when you refer to the Procedure Committee’s first report of 1993. I think that, whilst a motion of dissent does involve some analysis of the President’s decision, there is a proper way of dealing with the matter.

But Senator Brown’s reflection on the chair and the comments he made, which you drew to his attention, Mr President, were, I believe, beyond what should be canvassed when one is talking of dissenting from the President’s ruling. There is a way of dealing with dissent, and that is through proper de-
bate and with some analysis and rigour in relation to the issues at hand. That, I believe, was addressed by Senator Ludwig and Senator Bartlett, who I do agree with when he says that the decision you made, Mr President, was not politically motivated in any sense. And he did say, ‘Having said that, though, I think that perhaps the interpretation could be wrong,’ and that is why he said, I think, that he supported the reference to the Procedure Committee. But there is a way of dealing with these matters, and I would remind Senator Brown that in approaching them he could remember that, rather than saying to other senators in the chamber that he has dealt with the standing orders more than they have. Perhaps, in this debate, we can at least refer to precedent and practice, and the rulings of previous presidents and the Procedure Committee in particular.

Finally, in chapter 5 of the 11th edition of Odgers’ *Australian Senate Practice* it states:

The President and other officers of the Senate perform functions to enable the orderly and regular conduct of its proceedings.

It goes on to say:

The President is the presiding officer of the Senate, responsible for the proper conduct of proceedings of the Senate and the interpretation and application of the rules of the Senate.

Mr President, you have carried out that task, and you did so appropriately yesterday in this instance. The Senate could not function if the role of the President were not carried out in such a way. Indeed, the Senate could not function if it did not have a President. Why would you have a President if not for that very function—to ensure the proper conduct of the Senate and to ensure its business is carried forward and not obstructed in any unreasonable way?

What the Procedure Committee said in its first report of 1993 is that repeatedly entertaining these notices of motion to suspend standing orders could well permanently obstruct the business of the Senate, if I might paraphrase Odgers and the Procedure Committee. That being the case, the President indeed has a duty to ensure the proper conduct of the proceedings of the Senate, and that does not involve any permanent obstruction of the business of the Senate.

Mr President, yesterday you were doing just that. You had recognised that the majority of the Senate had determined that the bills were urgent. You recognised that a notice to suspend standing orders had been entertained and dismissed, and that was done by a majority of the Senate. You recognised past practice and precedent in relation to repeated contingent motions to suspend standing orders. You recognised that appropriately and you ruled on it appropriately, in accordance with not only the decision by President Sirraa, one of your predecessors, but also the Procedure Committee’s first report of 1993. For those reasons the government very much opposes the motion of dissent on your ruling.

**Senator MILNE** (Tasmania) (11.06 am)—Mr President, I rise to support the motion of dissent from your ruling yesterday. I also indicate that we will not be supporting the amendment put forward by the Labor Party, because it seeks to remove the words ‘dissented from’ from this motion, and it is important that we have a decision on the substantive issue. The Greens have no objection to the matter being considered by the Procedure Committee and I think that probably will occur. We would support a separate motion for this matter to go to the Procedure Committee, but we do not support the amendment in its current form because it removes the words ‘dissented from’ in relation to the ruling you made yesterday.

I want to make a couple of remarks in relation to this because I am a new senator here, representing my state of Tasmania.
When I arrived in the Senate, I was assured that the role of the President is to act fairly in relation to every senator, regardless of whether they are in the government or from any other political persuasion. However, I believe the ruling yesterday is yet another move to remove the rights of a minority.

We are seeing that in Australia as a whole, Mr President, and I guess what disappoints me more than the fact that, of course, the government will support the ruling you made—and I understand that would be the case—is that the Labor Party are going to support the ruling you made yesterday. I am really disturbed at that. It takes away the rights of minority parties in this house. I should not be surprised because, in the Tasmanian parliament, I watched the Labor Party support the suspension of standing orders to change the constitution of Tasmania to try and remove minority parties from the parliament altogether. In fact, they supported the suspension of standing orders in the upper house as well, to do the same thing. The motivation there was precisely to remove minorities. It has backfired badly on the Labor Party in Tasmania. But the fact that they would support taking away the rights of minorities to be represented in the parliament in the first place, by that mechanism, was pretty shocking. Sitting here today, I am reminded of the title of a Xavier Herbert novel from the 1970s, *Poor Fellow My Country*, because that is how I feel about what has gone on here in relation to this removal of the rights of minorities.

We have heard a lot about Odgers and precedent. Precedent is incredibly important, Mr President, and, after having had nearly a decade in state politics, I am fully aware of what happens when precedents are set. They are referred to time and time again. Let us go back to this precedent. The one that is being referred to in the case of the 1993 report from the Procedure Committee was in relation to repeated attempts to reorder the business of the Senate. On that basis, once the Senate had made a decision not to reorder its business, it could have been assumed that the Senate would continue to make that decision. However, yesterday’s ruling was not in relation to the reordering of the business of the Senate. Yesterday’s ruling was in relation to the right of the leader of the Australian Greens to move, contingent on being refused leave to make a statement, to suspend standing orders such as would prevent him from making that statement. That is different from the reordering of the business of the Senate. The Labor Party had been given that right, already; they exercised that right, and it was respected, but when one of the minor parties went to use exactly the same procedure and exactly the same right, it was denied them on the basis of a precedent which applied to something else.

Furthermore, in relation to what Senator Ellison said a moment ago, if you have a look at page 37 of the *Notice Paper*, it quite clearly shows that the only people who are entitled to make statements of that kind are the Leader of the Opposition in the Senate, the leader of the Nationals, the leader of the Democrats, the leader of Family First, and then Senators Bob Brown and Kerry Nettle. That is all. So, contrary to what Senator Ellison was arguing a moment ago, such granting of leave in relation to making a statement could only have applied to a maximum of six people. So it was not about spending the whole day. What is more, as we saw the government prepared to do yesterday, the gag could have been applied, and would no doubt have been applied, making it a maximum of 15 minutes. So let us not have the nonsense from Senator Ellison; had the senator been entitled to put his proposition to the Senate, the maximum amount of time that could
have been taken out of the debate was 15 minutes.

In terms of Senator Ellison’s argument that it is the role of the President to ensure orderly and regular proceedings of the Senate, that is correct. But what we saw in here yesterday was hardly the orderly and regular proceedings of the Senate that one would have expected. Instead, what we saw yesterday was an abuse of every aspect of the democratic process. Yes, it was within the standing orders to gag debate, to guillotine motions, to use the numbers to reduce the amount of debate and scrutiny on the sale of Telstra bills. It is within the standing orders to do that; the government did that. But it was quite contrary to what the Prime Minister promised the Australian people when he said he would not use his majority in the Senate to be arrogant; he would not use it to be unwise; and that he would treat the Senate with respect. Well, I think yesterday we saw that that commitment has no standing.

Coming back to your ruling, Mr President, I do not believe that it is based on precedent. I think the precedent is based on something entirely different, as I said. It is based on the reordering of the business of the Senate. The problem with yesterday, as far as I am concerned, is that you, as the President, made a decision to deny a senator the right to speak, to move for the suspension in order to make a statement, on the basis that the Senate had already made a decision in relation to the Labor Party. I do not think that that is the same as reordering the business of the Senate. It is quite a different matter. The Senate should have the right to decide whether Senator Brown, as the leader of the Greens, should be heard. That is the point here.

What we are seeing with this is just a codifying, in the Senate, of what is going on in the broader community. Once again, this morning, we had the Labor Party supporting the government in relation to a matter involving a minority. In this case it was Mr Scott Parkin who has had his visa cancelled and is being deported from the country and has had no explanation as to why that is the case. His lawyers have been refused any indication of why it is the case. In this case someone was being deported, and once again the Labor Party denied the Senate the information on which they are now supporting the deportation. This citizen is a peace activist who has said, ‘I am strongly opposed to any violence and do not believe that violence delivers any political gain, and in fact detracts from positive political engagement.’ Yet, he has been identified, it seems, as a direct or indirect threat to national security.

How can the Labor Party be supporting the taking away of minority rights in this way? How can that be happening in this country? They just stood here this morning and voted to allow Scott Parkin to be deported without asking any questions and on the basis of a secret briefing when the man himself and his lawyers cannot get a briefing. Now we have the Labor Party again saying, ‘So long as we’ve got the right to speak and use the standing orders and we get heard, it doesn’t matter if the President rules that the same does not apply to the minority parties.’ Today it is the Greens. Tomorrow it will be the Democrats. It will never be Family First, because we understand that Family First is a supporter of the government. Indeed, the Labor Party have preferred Family First as well, so it will not be Family First. But it will be the Greens again and it will be the Democrats again.

At some point in the future, it will happen to the Labor Party because, everywhere that there is a history of attacks on minorities, it starts with the smallest minority but then, once the confidence grows at the success of the attack on the minority, the majority get more and more arrogant and the attacks start
until everybody loses their rights in this society. What is happening here in the Senate is reflecting what is happening in the broader society as more and more Australians are having their civil liberties and their rights taken away and the majority of people are looking the other way.

There are historical precedents for this. People looked away in Tasmania when the Labor Party supported the government in changing the Constitution—under suspension of standing orders as well—to get the Greens out of the parliament, and now we are seeing precisely the same behaviour here with the Labor Party saying: ‘We’re alright, Jack. Pull up the ladder.’ The Labor Party want to operate on that basis and support what is clearly not a precedent in relation to a decision on the standing orders. If this dissent motion fails, it is setting a precedent saying that, in future, provided the Labor Party can have their say it is quite all right for the President to rule that he does not want to hear from anyone else before the Senate can make a decision as to whether the Senate wants to hear from those people. It is a really important principle. I do not care whether people want to see it as a political matter or not. From my point of view, it is about taking away the rights of minorities.

To me, the horrific issue yesterday was that you as the President made a decision to deny my colleague a right to speak when his right to speak is entrenched here in the standing orders and that right to speak was taken away on the basis of a precedent which does not exist. That is why I am supporting the dissent. It is a matter of principle, and that is why we are not supporting the amendment from the Labor Party. I think we need to express our right to dissent, that we were denied the right to speak. In my view, it was a mistake, and I think it should be corrected, because it is not just a debating point. It is not just a technical issue; it is about the bigger issue of whether minorities in this Senate have their rights guaranteed under the standing orders as the Australian community would expect to be the case. If their rights are taken away, people will see that the Senate is not a house of review and that the pluralistic nature of our democracy is not adequately represented.

As if it is not enough that the government has control of both houses, now we are finding that the right of other parties to express a different point of view is being taken away— and with the support of the Labor Party it seems. That is absolutely at the heart of the democratic process. I have witnessed it before. I have stood in a parliament and watched a minority be removed with the support of the Labor Party. I tell you, Mr President, that anyone who thinks that the electoral system in Australia is secure needs to think again, because this is symptomatic of what leads up to an arrogant government determined to use their numbers to remove anyone from whom they do not wish to hear. That is the matter of principle here, Senator Ludwig, and I ask that the Labor Party reconsider its position, because what happened to us yesterday will happen to you tomorrow.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (11.19 am)—I wish to speak against the dissent motion on behalf of the Labor Party and indicate that I will be supporting the amendment moved by Senator Ludwig. I have to say that I fundamentally disagree with most of what Senator Milne said. I think she ought to think a bit more deeply about these things in the sense that, at the end of the day, the government will carry the vote, and I think the Greens have to concentrate on the longer-term process rather than daily stunts. That is why I suggest that they ought to think seriously about the Labor amendment. Senator Milne spent half her time attacking the Labor Party about an American
protester and I think got a bit off the topic. There are fundamental issues here that we do need to address.

As I have indicated before, the Labor Party take very seriously motions to dissent from the chair. We are not going to support the motion on this occasion, but I must indicate to you, Mr President, that we are getting increasingly frustrated at the way the processes of this chamber are being abused. We look to you, Mr President, for independent action to preserve the rights of senators. We are growing increasingly concerned that that is not occurring. Mr President, I want to make it clear that we do expect you to uphold the rights of senators in the chamber. We do expect you to act as an independent umpire and to preserve the rights of senators as much as you can within your powers.

I do not for one moment apportion blame to the President for the actions of the government, but I do think there is a serious role for the President to play in ensuring the processes, procedures and courtesies of the chamber established by precedent are genuinely respected. We will not support this dissent motion. Senator Ludwig has outlined some of the concerns we have. We share the Greens’ concern about the way matters were handled yesterday. We very seriously support those concerns. Effectively, what happened yesterday was that a combination of the gag, the guillotine and the whip denied the Senate the opportunity to debate serious legislation.

Senator Bartlett—Don’t forget filibuster.

Senator CHRISS EVANS—I take the interjection that the filibuster was also used. We had the most outrageous situation yesterday when the small amount of time allowed for the parliament to debate the content of the bills and to ask the minister questions was abused by government senators using the time available. I would not mind if they were using it genuinely, but they were not using it genuinely. They used it to make speeches to deny other senators interested in the detail of the bill. I suppose it was designed to protect Senator Coonan from questions about the detail but, in any event, it was a terrible abuse of process.

I urge some of those Liberal senators to think about their performance. Many of those senators, one in particular, are from the Queensland Liberal Party, who pride themselves on their commitment to democracy, to the bicameral parliament and to the independence of senators in this place. Their cooperation in the government’s tactics and their commitment to abusing the processes of the Senate is something they ought to look very seriously at because it certainly flies in the face of all the rhetoric that they have advanced in the past.

Mr President, I think there are serious issues at stake that need to be addressed. Senator Ludwig’s amendment seeks to refer it to the Procedures Committee. I am a member of that committee, as you are. You well know we are meeting again in a couple of weeks time. It seems to me that the government ought to reconsider. This is a request that the Procedures Committee, which is a committee made up of senators from all sides of the parliament and which has a role in assisting in the proper procedures of the Senate, ought to seriously look at the major areas of concern expressed by senators. If the government’s answer is to say, ‘We don’t care if the Greens are upset, we don’t care if the Democrats are upset, we don’t care if the Labor Party is upset, we don’t care if Senator Fielding is upset, because 39 beats 37,’ that is not an appropriate response.

I have no difficulty with the government using their numbers to pass the Telstra legislation—no difficulty at all. They have been able at the last two elections to establish a majority in the Senate. I do not like it. I think
the Australian people ought to think again about whether it is a good thing and, hopefully, at the next election they will correct this problem. Nevertheless, the coalition has legitimately got elected to this place 39 senators. I accept that they voted the way they did on the Telstra bills; no problem at all. I also accept that it is legitimate on occasions for a majority of senators in this place to move the guillotine. There are acceptable cases where it is rational for the Senate to agree that there is a limit to a debate. It has been known in the past on rare occasions that some senators have looked to filibuster a debate. They have looked to keep talking so as to put off a vote.

Senator Coonan—How many did you guillotine—221 bills in ten years.

Senator CHRIS EVANS—Have you listened at all to what I have said?

Senator Coonan—I have.

Senator CHRIS EVANS—No, you haven’t. You know nothing about Telstra. You know nothing about this—

Senator Coonan—Two hundred and twenty-one bills.

Senator CHRIS EVANS—Did you hear what I just said? I said we support the use of the guillotine. Are you that stupid you can’t hear either?

Senator Coonan—Fifty-two bills on one day.

Senator CHRIS EVANS—Exactly, Senator Coonan.

The PRESIDENT—Senator Coonan, interjections are disorderly. Senator Evans, I would ask you to address your remarks through the chair and ignore the interjections.

Senator CHRIS EVANS—Thank you, Mr President, I do. Senator Coonan ought to listen to what I am saying. I actually support the use of the guillotine in appropriate instances. We have used it in this chamber. Certainly, when we were in government we used it in this chamber. We never had a majority. We used it in the chamber largely with the support of the Democrats or other minor parties when we thought there was a need to bring a debate to conclusion.

Senator Coonan—That was pretty obvious.

Senator CHRIS EVANS—That is right because, Senator Coonan, if you had researched more widely you would know that was because a deliberate tactic of the then opposition, now government, was to filibuster debates. Senator Hill led those, and they were quite open about what their tactics were. At some stage it is reasonable for the Senate to make a decision about those. Each one has got to be judged in its context. But what happened yesterday was an abuse of the Senate’s role. Senators were denied the right to speak in the second reading debate. The Senate was denied a proper committee inquiry and denied the ability to examine in committee stage the detail of the bills. Not only did the government use the guillotine; it used the gag. Any attempt by senators to debate the appropriateness or not of the process was gagged. One speaker, gagged; one speaker, gagged. It was a complete abuse of the whole process. So the combination of the processes used by the government denied people the opportunity to debate important bills.

It is one thing to say that at an appropriate time when people have had a fair opportunity to debate bills you ought to bring it to conclusion. I have no problem with that, but that was not what was allowed yesterday. That was not the courtesy extended to the Senate and it was an abrogation of this Senate’s role. I think it was a complete abuse of the government’s power. It shows the arrogance, the
smugness, that has crept into their operations because they have the numbers.

I think when people look back on the debate on Telstra—this will take time; it is not a popular view now, it is not a view that will gain any currency in the next short while—one of the most lasting outcomes will not be the decision to sell Telstra. There is a question mark about whether they will ever be able to sell Telstra, given the share price and the other things that are occurring. Putting that to one side, there is the government’s flagrant abuse of its numbers in the Senate to deny the Senate the ability to debate the legislation. The attack on the processes of the Senate, the attack on democratic debate in this country and the attack on consideration of legislation—the Senate’s traditional strong suit—will, I think, be the more lasting implication of yesterday’s debate. What it says is: this government will not allow debate. When it cannot win the argument it closes down the debate. What it says is: ‘We’ve got the numbers. We’ll do whatever we can, whatever it takes.’ All power corrupts. Absolute power corrupts absolutely. I think it is the beginning of the end of the Howard government because people will not respond well to it. They know it is an abuse of power. People do not like governments that go beyond their mandate, go beyond what is reasonable and abuse their power.

I think the Howard government made a strategic mistake yesterday. I may be wrong but I think they made a fundamental error in abusing the Senate, denying democratic rights to senators and denying the elected representatives of the people the ability to debate the legislation. If they had moved the guillotine within a reasonable time frame with some consultation and some respect for senators then I would have had no complaint. But the way it was handled, the way that even at the end, when they allowed a couple of hours for questioning of the minister, they used their numbers in the Senate to dominate debate and deny senators the opportunity to question the minister, shows how fragile they are, how fragile the minister is and how they cannot handle criticism, questioning or debate. If they cannot win the debate, if they cannot win the argument, they close it down. They prevent the debate.

These are important issues. I think they are fundamentally more important at the end of the day because this not only determines what will happen with Telstra but, having set the scene, there is no going back for the government. It has abused every process available to the Senate in the first four weeks of the new parliament. I ask senators to reflect on what has happened in the four weeks the parliament has sat since the government got the numbers on 1 July. I would ask them to reflect on every measure, every process of the Senate, that has been abused, altered and denied as the government has arrogantly abused its power. In question time, opposition and minor party senators have been denied the same opportunities to ask questions. The government rams through changes, using its numbers, and we have less accountability and senators are denied the right to ask questions.

We had Senator McGauran famously give opposition senators the finger—a metaphor for the government’s attitude. He raised his finger at us as a sign of the government’s arrogance and its disregard for the process. We had the attack by a government minister on the Clerk—an outrageous attack on an independent officer of the Senate in order to pursue the government’s agenda, reacting to what it saw as criticism. It cannot stand criticism so it plays the man, not the ball. We had the denial of the process for the inquiries into the Telstra legislation. We had the use of the numbers to deny the cut-off, which allowed the Senate to look at legislation before it was introduced. We had the hours extension
moved without any consultation. We had the debate about the industrial relations inquiry, where it was made very clear that there will be no proper examination of that. Again, the government will not brook any criticism or examination.

We had the government use its numbers to prevent the Senate referring a matter to the Privileges Committee. So, again, with regard to a process long established in the Senate where an independent umpire, the Privileges Committee, reviews questions of behaviour, the government used its numbers to ensure that an individual’s actions would not be examined by the committee of the parliament that has traditionally dealt with these matters. Then, in the last couple of days, we have seen the use of the gag and the guillotine, a terrible abuse of power, in order to shut down the debate.

As I say, they are all legitimate parliamentary tactics. If you have got the numbers, you can use them. But they have to be examined in context. They have to be examined in light of what it reflects about the government. What it reflects, on this occasion, is that there is nothing they will not do to get their way. They knew they could not keep Senator Joyce in the corral for much longer. They had to get the vote on. In order to do that, they overthrew every convention, every practice, in order to get the vote yesterday. We even had the situation where the long-standing arrangements regarding the speaking order were overturned. The delicious irony of yesterday is that the government moved the gag which would prevent Senator Joyce, the Hamlet of Australian politics—to be or not to be, shall I or shan’t I—from actually speaking in the debate. They actually gagged their own senator. They sought to gag the bloke who was pivotal to the debate.

So what did they have to do in order to get him on, when I pointed out the fact that, as a result of the gag, he would not be allowed to speak? They overturned another convention. The speakers list was thrown out because the embarrassment of Senator Joyce not speaking was too great. They had to get him on for eight minutes of bumbling self-justification so they could say he was allowed to speak. So what do they do? They said to Senator Stott Despoja, Senator Fielding and about 10 other senators: ‘Your rights have been abolished. The speakers list has been thrown out. You have no right to speak in this debate because we’ve got to get Senator Joyce on because it would look a bit embarrassing if he didn’t say something.’ So they overturned that convention as well. The speakers list was abandoned.

There is virtually nothing left of Senate processes that has not been attacked or overturned in the government’s arrogant abuse of its power in the first four weeks. I actually thought it would take them about a year and a half. We were having a bit of a discussion among opposition senators about how long it would take the government to develop the hubris and the arrogance to get to this state. It has taken them four parliamentary weeks to get to the point of saying: ‘We will stand no opposition. We will stand no criticism. We will stand no debate. We have the numbers. Tough luck—39-37 says we can do whatever we like.’

I think they made a mistake. I think they have made a strategic mistake because I think the Australian people will be very concerned about that abuse of power. As I say, I have no problem with the government using its numbers in the end to pass its legislation. The fact that they cannot win the debate is a point that will be carried on in the community. We will continue to debate the issues of Telstra in the community. I suspect that, the way it is going, it will not be sold before the
next election in any event. But the point is that the government had a right to do it. I put to one side the fact that Senator Joyce campaigned on opposing the sale of Telstra. That is a secondary issue. Certainly that is something for him to answer to the electors about. But the government got 39 votes; they can pass the Telstra legislation. But the abuse of the Senate processes—the arrogance, the failure to allow senators to examine the legislation and to speak in the debate—is an unforgivable abuse of the Senate and I think they ought to be ashamed of themselves. I worry for our democracy as a result of this. I am very concerned about the processes and I think all Australians ought to be.

Mr President, the actual consideration today is about the dissent ruling. I was very concerned about the ruling. I accept you took advice from the Clerk. I think Senator Ludwig has examined the issues and has ongoing concerns about whether that is a correct ruling. It seems to me that that is an issue that the Procedures Committee ought to debate in the quiet of a committee meeting when the temperature has gone down a bit over the Telstra debate and when we have a chance to have a look quietly and calmly at the precedents and at the implications of the ruling for the future conduct of the Senate. I think that is just good practice.

It is the sort of practice that we have applied for years in this chamber through the use of the Privileges Committee and the Procedures Committee, and it has served us well. We have sought at all times to preserve the rights of senators to participate in the chamber, whatever their party status—be they from a party of one like Senator Fielding, a party of four like the Greens, a party of 28 like the Labor Party or a coalition of 39 like the government. We have preserved the rights of senators to exercise their responsibilities and obligations in this chamber. Senators have been elected by the people of their state and have a mandate to do that.

I think some calm reflection in the Procedures Committee on the issues raised would be a very worthwhile exercise. I think it will signal whether the government is interested at all in the proper operation of this chamber, whether it is interested at all in a proper democratic consideration of issues inside the Senate or whether it will use its numbers. If it cannot win the argument, it reverts to using its numbers. All Labor is arguing for is that we have a discussion; that we consider those issues and say: ‘What is in the long-term interests of the Senate? Let’s have a calm reflection on these things.’ We will not be supporting the dissent motion. It does not advance the debate; it does not take us anywhere. It will be defeated in any event, but it does not actually take us anywhere.

I share the Greens concern about what happened to Senator Brown yesterday. They obviously do not share the concern about what happened to Senator Fielding, but I am concerned about that as well. I am concerned about the way Senator Stott Despoja was treated. I am concerned about the way the eight or nine other Labor senators were treated. I never got to make a second reading contribution in the Telstra debate. We were denied that opportunity. I think Senator Ludwig’s amendment will allow us to sit back and say: ‘Was that good Senate process? Is it appropriate treatment of senators?’ It will allow us to come to a considered view about that. The government will still have the numbers. They will still have their 39 votes. If they do not like what comes out of the procedures committee, they will not adopt it. I think it is a far better way of allowing a consideration of what I thought was a disgraceful episode yesterday with regard to Senate practice. It was abuse and arrogance by a government towards the Senate’s role—
its constitutional role and the role that senators were put here by electors to play.

We will not be supporting the dissent motion, but we are concerned about the way this Senate is developing and the way things are being interpreted. Mr President, I ask you to play a leadership role in ensuring that senators and Senate processes are respected. I think it would be a sensible thing to allow the procedures committee to consider these issues. *(Time expired)*

**The PRESIDENT** (11.39 am)—I wish to make a couple of points, if I may. I do not withdraw from the ruling I made yesterday. I was a member of this place back in 1991 when former President Sibraa made those rulings, regarding the broadcasting bill and the native title bill. Those of us who were here then would remember very well that the gag and guillotine debate was on, and we were in opposition making the same points that have been made this morning about the ruling. I would remind the Senate that the gag and guillotine debate was moved then by the Australian Labor Party and supported by the Democrats and the Greens. Senator Brown, do you wish to close the debate?

**Senator BOB BROWN** (Tasmania) (11.40 am)—If that, sir, is your contribution—that two wrongs make a right—it is a failed contribution. I stand by the debate in support of the dissent motion. I have heard nothing this morning that would change the fact that you have trespassed onto new ground with a ruling that trammelled my right and, inherently in that, the right of other crossbench members to put a case as to why a statement should have been made at a vital part of the proceedings yesterday. Your ruling was wrong and that is why we have dissented from it.

**The PRESIDENT**—I think there may be some misunderstanding about this amendment that is being moved. I am led to believe that if the amendment is carried it will replace the dissent motion and my ruling will stand. If the amendment is defeated, that will not be the case. I repeat that, if the amendment is carried, it will be automatically referred to the procedure committee, a dissent motion will not be effective and my ruling will stand. If the amendment is not carried, that is in some doubt. I put the motion that the amendment as moved by Senator Ludwig be agreed to.

Question agreed to.

Question put:

That the motion *(Senator Bob Brown’s)*, as amended, be agreed to.

The Senate divided. [11.51 am]

(The President—Senator the Hon. Paul Calvert)

**Ayes......... 59**

**Noes......... 4**

**Majority....... 55**

**AYES**

Aberz, E.

Barnett, G.

Bishop, T.M.

Brandis, G.H.

Campbell, G.

Chapman, H.G.P.

Conroy, S.M.

Crossin, P.M.

Ellison, C.M.

Ferguson, A.B.

Fierravanti-Wells, B.

Forshaw, M.G.

Hogg, J.J.

Hurley, A.

Joyce, B.

Kirk, L.

Ludwig, J.W.

Macdonald, J.A.L.

Mason, B.J.

McGauran, J.J.J.

Moore, C.

Nash, F.

Parry, S.

Payne, M.A.

Adams, J.

Bartlett, A.J.J.

Boswell, R.L.D.

Brown, C.L.

Carr, K.J.

Colbeck, R.

Coonan, H.L.

Eggleston, H.A.

Evans, C.V.

Ferris, J.M.

 Fifield, M.P.

Heffernan, W.

Humphries, G.

Hutchins, S.P.

Kemp, C.R.

Lightfoot, P.R.

Landy, K.A.

Marshall, G.

McEwen, A.

McLucas, J.E.

Murray, A.J.M.

O’Brien, K.W.K.

Patterson, K.C.

Polley, H.
Ronaldson, M. Santoro, S.
Scullon, N.G. Stephens, U.
Sterle, G. Stott Despoja, N.
Trood, R. Watson, J.O.W.
Webber, R. Wortley, D.

NOES

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

* denotes teller

Question agreed to.

The PRESIDENT—I thank the Senate for their support.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the President’s Gallery of a delegation from the Permanent Committee on Public Works of the Italian Senate. I apologise that the events in the chamber this morning prevented me from meeting you. I welcome you to Canberra and I hope you have an enjoyable stay.

Honourable senators—Hear, hear!

NOTICES

Postponement

Senator WONG (South Australia) (11.56 am)—by leave—I move:

That business of the Senate notice of motion No. 2 standing in my name for today, proposing the reference of a matter to the Employment, Workplace Relations and Education References Committee, be postponed till the next day of sitting.

Senator WONG—I seek leave to make a short statement in relation to this motion.

Leave granted.

Senator WONG—I thank the Senate for its indulgence. This motion concerns a reference by the Labor Party which I understand is supported by the Greens, the Democrats and, in principle, Senator Fielding, subject to some discussion on terms of reference. It is a reference to the Senate Employment, Workplace Relations and Education References Committee on the government’s so-called Welfare to Work changes. I indicate quite clearly that the purpose of this reference is to ensure that a set of measures which represent some of the most significant, substantial and drastic changes to our social security system in a generation receives proper scrutiny by this chamber.

There are a range of measures, which this government announced in the budget across a range of portfolio areas, that will substantially affect the lives of welfare recipients in this country. They will substantially affect the lives of people with a disability and sole parents in this country. Those changes, those measures, deserve proper and full parliamentary scrutiny. I am disappointed we have not yet been able to achieve agreement with the government or agreement to the motion for reference. On the basis of an indication kindly given by Senator Ferris that the government will consider referring this matter for inquiry, we are postponing this motion in order to allow those negotiations to take place.

I place on record that the opposition regards it as critical that this set of wide-ranging changes, which will have enormous implications for hundreds of thousands of welfare recipients in this country, is scrutinised properly by the parliamentary process. We were extremely disappointed today when we were not able to get feedback other than opposition from the minister’s office, and I welcome the change of heart. We put on record that we are willing to work with the government to achieve a reasonable set of terms of reference in this matter. But we will not agree to an inquiry that is truncated. We will not agree to an inquiry that does not allow the full consideration of the impact on Australians and Australian families of these wide-ranging changes.
People with a disability in this country deserve to have this chamber scrutinise the government’s changes. They deserve that sort of scrutiny. They deserve to have us make sure that things are properly investigated and properly considered before this chamber votes on any enabling legislation. In terms of the time frame, I want to make this clear: the measures which have been proposed by the government do not come into place until July 2006, so there is plenty of time for the inquiry to consider matters before legislation has to be voted on by either chamber.

The last point I want to make is that we have sought, again with the support of the Democrats and the Greens, a reference to a references committee. As the chamber is aware, there is a difference between a legislation committee and a references committee. I will explain very clearly on the public record why it is that the Labor Party are proposing that a references committee and not a legislation committee inquire into this matter. It is because a great many of the changes which were announced in the May budget do not require legislative action, do not require legislative change. They can be administered through ministerial fiat, through executive action, without the need for legislation to be introduced. They can be administered through directions from the minister or practical changes in how policy operates. There are legislative matters, but there are also a great many matters which do not require legislative change. In our view, if we are serious about scrutinising this matter properly, we need a references committee that is capable of inquiring both into the legislation and into the many other measures which form part of the budget announcement. I thank the Senate for the opportunity to make that short statement.

Question agreed to.
known as Vivian Alvarez and Vivian Young. This report, however, is unanimous.

This report has uncovered the shocking tragedy of a forced deportation of a vulnerable Australian citizen. It has unmasked the dreadful disregard that departmental officers had shown for the wellbeing of Vivian, their lack of effort to establish her identity with any rigour before deportation and their neglect of vital information that revealed the mess of their own creation, which would have confirmed that she was an Australian citizen.

The findings of this report are of an interim nature as we are awaiting the Ombudsman’s report on this same matter. The Ombudsman, through Minister Vanstone, has asked that the committee refrain from questioning those officers directly involved in the removal of Vivian until the report is completed. The committee has respected this request. As such, it will stay its final report until it has an opportunity to examine the Ombudsman’s report and, if necessary, ask for those officers to appear.

I must say that it was clear throughout the initial inquiry that DIMIA officials were constrained in the questions they could answer as they had not spoken to the individuals involved. Our work as a committee was clearly hindered by this inability to either examine the officers directly involved in Vivian’s case or obtain detailed and informed answers from DIMIA staff.

As the written record was often fragmentary, ambiguous or quite simply silent on many matters, the committee was simply denied the information it needed for its inquiry. This was not assisted by the reluctant attitude taken by DIMIA officials in complying with the committee’s requests. At a quarter to five on Friday, 5 August 2005, over 2,600 folios were provided, haphazardly organised, to the committee secretariat, leaving no time for the effective review and consideration of this material for the hearing commencing the following Monday.

All of this is indicative of one thing: if you make it difficult to find the truth, it is because you have got something to hide. The fact is that Minister Vanstone has a very guilty conscience over the ramshackle department she is presiding over. Now Mr Ruddock has escaped all this, but I do not think it will be very long before he is brought to book.

So let us look at how this came about. Ms Vivian Solon, an Australian citizen, was removed by DIMIA from Australia to the Philippines on 20 July 2001. Vivian had been married and divorced and was, of course, known by other names. At the time of her deportation, DIMIA claimed she was only known to them under Alvarez. That is not true. After sustaining injuries in either an accident or an assault in March 2001, Vivian was interviewed by a number of DIMIA officials. Although she was clearly in a state unfit for interview, DIMIA officials pressed on with their view that she was an illegal non-citizen, despite her being in receipt of social security payments, being known to Queensland’s community services department and having been married to and divorced from an Australian. As Vivian had been admitted to Lismore Base Hospital, a number of interviews were conducted at that hospital, where it would not have been too onerous an obligation for DIMIA to check initial police records from admission and subsequent files. Ms Daniels from DIMIA even admitted ‘the facts in this case warranted significantly more checking.’

In a number of interviews before her return to the Philippines in July 2001, a number of insults were made by DIMIA staff about Vivian’s character. In particular, there appeared to be a racist and sexist assumption
introduced by one DIMIA official that Vivian was nothing more—and I quote from a file note—than ‘smuggled into Australia as a sex slave’. It appeared this assumption acted as a prism through which all subsequent interviews were made.

In her final interview with DIMIA officials on 13 July 2001, the record of interview notes, with reference to Vivian, ‘Have you read or did an interpreter read to you the notice to people in immigration detention?’ The answer recorded was ‘Yes,’ despite it being noted that the applicant was ‘unable to sign’. There is simply no certification that DIMIA’s statement of events was correct. Vivian’s lawyer, Mr Freedman, told the committee that Vivian was clearly not in a proper physical or mental condition to give full and accurate answers to the questions she was being asked. At the time, Vivian was injured, dazed and confused, and all the while under the taint of being a foreign sex worker. Worse was DIMIA’s insistence that Vivian be returned to the Philippines, despite suffering a series of fits and being unable to walk unaided. Moreover, no assessment at all was made of Vivian’s mental state, nor was there any mention of counselling being provided to her.

Her former husband, Mr Young, is on the record as saying that Vivian had been hospitalised on occasions due to mental illness. Indeed, on 4 May 2005, a file note records Ms Alvarez as saying that she could not specifically remember how she came to Australia. On the facts, the total absence of care shows the neglect and disregard that permeated DIMIA’s dealings with Vivian. The decision to remove Vivian seems to have been the only option pursued with any vigour by DIMIA staff. Even so, despite being in DIMIA’s custody for over three months, not once is there any record of following up any other leads that were provided to the department.

In summary, the committee found that the processes to establish or verify Vivian’s identity lacked rigour and, once the assumption was made that Vivian was an unlawful non-citizen, little effort was made to test that assumption. A junior officer made the determination that Vivian was an unlawful non-citizen and hence commenced removal proceedings. The processes of determination lacked transparency and accountability. There were no safeguards of Vivian’s legal rights, and the department failed in its duty of care for the physical and mental wellbeing of Vivian.

Minister Vanstone’s department also shirked its responsibility for the adequate return of Vivian to the Philippines. In the words of our report, a confused, vague and inconclusive account was provided to the committee. In any case, Mr Downer’s department rode roughshod over any objections from the Philippines embassy regarding Vivian’s return. The deputy head of the Philippines embassy refused to issue the travel documents and, in correspondence to DFAT, said that Vivian had married an Australian citizen. However, DFAT glibly accepted DIMIA’s explanation that Vivian was fit to travel and was a noncitizen.

Despite the embassy saying that Vivian’s matter could impact on bilateral relations, the minister was not informed. The committee’s concerns were not allayed by DFAT’s excuse that they were waiting for further information—they should have followed it up. DIMIA, however, were very sure to organise a police escort for Ms Solon, taking considerable steps to detail the roles and responsibilities of the Queensland police constable who accompanied her. However, the same level of effort cannot be said to have been put into place in organising for her return.

DIMIA and DFAT also botched the arrangements for Vivian’s return. It appears that DFAT in Manila was asked once to fa-
cilitate appropriate return services for Ms Solon. There is no evidence of a reply. In any case, DIMIA later informed DFAT that their assistance was not required. However, on all the evidence before the committee, no arrangements were made by either department for any Philippines agency or embassy official to meet Ms Solon. DIMIA tried to squib the issue by saying that local embassy worker Grace Olajay had made the arrangements. But it turns out that no such person worked at the embassy, despite DIMIA saying that she had contacted the Overseas Workers Welfare Administration. The truth is quite different. Not being able to find either of these people who were to meet Vivian—because they were not there—Vivian was then passed to the welfare administration desk at the airport. The file note states that she was ‘left at the OWWA counter at the airport by Qantas ground personnel because there was no party to receive the passenger at the arrival area’. Given the circumstances, the committee believes that DIMIA failed Vivian, and was happy to pass the buck to some poorly organised third party. A rough note on the file referring to the ‘handover’ indicates just how little regard DIMIA had for Ms Solon’s safe return.

Whilst the Palmer report noted the failure of DIMIA’s databases to adequately crosslink names, the failure of DIMIA to respond to clear information concerning Ms Alvarez’s true identity must be made known. In July 2003 the Queensland police, following up a missing persons request, gave DIMIA a missing persons file with the names Cook, Solon and Young, all with the same date of birth as Vivian’s. It was at that point that DIMIA databases linked all these people to be her. However, incredibly, even DIMIA now admit that the fact that the persons were one and the same was not brought to the attention of senior management. I seek leave to incorporate the rest of my speech in Hansard.

Leave granted.

The speech read as follows—

DIMIA officials admitted before the committee that they had not discussed this matter with the officers involved. Even DIMIA’s Ms Daniels said that, ‘The penny certainly dropped in July 2003,’ to which the committee might add that no-one stopped to pick it up. The committee cannot comprehend that they did not act on this information. The committee finds it even more difficult to believe that they did not action information from Mr Young, who emailed DIMIA on 24 September 2003 concerning Ms Young. That information was that his ex-wife was a Filipina who arrived in 1984, became a citizen in 1986, went missing in March 2001 and that the Brisbane police informed him that DIMIA had removed her in July 2001.

Again, in 2004, DIMIA did not have any information from a missing persons request made along similar lines in September 2004. DIMIA had three chances to respond in a much earlier fashion than they did to Vivian’s forced return to the Philippines. Finally, in an email to the minister in April 2005 after him having seen an ABC program about the Cornelia Rau debacle, Mr Young’s information could not be ignored. So these were the facts that Minister Vanstone’s guilty conscience sought to hide. The truth hurts, and none more so than for Vivian.

Senator NETTLE (New South Wales) (12.13 pm)—I will only speak for five minutes, so that everyone gets an opportunity to speak. The deportation of Australian citizen Vivian Solon is a sad and sorry chapter in the tale of misadventures by the Department of Immigration and Multicultural and Indigenous Affairs. The Senate Foreign Affairs, Defence and Trade References Committee attempted to start getting to the bottom of how this misadventure happened. Unfortunately, the committee received a letter from the Minister for Immigration and Multicultural and Indigenous Affairs stating that, because DIMIA officers were involved in the
Ombudsman’s inquiry, she was not prepared to direct DIMIA officers to appear before the Senate committee. So the committee was significantly hampered by lack of access to key witnesses. Today the committee is presenting an interim report, and the time for providing a final report has been extended.

At the time when Vivian Solon first came to the attention of the department of immigration, she had been involved in either an accident or a bashing but DIMIA never referred that incident to the appropriate authority—the New South Wales Police. The committee believes that DIMIA failed to act diligently in its efforts to establish Ms Solon’s identity. Vivian Solon told DIMIA that she was an Australian citizen, and it was recorded in the record of interview by DIMIA. Assumptions were made by DIMIA that Ms Solon was an illegal immigrant and a sex slave. Without grounds for such an assumption, a DIMIA note goes so far as to state that she was ‘smuggled into Australia as a sex slave’.

It is not clear whether Vivian was made aware of her legal rights. The most expansive document relating to this issue is a file note describing a conversation between two DIMIA officials about whether to offer to help Ms Solon access legal aid, but one of them states that Ms Solon ‘has been refusing all offers of assistance and seems to be resigned to accepting whatever her fate deals her’ and they decided to go no further. That is not ensuring that Ms Solon was helped, and that is not acceptable.

The committee concludes that DIMIA did not provide an adequate level of health care for Ms Solon before her removal. The committee heard that Ms Solon, in the presence of Filipino community workers, including social workers and nurses, had a series of fits where her eyes rolled back into her head and she lost the ability to stand. The deputy head of the Philippines mission in Canberra stated that Ms Solon was not fit to travel. DIMIA brought in an after-hours local GP but did not inform him of Ms Solon’s fits, and they got a ‘fit to travel’ certificate from him. At the time when preparations were being made to deport Ms Solon, the deputy head of the Philippines embassy in Canberra contacted DFAT and expressed the view that the deportation of Ms Solon had the potential to affect the bilateral relationship between Australia and the Philippines. It appears that this concern from the deputy head of the mission was not taken seriously and was not passed on to anyone senior in DFAT.

The committee was not able to get to the bottom of who had taken responsibility for arranging for someone to meet Vivian Solon at Manila airport. It was clear that this had been the responsibility of DIMIA and that DIMIA failed to carry out this responsibility. In the words of her lawyer, ‘This sick woman, having been deported improperly and removed from Australia, was effectively left abandoned in the Manila airport in a wheelchair.’ Qantas staff helped to find someone in the airport to arrange care of Vivian. This is not good enough. This is an example of how the government and DIMIA treat their own citizens.

The committee was told by DFAT that, in 2003, DIMIA was informed that an Australian citizen had been removed to the Philippines. There is no information to show that DFAT—in the Philippines or in Canberra—offered to help in any way, other than to say that the person who met Vivian at the airport did not work for the embassy. That is what we were asked to believe, but I cannot believe it and I do not think it is being overly generous to assume that people who work for the Department of Foreign Affairs and Trade and its Australian government representatives should have done something more or have offered to help when they received the
information that an Australian citizen had been deported to the country where they were the representatives of the Australian government.

I would like to add my thanks to the committee secretariat, who had to sift through more than 2,600 documents which were received from DIMIA by the committee at a quarter to five on the Friday before a Monday hearing. I look forward to the opportunity for the committee to present a final report later on.

Senator JOHNSTON (Western Australia) (12.18 pm)—I want to stress from the outset that, to the best of my understanding, this report of the Senate Foreign Affairs, Defence and Trade References Committee is a unanimous one. That is, all senators involved in this very unhappy, unfortunate and sad situation went through a substantial amount of evidence which, I must say—to be utterly frank with the chamber—was very difficult for the committee to understand. I do not think it is putting too fine a point on it to say that this poor unfortunate lady, who was suffering from substantial health deficiencies at the time that she was approached by DIMIA officials and deported, was in no real position to advance her case properly. In Australia today, I find that very, very disturbing.

I think that the government have accepted responsibility completely and frankly and have confronted the responsibility that flows from this grievous error to this poor lady. This case is now being managed on a whole-of-government basis. The government stand ready to bring Ms Solon back to Australia as soon as she is willing, ready and able to come back. We are providing her with a substantial support package at the moment, and we have been providing that support package for several months as I stand here today. She has free medical and health care, including private services if required, for as long as required. She has carer support up to 24 hours a day for as long as is required. She has health related aid and transport to health services for as long as is required.

Other assistance includes a $25,000 lump sum resettlement package, free accommodation and transport to necessary non-health-related appointments for six months from the date of delivery of the Comrie report. I can inform the chamber that that six months has not begun to run as yet. This can be extended if arbitration and mediation as to her circumstances are ongoing. Ms Solon also has a mobile phone with prepaid credit of $500, and she is entitled to three return trips between Sydney and Brisbane in the first six months for family reunion visits.

The government has advised Ms Solon that it is willing to consider any claim for compensation and that this would be treated quite separately from the assistance being offered to support her resettlement and her health predicaments as of now. All of the matters that are afoot—and there are further matters—to assist this lady as a result of this erroneous action are separate to the overall compensation that she is entitled to into the future. Discussions are continuing between Ms Solon’s lawyers and the Australian Government Solicitor, acting on behalf of the Commonwealth, on those compensation related matters. It is probably inappropriate to go any further down that path, other than to say that the lawyers are debating, discussing and negotiating the matter.

Ms Solon’s brother, who is providing her some assistance in the Philippines, has been granted a short-stay visa valid for three months and can apply to extend that onshore here in Australia upon his arrival when Ms Solon returns to Australia. The short-stay visa enables him to accompany his sister. It is open for him to apply for another visa, as I say, upon his arrival here.
In Manila, the support arrangements were revised in August to provide Ms Solon with a level of care and assistance that is more consistent with the level of ex gratia assistance she will receive in Australia. We have sought to bring the quality of care in Manila up to an Australian standard. Ms Solon’s daily allowance has increased from $75 per day to $100 per day. I think that is a substantial benefit. While it does not necessarily sound that much in Australia, it is a substantial benefit in terms of the Philippines. Ms Solon is now responsible for managing this allowance to cover her food, household expenses and incidental costs, excluding health costs. So the money that she is receiving for her maintenance, care and support excludes health costs.

From 8 August this year, the Commonwealth is no longer covering the costs of Ms Solon’s Philippines-resident family while they are in the Philippines. The Commonwealth also withdrew the Centrelink family liaison officer on 8 August because of the continued delay in her return. The family liaison officer from Centrelink was primarily in Manila to organise her return. There has been a substantial delay in this. The reasons for this are unclear. There is some suggestion that she is quite happily disposed towards and settled into her situation in the Philippines—and understandably so after such a long time. So it has been resolved to review the position of the family liaison officer pending her firm decision to come back to Australia.

The Commonwealth has finalised a package of ex gratia assistance that it considers appropriate and that addresses Ms Solon’s immediate resettlement needs. Her lawyers were given final advice on the details of this package on 29 July. A 12 August 2005 letter from her lawyers indicated that there were five outstanding matters related to this assistance package. The Commonwealth solicitor and legal representative met with her lawyers on 1 September this year. At this meeting, her lawyers failed to raise any of the outstanding resettlement package issues as outlined on 12 August but instead requested the Commonwealth provide a landline telephone connection instead of a mobile phone with a $200 per month call allowance. These matters are all subject to further discussions and negotiations.

The Australian Government Solicitor advised Ms Solon’s solicitors that the six-month ex gratia accommodation period would now commence at the tabling, filing or publication of the Comrie report. On that basis, we look forward to Ms Solon’s early return. I am instructed that the Commonwealth solicitor has advised solicitors for Ms Solon that, while the ex gratia assistance package will now run from the date of that report, the six-month period can also be extended in a bona fide process of arbitration and mediation.

Having said all of that, it seems, and I would assert, that the Australian government has substantially shouldered the responsibility that has flowed from this very unhappy and unsavoury set of factual circumstances, being the genesis of Ms Solon being deported to the Philippines. I say in passing that, whilst there were some issues that the committee had to confront from DIMIA—indeed, there was the late lodging of 2,500 folios of information at a time when the committee was effectively given no opportunity to review such a large volume of data—I think the DIMIA officials who appeared before the committee have also shouldered the responsibility and confronted the department’s failings in this case. I pay particular tribute to Ms Yole Daniels, who is apparently the team leader from DIMIA, who was given the poisoned chalice—one could not say anything other than that—to take the committee through precisely what happened. I
believe that she was honest and faithful in presenting what the department discovered within its internal processes upon realising that there had been a wrongful removal from Australia.

Having set out those important facts, the last thing I want to say is that the underlying genesis, the underlying cause, of her wrongful removal is yet to be determined. The processes at the time were deficient and were open to sloppiness. Indeed, I think that says a lot about the reasons for this. But I must also say that, in our modern computer-age world of databases, this lady has four names: Alvarez, Solon, Young and Cook. I am not sure that there can be any excuse attaching to those but I find it very difficult to avoid the proposition that, in all of the searches, there was some problem relating to her name.

Senator BARTLETT (Queensland) (12.28 pm)—The Democrats and I support this report and would like to associate ourselves with it and the comments that other speakers have made. Whilst this case is still being fully investigated, I do not think there is any doubt that not only has a terrible tragedy befallen a totally innocent and indeed already unwell woman—a woman whose family are, as I understand it, living in my home town of Brisbane—but this has also been a gross miscarriage of justice.

The people who are responsible for what happened to Vivian Solon must be identified and, where and if appropriate, dealt with according to law. Whilst it is certainly true that the mistake happened, as Senator Johnston has just said, it is hard to see how the original gross mistake was made. What causes me even greater concern about this case, if that is possible, is what seems to be incontrovertible evidence that somewhere along the way, after Ms Solon was deported, at least one person if not more people in DIMIA and possibly also in DFAT became aware of what had happened but did nothing. That is even more inexcusable and I really believe that, if that is the case, those who are responsible should be dealt with appropriately.

I do want to take this opportunity to say that, whilst all of this assessment should be done and is appropriate—and there is more to be done—we do need to make sure that we do not have a situation where the finger of blame is pointed and, having been pointed, it then moves on, along with the political, media and public focus. What we have to do, apart from ensuring that Vivian Solon gets just redress—and we must do more to try to resolve, once and for all, her current situation, at least to resolve the dispute about getting her back to Australia to see her children—is learn from it and try to ensure it does not happen again.

We have had many acknowledgements in this chamber and elsewhere, from government ministers and others, that DIMIA has a culture problem that must be addressed. As this interim report and others that have come down in this place recently show, it is becoming clearer that that cultural problem extends to parts of the Department of Foreign Affairs and Trade as well. But part of that is recognising that the reason behind some of this is not just incompetence and stuff-ups; it is an attitude of massive bloody-mindedness and a total disregard for what is being done to human beings—innocent human beings. That attitude and that culture must change.

I believe very strongly that the sort of suffering, damage and gross injustice that occurred to Vivian Solon has occurred and is currently occurring to many other people in Australia and outside Australia. Each circumstance is different, but the common thread is gross injustice, gross bloody-mindedness and massive human damage, totally out of proportion to any offence that
may have been committed, even where there was an offence, which in many cases there was not.

I must take this opportunity to point to just one such case, which has got some coverage this week—that of Valbona and Ergi Kola. That is a case I have followed behind the scenes for a long time. I have seen a lot of documentation. I know other MPs, including some in South Australia—for example, my Democrats colleague Kate Reynolds, also Liberal South Australian MP Julian Stefani—have followed this case. Mr Cobb, the Minister for Citizenship and Multicultural Affairs, made comments on the case yesterday in the House of Representatives, basically saying, ‘These people are frauds; we found them out—they were using false identities,’ and, therefore, all that has been done to them over the last six years is justified. I say to Mr Cobb, and I know his comments are based on what he has been given by his department: just think about the possibility that you are wrong. What if you are wrong, and what has been done to those people has been based just on an anonymous dob-in, a refusal by DIMIA to accept the facts, and this couple have been driven to the brink as a result of that bloody-mindedness?

This woman is 7½ months pregnant. Her husband is in detention. I am willing to say I am wrong if I end up being wrong, but I fundamentally believe they are who they say they are. They were acknowledged as refugees by the UN back in the 1990s. They suffered enough where they came from, but what has been done to them since they arrived in Australia is a disgrace. This seems to me to be another case where stuff-up after stuff-up inside DIMIA has occurred because they do not want to admit they are wrong, so they will keep persecuting and pushing, trying to break people and find any way possible to get them out of this country. If I am wrong, I apologise, but I tell you: if I am right, what we have done to them is a disgrace. (Time expired)

Senator LUDWIG (Queensland) (12.33 pm)—I seek leave to make a short statement on this report.

Leave granted.

Senator LUDWIG—I rise to speak on the removal of, search for and discovery of Ms Vivian Solon. I took part in the committee as a participating member but in a fullsome way, and I thank the government for allowing me to speak in this short debate. The report demonstrated clearly that there were serious flaws in the decision making process that DIMIA arrived at when dealing with Ms Solon. There were other serious flaws uncovered in both process and procedures. Having heard the various issues that went to the case and having heard evidence from both DIMIA and DFAT, the committee report stated:

The committee repeats its findings that the situation in DIMIA where references to an Australian citizen being removed from Australia were ignored or downplayed on more than one occasion is unacceptable and points to serious problems in work practices in DIMIA.

That is what the executive summary found and that is what the interim report notes.

Having been on the committee, I think someone has to be responsible for this. The Minister for Immigration and Multicultural and Indigenous Affairs has said she is not responsible for it. DIMIA has accepted some responsibility. But I am not convinced, after hearing from DIMIA and DFAT, that they have changed their work practices and put in place procedures to ensure that this does not happen again. I am not convinced and I remain unconvinced that they have in fact learnt from the case of Ms Solon. But we are yet to hear from the Ombudsman as to his findings, so we will have an opportunity to come back and revisit the matter then.
Senator HOGG (Queensland) (12.36 pm)—I seek leave to also make a short statement about the interim report.

Leave granted.

Senator HOGG—I thank the government. I do not think it is normal in these circumstances to go overtime in discussing the reports, but I just want to take a minute or so to say that, while I was not aware of exactly what Senator Ludwig was going to say, I share the same grave concerns about who was responsible in this particular matter. Clearly, the report, which Senator Johnston outlined, is a unanimous report of the committee and there is no dissent about what happened to Ms Solon: it is a great tragedy.

Nonetheless, the issue that really remains open for me, which we will pursue as the inquiry continues, is that I would like to know who bears the responsibility. This is not the only matter in respect of which DIMIA have ducked, dodged and weaved as to who bears the responsibility. Someone must have been responsible. Senator Ludwig asked: ‘Was it the minister? Was it the junior officer that we mentioned in the report, or was it someone senior?’ As a result of the report, we already know that the responsibility has moved from the junior officer level up to SES officer level, in terms of these major issues. This is a significant change in itself, and an important change. But no-one seems to want to claim the responsibility—not the minister, the senior SES officers or any junior officers. Everyone wants to say: ‘It was a mistake. We can walk away from it. It was a tragedy, and of course we hope it won’t happen again.’ That is not good enough.

I will also be pursuing issues such as: were the people responsible promoted within the department? Were they promoted just out of blind faith in the culture that exists within that department? Where are those people now? Are they still within the department? Are they still there to cause difficulties that were previously caused? And of course, as I say, ministerial responsibility cannot be forgotten under any circumstances in this case. And, of course, some of these people in the departmental structure would have received performance bonuses. Fancy getting a performance bonus for sending an Australian citizen overseas to the Philippines when that person should rightly have been kept in Australia.

There are still a lot of unanswered questions that will undoubtedly be pursued by the committee, and I thank all those senators and the committee secretariat for the work that they have done so far in the preparation of this report. I thank the Senate for the indulgence given to me. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

AUSTRALIAN TECHNICAL COLLEGES (FLEXIBILITY IN ACHIEVING AUSTRALIA’S SKILLS NEEDS) BILL 2005

Second Reading

Debate resumed from 14 September, on motion by Senator Coonan:

That this bill be now read a second time.

Senator WONG (South Australia) (12.39 pm)—I think I have five minutes left from the last occasion on which we discussed this bill, which was yesterday. I was discussing, prior to the adjournment, the comments made by the Australian Council for Private Education and Training in relation to the technical colleges:

It would need to be a commercial arrangement where there needs to be the opportunity to cover costs and have a return for the operator.

This is in the context of Minister Nelson admitting, in June, that private training provid-
ers associated with these colleges would be able to make profits.

So we now have the peak body for non-government training providers in Australia saying that there needs to be a profit margin involved. Yet, despite a constant insistence by the government that these colleges themselves would operate not for profit, Minister Nelson has now admitted that profit-making is an option available for the registered training organisations the colleges are required to have as formal partners. The request for proposal documentation released by the government requires college proposals to have a formal partnership with a registered training organisation to deliver the certificate II and III training forming the basis of the student’s apprenticeship. There has been complete silence from the government on the fees these organisations will be able to charge. All previous commitments to fees have related—

Senator Abetz—No compulsory student union fee.

The PRESIDENT—Order!

Senator WONG—The minister interjects on compulsory unionism. I am not sure what that has to do with this—

Senator Abetz—No compulsory student union fee.

Senator WONG—Senator Abetz has such an obsession with student unionism that, when we are discussing an important issue of vocational education and training and the Howard government’s inconsistent and haphazard policy when it comes to it, he feels the need to again bring up student unionism. The only thing I can say to Senator Abetz is: get over it. Get over it, really. I know you were a very keen student politician, though I am not sure how successful you were, but—

Senator Abetz—I topped the polls, Senator Wong.

The PRESIDENT—Order!

Senator WONG—Hopefully we have moved beyond that—

Senator Abetz interjecting—

The PRESIDENT—Order, Senator Abetz!

Senator WONG—We have moved beyond that now. We are actually in the national parliament and it is no longer student activist debating, although sometimes you would be forgiven for thinking it was when Senator Abetz is making a contribution to this chamber. He is not known for his high policy intellectual argument—

Senator Abetz—Very unkind.

Senator WONG—but he is very good at the student union debating style, and I am sure we will see more of that in the months to come as the government seeks to shut down debate in this chamber, as it has in the last few days.

Before Senator Abetz interjected, I was commenting on the government’s request for proposal documentation released which required college proposals to have a formal partnership with registered training organisations to deliver certificate II and III training, forming the basis of the student’s apprenticeship. There has been complete silence from the government on the fees these organisations will be able to charge. All previous commitments to fees have related to the fees charged by schools or colleges. Minister Nelson admitted during consideration in detail in the other place that, whatever an RTO would normally charge, we expect to be charged here. The government will be allowing private training providers to make profits, flying in the face of their earlier commitments.

Clearly, the Howard government’s takeover of technical education will make it more expensive for young Australians to study a
trade. This bill provides for funding agreements between government and the colleges. Funding will be dependent on conditions, many of which are not detailed in the legislation. Instead, they will be left to the government to determine on a case-by-case basis. Contrast this with the government’s approach taken in the Skilling Australia’s Workforce Bill. Although not detailed in the text of this bill, yet again the government has said its intent is to use these technical colleges to promote its ideological industrial relations crusade. Labor does not believe that vocational education and training should be used as a vehicle through which to drive an agenda which bears no relation to successful skills training and to education outcomes for students.

The government’s ideological obsessions are costing students, particularly in New South Wales. Despite strong bids in many of the eight New South Wales regions, so far only three technical colleges have been announced. The minister has cited technical reasons behind the delays in implementing these colleges. Now almost a year after they were promised, there are still no technical colleges. We can only speculate about whether the involvement of the New South Wales Department of Education and Training in the leading bids in these regions is thought to have been the ‘technical reason’ holding them back. Clearly the government is allowing an absurd paranoia to prevent them from working cooperatively with state and territory governments to stand in the way of investing in the nation’s skills.

This attitude is extremely strange, given Minister Hardgrave’s comments, in late June that, ‘Our ideal partners are with existing state government schools in an area.’ But then the opposition and the Australian people have come to expect implementation inconsistencies and blind ideology to get in the way of the government actually delivering on its election commitments.

Debate interrupted.

PROTECTION OF THE SEA (SHIPPING LEVY) AMENDMENT BILL 2005
Second Reading

Debate resumed.

Senator O’BRIEN (Tasmania) (12.45 pm)—The Protection of the Sea (Shipping Levy) Amendment Bill 2005 amends the Protection of the Sea (Shipping Levy) Act 1981. That act enables the government to impose a levy to allow the Australian Maritime Safety Authority to administer the national plan to combat pollution of the sea by oil and other noxious and hazardous substances. This is known as the national plan. The maximum rate of the protection of the sea levy is currently set under this legislation at 6c per tonne of a ship’s tonnage—that is, where a tonne is a unit of the net tonnage of the ship. However, the actual level of the protection of the sea levy is currently set at 3.3c per tonne of a ship’s tonnage and pays for the equipment, training and contracted services to ensure preparedness and response to any ship-sourced oil or chemical pollution incident in Australian waters.

This bill removes the maximum level of the protection of the sea levy, enabling that levy to be set by regulation. Its purpose is to allow for the extension of the levy to fund a national approach to maritime emergency towage while still continuing current activities in relation to the national plan. The need for a national approach to maritime emergency towage was identified in the June 2004 report of the House of Representatives Standing Committee on Transport and Regional Services entitled Ship salvage: inquiry into maritime salvage in Australian waters. I would like to take this opportunity to recognise former member for Bass Michelle O’Byrne for her hard work and commitment
to resolving this issue through that committee. Michelle has a great interest in the maritime industry and in protecting Australia’s pristine marine environment, and the committee report—and, to some extent, this bill—is in large part due to her commitment to those issues.

The committee inquiry was undertaken after a Productivity Commission report recommended that the provision of these services at Australian ports be opened up to market forces. Evidence presented to the committee suggested that such an arrangement would lead to an overall reduction in salvage and emergency towage capability. Australia simply cannot afford to take this risk. The issue was considered by the Australian Transport Council, which agreed in June 2004 to a national approach to emergency towage. ATC recommended a national scheme on the basis of full cost recovery from the shipping industry via a national levy. This bill puts that agreement into place.

Labor supports the bill, but it is now up to the government to put the ATC agreement into action and to make it work. Emergency towage and salvage are important services in terms of safety, security, environmental protection and economic considerations. Emergency towage is a matter of public good and cannot be left to chance. Just consider for a moment the consequences of a large container ship or a tanker running aground near the Great Barrier Reef and not having access to a quick and efficient emergency towage response.

The government has indicated that the national approach to emergency towage will be rolled out in two stages. The first is the extension of the AMSA navigational aids contract to allow for a dedicated emergency towage service in the Torres Strait northern section of the Great Barrier Reef. The government has indicated that this service will be in place by July 2006. I say that it is vital that this timetable be maintained. The second stage would be the roll-out of emergency towage operations at strategic locations around the coastline. This too must be completed as a matter of priority.

AMSA is committed to consulting with the industry on the roll-out of the national emergency towage scheme, including on identifying the locations and setting the level of the levy. Who else knows the maritime environment in this country better than the industry and the unions representing the people who work in the industry? The opposition notes that the levy applies uniformly to Australian- and foreign-flagged vessels. This is an important issue, particularly given the government’s wilful destruction of the Australian shipping industry and its acceptance of foreign-flagged vessels on the Australian coast. Since coming to power nine long years ago, the Howard government has systematically destroyed the Australian shipping industry. It has openly encouraged the cheapest ships in the world to ply our coast. Many of these ships operate in Australia with poor maintenance, low wages, substandard conditions for crews and no regard for environmental or other standards. In pursuit of cheap shipping rates, the Howard government pays no regard to Australian jobs, the welfare of seafarers, the safety of others navigating Australian waters or the protection of our precious coastal environment. Nor does Mr Howard recognise the security risk that he is opening this country up to.

As the Leader of the Opposition rightly pointed out recently in Gladstone, foreign-flagged vessels are operating on the Australian coast carrying dangerous goods such as ammonium nitrate and there is no way of effectively background-checking the crews. Only two weeks ago, an Antiguan-flagged vessel with a predominantly Ukrainian crew carried 3,000 tonnes of the highly explosive
ammonium nitrate between Newcastle and Gladstone. This action was endorsed by the Howard government, which issued that ship with a single voyage permit for this voyage. The Howard government continues to undermine the Australian shipping industry by issuing permits to cheap foreign shipping, despite not having any reliable way of checking the crews. It is time that the Howard government recognises that it is in the national interest for Australia to have its own vibrant shipping industry. There would be no need for dangerous goods such as ammonium nitrate to be carried into and out of our port cities on foreign-flagged ships if we had such an industry—and we have had such an industry in the past.

I take this opportunity to restate Labor’s second reading amendment to this bill, which says that the Senate condemns the government for failing to uphold Australia’s national interest by adopting anti-Australian shipping policies that favour foreign vessels and crew despite the risk to national security, Australian jobs and the natural environment. Frankly, this government should be ashamed of itself in taking an un-Australian approach to the shipping industry. Flags of convenience shipping may be initially cheap, but at what ultimate cost? I was reminded of this in a conversation I had last night with someone who had some information about the tanker Kirki that I think lost its bow off the coast of Western Australia. Parts of the deck were so shoddy that when an inspector walked on the deck his foot went through what appeared to be a substantial piece of decking because it was just a flimsy substance painted over to look like it was pristine and new. That is a risk that we take around our coastline, not to mention the security risk that is presented by these foreign flag vessels.

I have been given a copy of an amendment that Senator Milne proposes to move. I have not heard any debate about that nor had any contact about it to understand the full import of this second reading amendment. I understand that I have an opportunity to address that once it has been moved, so I will seek to do that later in the second reading debate once it has been moved and an explanation has been given as to its purpose. I move:

At the end of the motion add:

“but the Senate condemns the Government for failing to uphold Australia’s national interest by adopting anti-Australian shipping policies that favour foreign vessels and crew despite the risk to national security, Australian jobs and the natural environment”.

Senator STERLE (Western Australia) (12.54 pm)—Today I rise to speak to the Protection of the Sea (Shipping Levy) Amendment Bill 2005. The bill amends the Protection of the Sea (Shipping Levy) Act 1981 to remove the maximum levy rate, enabling prescription of levy rates through regulations. I understand that the government’s intention behind this bill is to raise revenue to finance a rescue tug for North Queensland. Labor supports this bill. Speaking in support of the bill, I would like to mention a few matters that relate to protection of the sea. In his second reading speech, the Minister for Transport and Regional Services said:

Australia to date has avoided a major pollution problem such as those experienced overseas.

The minister was either badly advised or ignorant of the issues in his portfolio. On 21 July 1991, the 97,000-tonne Greek tanker Kirki, managed by Mayamar Marine Enterprises of Liberia, lost its bow off the coast of Western Australia. During the incident some 17,280 tonnes of light crude were lost into the sea. The minister might not have thought that 17,280 tonnes of light crude represented a major pollution problem, but Western Australians disagree. Western Australians will not quickly forget the disturbing images of the crippled Kirki spewing oil into the sea...
Labor supports this bill but we firmly believe that there is a lot more that this government could be doing to protect the seas around Australia’s coast. Time and again we have seen this government sacrifice Australia’s national interest and also risk our national security with their anti-Australian shipping policies that favour foreign flag of convenience vessels and crew in the name of cheap shipping costs. It is not just the Labor Party that believes this. The Australian Chamber of Commerce and Industry 2005 policy document states:

‘Open Registry’ systems (also known as ‘flags-of-convenience’) should not be used to circumvent globally recognised standards of maritime safety. I do not expect this arrogant government to respect the sensible advice it receives on maritime issues from the Labor Party but I would have thought they would show a little more respect for the views of their masters in the Chamber of Commerce and Industry. Both Labor and the Chamber of Commerce and Industry know that flag of convenience shipping registers offer a safe haven for dangerous rusting hulls and tyrant captains.

An independent review of this government’s administration of coastal shipping licences and permits for foreign vessels undertaken by KPMG for the Department of Transport and Regional Services provides a damning indictment of just how eagerly this government is to let these floating coffins move freight in Australian waters. The review found:

One in six permits for foreign vessels were granted without a signed application;

\[\ldots\]\n
Data relating to one in five permits was incorrect or absent altogether;

\[\ldots\]\n
The Government was in breach of the Navigation Regulations and Ministerial Guidelines on the regulation of coastal shipping by failing to establish if a licensed Australian vessel is available before issuing a permit to a foreign ship.

That is how this arrogant and extreme government protects the sea—by turning a blind eye to flag of convenience vessels and changing the way levies are collected. I put it to the Senate that there is a lot more this government can and should do to protect Australia’s seas. They can start by obeying the law. Once they have got the hang of that, they can progress to following their own ministerial guidelines. Then they will be well placed to follow the advice of both the Labor Party and the Chamber of Commerce and Industry by ensuring that flag of convenience shipping registers are not used to undermine Australia’s maritime safety.

**Senator MILNE** (Tasmania) (12.58 pm)—I rise today to say I will be supporting the legislation and I will also be supporting the amendment moved by Senator O’Brien. I share many of the concerns that have just been outlined by Senator O’Brien and Senator Sterle in relation to foreign flag ships of convenience, the way that the crews are treated and the whole issue pertaining to undermining Australian standards and Australian workplace conditions. We have had many scandals in recent times about what has gone on on some of those ships.

The amendment that I am moving relates to the issue of single-hull tankers. As the Senate would be aware, there has been a lot of concern from the environment movement and the general community for a long time about the use of single-hull tankers and the unacceptable risk that they pose to the marine environment, particularly in the Australian context to the Great Barrier Reef, by their continued use.

There has been a lot of discussion and it has taken a few disasters overseas—the Pres-
The ACTING DEPUTY PRESIDENT (Senator Forshaw)—Senator Milne, you have foreshadowed an amendment, and I will be asking you to move that amendment after we have dealt with Senator O’Brien’s second reading amendment.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (1.04 pm)—The Protection of the Sea (Shipping Levy) Amendment Bill 2005 will strengthen Australia’s protection of our pristine marine ecological integrity is incredibly important to the whole world. It is recognised as a World Heritage area. There has been concern for a long time about allowing these heavily laden ships to use the inner route of the Great Barrier Reef. Many captains have opted, fortunately, to use the outer route, so the percentage of ships using the inner route has gone down in recent years. But there still is some debate about which route is safer, because the outer route, where many of them are now going, can be very rough and so the capacity for accidents may have increased. It is a debatable point.

From my point of view—and I hope from the Senate’s point of view—the main thing is that, to protect the marine environment and the Australian Great Barrier Reef, it was a good move to accelerate the phase-out of category 1 single-hull ships by 5 April this year. But I am seeking the Senate’s support to bring forward the phase-out of categories 2 and 3 to December 2005—this year. I believe that state parties to the MARPOL convention are able to voluntarily bring forward the phase-out period, but globally they will be required to refuse entry to ships of that kind by varying dates between now and 2010 for ships built at different periods. That is the rationale for my particular amendment and for wanting to go into the Committee of the Whole for a brief period.
environment by minimising the risks of marine pollution. It does this by ensuring adequate funds will be available for implementing a national approach to emergency towing. The government has full confidence that these measures are of great benefit to the Australian people, especially those living in coastal communities. I thank senators for their support and commend the bill to the Senate.

Question negatived.

Senator MILNE (Tasmania) (1.05 pm)—I move the second reading amendment standing in my name:

At the end of the motion add:

"but the Senate is of the view that:

(a) the current requirement to phase out single hull tankers is set at the year 2010; and

(b) that this time limit is unacceptable and Australia must deny entry into its ports or off-shore terminals to all single hull tankers from December 2005”.

Senator O’BRIEN (Tasmania) (1.05 pm)—I indicated that I wanted to hear the contribution by Senator Milne in support of her amendment, as I had only seen it immediately before entering the chamber today, and it has again changed. I appreciate that it has changed in the interests of accuracy. I respect that. Indeed, I do have a lot of support for the principles that underpin this amendment. Understanding the nature of the risk posed by single-hull tankers, I think it is desirable that they be removed from the Australian coast as soon as is possible and practicable. My concern is that, in the limited time that I have had available to me, it has been hard to ascertain the practicality of the alternative date proposed in the amendment of December 2005, given that I do not know what impact that would have on various parts of the country in terms of the delivery of certain products and the consequences of that.

I am aware that various jurisdictions have been agitating to bring those dates forward and, as I understand it, the bringing forward of those dates has had regard to the availability of multiple-hull tankers to replace the single-hull tankers. So, although I would support as early a date as is practicable and possible for the removal of the tankers, in the absence of information which can assure me that there would not be unintended consequences of the date December 2005, I am afraid that I am not in a position to support that. However, I do stress that I support the principles that lie behind this amendment in terms of removing as expeditiously as possible single-hull tankers of all types from the Australian coast. If it is possible to do that without unintended and undesirable consequences then I would urge the government to do that, and perhaps there will be another opportunity to revisit this issue when we have more time to consider the details necessary to understand the full impact of such a resolution.

Question negatived.

Senator MILNE (Tasmania) (1.08 pm)—I recognise the convention not to call a division, and that is fine. But I would ask that my support be acknowledged.

The ACTING DEPUTY PRESIDENT (Senator Forshaw)—That will be done, Senator Milne.

Original question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

The TEMPORARY CHAIRMAN (Senator Forshaw)—The question is that the bill stand as printed.

Senator MILNE (Tasmania) (1.09 pm)—I ask the government to respond to some of
the issues that I raised in the second reading debate. Firstly, has the April 2005 deadline been met in terms of phasing out all category 1 single-hull tankers and have they been refused entry to Australian ports since that time? Secondly, I would like to ask the government whether they have considered moving forward the phase-out to this year, given that they have already, presumably, accepted the phase-out to April 2005 of category 1.

I would like to have the government’s view on where they are up to in considering these matters, especially as the Great Barrier Reef is so incredibly fragile and especially as it is under even more pressure than ever because of global warming and the bleaching and so on of the corals. It is important for the Australian community to know what action the government is taking in relation to the MARPOL convention, particularly in relation to this matter. It is important that we know what the government is thinking about and whether it is prepared, in the light of the expression of support for the principle of my second reading amendment given by the Labor Party—and I am sure that I speak for Greens senators as well—to move forward in this matter. The nature of the government’s bill demonstrates its concern about pollution and increasing the capacity to deal with that pollution, and I welcome that. But I would really like to know whether the government is actively considering bringing forward the date from 2010, and what impediment there would be to doing what I am asking and bringing it forward to December 2005 for category 2 and 3 tankers.

Senator MILNE (Tasmania) (1.12 pm)—In relation to that, would the government please table the documents that show that consideration has been given to accelerating the phase-out period? Could you please provide the economic analysis which suggests that phasing out categories 2 and 3 single-hull tankers would have the adverse impact that the government is saying it would? It is really important. I understand the government is complying with the MARPOL phase-out, but why can we not take on something a little more ambitious, given our particular concern in Australia about the fragility of a World Heritage area, namely the Great Barrier Reef?

I know that the minister is particularly interested in the safety of the oceans. He has made that quite clear and he has taken quite a strong stand in relation to issues pertaining to the ocean, and I welcome that. In fact last year at the IUCN congress in Bangkok I took part in drafting a motion congratulating the government on the work it had done on the Great Barrier Reef. So I do understand that the minister is very keen on protecting at least the marine environment. I ask to see the documents that demonstrate that there has been an examination of accelerating the time frame, rather than just accepting the IMO recommendation in terms of the phase-out timetable.
Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (1.14 pm)—We do not have available here the information that you request in relation to that. We would have to consult with AMSA to retrieve that information, so a question on notice may be the best avenue for you to receive that information given where we are in the debate at the moment.

Bill agreed to.
Bill reported without amendment; report adopted.

Third Reading
Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (1.15 pm)—I move:

That this bill be now read a third time.

Question agreed to.
Bill read a third time.

Sitting suspended from 1.16 pm to 2.00 pm

MINISTERIAL ARRANGEMENTS
Senator MINCHIN (South Australia—Minister for Finance and Administration) (2.00 pm)—by leave—I inform the Senate that Senator Hill is absent from question time today. He is overseas on official business to attend meetings with NATO officials in Brussels and to join the final day of the Defence Systems and Equipment international exhibition in London to support ‘Team Australia’. During Senator Hill’s absence today, I will take questions on the Prime Minister and Cabinet and Trade portfolios. Senator Ellison will take questions on the Defence, Veterans’ Affairs and Foreign Affairs portfolios.

I also inform the Senate that Senator Ian Campbell, Minister for the Environment and Heritage, will be absent today. Senator Campbell is in Indonesia representing the Australian government at the second Asia-Pacific Economic Cooperation ocean related ministerial meeting. During his absence, Senator Ian Macdonald will take questions on the Environment and Heritage portfolio and the Transport and Regional Services portfolio.

QUESTIONS WITHOUT NOTICE
Telstra
Senator STEPHENS (2.01 pm)—My question today is to Senator Minchin, the Minister representing the Treasurer. I refer the minister to ASIC’s investigation of Telstra and to ASIC chairman Jeff Lucy’s confirmation on Tuesday that comments by the Prime Minister form part of this investigation. Is the minister aware that by 10 o’clock yesterday morning ASIC confirmed Mr Lucy’s statement by way of an email, stating:

... any comments made by Telstra executives and members of parliament will be considered in the context of Telstra’s continuous disclosure responsibilities.

Can the minister explain why a few hours later on the same day ASIC issued a media release contradicting those statements? Was the investigation completed between 10 am and 1 pm yesterday, or is there another reason for ASIC’s backdown? Given that the minister had two opportunities yesterday to assure the Senate that neither the Prime Minister’s office nor the Treasurer’s office sought to influence ASIC’s position, can he now provide such an assurance?

Senator MINCHIN—This sounds like a very familiar line of questioning. I thought we were asked about this yesterday so I will, in effect, repeat what I said yesterday. But I can add to my answer from yesterday by noting, as I am sure the opposition has noted, that the Treasurer, to his great credit, did say in question time yesterday, when asked a similar question, that yes, indeed, he had spoken to Mr Lucy yesterday morning, hav-
reading press reports of the events at the committee the previous evening. He said quite openly and honestly that he obviously spoke to Mr Lucy to ask about the events at the committee hearing to inform him—that is, the Treasurer—so that he would be able to answer any questions that may arise during the course of question time in the House of Representatives. He was, therefore, able, with that information, to answer questions from the opposition in the House of Representatives yesterday based on the conversation he had had.

But, as the Treasurer also said, it really is outrageous for the opposition to infer by its line of questioning that Mr Lucy, a man of integrity and honour and a statutory officer of ASIC, could be open to influence, because that is the tone and gist of the line of questioning. That is a really outrageous slur upon Mr Lucy. That is what is being suggested—that Mr Lucy is open to being bullied into saying things by the government. That would be contrary to all of his statutory obligations. Mr Lucy would be acting contrary to his own statutory obligations were he to do so. It is perfectly proper for the Treasurer to seek information from Mr Lucy with regard to press reports about his statements on this matter and to clarify them.

As I said yesterday, it also goes to this point that the opposition is completely misrepresenting the nature of the ASIC investigation. It is an investigation into the continuous disclosure obligations of Telstra. It is not an investigation into what the Prime Minister or any other minister said. As Mr Lucy said, obviously in the course of the investigation into Telstra’s obligations they examine all material available to them, and that may include statements by ministers and others. But the inference that there is some investigation of the Prime Minister is nonsense, and that was the point that Mr Lucy sought to clarify.

**Senator Stephens**—I thank the minister for his response and I ask a supplementary question. Mr Lucy’s statement actually said:

... any comments made by Telstra executives and members of parliament will be considered in the context of Telstra’s continuous disclosure responsibilities.

So I ask the minister: does the minister accept that ASIC’s activities should be independent from any actual or perceived political pressure, the perception being that the Prime Minister’s office and the Treasurer’s office sought to influence ASIC’s position? Can the minister now guarantee that there was no political interference in this case?

**Senator Minchin**—That is the opposition’s warped interpretation of what occurred. It is just a nonsensical interpretation—which is typical of the opposition. For the Treasurer to have a conversation with a statutory officer who is in his portfolio area to seek information from him to enable him to answer questions in the House of Representatives from the opposition, so that he is better informed, is quite proper, and it is quite proper for the officer then to put out a statement, in response to the wild accusations by the opposition with regard to the ASIC investigation, that it is not investigating the Prime Minister’s remarks.

**Telecommunications**

**Senator Nash** (2.06 pm)—My question is to the Minister for Communications, Information Technology and the Arts, Senator Helen Coonan. Will the minister advise the Senate how the $3.1 billion Connect Australia package will deliver for rural and regional Australia? Is the minister aware of any alternative policies?

**Senator Coonan**—I thank Senator Nash for the question and note the important mark that she is making in this place in looking after the interests of rural and regional...
Australians. Connecting Australians to quality communications services has been a priority for the coalition government since 1996. With so many Liberal and National members representing rural and regional constituencies, we have been acutely aware of issues facing the bush. In telecommunications in particular those issues were real and very pressing, which is why this government have already spent more than a billion dollars improving regional communications. It is why we are now going even further with new funding and competitive reforms to offer both choice and certainty to rural and regional Australia.

Senators on this side of the chamber are well aware that the Howard government is implementing the biggest regional telecommunications package in Australia’s history. This is a historic package. We are providing a lot more than just the $1.1 billion in targeted funding and the $2 billion Communications Fund to future-proof telecommunications. We are also providing a much more robust regulatory framework for the telecommunications industry, while maintaining strong safeguards to protect consumers. Most people who look carefully at these issues agree that competition is the best way to deliver choice, innovative services and, of course, most importantly for consumers, lower prices.

Competition has already cut average telecommunications costs for consumers by 20 per cent. It is competition that is delivering innovative technology such as the trial project in Tasmania to provide high-speed broadband over power lines, which I talked about yesterday. Because this government does not pick particular technologies or providers, there are well over 100 telecommunications companies out there competing for the consumer dollar. That is what a healthy, competitive market is all about. We are leveraging targeted funding through programs that will encourage the roll-out of wireless networks, high-speed fibre optic links, and the innovative delivery of health and education.

Senator Nash asked me whether there were any alternative policies, and it set me thinking about how this compares to Labor’s policy on communications. After almost a decade in opposition, according to my researches Labor have not demonstrated that they have a plan, any plan, for telecommunications and Labor do not have a clue about looking after consumers in regard to telecommunications. Labor’s only policy is to own Telstra and, even on that score, Senator Conroy told the John Faine show that most Australians do not care about Telstra’s ownership structure. Labor have belled the cat. We know that they do not really care about the ownership structure of Telstra. Perhaps they might now turn their minds to what would really deliver benefits for those in rural and regional Australia. Labor have, for instance, no customer service guarantee, no network reliability framework and no protections for low-income earners. We do not know whether they would retain these important safeguards for consumers. Labor’s legacy in the bush was to shut down analog, as we all know, and to leave people in the country stranded. The government’s record of improving regional telecommunications is unparalleled and we will continue to deliver for rural and regional Australia.
paid more for concessional rail travellers, even though the actual number of concessional travellers declined markedly? Specifically, is the minister aware that her department administered an increase in payments from $2.7 million to $4.9 million to Great Southern Railway for subsidised concessional rail travel in the years after the sale, even though the number of concessional travellers fell by 20 per cent from 90,000 to 72,000 per year? Can the minister now explain why her department allowed this to occur and why they were unable to fully explain this absurd situation to the Audit Office?

Senator PATTERSON—I thank the honourable senator for his question. I welcome the Australian National Audit Office report and its recommendations. I point out that the fieldwork for this report was mainly conducted last year and current policies and procedures have developed significantly since that time. I am pleased to note that my department has already acted on the recommendations in the Audit Office report. As we improve technology generally, it impacts on the way we can better direct our payments, not only in this area but, for example, in social security. Now that the technology allows it, the 2005 contract with Great Southern Railway has moved to an electronic confirmation system that will enable payments for the actual travel of eligible passengers. I have been advised that at no time was the government exposed to financial risk as a result of the contract.

Senator CHRIS EVANS—I ask a supplementary question, Mr President. I do not think the minister answered the key question as to why the government continued to pay increased funds to Great Southern Railway while the railway was providing services to fewer passengers. Serious amounts of Commonwealth moneys have been paid for fewer services. Didn’t the Audit Office conclude that the Department of Family and Community Services had no idea why costs were increasing at the same time that usage was falling? Why did the minister allow that to occur under her watch? Can she assure the Senate that we are getting good value for money?

Senator PATTERSON—I thank the honourable senator for his supplementary question. The Auditor-General’s report has been received. The Auditor-General’s report has been acted on under my watch.

Building and Construction Industry

Senator McGAURAN (2.13 pm)—My question is to the Special Minister of State and Minister representing the Minister for Employment and Workplace Relations, Senator Abetz. Is the minister aware of any recent court decisions which highlight the methods of intimidation and standover tactics which are rife on Australian building sites? What action is the government taking to clamp down on this lawlessness? Is the minister aware of any alternative policies?

Senator ABETZ—I thank Senator McGauran for the question, for drawing my attention to an article in today’s media and for his ongoing interest in ensuring that the rule of law actually abides on Australian building sites. There was an article in the West Australian newspaper this morning entitled ‘CFMEU men guilty of building site assault’. It does make interesting reading. The article states:

Union heavyweight Joe McDonald has been convicted of assault after trying to force his way onto a construction site.

He was convicted of assault on another worker. Do you know what? Mr McDonald said of his conviction for assault:

We make no apologies for representing our membership, we make no apologies for representing the interests of our members.
This was his third conviction for this type of activity. I ask those opposite: do you condone this behaviour? There is no condemnation. I ask the Australian Greens whether they condemn this type of behaviour. They also refuse to condemn this sort of behaviour. We on this side make no bones about it—we do condemn this type of behaviour. It is little wonder that union membership in this country is declining when that is the sort of representation that workers get.

It is the last sitting day, so I thought I would try a couple of ‘who said its’. This one ought to be relatively easily. It was only said a few weeks ago:

... the Howard Government has not even been able to demonstrate that a problem exists in the building and construction industry ...

There are no takers, but I will give those opposite a hint: it was said seriously, believe it or not, by a Labor frontbencher that sits here, and she is a female. You have a one in four chance. They are pretty good odds. Of course, they all know, and Senator Lundy is now very busy all of a sudden with her laptop. It was Senator Lundy who said it. This is even better—who said this:

I think that any system requires tough rules and a strong umpire and the umpire’s decision needs to be abided by.

... ... ...

I don’t condone crooks ... If there are implications out of the Royal Commission that point to crookedness and corruption, the full force of the law should be brought against them.

Who do you think said that? I will give those opposite a clue: it was a former Labor leader, but it was not Mr Latham. You need not worry—there is plenty of time to quote Mr Latham in future sittings. It was none other than Mr Simon Crean. No wonder those opposite were so anxious to get rid of him as leader.

The weight of evidence from the Cole royal commission, from these court actions and from the Building Industry Taskforce has clearly shown that there is a problem in the building and construction industry—that there is, to quote Simon Crean, ‘crookedness and corruption’ in the building industry. Yet those on the other side seek to deny the overwhelming evidence that exists. Senator Lundy, as a Labor frontbencher, says there is no problem. When I ask those opposite whether they condemn the thuggery of the CFMEU official who has now been officially convicted of assault, do they condemn that behaviour? They remain silent. Even now they are not willing to condemn this sort of behaviour, nor are the Australian Greens.

(Time expired)

Great Southern Railway

Senator O’BRIEN (2.17 pm)—My question is to Senator Patterson, the Minister for Family and Community Services. I again refer the minister to the damning Audit Office report into the post-sale management of contractual obligations of the privatised rail business. Is the minister aware that the Commonwealth sold Pax Rail to Great Southern Railway in 1997 for $16 million? Is the minister further aware that to date her department has paid the new owners of the business over $23 million to fund concessional travel? Can the minister now explain whether she believes that it is an example of competent management to sell a company for $16 million and then to pay the new owners that money back plus an extra $7 million to boot in the period after the sale and not get value for money?

Senator PATTERSON—They are digging at the bottom of the barrel for questions. There have been two questions on Great Southern Railway. There are many other questions that could be asked. I indicated in answer to Senator Evans’s question about
our response to the Auditor-General’s report and whether there had been any loss of revenue as a result of this that we have talked to the Department of Finance and Administration and I have been advised that at no time has our government been exposed to a financial risk as a result of this. I have indicated quite clearly that we responded to the ANAO’s two major criticisms, and that that was done under my watch.

Senator O’BRIEN—Mr President, I ask a supplementary question. Is the minister aware of any other instances in her portfolio where the Commonwealth has sold an asset at a loss only to pay the new owners more than the sale price after the sale? Isn’t the contract with Great Southern Railway about concessional rail travel just another example of financial mismanagement and blatant disregard for the use of taxpayers’ money? Does this minister claim that this is an example of this government’s competence?

Senator PATTERSON—I do not see that as a relevant or appropriate supplementary question. I have answered the question. The ANAO had a report; I welcomed the report. I have indicated we responded to both of those issues. If you want to talk about mismanagement within the portfolio, let me tell you about Labor’s record. Let me tell you that when we came into government Senator Newman put in place measures to save $57 million a week in fraud and overpayment of social security. You only have to go back and look at one thing to see your record—

Senator Chris Evans—Mr President, I rise on a point of order. I bring to your attention the question of relevance. Senator Patterson has become a serial offender at failing to answer the question. She was asked a question about $23 million worth of expenditure on a $16 million sale, and she seeks to talk about what Senator Newman had to say 10 years ago. Quite frankly, it is not all relevant and she is abusing question time. I would encourage you to require ministers, particularly Senator Patterson, to address their answers to the question.

Senator PATTERSON—On the point of order, Mr President: we have seen, every time I have answered a question in this place in the last few weeks, Senator Evans getting up and calling a point of order on my answering the question. It is a tactic on the part of Senator Evans. He needs to concentrate on developing some policies. It is highly relevant that we saved $57 million a week.

The PRESIDENT—There is no point of order from either senator because, as they know, I cannot direct a minister how to answer a question.

Women

Senator FERRIS (2.22 pm)—My question is to the Minister for Family and Community Services and the Minister Assisting the Prime Minister for Women’s Issues, Senator Kay Patterson. Will the minister inform the Senate of the government’s achievements for Australian women and how the Howard government’s strong economic management is providing increased opportunities and choice for women? Is the minister aware of any other policies?

Senator PATTERSON—I thank Senator Ferris for her question and her long-term interest in issues affecting women. I know the Labor Party will now start interjecting because they do not want to hear the news about the significant advances that the Howard government has achieved for women. Over 900,000 more women are in jobs since we came into government. More than half of the new jobs created since 1996 have gone to women. In 1996 fewer than 50 per cent of Australian women were in employment. This has now risen to a clear majority, over 54 per cent. Full-time adult ordinary-time earnings for women have increased in real terms—
that is, after you take out inflation—by over $170 a week. That is not being eaten up by high interest rates, high inflation and other soaring costs that were occurring under Labor. Female earnings are growing faster than male earnings, and the gap between male and female earnings is closing under the Howard government. While this is an impressive list of achievements, the government has a clear plan to develop and deliver further benefits for women.

Tomorrow in Sydney I will hand down my report as outgoing chair of the Commonwealth, State, Territory and New Zealand Ministers’ Conference on the status of women. One of the major issues being discussed is women and financial literacy. The Australian government has also undertaken consultations with a range of groups in relation to women, superannuation and retirement incomes. Figures released this week show that women are making the most of the chance to improve their retirement balances. Sixty-three per cent of beneficiaries who received a co-contribution were female. This is a measure to assist people on lower incomes with saving for superannuation. We have seen 63 per cent of those who benefit from that being women. The average payment is worth about $570. This is a measure that Labor, in its pre-election commitment, was going to abolish. It is a huge assistance to women saving for their retirement to give them economic security.

Improving women’s retirement savings is a Howard government policy objective reflected in the co-contribution scheme and the abolition of the work test for superannuation contributions. Tomorrow I will be asking my state and territory counterparts to help produce targeted material in relation to women and superannuation and to participate in a joint project with a financial literacy foundation—another initiative of the Howard government—to improve women’s financial literacy. Through our strong economic management, Australian women now have more opportunities and choice, including those provided by work force participation. To sum up the achievements for women: we have seen more jobs, higher earnings, better support for families and a tax system that allows Australians—men, women and families—to keep more of every extra dollar they earn.

Family Impact Statements

Senator FIELDING (2.25 pm)—My question is to the Minister for Family and Community Services, Senator Patterson. When the Prime Minister agreed to Family First’s proposal to prepare family impact statements, the public thought the idea was to benefit them. As the minister responsible for family impact statements, which are for families’ benefit, do you think families should have the information in the family impact statements to decide how government decisions will affect them?

Senator PATTERSON—The Howard government has always considered family impact within its measures and initiatives. As a result of the discussions that the Prime Minister had with Family First, that was more formalised through family impact statements to cabinet. We have other impact statements. We have rural and regional impact statements, we have environment impact statements and now we have formal family impact statements. But those impact statements have not been public documents. Cabinet-in-confidence documents are not made public until 30 years afterwards. I know that Senator Fielding has been in discussion with the Prime Minister about the possibility of them, or some other form of impact statements, being available. Let me just say that legislation, where it is relevant, is now subjected to a more formal family impact statement approach. As to whether that information will become public, that will
be the decision of the Prime Minister. It has not been traditionally the case that cabinet-in-confidence documents are made public.

**Senator FIELDING**—Mr President, I ask a supplementary question. Minister, do you agree with the view of some of your colleagues that the Telstra bill is not really a family related bill but an economic bill and, if so, which bills do you think would be family related bills?

**Senator PATTERSON**—The second part of that question is a hypothetical question. But the Telstra bills and Telstra privatisation were considered in the light of family impact statements.

**Broadband Services**

**Senator ADAMS** (2.28 pm)—My question is to be Minister for Communications, Information Technology and the Arts, Senator Helen Coonan. Is the minister aware of concerns regarding the winding-up of the Higher Bandwidth Incentive Scheme? What initiatives is the government undertaking to ensure that all Australians will continue to receive affordable broadband access? Is the minister aware of any alternative policies?

**Senator COONAN**—I thank Senator Adams for the question—a new Liberal senator, also with a rural background, making a very big impact in this place in looking after rural and regional Australians. Of course senators would know just how popular the government’s Higher Bandwidth Incentive Scheme is, so I do appreciate this question from Senator Adams. I am aware that there has been some public concern that HiBIS is winding up. Happily I can reassure senators and those listening that constituents have nothing to worry about. The $157.8 million HiBIS program is being replaced by an even bigger and better broadband subsidy program: the new $878 million Broadband Connect program.

I am aware that Telstra is very close to reaching its funding cap under HiBIS. Telstra has already upgraded 700 exchanges to provide broadband services under HiBIS since the program commenced a little over a year ago. It has also approved a further 160 exchanges to be ADSL enabled in the next few months under HiBIS. Once these 160 regional exchanges are upgraded and those communities are given access to high-speed internet services, Telstra will have reached its 60 per cent cap under HiBIS.

In the interests of encouraging competition, the guidelines have a provision that no one provider can receive more than 60 per cent of available funds in any one financial year over the life of the program. But, now the parliament has approved new funding for the Broadband Connect program this financial year, Telstra has advised that it can now continue to upgrade exchanges to provide broadband services to rural areas that are not commercial. The fact that the $157.8 million HiBIS funding has almost been exhausted in just 15 months is testimony to the success of HiBIS and the take-up rate of broadband.

HiBIS has already connected, in total, more than 700 rural communities to terrestrial broadband in the last 15 months. It means that more than 600,000 households in rural and regional Australia who did not have broadband access a year ago can now access an affordable terrestrial broadband service. It is being embraced in all parts of Australia at a very rapid rate. During the 12 months to March 2005, the number of broadband subscribers more than doubled, with over a million new customers taking up a broadband service—a truly remarkable performance. This performance has placed Australia in the OECD top 10 in terms of the growth in the take-up of broadband services, and there are now around two million broadband subscribers in Australia.
Those two million people must be thanking their lucky stars that Labor’s $5 billion proposal to mandate 40 kilobit per second dial-up services did not get up, particularly when they see commercial trials up to a hundred times faster now being rolled out. And the 9,000 satellite broadband users must be breathing a sigh of relief that Senator Conroy is not in charge and has not had an opportunity to scrap the subsidy that makes their service affordable. While Labor remains wedded to copper and wedged to looking backwards at dial-up technology, the government will continue to promote innovation, competition and investment in new networks.

Child Care

Senator CROSSIN (2.32 pm)—My question is to the Minister for Family and Community Services, Senator Patterson. Could the minister confirm that, as we speak, the government is receiving usage and fee data from child-care providers to verify parents’ out-of-pocket child-care costs? Is it the case that the Australian Taxation Office can immediately calculate how much money each parent is entitled to from the 30 per cent child-care rebate once this data and the parent’s tax return is in? Given the government will know precisely what the out-of-pocket child-care expenses of most parents are within the next month, why is it still refusing to pay parents the promised rebate for another year?

Senator PATTERSON—It pays members of the opposition not to just read out questions from shadow ministers based on ill-informed, incorrect press releases that the shadow ministers put out. Maybe that is not the best way. The best way to do it, if you want to get ahead, is to actually do it yourself. Do not use the shadow minister’s incorrect press release or take the question from the questions committee and just read it out, because it is very clear that we have explained why we need to pay the child-care tax rebate when the person’s child-care benefit is reconciled next year, and then they can put in the difference between their out-of-pocket expenses and their child-care benefit. What the senator fails to say—of course Labor always only tells half the story—is that, because of the fact that we have run a sound economy, Mr Costello, the Treasurer, has brought forward by six months the amount of child care that people can put into their claim for their child-care tax rebate. I remind Senator Crossin again that it is not a good idea to base your question on an incorrect press release from the shadow minister.

Senator CROSSIN—Mr President, I ask a supplementary question. Well, it is probably not a good idea either that ministers do not answer our questions when we ask them. My supplementary question is: could the minister explain why the government is suddenly so obsessed with making sure no Australian can possibly accrue a debt from the child-care rebate when she presides over a system where hundreds of thousands of Australian families continue to accrue a family tax benefit debt and a child-care benefit debt? Is the government’s insistence on delivering the 30 per cent rebate a full two years after parents have paid their child-care fees surely an admission that the family tax benefit and the child-care benefit payment systems are broken?

Senator PATTERSON—The answer to the last part of the question is no. In addition, there are a number of measures that have been brought in in the last budget to reduce the likelihood of a child-care benefit overpayment. The other thing is that the shadow minister—and I suggest that Senator Crossin goes back and says to the shadow minister that I have put out the challenge—needs to answer: will the Labor Party maintain the 30 per cent child-care tax rebate? That is what
parents will want to know. Will they maintain the child-care tax rebate? They have not committed to it, and that is what the Australian public want to know: will the Labor Party support them and assist them in making child care more affordable?

Australian Communications and Media Authority

Senator MURRAY (2.36 pm)—My question is to the Minister for Communications, Information Technology and the Arts, Senator Coonan, regarding the proposed head of the Australian Communications and Media Authority. Minister, is it still true that, although there have been several suitable and well-qualified people proposed for this important position, no final decision has yet been made? Given the importance of ACMA in the new media environment, where regulation of the media will be all important in retaining a diversity of content and voices in our media sector, could the minister please advise the chamber of the progress on the appointment, when it will be made and the reasons for the delay?

Senator COONAN—I thank Senator Murray for his question. Senator Murray is quite right: on 1 July 2005 the Australian Communications and Media Authority, ACMA, was formed through the merger of the ACA, the Australian Communications Authority, and the Australian Broadcasting Authority. It is a very important new agency for regulating telecommunications, broadcasting, radio communications and online content. The merger focused on institutional arrangements and has not been accompanied yet by changes to the existing regulatory and very important spectrum-planning frameworks. But the government has said that it will consider what changes there need to be a little later on, particularly when the new chair has been installed.

On 24 June, the government announced the appointment of a number of ACMA members. Ms Lyn Maddock has been appointed as the Deputy Chair of ACMA and Mr Chris Cheah has been appointed as a full-time member. Mr Rod Shogren, Professor Gerard Anderson, Mr Malcolm Long and Ms Johanna Plante have been appointed as part-time members. These members all bring a broad range of experience and expertise to ACMA’s areas of responsibility and they are already making a very valuable contribution to the functioning of this important new body. A lot of them are continuing on from appointments to their previous agencies.

With respect to the finding of a chair, I have taken the view that it is very important that we get the right person, and we do have at least a couple of people who we need to consider carefully in terms of whether or not ultimately the appointment of either of them should proceed. In the meantime, the deputy chair, Ms Maddock, is currently the Acting Chair of ACMA and she is doing a very good job. The government has every confidence that ACMA is functioning very effectively and is very able to carry out its functions. As I have said on previous occasions, speculation over the possible chair of ACMA certainly does not add any value at all to this process and is, in fact, quite unhelpful. The announcement of the Chair of ACMA will be made at the appropriate time.

Senator MURRAY—Mr President, I ask a supplementary question. I thank the minister for her answer. Given that the previous chair of the ABA resigned his post under a cloud of controversy over allegations of bias and weakness, can the minister guarantee that the new appointment will be absolutely independent, will not be capable of being perceived as another ‘job for the boys’ and will have the strength to take on the powerful interests in media?
Senator COONAN—Yes.

Child Care

Senator POLLEY (2.40 pm)—My question is to Senator Patterson, the Minister for Family and Community Services. Could the minister confirm that child-care fees for long day care in her home state of Victoria are now up to $415 per week and that the average fee in Victoria is $242 a week? Is the minister aware that child-care costs rose five times higher than the increase in the consumer price index in the last financial year, and does she have any concerns about the escalating costs of care?

Senator PATTERSON—I thank the honourable senator for her question, which gives me the opportunity to talk about what we have done in child care. We have a very good record in child care. We have provided unprecedented support for families with child care. In fact, we have doubled spending on child care, compared with Labor. We are projected to spend $9.5 billion over the next four years. We have doubled the number of child-care places, from 300,000 in 1996 to approximately 600,000. In the last budget, we announced 84,300 outside school hours places. Labor promised in the election something like 8,000 outside school hours care places. The shadow minister then said that that was just a drop in the ocean. When they left office they had 72,000 outside school hours places. We announced in the last budget 12,000 places more than Labor had when we came into office.

We have seen an increase in assistance to families through the child-care benefit and through the child-care tax rebate—a 30 per cent child-care tax rebate for out-of-pocket expenses. When you take into account the child-care benefit and the cost of child care, we are talking about up to $4,000 for each child. Labor need to commit and say whether they would maintain that $4,000 child-care tax rebate for each and every child, or whether they would abolish it. I would suggest to the honourable senator—she has not been here for very long—that she goes back and has a look—

Senator Chris Evans—Mr President, I rise on a point of order. At the risk of upsetting the minister by saying there is a strategy, there is a strategy—to try and get her to be relevant when answering questions. The minister rose when answering the question and said, ‘This gives me an opportunity to talk about what I want to talk about.’ It actually provides her with an opportunity to answer the question, which is about the rising cost of child care for Australian families. The minister has made no attempt to answer the specific question. Please bring her to order and ask her to answer the question asked of her.

The PRESIDENT—I hear your point of order. I remind the minister of the question.

Senator PATTERSON—Every time Senator Evans gets up, it reduces the time they have got for questions. He does it every time I answer a question. We know it is a strategy of his, but that is what he wants to do. Every time I get up to answer a question, he gets up and interjects with a point of order. That is fine; he can keep doing it because it is not going to affect me.

If the honourable senator goes back and has a look at the increase in costs of child care under Labor, she will see that they exceeded the increase in costs of child care under us, and their assistance to families was less. So in comparison with Labor—

Opposition senators interjecting—

Senator PATTERSON—If I don’t read the brief, I am told I can’t find it; if I do read the brief, I am told I am reading. The Labor Party is absolutely at the—

Opposition senators interjecting—

CHAMBER
The PRESIDENT—Order! The minister has over a minute left to answer the question, I remind her.

Senator PATTERSON—The Labor Party are scraping the bottom of the barrel. They cannot have it both ways. If I read the brief I should not be reading it; if I do not read it I should be reading it. I cannot win. Let me just say that our record in providing child-care assistance for families is second to none. We have doubled spending on child care. We are going to spend $9.5 billion over the next four years. We have increased the number of child-care places from 300,000 to 600,000, and in the last budget we announced another 84,300 child-care places—a record that well exceeds that of Labor, which had increasing costs and decreasing affordability of child care.

Senator POLLEY—Mr President, I ask a supplementary question. Does the minister realise that, in her home city of Melbourne, a family with two children in full-time day care, who are paying middle-of-the-range fees of $65 a day, have a total bill of $31,200 a year? Is it acceptable to the minister that many families are paying around $30,000 a year of their net income for child care?

Senator PATTERSON—What we have done is to give families more assistance with child care than they have ever received before. In addition, families are receiving an average of $7,5 thousand in family assistance over and above the child-care benefit and over and above the child-care tax rebate. The Labor Party need to take the average and look at what people in general are paying. They take the very worst scenario, the very worst case. They need to go back and look at what people were paying for child care when they were in government and look at the inflation of child-care costs under the Labor Party, when people were not getting the same level of assistance that they are today.

After School Hours Programs

Senator PARRY (2.46 pm)—My question is addressed to the Minister for the Arts and Sport, Senator Kemp. Will the minister update the Senate on the progress of coalition government programs encouraging Australian school children to become more active? Further, is the minister aware of any alternative policies?

Senator KEMP—I thank my colleague Senator Parry for that very important question. Senator Parry is, as all senators will know, speaking about the active after school hours program which was initiated by the Howard government. I am very pleased to say that this program enjoys bipartisan support. Even my colleague Senator Lundy has put out a press statement talking about the success of the program. I welcome that statement of support from Senator Lundy. This is a bipartisan program which is supported by both sides, but Senator Lundy did make an unfortunate comment about the program. I shall return to that in a brief moment.

This after school hours program aims to address the issue of childhood obesity and declining motor skills. The program typically runs from around 3 pm to around 5.30 pm and provides structured physical activities designed to improve the motor skills of young people. There is a great deal of sport played, but the program is not limited to sport. I am very pleased to say, as Senator Lundy has pointed out, that there is an enormous demand for this new and exciting program which is very strongly supported by children and parents. Support for the program has been overwhelming, and to date close to 900 schools and care centres are taking part in the program, which started to be rolled out in term 2. There will be approximately 1,500 schools participating by the end of the year.
Approximately 6,000 deliverers have undertaken the active after school hours community coaching training program to run the program in terms 2, 3 and 4 this year. These deliverers include teachers, students, members of local clubs, private providers and family members. It is a very important program.

Senator Parry did ask about an alternative policy. I was a bit shocked to read a press statement that Senator Lundy put out, in which she accused the Howard government of not providing sufficient money to meet the demand for this ‘successful’—to use Senator Lundy’s word—program. It is true that not all primary schools will be taking part in this program. But the thing which struck me about Senator Lundy’s press statement was the need for the Howard government to provide more money. So I turned to the Labor Party policy on this program. Senators will know that we are spending some $90 million on this program over four years. Under the Labor Party’s policy, this program was to be cut by $10 million. I quote: ‘Labor will commit $80 million over four years to support these initiatives.’ The government have committed $90 million; so to my mind this means that the Labor Party’s policy was to cut the program.

This is a bipartisan program that enjoys widespread community support. Senator Lundy is quite right that there is great demand for the program. But why, in that case, did Labor propose to cut the funding for this program?

Commonwealth Rent Assistance

Senator CARR (2.51 pm)—My question without notice is to the Minister for Family and Community Services, Senator Patterson. Can the minister confirm that her department is currently undertaking a review of the allocation of Commonwealth rent assistance? Isn’t this review being driven by the current crisis in housing affordability, which has led to exorbitant rents in many areas and contributed to the fact that almost one million Australians now require Commonwealth rent assistance? Can the minister inform the Senate of the terms of reference of this review? In particular, is the minister’s department examining whether current policy settings discourage social security recipients from moving to areas of high unemployment to find work?

Senator PATTERSON—Yes, we are undertaking a review of rent assistance and we are doing that in conjunction with the housing ministers, who, despite the fact that we might come from opposite sides of the political fence, do in some areas attempt to address issues of housing—and affordable housing. The relevant state ministers have indicated that they will look at their housing policy and their approach to housing. One of the things that we would do is look at rent assistance and ways in which we may be able to work with the states on improving housing.

If we want to talk about housing, we need to look at some of the issues within the states—for example, some hundreds of houses, public housing, in Victoria which are empty and have been for significant periods of time. We want to see the states managing their stock of public housing more efficiently. But, in a spirit of cooperation, in working towards looking at and ensuring that, as far as possible, the states and the Commonwealth can work together in addressing the issue of housing, we have agreed to undertake a review of rent assistance.

Senator CARR—Mr President, I ask a supplementary question. I ask the minister again: given that nearly one million Australians are dependent upon rent assistance to pay their rent, will the minister release the
terms of reference for this review? Can she now confirm that she told the state housing ministers meeting in August that there would be no regional variations on the amount of rent assistance to be paid? Can the minister explain to the Senate how she can justify this pre-emptive strike on Australians who are trying to find work in places such as Sydney, for instance, who face average rents which are $35 a week higher than the rest of New South Wales? Can the minister now justify her position to the families of low-income workers in areas such as Karratha, who face rents of $550 to $600 a week for a three-bedroom house?

Senator PATTERSON—To get the whole issue into perspective in terms of Commonwealth and state responsibilities in relation to housing, for every dollar the Australian government puts into affordable housing, the states contribute 13c. So the states have a huge gap to make up. I agreed that we would look at rent assistance but there were some issues that I was not prepared to change. One of them is about regional differences. When you open up that sort of thing, you open up those issues for all sorts of assistance to families and assistance to pensioners—every other area gets opened up. What I want to do is to ensure that we have an appropriate review of rent assistance. But what we require from the states is that they also lift their game and come closer to matching the Australian government in supporting people to achieve—(Time expired)

Illicit Drugs

Senator PAYNE (2.55 pm)—My question without notice is to the Minister for Justice and Customs, Senator Ellison. Will the minister update the Senate on the Australian government’s strong commitment to the fight against drugs?

Senator ELLISON—I thank Senator Payne for that question and note her keen interest in this area, which is an issue that is very important to many Australians. We continue our Tough on Drugs policy on three fronts. There is education, to educate people, especially the next generation, in relation to the dangers of drugs, and to reduce demand. Another, in relation to those people who do have an addiction, is rehabilitating them so that they can make a useful contribution in the community. The third arm to our fight in the war on drugs is in relation to law enforcement, to reduce the supply of drugs. You can hardly educate children and you can hardly rehabilitate anyone who has a drug addiction if you do that in an environment where there is a wholesale supply of illicit drugs. That is why it is so important that law enforcement carry out that role effectively in reducing the supply of illicit drugs.

I can report to the Senate that today I addressed our eighth meeting of the Working Group on the Prevention of the Diversion of Precursor Drugs into Illicit Drug Manufacture. That is an essential job being done across the board. I acknowledge the states and territories, the private sector and Commonwealth agencies who are involved in that. This is aimed at reducing the use of precursor chemicals to manufacture amphetamines. Much is being done across the country to fight that. I am very pleased to see the rescheduling of pseudoephedrine so that it can only be supplied from and kept behind the counter. This is, after all, a precursor which is essential in relation to the manufacture of amphetamines, which is our No. 1 challenge in relation to the fight against illicit drugs.

When you look at the statistics, you can see that the Australian Federal Police and the Australian Customs Service are doing a magnificent job in interdicting the supply of illicit drugs into this country. When you look at total seizures, we have seized 185 kilograms of heroin, more than 3,000 kilograms...
of ecstasy, 348 kilograms of ice and 750 kilograms of amphetamine type stimulants. This does not occur by accident. This occurs as a result of very good work by the men and women in the Australian Customs Service and, of course, the Australian Federal Police.

One of the most effective innovations we have seen in relation to the fight against drugs is the container examination facilities which we have at our major ports. We have seen the number of containers that are inspected being increased from between 3,000 and 4,000 to around 100,000 containers. Whilst all containers are risk assessed, of course we do not look at every one—nor do we need to. We need to look at those which pose a risk. With our container X-ray facilities, we have one of the highest rates of container examination in the world.

Of course, it does not just rest there. Last night I was addressing a dinner at the Australian Federal Police Academy in Barton and I acknowledged there the great work that the Australian Federal Police is doing internationally. Many of these large drug busts that we frequently see occur as a result of cooperation which has been built up by the Australian Federal Police with law enforcement not only in the region but also overseas, as far afield as the Royal Canadian Mounted Police. I acknowledge the work that we have seen from them just recently in one of the busts that we had. We are dedicated to the fight against illicit drugs, both internationally and domestically, and we will continue to work with all governments of like mind to reduce the supply of illicit drugs so that we can win this war. We will continue that fight on the three fronts of education, health and law enforcement.

Senator PAYNE—Mr President, I ask a supplementary question. The minister has informed the Senate on matters relating to supply disruption in particular. In relation to education, rehabilitation and health aspects of the government’s commitment to the fight against drugs, is there further information the minister can provide the Senate?

Senator ELLISON—We introduced the National School Drug Education Strategy, which was a national strategy to bring together for the first time efforts across the country to educate young Australians, and we continue to do that in our education programs. Of course, we have also seen resources going to areas of treatment for people who have a drug addiction. I can say that, under our Proceeds of Crime Act, one of the things we do fund is treatment for drug addiction. I think there is great justice in the fact that one of the things to which we put the proceeds of crime—the proceeds we confiscate—is drug addiction treatment.

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Mr Scott Parkin

Senator ELLISON (Western Australia—Minister for Justice and Customs) (3.01 pm)—During question time on 13 September 2005, Senator Stott Despoja asked me as the Minister representing the Attorney-General in the Senate a question regarding the cancellation of Mr Scott Parkin’s visa and whether Mr Parkin was being pressured by the Department of Immigration and Multicultural and Indigenous Affairs. I have some further information on that. I seek leave to incorporate the answer in Hansard.

Leave granted.

The answer read as follows—

During Question Time on 13 September 2005, Senator Stott Despoja asked me a question as the Minister representing the Attorney General in the Senate regarding the cancellation of Mr Scott
Parkin’s visa and whether Mr Parkin was being pressured by the Immigration Department.

Following further advice, I wish to inform the Senate that Mr Parkin is not being pressured, he has been advised of his choices and their consequences and has been advised that he may seek a review of his visa cancellation. He has also asked to be removed from Australia. His seeking a review will not impact his removal from Australia.

Can I also add that in relation to the ASIO security assessment, the ASIO Annual Report shows that in 2003-04, ASIO issued 44,722 visa security assessments of which only 3 were refused or cancelled on security grounds.

There is no indication that ASIO is making a habit of recommending that alleged ‘peace activists’ be deported on a whim. In fact, the ASIO Annual Report indicated that, while the number of visa security assessments conducted by ASIO over the past 10 years has increased, the number of adverse assessments has decreased from 16 in 1995–96 to only 3 in the last financial year.

What is a cause for concern is the suggestion that ASIO should make public the contents of a security assessment. In order for ASIO to carry out its functions as set out in the ASIO Act, it draws on many sources of information, both open and covert.

It is in Australia’s interest to develop and maintain a capable and effective security service with access to such sources. In some cases, such sources of information may need to be kept in the strictest possible secrecy so as not to undermine the very purpose for which the intelligence is collected. Further, disclosure of these details could disclose important security information and/or the capabilities of ASIO generally.

ASIO is an organisation that is subject to as much – if not more – oversight than any other independent statutory body I am aware of. As well as being subject to the normal principles of administrative law and judicial oversight, we have in place a special division of the Administrative Appeals Tribunal whose purpose is to deal with complaints regarding ASIO advice that certain administrative action be taken in the interests of security. This is in addition to the Inspector-General of Intelligence and Security who also has an appropriate oversight role.

**QUESTIONS WITHOUT NOTICE:**

**TAKE NOTE OF ANSWERS**

**Child Care**

**Senator CROSSIN** (Northern Territory) (3.02 pm)—I move:

That the Senate take note of the answers given by the Minister for Family and Community Services (Senator Patterson) to questions without notice asked by Senators Crossin and Polley today relating to child care.

I particularly want to address the lack of information the minister was able to provide to the Senate about why this government cannot pay Australian families the child-care rebate that they were promised at the last election now, this year, in these weeks following their tax returns being acquitted by the Australian Taxation Office, for the 2004-05 financial year.

We know that the most recent consumer price index figure shows us that the cost of child care has increased by around 12 per cent. This compares with the price of other goods and services increasing by only 2.4 per cent. So, in a climate where child-care fees increase at a rate far and above all other goods and services, we know that the cost of child care—the exorbitant cost of child care—in this country is hurting Australian families.

We also know that child-care fees have increased dramatically in all states and territories. In fact, answers that we have been able to obtain from questions on notice show us that child-care fees are now up to $83 per day in Victoria and $90 per day in New South Wales. In my own Northern Territory, fees now average around $207 a week and can be as high as $255 a week. In New South Wales, the highest fee is $450 a week. So we know that the average weekly fee for full-time day care jumped by $88.90, or 66½ per
cent, between 2000 and 2004. During the term of this government, they have presided over an increase in child-care fees of nearly 66½ per cent—in a climate where child care is the dearest of all costs families will experience, other than other goods and services, and in a climate where we know child-care places are particularly hard to find.

But last year this government announced that it would be able to enact a policy that would allow parents to claim back 30 per cent of their child-care expenses—that is, their out-of-pocket expenses—from 1 July 2005. That was the promise that the Prime Minister took to the electorate in last year’s federal election campaign. But that was a lie; that policy has now turned out to be nothing more than a lie. This government has categorically misled Australians, Australian families in particular, since making that election promise. I have no doubt most people would have gone to the polls on polling day thinking that this would be a great thing: they were going to get a 30 per cent rebate from their child-care out-of-pocket expenses.

That was, of course, until the true figures were released—until this government, here on the trust of the Australian people, turned its back on Australian families and decided that it was actually going to push back the rebate by 12 months. So the very first time you will be able to claim that child-care rebate will be after July 2006. Not only will parents and their families now have to wait two years before they can claim that child-care rebate but also there is now a cap on the amount claimable. Parents can now only claim a maximum of $4,000 per child, even if this is considerably less than the 30 per cent child-care out-of-pocket expenses.

The minister today was unable to tell us why, when the Australian Taxation Office can reconcile families’ tax claims with the amount of the child-care rebate they are due—they are doing it now—those families cannot be paid that now. This minister failed to give this chamber an answer to that question today. But this minister also cannot tell us what this government is going to do with parents who do not have all of their receipts, what to do about child-care centres who refuse to take on the additional administrative costs of calculating this, and whether child-care centres will indeed have any formal responsibility to produce the full usage and data. This minister has no answers. This is a categorically failed policy—(Time expired)

Senator Barnett (Tasmania) (3.07 pm)—I find it an honour to stand here to take note of an answer from Senator Kay Patterson, our Minister for Family and Community Services. It is an honour because this government’s hallmark is our support for families. The hallmark of the Howard government since 1996 is that we have put our necks on the line and gone out there to stand up for families every step of the way. We have produced policy after policy, and what happens? At every election since 1996, voters have returned the Howard government. That is because we support and encourage families; we want to do the best for them and to see that the best is offered to them.

Isn’t it interesting that we have not had a squeak from the opposition parties, not a scent of commendation for or congratulation on our support of families in terms of unemployment being at historically low levels, of inflation being at historically low levels and of interest rates being down. What could be more important than these for the family, in terms of paying interest on the mortgage on the family home?

And what about the increase in jobs and the benefit of that for families? How much support can you offer families? We have had 1.6 million new jobs—1.6 million new jobs since 1996; 900,000 of those are full-time,
and about 600, or a bit more than that, are part-time. That is a credit to the Howard government. But not a squeak, not a scent of congratulation or commendation to Mr Howard and Mr Costello has there been from the opposition for these results in terms of the benefits that flow through to families.

We have heard about the comments in regard to child care. Let us just touch on that. We will say the government is going to spend—and this is in the budget papers, so it is on the public record—$8.5 billion over the four years to 2008-09, to help families access quality affordable child care. That does include additional assistance—the opposition knows that—for grandparent carers in the 2005-06 budget. That is good news.

In addition, as announced last year, we have got $1 billion over four years for the child-care tax rebate, which is the child-care benefit that subsidises the cost of child care for over 690,000 families across Australia. That is wonderful news. Some 690,000 families are benefiting under our government’s program. You have a boost in numbers under last year’s budget; you have a $266 million package giving a boost in numbers for outside school hours care places by 84,300 places; you have a boost in numbers for family day care places by 2,500, and a boost in numbers for in-home care places by 1,000. On top of that, we are providing an extra 52,000 low-income families with additional assistance with the cost of child care.

There are the facts. They are on the table for all to see. But I want to make another comment in terms of our support for families, and this is relevant to Tasmanians. Senator Polley will be very interested in this, as will other senators—for instance, Senator Carol Brown—in terms of the benefits for families. We have expended $20 million, benefiting 6,350 parents with a maternity payment. That is what we have done in terms of families since July 2004. That is $3,079 per child. Those parents, those families, have benefited. Under a Labor government, that would never have happened. Under our government, it has. That is a $20 million injection of support for those families in Tasmania.

Senator Abetz—Hear, hear.

Senator Barnett—Thank you, Senator Abetz, for that commendation. You know that next year that will increase to $4,000 per baby and then, from 1 July 2008, it will be $5,000. This is how we are helping families, just when they need it, when they are bringing up the little ones, and I have three of them, so I know what it is like. I love them dearly, and I know families love their kids dearly, and that is why this funding support is so good.

In terms of other support, I want to commend the government on the First Home Owner Grant Scheme which has provided $135.5 million since July 2000 from the Howard government to support families to get into homes in Tasmania. Some 18,000 homebuyers have benefited in Tasmania. That is a fantastic record and I am proud to be part of a government that has delivered for families.

Senator Carol Brown (Tasmania) (3.12 pm)—I rise also to take note of the answers given today by Minister Patterson in respect of questions on child care. The ALP today asked very important questions on this critical issue. It is an issue of great concern to the ALP and an issue of great concern to Australian families. What did we get? The minister failed to address the issues of rising child-care costs. Did she answer? No. What she chose to do instead was to lecture the ALP on our concern.

Unlike the minister, as a mum and a senator I have major concerns about the escalating costs of child care in this nation. It comes
at a time when families are feeling the pinch under this government in so many ways. Many families are having to source two incomes just to afford the petrol bill for their car. That is even before they consider other bills, like mortgages, credit cards, medical expenses and rates. To these families, the spiralling cost of child care is an unwanted and entirely unnecessary extra burden. Child care is integral to parents’ ability to balance work and family. Working families need child-care services that are accessible, affordable and of high quality.

Over the past few years, in my home state of Tasmania the demand for child care has heightened. This, of course, has been compounded by a shortage of staff, a shortage of places and the ever-increasing cost of child care in the state. Tasmanian families have been slugged with the third highest average daily child-care fees in the nation. The government’s own figures showed that Tasmanian families were paying an average of $215 a week for full-time day care in 2004. If you compare that with Tasmanian families’ median weekly family income of $852, it is a massive slug. It is entirely in keeping with the national picture, which has seen child-care figures for full-time care go up by more than 50 per cent—50 per cent; it is a massive increase.

Nationally, child-care costs are rising five times faster than inflation, and the increases are across the board in all child-care areas. For example, the government figures tell us that community day-care costs are up from $188 a week in 2002 to $211 a week in 2004. That is an increase of more than 12 per cent. Family day-care costs have climbed by 13.5 per cent from $163 in 2002 to $185 a week in 2004. Before-school care is up 13.1 per cent and after-school care has blown out by 10.1 per cent, a rise of almost $1 a session per child.

Make no mistake: these fee hikes are hitting families hard. In allowing child-care fees to blow out in such an offensive way, we see evidence of just how out of touch this Liberal government has become with the people and families of Australia. But it is in its handling of its much vaunted 30 per cent child-care rebate that we see the laziness, the sloppiness and the meanness with which this government treats Australian people. This government has the data it needs to pay Australian families now but its penny-pinching and refusal to pay the rebate for another year is leaving thousands of Australian families out of pocket in the process. Its own Department of Family and Community Services has confirmed this. Labor has sought to highlight ways the government could make its 30 per cent rebate for out-of-pocket child-care expenses available sooner, but the government prefers to keep parents waiting up to 30 months for some kind of relief from the financial burden.

To put this in context, the 2004 average rate in Tasmania for five days of child care over 48 weeks a year shows that Tasmanian families could be forking out more than $10,000 for child care per child. In theory, they could rack up more than $20,000 worth of child-care expenses before they see a brass razoo from this government. It is a disgrace. But beyond this, it is a symptom of an out-of-touch government that no longer has the vision, no longer has the policies and no longer has the will to see a way through the problems that are biting Australian families. The demands on Australian workers are great and child care has now become an essential service for those with families. What did we see today? We saw a minister who refused to answer the concerns of the ALP and the concerns of Australian families. (Time expired)

Senator HUMPHRIES (Australian Capital Territory) (3.17 pm)—I am very happy to rise in this debate and indicate that I also
think that child care is a very important feature of Australian life. And affordable, accessible child care, as Senator Carol Brown indicated, should be a feature of family life in this country. The question that I think needs to be posed is: how much more accessible and affordable is child care today than it was just a few years ago when Senator Carol Brown’s and Senator Crossin’s government was running this country? Of course, it was a lot less affordable and it was a lot less accessible. If you had a child in those days who needed to be placed in a child-care centre, you had less chance of finding a place than you do today.

In 1996, when Labor were last in office, there were 300,000 subsidised child-care places available to Australians. Today, 9½ years later, there is double that number; there are 600,000 child-care places available. Not only is there double the number of child-care places without there being anything like a doubling in the number of children needing child care over that time, but the government has also announced an extremely positive program to provide for Australian families to access support through the child-care rebate for the cost of accessing those places.

‘Meanness’ is how Senator Carol Brown describes this government in not providing that rebate until later. I remind Australian families that they would not have had any rebate had the Liberal government not been returned at the last election. There would have been no rebate; there would have been Mark Latham’s half-baked two-days-a-week free child-care scheme that was so complex, so hard to understand and so unapproachable for so many people that people turned away from the Labor Party in large number and in part delivered the majority in the Senate that the government exercises today.

The fact is that we have increased funding to Australian child-care facilities to over $12 billion, which is more than double the amount that Labor spent in their 13 years in office. We have delivered a record number of child-care places of around 600,000, which is more than double what Labor were able to deliver in their time in government. We have delivered the child-care benefit from which families will receive an average of $2,000 a year in assistance for the cost of child care. We have delivered the long day-care incentive scheme worth $12.8 million to provide facilities in rural and urban areas of high unmet need. That is what we have done.

Of course the cost of child care has gone up. The government does not have the power to regulate the price of child care. One of the reasons that the price of child care has gone up is because there is more demand. Why is there more demand? Because, as Senator Barnett pointed out, so many more Australians are in employment and need to access child care than there were under the former Labor government, when record numbers of Australians were out of work. That is why we need more child-care places. That is why the government has doubled the number of child-care places. That is why the government is providing a rebate for people to access those child-care places.

There is a solution—and perhaps Labor can help us with this solution. Next time you are in government, push the unemployment numbers back to the numbers they were when you were in office and we will see that need for child care relax, because people will not be in need of that level of child care. I am proud of what this government has achieved in this area. Given that unemployment was so high and a lot of parents had no jobs to go to under Labor, families might have been forgiven for being overlooked in favour of other more important issues. But the fact is that child care is important today because of the kind of society we have cre-
ated, and the need for support for families in those circumstances is very acute.

Labor thought it was a good provider. It provided lots of high interest rates, lots of high unemployment, lots of high inflation and lots of government debt. It is a shame it could not provide lots of good child care when and where it was needed. We have done so and we are continuing to do so. The child-care rebate will be warmly welcomed by Australian families as a further way of accessing that very important commodity in a society where more people are working and there is more need for access to child care. That is what they will receive under this government.

Senator POLLEY (Tasmania) (3.22 pm)—I take note of the answers given today by Minister Patterson in respect of questions on child care. Once again we see a government arrogantly out of touch with the needs of Australian families, and our speakers this afternoon in the chamber have verified that. The government can easily calculate how much money each parent is entitled to from the 30 per cent child rebate as soon as the parents’ tax returns have been assessed. So why can’t the data be matched with the information provided by the honest, hardworking Australian parents to Centrelink? I will tell you why: this is a mean government.

This is a government that does not trust Australian families and a government that after nine long years has failed to grasp the realities of the financial hardship facing the most vulnerable of our battling families. This is a government so littered with ministers and senators out of touch with the average Australian family’s budget that they seriously think that it is okay to make families wait a full 12 months before they can see any of their child-care rebate. What a load of rubbish! This is a government that will insist that single mothers go back into the paid work force but not offer enough additional out-of-hours child care to make that dream a reality. Of course many single mothers want to work, but where will the jobs and child care be in regional Australia?

Let me remind the minister of how the government calculates child-care expenses—it is simple; it is not rocket science. The federal Department of Family and Community Services collects records of fees charged to customers who claim child-care benefits provided in approved child-care services from the statement of child-care usage. The information in that statement refers to the total fee charged for the number of eligible hours listed. It is clear to see what the Howard government is all about. It wants to sit on parents’ entitlements because it wants parents to wait up to 30 months for any relief and turn their pain into the Treasurer’s gain. It can and should pay the 30 per cent rebate now. Parents in my state will not get the child-care rebate until the end of the financial year after the year the child-care fees were paid. In other words, child-care fees paid by a parent in a financial year cannot be claimed at the end of that financial year but at the end of the following financial year.

Again I say: this is a mean government. The Howard government is justifying the lag on the basis that it does not receive evidence from approved providers of parents’ child-care usage fees for the March-June quarter until around October. They say this is too late for the tax office to verify parents’ rebate claims against information provided by the child-care providers. This is a weak argument. I will tell you why: the family tax benefits are also paid on the basis of estimated income, and reconciliation is regularly done by November in the following financial year—another debt trap stuffed up by this government. Because of the two-year delay between incurred expenses and the parents’ receipt of the rebate, parents who accepted
the heavily promoted $4,000 credit offered by Australia’s biggest child-care provider, ABC Learning Centres, will find they have a debt payable at least a year before they see any of their rebate. Shame on you!

What about the parents who struggle to understand the Howard government’s shifting goalposts? Many parents do not and will not understand how and when they can claim the rebate. Not everyone is as savvy as the Liberal minister. These changes are complex, and there has been a distinct lack of user-friendly information to parents and sole parents, who seem to be so arrogantly targeted by this government—all sole parents whose tax liability in a given year is less than the amount they are entitled to receive from the child-care rebate loss or rebate dollars that exceed the sole parent’s tax liability. Let me explain: a sole parent starting a business who has a very low taxable income because of the deductible set-up expenses will not get paid the amount of rebate they are entitled to where the amount exceeds the total tax payable. Incentive to work? Incentive to be an entrepreneur? I don’t think so. The rebate does nothing to improve the current affordability of child care. Parents who cannot afford the up-front costs and cannot find a place miss out altogether. Labor offered the Treasurer three ways of making the 30 per cent rebate available, but the mean Howard government rejected all three, ensuring that parents will wait as long as 30 months for any relief. *(Time expired)*

Question agreed to.

COMMITTEES

Reports: Government Responses

Senator ABETZ (Tasmania—Special Minister of State) (3.28 pm)—I present the following government responses to committee reports:

Joint Standing Committee on Foreign Affairs, Defence and Trade – Human rights and good governance education in the Asia Pacific Region
Joint Standing Committee on the National Capital and External Territories – Difficult choices: Inquiry into the role of the National Capital Authority in determining the extent of redevelopment of the Pierces Creek Settlement in the ACT

In accordance with the usual practice, I seek leave to incorporate the documents in *Hansard.*

Leave granted.

*The documents read as follows—*

Human Rights and Good Governance Education in the Asia Pacific Region Report by the Joint Standing Committee on Foreign Affairs, Defence and Trade

**Government Response**

1. That the National Committee for Human Rights Education undertake a baseline survey of human rights attitudes and understanding in Australia, as indicated in its mission statement and in the guidelines for the Decade for Human Rights Education. Recommendation beyond the Government’s responsibility and not responded to.

2. The Committee recommends that human rights education be incorporated into all levels of civics and citizenship education initiatives.

Agreed. Civics and citizenship education resources have been made available free to schools in Australia since 1998. From 1997-2004 resources were developed under *Discovering Democracy*, the Australian Government’s civics and citizenship education programme. Civics and citizenship education enables students to identify how the rights and obligations of Australian citizens relate to local, national and global contexts. Students are provided with opportunities to investigate the role of Australian and international legal institutions in protecting human rights; how rights can be lost and how they can be protected. Many of these resources are available online at www.curriculum.edu.au/democracy.
State and Territory Governments are responsible for the delivery of curriculum in their jurisdictions. The Australian Government has provided funding of $31.6 million (1997-2004) for civics and citizenship education, and $4 million was committed in the 2004-05 Budget for 2004-2008.

3 The Committee recommends that the Minister for Education, in collaboration with state and territory Ministers on the Ministerial Council on Education, Employment, Training and Youth Affairs, develop a coherent and consistent approach to human rights education, and to providing human rights education with a formal role in the education system.

Agreed in principle. In Australian schools, human rights education is a part of civic and citizenship education. While the States and Territories are responsible for developing and delivering curriculum in their jurisdictions, at the July 2003 meeting of the Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA), Australian Government and State and Territory Ministers of Education all agreed to develop nationally consistent curriculum outcomes in civics and citizenship education (along with English, mathematics and science).

4 The Committee recommends that the Department of Defence ensure that pre-deployment training includes a specific human rights education programme, focusing on international human rights law.

Agreed. The Department of Defence accepts this recommendation and notes that it has been implemented.

5 That human rights education be provided to all Commonwealth public sector employees, particularly those whose work is affected by International Human Rights agreements.

Agreed in principle. All Australian Public Service (APS) employees are bound by the APS Code of Conduct and APS Values, which are set out in the Public Service Act 1999. The APS Values and Code articulate the culture and operating ethos of the APS and set out the standards of conduct required of APS employees. While not referred to explicitly, the protection of human rights is inherent in the APS Values and Code which, among other things, require employees to obey all applicable laws, have the highest ethical standards, promote equity in employment, treat everyone with respect and courtesy and without harassment and deliver services fairly, effectively, impartially and courteously to the Australian public and be sensitive to its diversity. APS employees on duty overseas must at all times behave in a way that upholds the good reputation of Australia.

The Public Service Commissioner is responsible for promoting the APS Values and Code of Conduct and for evaluating the extent to which agencies incorporate and uphold the APS Values and the adequacy of their systems and procedures for ensuring compliance with the Code. The Commissioner is also responsible for facilitating continuous improvement in people management throughout the APS, co-ordinating and supporting APS-wide training and career development opportunities and fostering leadership. Agency heads, however, are responsible for ensuring that their employees receive training that is specifically targeted to their particular operational requirements.

Around 60 per cent of agencies responding to a survey conducted for the purposes of the Public Service Commissioner’s State of the Service Report 2003-04 offer training sessions on how the APS Values and Code should operate in practice. Around 97 per cent of agencies provide awareness-raising of the APS Values and Code as part of induction or orientation training.

Training on human rights is provided to employees of the Department of Foreign Affairs (particularly those about to leave on overseas postings), AusAID and Attorney General’s Department.

In 2004, the Department of Foreign Affairs and Trade updated and distributed the Human Rights Manual (Third edition) for use by government officials who handle human rights as a part of their daily responsibilities, both in Australia and at overseas posts.

The Human Rights and Equal Opportunity Commission promotes, on behalf of the Australian Government, awareness of, and respect for, human rights in the community. It achieves this through public awareness and educational programmes aimed at the community, government
and business sectors, and conducting national inquiries into issues of major importance.

6 The Committee recommends that the NCHRE convene a forum specifically focusing on human rights education in the workplace.

Recommendations beyond the Government’s responsibility and not responded to.

7 The Committee recommends that funding be provided to the NCHRE to work with professional bodies and tertiary schools of communication to:

- develop and implement a specific human rights awareness programme for the media; and
- incorporate human rights into the core curriculum of journalism and media courses taught at tertiary schools of communication.

Not agreed. Individual universities are responsible for the design and delivery of curriculum taught in their journalism and media courses. There is no funding available for the NCHRE for the purposes outlined in the recommendation. However, the NCHRE could apply for funding through the Collaboration and Structural Reform Fund (CASR) in collaboration with one or more higher education providers. CASR funds are allocated competitively against priorities set by the Minister for Education, Science and Training. Proposals received in the first CASR funding round are currently being assessed and a second round will be conducted later in 2005. Further information is available at http://www.dest.gov.au/sectors/higher_education/publications_resources/profiles/collaboration_structural_reform_fund.htm

8 That AusAID, in its provision of aid both directly and through contractors, provides an increased focus on institutional strengthening and capacity building of regional human rights education organisations, particularly in regard to basic infrastructure.

Agreed in principle. The Government is committed to providing practical support for the promotion and protection of human rights. Capacity building is fundamental to Australia’s aid program which has long been one of the principal means of promoting good governance and human rights. Assistance to enhance human rights and good governance education is pursued in a number of ways one of which is support for regional human rights education organisations. Funding for good governance initiatives has increased from 15 per cent of total Australian ODA in 1999-2000 to 33 per cent in 2004-05. The current contract with the Asia Pacific Forum of National Human Rights Institutions (APF) places an emphasis on expanding membership with a particular focus on the Pacific region.

9 That AusAID quantify the current level of human rights and good governance education training for government officials and NGO representatives, and increase efforts to provide training in this area.

Agreed in principle. Australia provides support for good governance and human rights education to varying degrees through bilateral, regional and multilateral channels. Difficulties in assembling this data preclude the provision of a precise figure. Human rights and good governance education are often part of broader governance programs and can be delivered in a number of ways such as through training courses, study tours or technical cooperation and given interpretation issues, such a figure would probably have limited value. However, the continuing focus on governance in the aid program will entail that good governance and human rights education will continue to be featured.

Australia’s aid program supports regional human rights through funding to the Asia Pacific Forum of National Human Rights Institutions (APF) and to the United Nations Office of the High Commissioner for Human Rights (OHCHR). Key activities of both the APF and OHCHR involve capacity building through education and training of key government officials, community leaders and staff of national human rights institutions in the Asia Pacific region on human rights. The Human Rights Small Grants Scheme (HRSGS) provides funding for locally based organisations in developing countries to undertake activities, including education and training of human rights workers.
In addition, the Government provides support to the Centre for Democratic Institutions (CDI) based at the Australian National University. CDI provides training, information exchange and networking for government officials, policy makers and NGO representatives from the Asia Pacific region in the areas of good governance and democratic institutions.

10 That AusAID ensures that access to culturally and socially relevant basic education is integrated and prioritised throughout its governance programme.

Agreed in principle. Australia’s assistance for improved governance focuses on five key aspects: improved economic and financial management; strengthened law and justice; increased public sector effectiveness; development of civil society; and strengthened democratic systems. Investments in governance enhance the effectiveness and coverage of service delivery such as education. AusAID’s quality assurance processes in design and implementation seek to ensure that adequate attention is given to the cultural and social relevance of education programs. It does this through consultation with beneficiaries, accessing relevant expertise, and through appropriate monitoring and evaluation of activities. Education programs form part of Australia’s development cooperation assistance in many partner countries. Basic education comprised 37 per cent of education expenditure in 2004-05.

11 That AusAID actively promote the inclusion of human rights and good governance education in the work done by NGOs, and that AusAID review the criteria by which NGOs access funding available specifically for human rights and good governance education.

Not agreed. The Human Rights Small Grants Scheme (HRSGS) focuses on providing funding for locally based organisations in developing countries for activities that promote and protect human rights in a direct and tangible way. HRSGS projects are undertaken at the community level and focus on education and training of human rights workers, raising awareness of human rights issues and promoting international human rights standards.

AusAID’s primary funding mechanism for NGOs is the AusAID-NGO Cooperation Program. The ANCP is a mechanism for supporting NGOs’ own development activities. To be eligible for funding under ANCP, agencies must, among other criteria, be implementing development activities. AusAID does not determine the nature of these activities but NGOs must align their programs with AusAID country program strategies.

12 That non-government organisations directly engaged in human rights and good governance education be considered as deductible gift recipients (DGRs) so that they can receive income tax deductible gifts.

Agreed in principle. The Overseas Aid Gift Deduction Scheme (OAGDS) administered by AusAID enables Non-Government Organisations (NGOs) that meet all seven criteria specified under the scheme, to be accepted as ‘approved organisations’ by the Minister for Foreign Affairs. To attain Deductible Gift Recipient (DGR) status, each NGO then must satisfy the Treasurer that it has established a public fund exclusively for the relief of persons in declared developing countries. This scheme does not exclude agencies engaged in development activities that focus on human rights and good governance education.

13 The Committee recommends that the services of Radio Australia be more extensively utilised by the Government to support human rights and good governance education efforts in the region.

Agreed in principle. The ABC is a statutory body independent in programming and editorial policy from the Government of the day. Accordingly, the Government has no power of direction over the ABC, including Radio Australia, in relation to programming matters. Parliament has guaranteed this independence to ensure that what is broadcast is free of political interference.

However, as the Committee report notes, Radio Australia currently offers a number of programs on human rights and good governance to regional audiences. In particular, the Time to Talk series has focused on politics, society and governance in the Pacific, including titles such as Governance, Structure of Government, Community Governance and Human Rights.

Since 2000, the Government has provided Radio Australia with approximately $3m a year to
strenthen its transmission services to the Asia-Pacific.

14 That AusAID review its definition of ‘good governance’ to include a reference to the role of the media.

Not agreed. The Government’s definition of ‘good governance’ is the competent management of a country’s resources and affairs in a manner that is open, transparent, accountable, equitable and responsive to people’s needs, as stated in Good Governance: guiding principles for implementation (August 2000). Key political principles of good governance include a “strong and pluralistic civil society, where there is freedom of expression and association”, and a “high degree of transparency and accountability”. This involves a strong, independent and active media, and programs such as the Pacific Media Initiative is an example of such support. Australian support for the media in increasing government accountability and transparency was also reinforced by the Minister for Foreign Affairs in his 11th Annual Statement to Parliament, Australian Aid – Investing in Growth, Stability and Prosperity (2002).

15 That Committee recommends that the Pacific Media Initiative be expanded to include media professionals from countries in East Asia, including East Timor.

Agreed in part. Australia assists the media and communications sector in various regions as a cornerstone of good governance. We are strongly supportive of the role media plays in informing regional communities about governance related policies and programs. The Pacific Media and Communications Facility (PMCF) is a new three-year project which has replaced the Pacific Media Initiative.

Australia is developing a country strategy for East Timor. Australia recognises that media development is a major area of need for East Timor. The scope for support in this area will be considered in the context of the overall country strategy being developed. That said, it would be administratively feasible to include East Timorese media professionals in the PMCF, particularly since East Timor has formed linkages with Pacific organisations in a number of areas.

Expansion of the PMCF to include East Asia would be problematic. Australian aid to East Asian countries forms a small part of the overall aid flows to the countries of this region. In order to achieve some impact, it is essential to target our assistance to a small number of key sectors. This means that in some cases we are unable to provide media support, while in others, Australia provides limited support through media exchanges.

East Asia and the Pacific have differing media development needs, and considerable refinement would be required for the approaches set out in PMCF to achieve an impact in East Asia. Inclusion of East Asia could lead to a considerable distortion of the PMCF, which has been customised specifically to meet the needs of the Pacific. This is likely to be a costly approach to media development in East Asia, particularly when other more cost-effective approaches already exist. In view of the above, and while not unsympathetic to further media development in East Asia, the Government considers that expansion of the PMCF to include East Asia would not be feasible.

16 That human rights and governance education be clearly identified as a key component and outcome in the strategies and objectives of AusAID’s governance programmes and projects.

Not agreed. Australia’s assistance for improved governance focuses on five key aspects: improved economic and financial management; strengthened law and justice; increased public sector effectiveness; development of civil society; and strengthened democratic systems. Priorities for Australia’s governance programs and projects are determined in consultation with partner governments, not all of which would be relevant to the recommendation.

17 The Committee recommends that AusAID enter into a three-year funding commitment with the APF, to enable the APF secretariat to undertake effectively its future development, management and planning needs.

Agreed. On Human Rights Day, 10 December 2003, the then Parliamentary Secretary to the Minister for Foreign Affairs, Mrs Gallus, announced a three year, $1.5 million commitment to
the APF. AusAID has since signed a three year contract with the APF to 30 June 2006.

18 In line with the National Action Plan, the Committee recommends that Australia continues efforts to promote and assist in the establishment of national human rights institutions in the region as the most effective way to meet the objective of a regional human rights instrument and associated mechanisms.

Agreed in part. Australia is a key donor to the Asia Pacific Forum of National Human Rights Institutions (APF) which provides support to national human rights institutions in the region. The role of the APF is to strengthen the capacity of member institutions, assist in the establishment of national institutions and to promote regional cooperation on human rights issues. The Government also provides funding to the United Nations Office of the High Commissioner for Human Rights (OHCHR) with contributions earmarked for use by the National Institutions Unit for work in the Asia Pacific region and the planned sub-regional office in Suva.

19 The Committee recommends that, through the Asia Pacific Forum of National Human Rights Institutions, Australia works towards developing consensus on definitions of human rights and good governance with the aim of promoting the development of a regional human rights education agreement.

Not agreed. The government considers that education is the basis upon which a genuine and lasting respect for human rights is founded. The work plan of the Asia Pacific Forum of National Human Rights Institutions (APF) is decided on an annual basis by members. The APF provides training on key human rights themes for staff from human rights institutions as well as individuals from government and non-government organizations engaged in promoting and protecting human rights. The Government also notes that in the report from the Good Governance Seminar held in Seoul in September 2004, “there is a mutually reinforcing relationship between good governance and human rights and that there is no exhaustive definition of the notion of good governance …” (Commission on Human Rights, Sixty-first session, Item 17 of the provisional agenda, “Promotion and Protection of Human Rights”, 15 December 2004, E/CN.4/2005/97).

20 That the Government consider providing the National Committee for Human Rights Education with base funding, adequate to establish a modest full-time secretariat and fulfil the 1998 work-plan, on the basis of production of appropriate budgetary and appointment guidelines.

Not agreed. A national council, the Ministerial Council for Education, Employment Training and Youth Affairs (MCEETYA) is a forum for the relevant ministers to discuss education issues at a national level. At these annual meetings, the Australian Government works with States and Territories in determining the strategic direction of education in Australia. Any changes to curriculum including Human Rights Education could be dealt with through the MCEETYA processes.

21 That the development of a discrete National Plan of Action for Human Rights Education be a priority for government, HREOC and NCHRE and that adequate funding be made available for this task.

Not agreed. The Government believes that education and raising public awareness are the most lasting and effective ways to minimise discrimination and promote tolerance of all members of the community, irrespective of gender, differing racial, religious or cultural backgrounds, age or physical or mental disability. The Government recently finalised, published and widely disseminated a whole-of-government policy document, the National Framework for Human Rights, which lists as one of the Government's five central human rights priorities, the fostering of a strong human rights education program. In this context, the Government does not consider it necessary to develop a separate National Plan for Human Rights Education.

22 That a National Policy Consultation, involving Federal and State government and civil society, be convened by HREOC and supported by the Attorney General’s department. The consultation should be centred on the is-
sue of education, and aim for agreement on goals, strategies and responsibilities to advance human rights education in Australia and the region.

Not agreed. The Australian Government recognises that the most lasting and meaningful way to reduce discrimination and abuses of human rights is to change community attitudes through practical educative initiatives to promote a tolerant, fair and equitable society. That is why the Government has recently finalised, published and widely disseminated a whole-of-government policy document, the National Framework for Human Rights, which lists as one of the Government’s five central human rights priorities, the fostering of a strong Human Rights education program.

In the process of developing the National Framework, the Government consulted widely including with 106 non-government organisations, State and Territory Governments, and the Human Rights and Equal Opportunity Commission (HREOC). The Framework sets out the goals, strategies and responsibilities to advance human rights education in Australia. These strategies include, among others, continuing to support HREOC’s role in promoting awareness and respect for human rights in the community and supporting the initiatives of the National Committee on Human Rights Education.

23 That the Australian government call for the United Nations to conduct a rigorous evaluation of the effectiveness of achievements of the United Nations Decade for Human Rights Education (1995-2004) at the earliest possibility. This evaluation should be conducted prior to further discussion on an additional Decade

Agreed. In 2003, the United Nations High Commissioner for Human Rights conducted an evaluation of the achievements and shortcomings of the United Nations Decade for Human Rights Education, 1995-2004, and on future UN activities in this area (E/CN.4/2004/93) to which Australia contributed a submission. Subsequently, the UN Commission on Human Rights adopted without a vote a Resolution (2004/71) on “Follow-up to the United Nations Decade for Human Rights Education” which recommended to the UN General Assembly that it proclaim at its Fifty-Ninth Session a world programme for human rights education, to begin on 1 January 2005, structured in consecutive phases, in order to maintain and develop the implementation of human rights education programmes in all sectors. A resolution proclaiming the world programme was adopted by consensus in the General Assembly on 10 December 2004. Australia has actively contributed to the draft of this world programme, and a plan of action for the first phase (2005-2007) focusing on the primary and secondary school systems.

GOVERNMENT RESPONSE TO THE REPORT OF THE JOINT STANDING COMMITTEE ON THE NATIONAL CAPITAL AND EXTERNAL TERRITORIES

DIFFICULT CHOICES: INQUIRY INTO THE ROLE OF THE NATIONAL CAPITAL AUTHORITY IN DETERMINING THE EXTENT OF REDEVELOPMENT OF THE PIERCES CREEK SETTLEMENT IN THE ACT

Introduction

The Pierces Creek Forestry Settlement in the ACT was established around 1930. Since that time it grew to a small settlement of thirteen houses until 1970. Initially, these houses were managed by the forestry industry for forestry workers. During the 1980’s the houses were transferred to ACT public housing to be managed as part of the general housing stock. However, many of the residents have retained their links with the forestry industry.

In the January 2003 bushfires, approximately 160,000 hectares of ACT land was burnt out including much of the three forestry settlements at Uriarra, Pierces Creek and Stromlo. At Pierces Creek Forestry Settlement, twelve of the thirteen houses were destroyed. No decision to rebuild Pierces Creek has taken place since then as the ACT Government and the National Capital Authority (the Authority) have not agreed about the future of that settlement.

The Australian Capital Territory (Planning and Land Management) Act 1988 (the Act) established the National Capital Authority (the Authority). The Authority has responsibility for planning with respect to administering, reviewing and
amending the National Capital Plan (the Plan). The object of the Plan is to 'ensure that Canberra and the Territory are planned and developed in accordance with their national significance'. The Act also required that there be a Territory Plan prepared by a Territory planning authority. The Act requires that the Territory Plan shall not be inconsistent with the National Capital Plan. The ACT Government is responsible for the land-use planning and development of Territory land.

The Pierces Creek settlement is located on Territory land within the National Capital Open Space System (NCOSS) under the land use policy of 'Mountains and Bushlands' of the Plan. While the Plan is administered by the Authority, the ACT Government is responsible for planning and development approvals at Pierces Creek, as long as these are consistent with the Plan.

In November 2003 the ACT Government released the report Shaping our Territory – Opportunities for Non-Urban ACT. The Authority requested that further detailed sustainability studies be undertaken to assess redevelopment options for all three burnt out forestry settlements. These were published in May 2004. On both economic viability and social grounds, the reports do not favour the option of merely restoring the small-scale villages with replacement public housing as they previously existed. An optimal size for each redevelopment was reached, which for Pierces Creek was initially up to 60 houses. To enable this, the ACT Government requested an amendment to the Plan.

The Authority refused to support expansion of the Pierces Creek settlement and an amendment to the Plan on the grounds that, unlike Uriarra and Stromlo, there was not a compelling case for expansion and that the proposal would erode the values and qualities of that part of the NCOSS. Since February 2004 the Authority has argued that Pierces Creek settlement can be reconstructed exactly as it was before the bushfires without an amendment to the Plan.

Committee's Report

On 4 August 2004 the Joint Standing Committee on the National Capital and External Territories (JSC) resolved that, as an extension of the review of the Annual Report of the Authority for 2002-03, the Committee conduct an inquiry and report on the role of the Authority in determining the extent of redevelopment of the Pierces Creek settlement in the ACT.

The basis for this was to examine the issues which have led to the ACT Government and the Authority reaching a deadlock on the issue of redevelopment of the Pieces Creek settlement. The Committee resolved to examine why the opportunity accorded to Uriarra through an amendment to the Plan was not being afforded to the former residents of the Pierces Creek settlement, and to conduct an inquiry and report on the role of the Authority in determining the extent of redevelopment of Pierces Creek.

The JSC inquired into this issue, and its report, Difficult Choices: Inquiry into the role of the National Capital Authority in determining the extent of redevelopment of the Pierces Creek Settlement in the ACT was presented to Parliament on 31 August 2004. In brief, the report recommended: further negotiations be undertaken by the Authority with ACT Government to facilitate the return of the original Pierces Creek residents; the settlement remain as small as practicable; and residents, if eligible, have the opportunity to purchase their houses. It also recommended that the Authority report back to the Committee in December 2004 on the progress of the first recommendation.

Current Situation

Since the Committee tabled its report, the ACT Government has continued to press the Authority for an Amendment to the Plan to allow for expansion of the settlement. It has revised its proposal for expansion of Pierces Creek down to 25 houses but the Authority has remained steadfast in its resolve that no additional houses be constructed.

In May 2005, and more recently in July 2005, the ACT Government challenged the Authority's advice that the houses could be rebuilt without an Amendment to the Plan, and provided legal evidence for its case. This resulted in a re-examination of the issues. Legal opinion has confirmed the National Capital Authority's view that there is no legal impediment to the reconstruction of the settlement precisely as it existed prior to the 2003 bushfires. However, any proposal to expand or change the use of the land would re-
quire amendments to both the National Capital Plan and the Territory Plan.

THE GOVERNMENT’S RESPONSE

Recommendation 1
That the National Capital Authority negotiate with the relevant ACT Government authorities to facilitate the return of the original residents of the Pierces Creek Forestry Settlement as soon as possible; and further, that:

The number of houses to be rebuilt at the settlement remain as small as practicable; and

The original residents, if eligible, be given the opportunity to purchase their houses.

Agree.

The Government notes that legal advice confirms that section 13 of the Australian Capital Territory (Planning and Land Management) Act 1988 (the Act) permits the rebuilding of the Pierces Creek settlement without the need to amend the National Capital Plan.

However, the Government notes that the Committee’s recommendation to give the original residents, if eligible, the opportunity to purchase their houses, represents a change to the original arrangements. Hence, the National Capital Plan would need to be amended to enable the residents to purchase their houses. The Government has been advised by the National Capital Authority that it has agreed to the preparation of a Draft Amendment to the Plan to enable the residents of Pierces Creek to purchase their houses once the ACT Government has rebuilt the 12 houses destroyed in the 2003 bushfires. The Government would support such an Amendment.

Recommendation 2
That the National Capital Authority report back to the Committee in December 2004 with an update as to how the implementation of Recommendation 1 is progressing.

Noted.

The Government will ask the National Capital Authority to report back to the Committee in November 2005 with an update as to how the implementation of Recommendation 1 is progressing.

Senator LUNDY (Australian Capital Territory) (3.28 pm)—by leave—I move: That the Senate take note of the document.

We have been waiting a long time for this response to the Joint Standing Committee on the National Capital and External Territories report titled Difficult choices: inquiry into the role of the National Capital Authority in determining the extent of redevelopment of the Pierces Creek settlement in the ACT. Senators may be aware that many residents of Pierces Creek, the area affected, have been displaced by the ravages of the fire some years ago and have been waiting upon clarification about the status of their land and their rights as tenants. This has contributed to the delaying of the re-establishment and rebuilding of their dwellings on that site.

There was fundamentally a legal argument between the ACT government, the National Capital Authority and Minister Lloyd on the status of the land, its ownership and use. This response says that the Howard government has finally agreed with the observations of the national capital standing committee that there are full rights for the Pierces Creek community and, indeed, once their houses are rebuilt by the ACT government, they should be offered the opportunity to purchase those dwellings, as is the case for other residents in ACT Housing in the ACT. Those residents, I think, have been extremely frustrated with the slowness of this response from the Howard government. This decision will certainly be strongly welcomed, in particular the recommendation the government has agreed to. It states:

That the National Capital Authority negotiate with the relevant ACT Government authorities to facilitate the return of the original residents of the Pierces Creek Forestry Settlement as soon as possible; and further, that:

a. The number of houses to be rebuilt at the settlement remain as small as practicable; and
b. The original residents, if eligible, be given the opportunity to purchase their houses.

The government say they agree to this recommendation, and that is good news. The government go on to say in their response that they note:

... legal advice confirms that section 13 of the Australian Capital Territory (Planning and Land Management) Act 1998 ... permits the rebuilding of the Pierces Creek settlement without the need to amend the National Capital Plan.

That was really the heart of this clarification that was required. But I find it interesting to note that the government then go on to say:

However, the Government notes that the Committee’s recommendation to give the original residents, if eligible, the opportunity to purchase their houses, represents a change to the original arrangements. Hence, the National Capital Plan would need to be amended to enable the residents to purchase their homes. The Government has been advised by the National Capital Authority that it has agreed to the preparation of a Draft Amendment to the Plan to enable the residents of Pierces Creek to purchase their houses once the ACT Government has rebuilt the 12 houses destroyed in the 2003 bushfires. The Government would support such an Amendment.

So would the opposition. We have been waiting a long time for this and it is about time the Howard government came good on what should have occurred far more quickly than it did.

But I also note that they mention 12 houses. I think it is worth making the point that the recommendation the government have agreed to talks about negotiations between the National Capital Authority and the relevant ACT government authorities. We all know that the ACT government has expressed the view that more houses would be required for that to be a viable settlement and, indeed, the residents are strongly of the view that they would just like their own community rebuilt. I think that is a point of ongoing negotiation. That is certainly my interpretation of the government’s response to this report. So I certainly commend it. We have been waiting too long for it, which has caused additional unnecessary hardship on Pierces Creek residents.

Senator CARR (Victoria) (3.33 pm)—I would like to speak on this report, whose title, Difficult choices, indicates, and the government’s response today reflects, there are difficult choices to be made in determining the shape of the redevelopment of Pierces Creek. As the shadow minister in this area, I feel strongly for the people of Pierces Creek. I understand that a balance needs to be struck between maintaining the character of the Australian Capital Territory and the integrity of the national open space scheme on the one hand and, on the other, the establishment of a settlement at Pierces Creek which will be economically and socially viable into the future—which the ACT government does not believe can be achieved without expanding this settlement from its original 13 houses. It is a proposition that I can see has some merit. There is also a need to ensure the wellbeing of the 12 families who have been so devastatingly affected by the bushfires. These families have been left with nothing and have certainly had to cope with a great deal of uncertainty for the last 2½ years.

Some 13 months after the inquiry was completed and nine months after the NCA was asked to report back to the joint committee, we get this very short response. I find that, frankly, extraordinary. The government’s response to the committee’s recommendations totals 173 words. These words took 380 days to produce. That is less than half a word a day. I might say that in the territories division there is obviously a problem with productivity, unless of course the problem is with the minister’s office. I suspect, in fact, it is the latter. Even if we take into account weekends, public holidays and staff
leave, it is still less than a word a day. I think that is quite a remarkable achievement for the minister’s office.

We have a situation where 12 Australian families have already suffered the devastation of losing their homes to a terrible fire-storm. I would contend that the attitude of the government and the NCA indicates that they have lost sight of the fact that their decisions do have and will have a fundamental impact on those 12 families. Since the joint committee’s report was completed, the Australian Capital Territory government has shown a willingness to compromise on these issues and has in fact revisited its original proposal of rebuilding the community. There has been a move from some 50 houses down to 25. By contrast, the NCA has shown little willingness to negotiate and Minister Lloyd has done nothing but sit on his hands. He has clearly sat on this report; it has produced this sort of an outcome.

Even worse, it would appear that Minister Lloyd actually gagged the NCA until the government response was completed. I am persuaded that this report would not have seen the light of day if it had not been for the Chief Minister’s intervention earlier this week. During budget estimates the NCA was asked why it had not reported back to the joint committee on the progress of negotiations, as per recommendation 2 of the report. Ms Annabelle Pegrum, CEO of the NCA, said:

On Pierces Creek the Minister certainly advised me and a number of our officers verbally that there had to be a government response to the joint standing committee’s report into Pierces Creek, and that has not yet been tabled.

We now find that the key element of the government’s response is entirely based on advice from the NCA on the action it is prepared to take on home ownership.

In June this year, my colleague the member for Canberra said, ‘It is difficult to say which is the horse and which is the cart.’ On the one hand, the NCA could not comment publicly until the government responded to the report; on the other hand, we now find that the entire substance of the response is based on advice from the NCA. The government’s response reveals that the NCA has agreed to the preparation of a draft amendment to the National Capital Plan to enable residents of Pierces Creek to purchase their houses after the Australian Capital Territory government has rebuilt the 12 houses destroyed in the bushfire. I suppose it is a reasonable proposition that you would buy a house after it has actually been rebuilt. This is a welcome step and at least it clarifies the legal position. One hopes that means that the 12 houses destroyed in January 2003 fires will now be rebuilt.

However, there is little sign that the NCA is willing to negotiate in any serious way with the ACT government to resolve the impasse over the actual size of the settlement. It is hoped that the government’s agreement to the joint committee’s first recommendation—that the NCA negotiate with the ACT government to resolve the issue as soon as possible—implies that the government is now expecting the NCA to enter into genuine negotiations with the ACT government. It would have been preferable if the government had explicitly stated that it expected the NCA to negotiate in good faith and with urgency to resolve this impasse.

The whole affair smacks of an irresponsible lack of sensitivity to the needs of vulnerable Australian families and an arrogant lack of responsiveness to the needs of the ACT community more broadly. Unfortunately, this is entirely in line with the Howard government’s arrogantly dismissive attitude to parliamentary reports. While we are all aware of the pattern of delayed responses to reports,
there are two particularly relevant examples of today’s discussion to which I should draw attention. In the other chamber today the government tabled its response to a select committee inquiry into the Australian bushfires. That report was tabled in October 2003—almost two years ago. Also, the government took over 10 months to respond to the bipartisan report of the inquiry into the role of the National Capital Authority, and it rejected or delayed its response to 10 of the 11 recommendations.

On the issue of Pierces Creek, the Australian Capital Territory voters have been let down yet again by this government. I have seen the work that Senator Lundy has undertaken on behalf of her constituents and the extraordinarily strong advocacy that she has presented on their behalf. I would like to see what Senator Humphries has done as a member of this government to advance the interests of the former residents of Pierces Creek. I would like to have heard from him as to what action he has taken to make sure that the Australian Capital Territory is not dunned by Minister Lloyd in these matters. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

DOCUMENTS
Register of Senate Senior Executive Officers’ Interests

The DEPUTY PRESIDENT—I present the Register of Senate Senior Executive Officers’ Interests incorporating notifications of alterations of interests of senior executive officers lodged between 21 June and 6 September 2005.

BUDGET
Consideration by Legislation Committees
Additional Information

Senator FERRIS (South Australia) (3.42 pm)—On behalf of the Chair of the Rural and Regional Affairs and Transport Legislation Committee, Senator Heffernan, I present additional information received by the committee relating to hearings on the 2005-06 budget estimates.

COMMITTEES
Membership

The DEPUTY PRESIDENT—The President has received letters from party leaders seeking to vary the membership of committees.

Senator SANDY MACDONALD (New South Wales—Parliamentary Secretary to the Minister for Trade) (3.43 pm)—by leave—I move:

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

Community Affairs References Committee—
  Discharged—Senator McLucas
  Appointed—Senator Carol Brown

Legal and Constitutional Legislation Committee—
  Discharged—Substitute member: Senator Evans

Legal and Constitutional References Committee—
  Appointed—Participating member: Senator Payne.

Question agreed to.

TELESTRA (TRANSITION TO FULL PRIVATE OWNERSHIP) BILL 2005

TELECOMMUNICATIONS LEGISLATION AMENDMENT (COMPETITION AND CONSUMER ISSUES) BILL 2005

Returned from the House of Representatives

Message received from the House of Representatives returning the bills without amendment.

TELECOMMUNICATIONS LEGISLATION AMENDMENT
(FUTURE PROOFING AND OTHER MEASURES) BILL 2005

Returned from the House of Representatives

Message received from the House of Representatives agreeing to the amendments made by the Senate to the bill.

TRUTH IN FOOD LABELLING BILL 2003 [2005]

Second Reading

Debate resumed from 13 October 2003, on motion by Senator Bob Brown:

That this bill be now read a second time.

Senator BOB BROWN (Tasmania) (3.44 pm)—The Truth in Food Labelling Bill 2003 [2005] was first before the Senate two years ago. It is now very appropriately back before the Senate because of the current debate about misleading labelling on foods in Australia. That misleading labelling on foods comes out of national legislation going back to 1998. The debate is particularly about labels such as ‘made in Australia’ which do not mean that and which allow—under Commonwealth law that went through this parliament and this Senate while I was here—Woolworths, Coles and any other sellers to have ‘made in Australia’ labels on goods when only 50 per cent of the value of the good is actually made in Australia. A classic example is that you can have a bottle of apricot jam, with the bottle making up half the price and the jam totally imported, and put ‘made in Australia’ on it. That is very deceptive for consumers.

Those who want to go back to the Hansard of 1998 will see that I tried very hard to stop that and, as a Green, moved that a good be 100 per cent made in Australia if it was going to carry that label. Instead, the decision was for the 50 per cent rule for ‘made in Australia’ and, if a good was wholly made in Australia it had to be labelled ‘product of Australia’. I can tell you, Mr Deputy President, that when shoppers go into the supermarkets they put less value on the words ‘product of Australia’ than on the three simple words ‘made in Australia’. ‘Made in Australia’ should mean that.

This legislation is therefore necessary to obviate the confusion and downright deception that shoppers face when they go into supermarkets, which is getting worse. We have had a very big push by the government for globalisation, and the laws have been changed to enable a bigger international movement of goods without restriction. We now have an Australia-US free trade agreement which removes all barriers to the import of American foods, although there are 20 pages of barriers left on the export of Australian foods to the United States.

The power of that legislation to cut across the interests of consumers was underlined when just a few weeks ago farmers in tractors approached Parliament House here in Canberra. They had come all the way from Tasmania, Victoria, parts of New South Wales and elsewhere. As they approached Parliament House a spokesperson from the Embassy of the United States in Canberra let it be known that he considered that changes to the laws in labelling to give truth in labelling might breach the spirit of the US-Australia free trade agreement. That was a shot across the bow. I and the Greens maintain that this parliament is supreme. But the US-Australia free trade agreement agreed to by both the bigger parties pulls the rug out from under that. It is something that will no doubt be tested further down the line.

What I, and I think many farmers, particularly object to is the move to dress goods up as coming from Australia when in fact they do not. Senator Heffernan has just this week had quite a deal of warranted publicity about the issue of prawns being marketed as Aus-
Australian when in fact they are imported from South-East Asia. A tiny piece of the label indicates to people that they are imported goods. But when you have a kangaroo or a koala or whatever on the front of the goods, you expect they are Australian. It is quite deceptive.

I appeal to the government. The government has the numbers, and I forecast the government will block this bill. It will certainly not allow it to come to a second reading this afternoon in the hour or a half that we have. I appeal to the government to look at this bill, to adopt its measures and to bring them in rapidly as legislation. I tell you what: Australians will cheer, because producers in general, including farmers, and consumers want truth in labelling. They want to know, when they take produce off the shelf, whether it is local, Australian or imported. They also want to know what is in it. We have a long way to go before consumers can be assured of those things.

When I travel around the country—and I do that far too much—wherever I am I buy locally because I want to know amongst other things that the local economy is benefiting out of that visit. So in Western Australia, I buy Swan; in New South Wales, Tooheys; and, in Tasmania, Cascade. I also go to the corner shop and buy goods which come from the local region. I am astonished when I go into stores in Tasmania and find how difficult, and sometimes impossible, it can be to buy locally made cheese. It is imported from the mainland—or from Europe, for goodness sake—at greater expense. Involved in that is a big environmental penalty, as these goods are trucked or flown around the country with greenhouse gases belching out. Goods are taken quite unnecessarily to places which have perfectly good homemade products, which are much fresher, by the way.

Senator Milne gave me a copy of the Weekly Times of a week ago with a story headlined ‘Brands hit home run’. That simply says that most people are attracted to the supermarket house brands. If you read that story, you find that in effect most, if not all, of the supermarket house brands are imported. People think they are getting a cheap bargain, but in fact the country’s own producers are being sold out. Is that a bargain? I do not think so. The environment is being negatively impacted on—it is getting a bad deal out of that. Is that a good bargain? No. Most of all, it is not the truth if it is not put on these products that the goods are imported. The Greens bill before the Senate this afternoon would make the Commonwealth responsible for implementing measures which would ensure that all products with foreign content were labelled with the country of origin of that foreign food product.

The Commonwealth these days works through the Australia New Zealand Food Standards Code. All the states and territories are involved, as well as the New Zealand government. My counterpart in the Greens in New Zealand, their food spokesperson, Sue Kedgley, has introduced similar legislation into the New Zealand parliament. If Labour wins the election on Saturday in New Zealand, it will require Greens support to be in government. That will raise the real prospect of this legislation being enacted in New Zealand. To put it very simply, all packaged meat, fruit, fish and vegetables on sale in Australia would have to be labelled identifying the country of origin. If it comes from Australia, it should say so; if it comes from some foreign country—name whichever you like—then it should say so. If it is from the US, it should say so; if it is from the Congo, it should say so; if it is from New Zealand, it should say so.

I think we underestimate the willingness of consumers to be patriotic—not in the shal-
low sense of that word—because they want to support people on the land in Australia. There is a great deal of goodwill there. Oughtn’t we, as legislators, make it easy for Australians who want to do the right thing? Of course we should. This legislation would also mean that all unpackaged meat, fish, fruit and vegetables, including bulk foods, placed on the market in Australia would have to have the country of origin identified at the point of display for sale.

I note that when Woolworths and Coles, who put their profit line ahead of brand Australia and the consumer’s right to know, are approached on this matter they say, ‘We put the country of origin on 90 per cent of our goods at the fresh food end of the supermarket.’ They say nothing about the majority of goods bought off the shelves from the rest of the supermarket, because there it is patent deception that goes on—with home brand foods in particular. Let me reiterate: if 45 per cent of the goods come from overseas, you cannot find out; it is not labelled—there is no need to label that. This legislation would change that. This is legislation which is clearly there to tell consumers who want to buy Australian where and how they can do so—to identify the goods and give them the advantage of being dinky-di Australian, which they should have.

One component of the bill is residue information. When Sue Kedgley from the New Zealand parliament and I looked at this matter we found that it is well nigh impossible in this day of high technology and sophisticated, analytical laboratories to find out what is in foods which is deleterious to people’s health. So information about the contamination of food, by and large, is not available. I note, by the way, that there is before this chamber at the moment—I am trying to track this down better—an exemption for the use of 24D of all things, a component of Agent Orange, to spray on grapevines around the country. There is a regulation allowing that to happen. It says small amounts—whatever that is—are acceptable. No amount of 24D going onto Australian grape crops is acceptable.

So, on the one hand, we have this move to have a clean, green, fresh Australian product going onto the world market. On the other hand, because we have not had it brought to notice, there is this covert move to continue with pesticide and chemical contamination being put into the very foods that are grown for our consumption. Having said that, the best we could do, for the time being, was to insist that there be a government web site and that all information collected by any department or agency on contaminants in food—pesticides, heavy metals, industrial chemicals or by-products, veterinary medicines or products, or any other contaminant—be made available to members of the public on that government web site. That, of course, would be a very easy access mode for people who want to track this down.

There are two considerations here. The first is the people who know their health will be affected if there is a contaminant in the food. They have an allergic reaction or some other health reason why they must stay away from some contaminant. The second is that we live in a world where people are well educated. They do not want pesticides, defoliants or insect killers brought into their food cycle. These are being dumped in tonnes onto Australian croplands, directly or indirectly, and into Australian waterways in 2005. If these contaminants find their way into food, and we know about it, we should be enabling the public to be well versed on that and how to avoid the products that are contaminated.

Another component of the legislation—and it is up front in this legislation—is the need for labelling of genetically modified
food and animal feed. The bill would provide that all packaged food derived from genetic modification, or containing an ingredient derived from genetic modification, must be labelled as such, regardless of whether or not it contains DNA or protein resulting from that genetic modification. It also means that the label required by that provision would have to contain the words ‘derived from genetic modification’ in conjunction with the name of the food or in association with any specific ingredient derived from genetic modification or otherwise the label ‘genetically modified (whatever the name of the food is)’ or ‘contains genetically modified (the name of the ingredient)’.

A lot of people want to know if their food is contaminated. We have just heard today, from Western Australia, about another contamination of non-GE canola by GM-contaminated canola, and we are going to see the spread of that. I have made that clear on behalf of the Greens in this place before. The people who cause the contamination should pay for the damage. I have moved in here that they must be insured to pay for that damage. It got voted down by the big parties. This is a move to at least let people know that that contamination is a concern. It is a right of consumers to know.

You cannot get margarine in this country and be assured that it has come from non-contaminated crops—the information is simply not there. But why shouldn’t those people who are ensuring that their goods are organic or not contaminated be able to put that on the label? Or, conversely, why shouldn’t those who use contaminated foods—whether it be by pesticides or genetic modification—or food brought from overseas, show those things on a label? It is a simple matter: it is truth, it is being honest with consumers, it is being honest with our constituents, there is a big need for it and it would absolutely support our farmers.

This is very important legislation. It is restrained by being in private members’ time on a Thursday afternoon. Mr Deputy President, I ask the Manager of Government Business in the Senate if the government will allow a second reading of this bill this afternoon before debate is closed. I am sure we will get no opposition to that from our corner of the chamber. I am looking forward to a positive response to this legislation. I know that there will be criticisms coming from the government, but let me put this challenge to those critics who will take the time-honoured path of saying: ‘The legislation is faulty here; it doesn’t have that; it should have this.’ You have all the power of the legal advice and drafting advice to have this legislation, if it has got some fault, back in here when we next sit, at the start of October. That is the challenge to you. The criticism will be hollow if it is not followed by action.

I have seen pretty well all members opposite supporting the farmers on their way to Canberra. The whole direction of that protest in Canberra a few weeks back was: ‘Give us truth in labelling. If a food is brought from overseas, let that be on the label—mandate that it be on the label.’ Well, here are the Greens saying: ‘Yes, we’ve got the legislation here. Support it.’ I say to the government members who joined the cavalcade and the Labor Premier of Tasmania, who was here, there and everywhere supporting it: legislate. Do not just let the thing slide off the agenda. Those farmers had a heartfelt mission. They put in a lot of money, a lot of time and a lot of nights away from their home patch to come here to get action. This legislation is the vehicle for action.

I will take a criticism of this legislation as being wanting in some way or other simply as a call to further action by the government to bring in legislation which is not wanting, if that is the case. Otherwise I will think it is a failure by the government. I appeal to
members to support this legislation. It is good legislation. It will be popular legislation. It may not suit Coles and Woolworths with their 70 per cent or 80 per cent ownership of the outlets and their multibillion dollar profit lines, but I am not concerned about what is good for their profit line, though I wish them every bit of luck. I am concerned for truth and the consumers’ right to know and the farmers’ right to have their products labelled as coming from this country when they are up against competition—and highly subsidised competition—from countries on the other side of the planet. Our country says, ‘Free trade’ and ‘No subsidies’, then it should say, ‘At least we’ll give truth in advertising to complement that situation which is so adverse for farmers in this great country of ours.’

Senator LUNDY (Australian Capital Territory) (4.04 pm)—Labor recognises that consumers have a right to accurate and sufficient information in relation to food labelling and that there are a number of legislative bodies that monitor and provide consumer information. Food Standards Australia New Zealand controls the Food Standards Code. This is complemented by the Trade Practices Act, which ensures food manufacturers and retailers provide accurate information to consumers. Labor strongly believes that Australians have a right to know the country of origin of food that they buy. Not only is this important for consumers to know what they are buying but, in order to support Australian growers and farmers, country of origin labelling is of utmost importance. Labor supports the mandatory country of origin labelling for fresh, packaged and processed foods. Labor expresses sympathy with the aims of this legislation—that is, to determine the extent of genetic manipulation—but in reality the Truth in Food Labelling Bill 2003 [2005] may be too ambitious, and there is no way of really knowing the exact extent of chemical residues in food.

Labor also acknowledges the objectives of the legislation for consumers to make better, more informed choices about the food that they purchase; to enable consumers to have more meaningful and accurate information in relation to country of origin labelling; and to provide sufficient information in relation to the extent of genetic manipulation of food. However, Labor is also concerned that the mechanisms, the implementation and the outcome of this bill may leave consumers more confused as this area is already regulated. First and foremost there would be a need for greater public understanding of the effect of GMOs.

Labor has consumer concerns and interests at heart. We in the Labor Party recognise that we should not create a legal and regulatory minefield which creates unnecessary confusion for consumers, thereby not achieving the aims of informing them and at the same time putting an unreasonable burden on the industry. In particular, Labor supports the rights of states and territories to make decisions jointly with the Commonwealth in order to achieve the best outcomes. These important issues are on the agenda for the October FSANZ meeting. Labor intends to remain in close contact with the states and territories to ensure that the issues which concern the opposition are considered and discussed at that time. Labor understands that this bill purports to protect the health and safety of consumers, but we in the Labor Party see no provision for assessing or evaluating the safety of foods in the bill, just for assessing the extent to which food is manipulated or modified.

When we look at existing legislation and regulation more closely, it aims to ensure that any genetically modified crop or food is rigorously assessed for impacts on human
health, and existing food labelling requirements ensure that consumers have information available to them in order to make informed choices. Information about residues in food is monitored by the Commonwealth government and published through the National Residue Survey and the Australian Total Diet Survey. This bill lowers the threshold for labelling foods inadvertently contaminated with GM material from one per cent to 0.5 per cent. Labor is of the view that this is an unrealistic approach. A 0.5 per cent level seems difficult to detect.

The key issue is to provide consumers with information to enable them to make an informed choice, while recognising the realities of food processing and manufacture. We know biotechnology is important to Australia as a whole when it comes to our role in the global marketplace and that Australia has high levels of research and technology. This ought to be encouraged rather than hindered. There is a challenge, and that is to strike the right balance between the benefits—to our farmers, industry, productivity, increased food production and jobs—and consumer concerns. More consultation is needed on this issue, and the outcomes of the FSANZ meeting in October, at which all of the state and territory governments will be represented, as well as the Commonwealth government, need to be fully considered, we believe, before legislative measures are put in place.

Aspects of the bill sound good in theory. As I said, it is hard to argue with the stated objectives of the bill. But a closer look demonstrates to us that it might not be the best way to go about it. It is for those reasons that, at this time, we oppose the bill presented by Senator Brown.

Senator ADAMS (Western Australia) (4.09 pm)—The Truth in Food Labelling Bill 2003 [2005] was first introduced in the Senate on 13 October 2003. On 29 October 2003, the Senate referred the bill to the Senate Community Affairs Legislation Committee for inquiry and report. The committee did not support the bill. I quote Mr Claude Gauchat, who appeared at the committee hearing on 4 March 2004. Mr Gauchat is the Executive Director of Avcare Ltd, which is the peak body representing companies that are developing and commercialising agvet chemicals, as well as GM crop technology, in Australia. He made the following comments: Avcare contends that the Truth in Food Labelling Bill is unnecessary, as existing legislation and regulatory regimes provide protection of human health and safety as well as consumer information via labelling in relation to GM inputs. Avcare supports existing Food Standards Code standard 1.5.2, which is based on sound scientific principles and, in our understanding, provides consumers with fair choice. Existing food labelling requirements ensure that consumers have information available to ... them to make informed choices. The Food Standards Code is complemented by provisions in the Trade Practices Act which ensure that food manufacturers and retailers provide accurate information to consumers. Further, the National Residue Survey and the Australian Total Diet Survey provide publicly available information on residues.

Australia’s current standards regarding the labelling of GM foods are eminently enforceable. The Commonwealth does not have a specific constitutional power in relation to food regulation. The ability of the Commonwealth to enact legislation with respect to food is limited to those aspects of food regulation that fall under certain heads of power. In contrast, the states have complete and unrestricted power to enact food legislation.

The bill relies upon many Commonwealth constitutional powers: corporations, trade and commerce, quarantine, territories, and the Commonwealth and its authorities. The bill adopts a patchwork approach, leaving
gaps in the regulatory framework. For instance, it would not apply to many state based small businesses not incorporated and not engaged in interstate trade or commerce. The bill is contrary to the agreement between the states, the territories and the Commonwealth to give effect to a national approach to food regulation in Australia, including by the adoption of a uniform code of food standards and the establishment of an independent statutory authority to develop and approve food standards. It is also inconsistent with the agreement between Australia and New Zealand concerning a joint food standards system.

I would like to talk about how we in Western Australia have got on with our food labelling. Recently, the *West Australian* newspaper ran a campaign on country of origin labelling, and received nearly 50,000 responses from readers within a few days. These readers were calling for their food to be labelled by not only the country of origin but also the state of origin. Western Australian supermarkets bowed to pressure from the public, by agreeing to label all fruit and vegetables by the product’s country of origin. Some independent supermarkets now display both the food’s country and state of origin.

Western Australia, I am proud to say, now has the highest food labelling standards in the country. It is evident that Western Australian consumers, and no doubt all Australian consumers, want to support local producers by buying locally, which the country of origin labelling allows. When I go to the supermarket, I now take my glasses so I can examine the products that I buy. Asparagus is something that I am very fond of, and I was absolutely horrified when I found that, unbeknownst to me, the asparagus I had been buying comes from China. So I now do not buy that asparagus; I make sure that I get WA, locally produced asparagus. That is an example of the way that I look at my food.

Western Australians also want to be sure that their food meets health standards which are acceptable in this country. Food safety and quality assurance requirements which are applied to local produce may not apply in countries from which fresh food is imported. A good example of this is the $1.1 billion of seafood imported into Australia annually, which does not have to comply with the high health and safety standards which apply in this country. Prawns are a very good example. Cheap prawns coming into Western Australia are probably a quarter of the price of our own locally-grown prawns.

*Senator Parry interjecting—*

**Senator ADAMS**—I have just been told by my colleague that the Tasmanian prawns are much better.

**Senator Webber**—Rubbish! Absolute rubbish!

**Senator ADAMS**—Thanks very much to my Western Australian colleague on the other side. Country of origin labelling allows Australian consumers to be sure that they are purchasing food which complies with our health standards and gives them the choice of supporting local producers.

I now move to the genetic modification provisions. This bill requires labelling in relation to all packaged and unpackaged food derived from genetic modification—otherwise known as GM—or containing ingredients derived from GM, regardless of whether the food contains GM DNA or protein. There are exemptions from these requirements for meat, milk and eggs which are treated with GM veterinary products or which are fed GM food. Food produced with GM enzymes and takeaway food and restaurant meals are also exempted.

The bill requires labelling of animal feed that is genetically modified or contains a GM ingredient, regardless of whether the food contains GM DNA or protein. The bill pro-
vides a labelling exemption for food or feed with less than 0.5 per cent of accidental contamination with GM DNA or protein, provided the contaminant is approved by FSANZ and operators can demonstrate that they have used all appropriate steps to avoid contamination.

Food or feed contaminated with a non-FSANZ approved GM DNA or protein must be labelled as containing GM material. Regulations must be made prescribing a comprehensive traceability system for all food and feed containing GM material or derived from GM processes. The minister must implement a monitoring plan to trace and identify any direct, indirect, immediate, delayed or unforeseen effects of GM food or animal feed on human health or the environment.

The bill differs from standard 1.5.2, the GM standard, for food produced using gene technology, in that it requires all foods derived by gene technology to be labelled, including those where there is no novel DNA or protein present and when there is no alteration in the characteristics of the food. Australia has taken a conservative approach and requires GM food to be labelled if there is novel DNA and/or protein in the final food or if the food has altered characteristics. This is on the basis of providing information to the consumer and is not related to safety.

The safety aspects of a GM food, including allergenicity, toxicity, nutritional impact or end use, are rigorously assessed by FSANZ before approval. The GM standard requires that food that has altered characteristics must be labelled. This means that if food is significantly different from its non-GM counterpart with respect to allergenicity, toxicity, nutritional impact or end use, it must be identified on the label as being ‘genetically modified’. There is already a requirement that food containing GM DNA or protein must be labelled. This means that any food, food ingredient, food additive, food processing aid or flavouring present at greater than 0.1 per cent that contains genetically modified DNA or protein must be identified on the label as being ‘genetically modified’.

Food processed in such a way as to remove all DNA or protein—for example, oils and sugars processed from GM plants—and which does not have altered characteristics, does not need to be labelled. The GM standard also allows a food to contain up to 10 grams per kilogram, or one per cent, of unintended novel DNA and/or protein per ingredient. This only applies in circumstances where the manufacturer has actively sought to avoid GM food, ingredients or processing aids but where there is an inadvertent presence of GM material.

The GM standard does not explicitly state that documentation to support labelling decisions is required. A user guide published by FSANZ and developed by an intergovernmental group encourages industry to implement such systems and keep dossiers of evidence that verify the GM status of ingredients and foods used in production.

In August 2003, FSANZ commenced a review of labelling of GM foods, and the review was completed later that year. The major outcomes of the review were, firstly, when compared to APEC countries, the Australian and New Zealand regime for the labelling of GM food is one of the most stringent in the world. Secondly, in Australia and New Zealand, the majority of consumers want mandatory labelling of GM food so that they can make informed purchasing decisions. There is some support for method of production labelling rather than labelling based on the composition of food. Consumers in other countries also hold these views. Thirdly, surveys demonstrate that the label-
ling requirements in standard 1.5.2 can be effectively enforced using strategies which examine compliance plans and documentation held by manufacturers and supplemented by product testing where appropriate.

When the GM standard was being developed, all state and territory governments and the Commonwealth rejected the labelling of GM food where there is no GM DNA or protein in the final food. Labelling is not about safety. Safety is very rigorously assessed by FSANZ as part of its approval processes. Labelling all GM food would be impractical and an inappropriate impost on industry whilst not giving consumers useful information. The government does not agree with the traceability systems used elsewhere in the world. They are impractical to implement and costly to manage, with no real benefit to consumers.

In relation to country of origin labelling, the bill prescribes that, after all legal mechanisms to modify the Australia New Zealand Food Standards Code to require compulsory country of origin labelling of food products have been attempted and have failed, the Commonwealth must make all reasonable efforts to inform consumers of the country of origin of food being sold in Australia either by regulations creating a standard within the existing legal framework or by making the information available on a government web site or in hard copy. The bill also requires country of origin labelling in relation to all packaged and unpackaged meat, fish, fruit and vegetables placed on the market in Australia. If these products constitute less than 20 per cent of a product, they are exempt from labelling requirements.

This government fully supports that the information provided to consumers should be accurate so that they can make an informed choice about the food they buy. At the moment, there is a lot of interest in where food is grown and the current standard for country of origin labelling. The existing standard for country of origin labelling mandates that labels on nearly all packaged food and for unpackaged fruit, vegetables, nuts and fish state the country of origin.

Public consultation has been held about possible changes to this standard to make it mandatory for all packaged food and for all unpackaged fruit, vegetables, nuts and fish to state the country of origin. To resolve the issues raised during public consultation, FSANZ undertook an additional third round of public consultation on country of origin labelling. FSANZ is now finalising its final assessment report and new proposed food standard on country of origin labelling. The final assessment report, including the new proposed food standard, will be considered by the Australia and New Zealand Food Regulation Ministerial Council in late October this year. The proposed new standard would tighten up the existing requirements.

The bill requires all information collected by any department or agency about residues or contaminants in food—whether from pesticides, heavy metals, industrial chemicals or by-products, veterinary medicines or products or otherwise—to be made publicly available on a relevant government web site within 12 months of collection and made available on request. The existing regulations for residue information are as follows. An established process already exists under the Australia New Zealand Food Standards Code whereby permissible maximum levels for contaminants and natural toxicants—for example, heavy metals and non-metal contaminants—are approved and listed in standard 1.4.1, contaminants and natural toxicants. Entries in standard 1.4.1 are only approved after rigorous scientific assessment according to international guidelines and benchmarked best practice in scientific assessment. Similarly, under standard 1.4.2, maximum
residue limits, maximum residue limits for agricultural and veterinary chemicals—agvet chemicals—are approved to be entered into the code only after appropriate scientific assessment has been completed on the good agricultural practice of the chemicals by the Australian Pesticides and Veterinary Medicines Authority and dietary exposure to the chemicals has been assessed by FSANZ.

All information on the safety assessment of contaminants, natural toxicants and agvet chemicals and approvals in the code is publicly available under the FSANZ process, which includes public consultation to ensure that interested parties participate in the assessment process. The Australian total diet survey operating under FSANZ also collects information on levels of chemicals in food, and this information is published in a timely manner by FSANZ after appropriate processing and review. Therefore, to conclude, I believe there are enough rules and regulations here for our business companies to have adequate cover. I do believe that, due to the states taking a much greater interest in labelling, there is enough regulation here. I oppose the bill.

Senator FIELDING (Victoria) (4.27 pm)—Family First supports honest, accurate and prominent labelling of food products because this allows consumers to make informed decisions about what they buy. Labelling makes retailers and manufacturers accountable for what they serve up to consumers. Honest labelling is a community issue. Most Australians are patriotic and want to support Australian products and produce, because that means supporting fellow Australians.

As consumers, if we do not have the right information before us, we cannot decide how best to support other Australians by buying Australian produce and products. Recently I joined hundreds of fruit and vegetable growers rallying at Parliament House to persuade politicians to have rules to help people buy Australian products and produce. Companies might choose to make decisions purely on business grounds but this does not excuse them from the implications of their decisions. Good corporate responsibility is more than just making profits and boosting returns to shareholders. Being a good corporate citizen is good for business because it takes account of the impact a business has on staff, customers and the wider community.

One timely example is the McDonald’s decision to buy some potatoes from New Zealand. That decision has real consequences for Australian potato growers, their families and communities. Consumers are entitled to know where produce and products come from so that they can decide for themselves whether this influences their spending decisions. We need to be encouraging Australians to buy Australian produce and products. Dr Gianni Zappala, who teaches corporate citizenship at the University of Sydney, says:

Good corporate citizenship integrates social, ethical, environmental, economic and philanthropic values in the core decision-making processes of a business.

He says it is:

... where the increased awareness of their role and impact in society is integrated into all business decisions and is accompanied by stakeholder engagement.

To be successful, companies need the trust and respect of the community. To earn that trust and respect, it is important to give consumers full and accurate information about products and produce so they can make informed decisions. That is good for consumers, good for business and good for Australia.

Senator MILNE (Tasmania) (4.30 pm)—I want to comment in support of the Truth in Food Labelling Bill 2003 [2005] introduced by Senator Bob Brown. This is an extraor-
narily important and timely piece of legislation. It is very interesting that, less than a month ago, 2,000 farmers and supporters gathered in front of Parliament House.

Senator McGauran—Not in favour of this bill.

Senator Bob Brown—Yes, they were.

Senator MILNE—As I said, 2,000 farmers and supporters gathered outside Parliament House, and they were lobbying for country of origin labelling of food and for support from the government. I did not hear at that point anyone from the government telling them that what we had was adequate, as we have just heard from Senator Adams. Why didn’t you go out there and tell them, a month ago, that you were not going to do anything and that what we have now is adequate? It is appalling that so many politicians were prepared to go out there and say how much they supported the farmers, how much they were dedicated to the cause of food labelling, how they supported the men and women on the land and so on, and now, when we get to the crunch, when we can actually vote on something that gives people the country of origin labelling they want, they will not do that.

People also want to know if food is genetically modified. They want to know if it is contaminated by pesticides, heavy metals, industrial chemicals, by-products and so on. What is more, those farmers left here thinking that this was going to happen. If you look at the small print, what did Minister McGauran say? He called on the farmers to hold his government accountable to deliver clearer and more truthful food labelling. We are calling the government, on behalf of the farmers, to account. We are asking the government to support what the farmers have asked for—that is, country of origin labelling and much stricter standards.

Senator McGauran—The Greens are the farmers’ friend, are you?

Senator MILNE—Absolutely, we are the farmers’ friend. In fact, in the state parliament, Senator McGauran, it might interest you to know, I was the spokesperson on agriculture and primary industry for the Tasmanian Greens. A decade ago I called for an end to the use of growth promotants and hormones in beef cattle. Robin Gray, the then Liberal Party member for Lyons in the Tasmanian parliament, laughed and said that it was a joke. It has taken them a decade since to get back to where they would have been if they had taken up that recommendation in the early nineties, in about 1993. What is more, it was my strategy of clean and green Tasmania that started the whole process of labelling product from Tasmania ‘clean and green’ that has given it an economic competitive advantage in the marketplace for the last decade. So, yes, I am the farmers’ friend and am well and truly known in Tasmania for being one of the strongest advocates of high-quality foods and high-quality, low-volume primary industry exports and for access to niche markets in the region and overseas. I do know something about what has gone on in primary industry.

I have been a strong supporter of getting farmers out of undifferentiated bulk commodity markets and into much higher quality markets which generate higher returns. For years I have been talking to farmers on the north-west coast who are vegetable growers about getting out of those bulk commodity markets because, ultimately, they would be squeezed by the free trade agreements that the government has insisted on signing and which have put so many small farmers off the land and left people without product to grow. They cannot compete against much cheaper product imported from places like China, because there is no level playing field when it comes to the production of agricul-
tural product in a place like China. In China the environmental standards and the industrial health and safety standards are appalling and wages are low.

How could a Tasmanian farmer possibly compete on an even playing field when we have decent standards in terms of wages and industrial health and safety? And that is part of the problem that Australian farmers have now: that the government are rushing into free trade agreements with places like China, the US et cetera and by that very action are undermining the capacity of Australian growers to be competitive. If you go ahead with your industrial relations changes as well, you will find that people working in processing factories are out of jobs, as processing factories close down—and the flow-on effect of that is that farmers will not have anywhere to sell the product they produce.

So let us get real here about who is supporting the rural communities and who is not. What we need to do is to respond to this issue of truth in labelling. This bill does that. It brings truth in labelling to the house. In 2003, when Senator Bob Brown first introduced this to the house and it went off to a committee, again there were all these motherhood statements about how the government was serious about this but, oh dear, there were all these problems with the bill and therefore it could not be supported. I do not know what the Labor Party’s position was at that time, but, given their position now—yes, they are sympathetic to the idea, but they could not possibly vote for this bill—it simply means putting off to another day what you can do today. It simply means undermining the momentum that farmers have built up around the country and ending up with a situation where, once again, we are not going to have anything very substantial done.

Let me tell you what is going to come about as a result of the current proposals that have gone to the Australian and New Zealand food standards authority, because that is where this is coming from. The government is fudging and so is the Labor Party, because there is going to be this ministerial meeting at which they will come down with lowest common denominator labelling and then rush out and say to the farmers: ‘Aren’t we good—look what we’ve done.’ Let me read the proposal to this chamber. This is an example of what the labels will look like. Take, for example, Australian-grown beans sold in Australia. The proposal says:

If the fresh beans are sold loose they will have a label stating ‘Australian ...’ either on the food or close to where they are sold ... Close to where they are sold? Where could that be in the supermarket? What is the definition of ‘close’? That is my editorial comment. It goes on to say:

If the ... beans are wrapped in clear plastic and on a polystyrene tray they would also have a label stating ‘Australian ...’ on the package or close to where they are sold ...

If the beans were cooked and canned in Australia with other Australian beans in a three bean salad they may qualify to state ‘Product of Australia’ or ‘Australian ...’. (Consistent with trade practices law.)

If the beans were cooked and canned in Australia with other Australian grown and imported beans in a three bean salad where more than 50% of its production costs were incurred in Australia the can may qualify to state ‘Made in Australia’. (Consistent with trade practices law.)

If the beans were cooked and canned in Australia with imported beans in a three bean salad and is unable to meet the ‘Made in’ defence the can may state ‘Made in Australia from local and imported ingredients’ ...

If the beans were frozen and mixed with imported vegetables the package may read ‘Packed in Australia from local and imported ingredients’ ...

If the beans were mixed into a salad with other Australian ingredients and displayed in a delica-
tessen, they would need to have a sign stating ‘Australian...’ close to where they are sold...

Beans sold for catering purposes, such as in a take away shop, cafe or restaurant, would not need country of origin labelling (Food Standards Code requirement).

That is what the government is now supporting. That is what it is going to come down with. Frankly, the consumer will be no better off—or hardly better off or marginally better off—than they are now. What they want is to be able to read, in decent sized print, that these beans are grown and produced in Australia or that they are imported from China, or that apricots are imported from Chile, or that tomatoes are imported from Italy. What people want to know is not whether the can was made in Australia but that the tomatoes in it came from Italy. But it still has ‘Made in Australia’, because 50 per cent of the value of the can and the tomatoes happens to be Australian. People do not understand that and it is a fraud on the consumer.

What people want to be able to do is pick up a product and see, in decent sized writing so that they can read it, where it has been grown and the actual country of origin. Some of that will come out of the new proposals. But what I have read to you is taken exactly from the ‘Country of Origin Labelling Questions and Answers’ from Food Standards Australia New Zealand. So we have a real issue here. There is an opportunity for this Senate to put some action around all of the rhetoric.

Senator Joyce joined the tractor cavalcade here at Parliament House. He is not in the chamber to express his point of view now. I will be extremely disappointed if he votes against this legislation. Senator Fielding was down at the rally, again telling farmers that he would support country of origin labelling—much stronger and much more obvious labelling. And what is wrong with labelling things for genetic modification? What is wrong with labelling things for their pesticide content? Why should somebody buy canola oil, for example, and not know that the plant that produced that oil was genetically modified? I would not choose to buy anything that was genetically modified, but, as a result of the current labelling or indeed what is proposed, I will not be able to know whether or not that product is genetically modified. But, with Senator Brown’s bill, I would know. I think it is critically important that I would be able to know that.

It is the same with the environmental impacts. I have said for a decade and I will say it again: it is not enough just to label in relation to the product; people now want to know under what regime the food is produced. Whilst this is not incorporated in this bill, it is very clear from the global campaign that has been run on practices with regard to sheep that the rest of the world is starting to view not only the product but also how the product is produced and grown. The same thing applies to agricultural product. If people are looking at a product and they find that it leads to degradation of the soil or to some other environmental outcome, whether or not that is reflected in the product, people are going to be concerned about it.

They are also going to be concerned about human rights abuses and the wage regime that produced a product. Already there is a global campaign against child labour, of course. Who would want to be buying products that are made using the labour of children? That is a human rights argument; it is not actually reflected in the quality of the product. But it matters to people because that culture, attitude and lack of respect for other people is embedded in the product. They would not enjoy a product if that were actually the case.

I am totally supportive of this food labelling legislation. It sets out very clearly what
it intends to do. It gives effect to what the farmers asked for. It is saying that we want to know and we want all Australians to know where their food is grown, where it is imported from, whether it has genetic modification in terms of input into the product and what chemical regime has gone into the production of that food. I think that, increasingly, when you look at what is happening in China and the level of industrial pollution that is contaminating agricultural areas, not even to mention the chemical load that goes into those products, people need to know that before they pick a packet of frozen broccoli or beans or something from China out of the supermarket fridge. They would want to know that.

I would like to hear from the government members, especially those who went down there to the farmers rally, stood up and told the farmers that the government was very responsive to them. Senator Ian Macdonald answered a question in this chamber, but he was very careful with his words. He said:

… I know that the Australian government ministers will be firmly supporting proper labelling of food so that the consumer has a choice.

Well, what does ‘proper labelling of food’ mean for the government?

I do not think it is good enough to once again come back in here and reject this legislation, which gives effect to what people want, on the basis that it is ‘flawed’ in some way or another or it does not go ‘far enough’ or it goes ‘too far’, and not bring in an alternative. When the government do bring in the alternative, which no doubt will come out of the New Zealand and Australian ministers meeting or the meeting that is going to go on later this month, we will see something that does not go anywhere near far enough in terms of advising the consumer what it is they are buying.

I am very disappointed that Labor has chosen not to support the bill and I am disappointed that the government has chosen not to support the bill. All those farmers who came to Canberra thought that when the minister stood up and spoke to them and congratulated the rally for ‘arguing for better country of origin labelling laws and not for more protection’ he meant what he was saying. Yet here we have a bill in the Senate and you are about to vote against it. I really think it is a breach of faith with the farming community. This has been going on for some years. This is not something that is new to us.

Back in 2003 the same mumblings were made about being sympathetic and about supporting the farming community and saying what a good idea it was. There were congratulations for supporting the free trade agreements and the government was very sympathetic to food labelling. But the minute the test comes on and the government has to actually vote for it, then all the reasons in the world are found for why you cannot. There has been time in the last two years to bring in the labelling legislation if Senator Brown’s bill was as flawed as you argued it was back in 2003. Why hasn’t the legislation been brought in in the last two years? Why are there still all the motherhood statements and why has no action been taken by the government to deliver on this particular promise to the Australian farming community?

My view is that labelling is critical and we should be supporting this particular legislation here. But I do not think that it is enough of itself. If the government proceeds with the Australia-China free trade agreement it will be a disaster and no amount of country of origin labelling is going to be able to stop the flood of imports into Australia. We have got mechanisms under the WTO regime to have an emergency stop put on this right now to protect the farmers and give them, say, two
years in order to find a way to make Australi-an horticulture and Australian processing robust in the face of these free trade agreements. The government has not entertained that idea for a moment, yet its great friends in the United States have invoked the very same emergency clauses to stop the flood of Chinese textile imports into the US. So why won’t Australia stop the flood of cheap vegetable imports into Australia by invoking those emergency provisions?

I implore the government to do so. I implore you to support this labelling bill and at the same time give real support to the rural community by invoking those mechanisms under the free trade agreement to allow the horticultural community to build better resilience in the face of this global market. If we do not, we are going to see ongoing job losses and more farmers leaving the land. For the first time since first settlement, in this last year Australia has imported more food than it has exported. I think that is horrific and worth thinking about.

So let us go with the labelling bill as a first step and then let us invoke the provisions of the free trade agreement that buy us some time to give some resilience to the horticultural sector in particular and the processing manufacturers, and back off your so-called industrial relations reforms at the same time. The combination of no decent labelling, free trade agreements and an attack on industrial relations will guarantee that farmers will go off their land. Look at the trend in the 10 years since you have been in government. How many farmers have had to go off their land? Look at the trend such that you had a farmers rally for the first time in a decade—2,000 farmers here so worried about what is going on in the rural sector.

Please respond to them appropriately and support Senator Brown’s bill.

Senator WATSON (Tasmania) (4.49 pm)—The issue of country of origin labelling is not a new one—I recall it being debated in this place in 1998. Nevertheless, it is a very important one, particularly from the perspective of Tasmania from which a number of the speakers come. While I do not support Senator Brown’s Truth in Food Labelling Bill 2003 [2005], because it does constitutionally cut across state boundaries, unfortunately it does leave significant gaps in the regulatory process and, in a sense, it has a superficiality about it. Nevertheless, despite those criticisms, Senator Brown, I think that it is important that we are debating this issue in this place today.

I want to take this opportunity also to raise a number of concerns on the subject and mention a number of areas where I believe the government is taking positive additional steps to improve the situation. Senator Milne in her speech takes some credit in terms of the Tasmanian beef situation being hormone free. Senator Milne, I hope that you are aware that there is a real gap, unfortunately, because a number of the big supermarkets actually import beef raised with hormones from mainland states and sell it in Tasmania despite the fact that we call ourselves hormone free. Senator Milne, I hope that you are aware that there is a real gap, unfortunately, because a number of the big supermarkets actually import beef raised with hormones from mainland states and sell it in Tasmania despite the fact that we call ourselves hormone free. Despite all our attempts to try to rectify that position, the situation in Tasmania does not appear to be changing. It appears to be too hard down there, just like the enforcement of proper labelling, which falls under the jurisdiction—with a small component of the Commonwealth—of the states as well as New Zealand. The point is that Tasmanians are eating beef that they believe to be hormone free.

I declare an interest. I am a beef producer and we go through all the rightful processes. But essentially that beef is for export because
it is hormone free. Ordinary Tasmanian consumers are buying beef thinking that it is hormone free, when some of the major supermarkets are bringing in hormone raised beef, as I said, and selling it in Tasmania. There is a great gap in the regulatory process.

For many years, various efforts have been made, mostly successfully, to ensure that processed food products are accompanied by a range of information needed by different consumers. For example, the listing of additives of all sorts—especially chemicals used for their flavouring, colouring and preservative qualities—on processed foods has long been required, and quite rightly so. This information is vital to consumers who have allergies to specific ingredients common in processed foods. With a growing number of Australians finding themselves allergic to different foods or food additives, this information is absolutely essential to their wellbeing. Unfortunately, information regarding the country of origin of processed foods is less clear-cut, as there is the frustrating but common practice of using the description ‘made in Australia from imported ingredients’, or having the country of origin in small print or hard-to-find positions on the label.

Much of the present debate on this issue has arisen as a result of the recent decision by McDonald’s fast food chains to widen the source of their french fry potatoes to include supplies from processors using potatoes from overseas. In recent years, french fries sold by McDonald’s were sourced solely from Tasmanian grown and processed potatoes. This was, of course, good for our Tasmanian farmers, who incidentally provide most of Australia’s fresh and processed vegetables from the rich farmlands of the north and north-west of the state. McDonald’s recently decided to source some of their french fries from producers who source some of their potatoes from New Zealand. McDonald’s, of course, are entitled to make business decisions in what they see as the best interests of their outlets. And, in a competitive world, this is often the case. However, this decision led Tasmanian farmers to look at the degree to which consumers choose fresh and processed vegetables, partly on the basis that many Tasmanians wanted to support local growers and buy local fresh produce.

At this time, I would like to compliment those Tasmanian farmers and their organisations, families and supporters both in Tasmania and on the mainland on the originality and effectiveness of their recent campaign to raise the issue in the public arena. They have certainly done that. Also in this regard, I would like to make special mention of the role of the member for Braddon, Mark Baker, who deserves special attention because he followed them throughout their campaign and gave them much support. Those farmers put this issue squarely on the agenda and raised its priority, as it is a concern that needs to be addressed sooner rather than later.

The fact that we are debating this subject today is largely as a result, we have to remind ourselves, of the efforts of that determined group of Tasmanian farmers to get this issue addressed and treated more seriously by government, the public and the consumers, as it is what they and I regard as a very important issue. In fact, few imported fresh fruit and vegetables are sold in Australia compared with the amounts grown in Australia. The quantities, I remind the Senate, are growing. I would also like to remind the Senate that fresh flowers from Asia now appear as a new—and growing—item on our import bill. They do not last very long in your house, though.

While some supermarkets have risen more to the labelling challenge in recent times and are working to make the origin of their fresh
fruit and vegetables clearer, which is good, I believe meaningful labelling of the country of origin of processed foodstuffs is the major issue still facing many Australians. Some products clearly label their country of origin. When, for example, frozen peas are from Belgium, it is often clearly marked on the packets, and that is appropriate. Where there is a range of brands of canned pineapple, it is usually not too difficult to determine whether they are from Australia, Thailand or the Philippines. The area of particular concern is where processed products utilise the ‘made in Australia from imported ingredients’ or ‘made in Australia from local and imported ingredients’ descriptions. These are frankly of very little use and only add to the frustration of consumers seeking realistic and useful information to guide their purchases.

The Australian government, as a member of the Australia and New Zealand Food Regulation Ministerial Council, supports consumers’ right to know where their packaged and unpackaged food comes from. It has been claimed in recent months that members of the council, notably some states and territories but possibly also New Zealand, have been less than enthusiastic in their willingness to firmly enforce existing country of origin labelling rules. I believe most speakers have underestimated, certainly until fairly recently, this lack of interest in their real role of enforcement, because that is where they have fallen down. I have noticed that a number of the states that have been supporting the farmers’ campaign have not properly enforced the labelling laws we have at the moment, particularly in relation to processed foods.

I am aware that the Hon. Chris Pyne, the Parliamentary Secretary to the Minister for Health and Ageing, will be making proposals for strengthened standards and stronger commitments to the next meeting of the council in late October. I have another suggestion: perhaps country of origin content issues on labels should be handled not as a health issue but by the Department of Agriculture, Fisheries and Forestry. If you were to do that, you would remove the input from New Zealand, which has been quite a reluctant partner in this issue of country of origin because it has a very strong vested interest in ensuring that its produce can get into Australia with minimal labelling. It is my fervent hope that those at the council meeting to be held in late October can see that this issue needs a much higher priority than they have given it in the past. The Australian government intends for unpackaged produce to either have a sticker on it or for there to be a sign, right on the counter or box from which it is sold, indicating its country of origin. In the case of packaged food, we support a clearly separate and obvious country of origin label, in larger print than is often the case at present.

While it is some comfort to note that Food Standards Australia New Zealand supports clearer labelling and more rigorous enforcement of labelling provisions, the degree of success of such provisions lies in the enthusiasm of participants to enforce those standards. That is what I believe every member of the Senate should ensure. Senators should take issue with the supermarkets and with their state governments if need be.

I am also uncomfortable with the current ability to hide the country of origin of processed food under the standards governing the declaration of the country of origin where at least 50 per cent of the end value of the product is added in Australia. We know, for example, that the local Simplot now want to add to their range certain imported products. But they can still sell those products as ‘country of origin: Australia’. While I accept that, as a result of globalisation, in some cases a multitude of foreign countries will possibly have contributed to the ingredients,
the current rules allow the hiding of all of these because processing and packaging often make up more than 50 per cent of the value of the product. Here we have another important anomaly which I believe has to be addressed. It has to be the contents of the can that are important, not the packaging.

I note the suggestion of the Australian vegetable industry that a solution to the problem of country of origin labelling on multi-ingredient foods might be that only the three main ingredients carry country of origin labelling. This appears to be a practical middle ground which will enable consumers to be informed of the main origins of the product. I also accept that much of the country of origin labelling impetus is associated with other product information of a primarily health related requirement. There are exceptions to this, however. We hear of the heavy metal contamination of some imported food products from places beside the major rivers in China, where industrial waste and human sewage from the rivers are often used for the irrigation and fertilisation of vegetable crops.

Honourable senators may recall that in February this year I brought to the attention of the Senate the degree to which these contaminated foods might be able to be brought into Australia and the health risks that these foods have given rise to for populations living along the Yellow River in particular. AQIS does not have the capacity to inspect every single container that arrives here, and random testing does not ensure that all dangerous contaminants are identified. We need not only clearer labelling laws but also greater quarantine enforcement to ensure that dangerous contaminants are identified. Of all the states, only Victoria seems to have any interest in this matter.

Much of China’s agricultural capacity comes from the banks of the fertile Yellow River, but there are other places where this same issue of contamination by chemicals and sewage is significant. Industrial waste from cities and industries is poured into the Yellow River and many other rivers, particularly in China, from paper mills, tanneries, oil refineries, chemical plants and other sources. It is not surprising that there are lots of genetic problems, such as dwarfism, in newborn babies.

What are the problems of contamination by heavy metals and other toxins, including arsenic, chromium, cadmium and lead? They are known to be present in the water used for irrigation and are regularly found in a host of crops, including rice and cabbages. According to the Food and Agriculture Organisation of the United Nations, 80 per cent of some rivers are so toxic that they can no longer support fish. Untreated sewage is also used for the fertilisation of crops. I remind you that China is not the only culprit, as the agricultural practices of other Asian countries are known to have been under threat from heavy industrialisation. Australia seems to be doing it alone but is producing clean, green and healthy products.

In the past week I was informed by a fishing industry representative about the import into Australia of catfish, which are already totally banned from being imported into Hong Kong—our near neighbour—and the European Union countries. Some shipments to the United States have been stopped because of high levels of contaminants. How many shipments to Australia have been banned? None that I am aware of. There has been no general warning about this. Somebody said, ‘They’re put in fresh water for a week and they are cleansed of this problem.’ We cannot accept that sort of argument. I say to those people responsible for quarantine: ramp up your inspections. If the European Union and the United States are turning back shipments, if Hong Kong is concerned about it, why are we in Australia selling these fish
products in such large numbers not only in the big supermarkets but also in the fish and chip shops? Because people believe they are getting their fish very cheaply.

It is vital that we are aware of the origins of such products so that it is known that contamination may exist. We need to be aware that AQIS are possibly not able to test all products brought into Australia or to test them adequately. Given that in many cases people want to be able to discriminate on the basis of direct health implications, it might be more advantageous to have a stronger enforcement of country of origin labelling. If it were brought under the control of our agriculture and trade areas, it would potentially be kept under better control by the Australian government.

This may lead to an issue that will need to be considered, depending on the outcome of the coming Australia and New Zealand Food Regulation Ministerial Council meeting and the enthusiasm shown by the participants to make sure the rules work properly. If they are not working properly I believe that some of us should push for that important change to be made so that we do have greater jurisdiction and a greater say here in Australia.

Finally, I would like to say that Australian consumers have the right to be correctly informed about the food they eat. They have the right to know that their oranges come from Australia, California or Chile. These decisions on which products to buy, based on a multitude of personal and sometimes important health reasons, must at least be informed decisions. It is our responsibility to ensure that Australian consumers are informed consumers. I am pleased to see that the Australian government is already taking proactive steps to ensure that these appropriate standards are properly updated and firmly enforced. The emphasis should be on ‘firmly enforced’.

Senator Bob Brown’s bill serves a useful debating purpose but, unfortunately, outside of politics, the government see constitutional problems associated with it. As I mentioned earlier, there are gaps in the regulatory process. But I nevertheless commend Senator Bob Brown because the issue of labelling is important. We should continue to be ever vigilant and regularly debate this issue. In that sense, while I will not be supporting the bill, it is a convenient vehicle from which to publicly state our concerns and the positive action that the government are taking on this particular matter.

Senator SIEWERT (Western Australia) (5.08 pm)—There is a clear difference between the views and concerns expressed by consumers over genetically modified crops and the presence of GM products or additives in our food chain and those of the industry. This is obviously a complicated issue with much unknown, made all the more fraught by the relationship between research funding and the interests of the industry involved, and claims and counterclaims.

Personally, I take the view that GM technology is not safe and cannot be safely controlled, as evidenced once again with the discovery today of GM contaminated crops in WA—contaminated by imported seed from Canada. Personally, I take the view that GM is not good for our environment in terms of sustainability and the wider risks it poses to the genetic diversity and purity of our agricultural species and natural ecosystems. Personally, I take the view that the companies promoting GM crops are using technology to allow them to take greater control over farmers to ensure greater profits, at the expense of farmers’ ability to produce their own seed, to do their own breeding and research, and to meet the needs of their soils,
landscapes, rainfall patterns and farm businesses. Personally, I take the view that we should be doing all in our power to allow consumers to make informed choices about the social, economic and environmental impacts of their purchases.

However, whether or not you agree with my views is not the issue; the issue is about knowledge and choice. It is about the right to know. It is about allowing the public to be informed about what is in their food and how it is produced to let them decide whether or not it is really what they want and whether or not they are prepared to pay for it. It should not be up to industry and its lobbyists to decide what they will and will not tell Australians about what is in their food and where it came from. The issue, quite simply, is about truth—truth in labelling. All we ask is that producers and distributors tell the truth about what is in their products and where they have come from so that people and the market can decide for themselves whether they are prepared to buy the sometimes cheaper overseas product or instead to spend a little extra to get something they know is quality produced in Australia from quality Australian produce. We want people to be given a real and informed choice in what they choose to buy and not to buy. Let the people decide whether or not they value the quality and sustainability of what they are buying. Let the people decide if they want to buy food and other products that they know have been produced with a concern for our land, our soils and our precious natural and agricultural ecosystems.

Australian consumers deserve to be listened to in this debate. It is important that the Senate hears their demands for truth in labelling. The Australian Consumers Association’s submission on proposal P237 country of origin labelling of food of 2001 states:

To summarise consumer sentiments, there is a wide community expectation that goods accurately disclose the country of origin or countries of origin of the good or its components. Consecutive surveys have demonstrated consumers’ need for accurate country of origin labelling for food. Past surveys have also highlighted the discrepancy between consumer understandings of country of origin representations and that which are supported by the Trade Practices Act.

Let me present some recent data on consumers. A Taylor Nelson Sofres study in 2002 showed that 92 per cent of Australians thought that food derived from GE crops—for example, oils—should be labelled, and 92 per cent thought that labelling should include highly refined products derived from GE crops. This was reinforced by 61 per cent of Australians saying they thought they would be less likely to buy a product if they knew it came from an animal that had been fed GE grain. Research undertaken that same year by Taylor Nelson Sofres showed that 68 per cent of Australians would be less likely to eat a food that they knew had been genetically engineered. That survey reinforced a similar Biotechnology Australia survey from 2001, which showed that 73 per cent of Australians consider the use of gene technology in food and drink to be risky. That figure, by the way, had increased from 67 per cent in 1999. A survey conducted by Choice in 2001 revealed that 85 per cent of respondents indicated that they strongly agreed or agreed that food labels should name the origin of all imported ingredients. The Australian Consumers Association believes:

... consumers have a right to truth in labelling and a right to determine individual levels of food risk, beyond the extent to which the Australia New Zealand Food Authority ... provides under the legislated parameters of ‘best available scientific evidence’ ...

I put it to senators that for the government to oppose the need for this type of legislation is extremely hypocritical in light of their commitment to the ideology of the free market—their almost religious reverence for the
magic of the marketplace. We are asking that they stick to their conviction, stand by their belief in free-market capitalism, and let Australian consumers have all the information and make their own choices.

In this chamber we hear a lot about patriotism for this country. We see a lot of people standing with their hands on their hearts claiming how they love this nation and how they have Australia’s best interests at heart. We hear a lot about how the country rides on the sheep’s back, how central the bush is to our identity and the important role Australian farmers play in this nation. How can they stand there with their hands on their hearts and claim to care about Australia when what are essentially patent lies and deceit in food packaging are hurting Australian farmers?

What we are asking is that a label that says ‘made in Australia’ should mean exactly that—made in Australia. We want to know how much the content is really of Australian origin. Like Senator Bob Brown said, we want to know that, when we buy a jar of jam and we look at the ‘Made in Australia’ label, it means we are buying Australian jam, not that the jar was made in Australia or the label was made in Australia or that it was packaged in Australia. We want to know exactly how much of the contents of that jar—what percentage of our jam—is truly Australian produce.

It is the Australian Greens today who are again standing up for Australian farmers. It is we and our colleagues who are supporting this bill who really have the interests of Australians farmers at heart. We will see again today what we saw yesterday in that shocking display that was the selling of Telstra and the gagging and guillotining of debate: that those who claim, with their hands on their hearts, to stand for the bush really stand for the almighty dollar and for the interests of the multinational companies who are prepared to do over Australian farmers just as they do over farmers in developing countries, to ruin their livelihood and run their way of life into the ground all in the name of bigger profits.

I ask you to consider the implications for Australian trade and the impact on the profitability and wellbeing of our farmers if we go down the road of dodgy labelling. I ask you to consider the impacts of the stronger labelling laws in the European Union, which require traceability through the food chain. I ask you to put your minds to what will happen to our trade as these kinds of labelling laws are gradually adopted by our trading partners and we lose our premium labels and our clean, green image. If they cannot trust Australian food labelling, they will not be buying Australian products.

Australia has an incredible market advantage, created by our position as an isolated continent and by our stringent border controls and quarantine measures. We should make the most of this advantage. We should make the most of the trust that consumers have in Australian produce and move to promote and protect our clean, green Australian brand. Australian consumers deserve to have the world’s best standards. We are asking for fair trade and for honesty. We are asking for a fair go for Australian farmers and Australian consumers. We are asking that our food labels contain the truth, the whole truth and nothing but the truth.

Senator PARRY (Tasmania) (5.17 pm)—It would seem from the discussion in the chamber today that the government does not have any concern about the country of origin labelling. That is probably as far from the truth as you could move. The Australian government very clearly supports the use of unambiguous language to provide consumers with country of origin food information. Also, the government is meeting its com-
mitment that consumer be provided with more and clearer information on the country food comes from so that they can make a better informed food purchasing choice.

Food Standards Australia New Zealand has just completed extensive consultations on the latest draft of country of origin labelling standards. I understand that 283 submissions were received in this last round. I also understand that not one submission was received from the Australian Greens. The department will now be examining very closely all these submissions on country of origin labelling.

The other thing I would like to refer to is a quote from Senator Bob Brown’s second reading speech. Senator Brown said:

The need for accurate, truthful and meaningful food labelling is recognised by all the major national and international food standard setting agencies including Food Standards Australia New Zealand.

We are in agreement that the need has been recognised and Senator Brown has acknowledged that Food Standards Australia New Zealand has recognised it.

I would also like to talk a little bit about the reintroduction of the Truth in Food Labelling Bill 2003 [2005] into this parliament back on 11 August. Coincidentally—and we will put it down as a coincidence—on that day, the tractors arrived in Canberra. The bill had been first introduced in 2003. It was reintroduced in 2005 on the day the tractors arrived in Canberra. It is easy to seek publicity on the day of the introduction of the bill by being photographed with tractors but there are many members on this side of the house who have been following this for a long time.

Senator Sherry—We are getting more calls from Telstra shareholders than we are from people worried about the sale.

Senator Kemp—We will just tell them that you will change your mind, like you did on the surcharge.

The ACTING DEPUTY PRESIDENT (Senator Marshall)—Order! Senator Kemp and Senator Sherry, cease your discussion across the chamber and allow Senator Parry to continue.

Senator PARRY—There has been action taken by members of the Liberal Party in particular and by other members of the government. I want to make reference to Mr Mark Baker, a member of the House of Representatives. Mark has followed this campaign through from its inception. Mark did not just attend on the final day when the tractors arrived in Canberra. There was a lot of work done by Mr Baker over many nights and days. He worked with the farmers and the vegetable growers, in particular in Tasmania but in other parts of Australia as well. Senator Richard Colbeck has also put a lot of work and effort into this as part of his parliamentary secretary duties but also because of his genuine concern.

Senator Bob Brown—Where is he now?

Senator PARRY—He is attending to important matters relating to his portfolio. He is still working hard on these particular issues. I commend those two particular people because of their efforts. They did not just seek publicity on one day but worked hard for many months. Mr Jeremy Rockliff, a member of the Tasmanian House of Assembly and the shadow primary industry minister, and Mr Steven Kons, the Labor minister, have been working together in a very bipartisan way on these very issues.

Senator Sherry—And Premier Paul Lennon.

Senator PARRY—Senator Sherry reminds me that the Premier got involved in latter stages. But these two members worked very hard from an early stage on assisting the
farmers—again, they were not seeking publicity.

I will now talk about the structure of Food Standards Australia New Zealand. It is not a simple matter of this government introducing regulations or principal acts, because we do not have the authority to completely control what currently happens. Food Standards Australia New Zealand have a board that recommend to the ministerial council matters that come before it. From that ministerial council, standards are then discussed, evolved and put into action. A standard is then picked up by way of reference from individual pieces of legislation in each state and territory. So each state and territory is linked back to the standard.

A very important point is that the ministerial council is comprised of the ministers from each state and territory—of which there are eight—a member of the parliament of New Zealand and a minister of the Commonwealth. In effect, we have one vote out of those 10 votes on that ministerial council. So it is very unfair to target the federal government for taking absolute responsibility for these particular issues. If the Greens were serious about these issues, they would do what we are doing and discuss them in full with each state and territory parliament and the respective members of that council. That is where the decision-making process takes place. It is the constructive hard work of members on this side of the chamber—and, indeed, the bipartisan process that has been adopted in Tasmania—that will achieve the outcomes that we need to achieve. This government is fully supportive of achieving those outcomes.

The other issue of great concern to this government when considering legislation is the fairness and balance to all parties concerned. Earlier, Senator Milne mentioned the closing down of processing factories. If compliance costs get out of hand and escalate, processors pass their costs on to farmers or, if they do not pass them on to farmers, the cost of compliance will come to the consumer. Someone has to pay for additional labelling costs. This government is going a long way towards assisting in every possible way it can, but we need to take into account that the private sector, either at the farm gate or at the processing factory, will need to spend a lot more money, which, ultimately, the consumer will pay for one way or another. We need to have balance and fairness in every aspect of what is being proposed.

The other thing that seems to have escaped a lot of attention—though Senator Watson raised it—is the enforcement costs. Enforcement and the enforcement costs rest with the states, not with the Commonwealth. The Commonwealth has responsibility on the national borders through AQIS. AQIS handles the national border control and each state and territory has individual control for enforcement of the current laws relating to food standards and food labelling. These laws, I would suggest, are not being enforced adequately. That is another issue that needs to be taken up with each of the state jurisdictions and something that we as a federal government do on a constructive and collaborative basis.

I now want to talk about the Community Affairs Legislation Committee. This bill was introduced by Senator Brown in 2003, and shortly thereafter it was recommended that the bill be sent to the Community Affairs Legislation Committee. I will read some excerpts from the committee decision. The committee was made up of Senators Sue Knowles, Brian Greig, Guy Barnett, Kay Denman, Gary Humphries and Steve Hutchins, as full members of the committee. Participating members acknowledged in the report were Senators Bob Brown and Michael Forshaw.
Senator Kemp—Did Bob appear at all?

Senator PARRY—There was a minority report from Senator Brown, but he was the only one who participated in or signed off on the minority report. The Truth in Food Labelling Bill 2003 was introduced into the Senate on 13 October 2003 and was referred to that committee. Some important issues in the submissions came forward. A large number of submissions that were received supported the proposed legislation. The majority of these submissions were from residents of New Zealand and were very similarly worded and of a standardised nature.

Some peak organisations expressed strong support for the existing legislation and not for the new legislation and, therefore, considered the proposed legislation was unnecessary. Avcare expressed the following view:

The strength of the current Australian legislation in relation to the labelling of foods as GM is that it links labelling to the presence of DNA and protein in the final food. There is a defined threshold that a competent laboratory tests for in the final food. The standard is therefore enforceable, without reference to documentation and the records of growers and food manufacturers. The emphasis on product and not process is a positive attribute in the current labelling regime.

And I stress: ‘the current labelling regime’. The Australian Food and Grocery Council stated that it did not support the proposed legislation because ‘it is not based on sound science and evidence of risk to public health and safety’. Further, Bayer Crops Science expressed the opinion:

The present regulatory system ... for the regulation of food substances, including labelling of foods, is one of the best in the world.

In addition, they said that the proposed legislation would introduce additional costs for industry without providing anything of benefit to the consumer. The committee’s final recommendation—which is very brief—was:

The Committee reports to the Senate that it has considered the Truth in Food Labelling Bill 2003 and recommends that the Bill not proceed.

That was in 2003—and we did not hear a word from Senator Bob Brown until 10 August 2005, when the notice of motion was placed. On 11 August 2005, the bill was reintroduced onto the Notice Paper. That was the same day the tractors came to Canberra. So there was maximum publicity available on that day for that bill to be introduced—whereas members on this side of the chamber, our counterparts in Tasmania and the Labor members who assisted the Liberal members have been working hard behind the scenes for many months and have not been seeking a single publicity opportunity.

I think we can say safely that all members of the government are very keen to see the advancement of the labelling issues along a very collaborative and constructive approach. I want to talk about some issues we have been addressing in assisting the Australian vegetable industry, in relation to financial assistance in particular. There are some current activities being undertaken and they are creating substantial long-term opportunities for the Australian vegetable industry. With increasing world population, urbanisation, disposable income and health conscious consumers, a successful Australian vegetable industry will include all businesses involved in meeting consumer demand in domestic and overseas markets. To date, poor supply chain relationships and understanding of the operating environment have resulted in the production sector not responding necessarily to market signals.

We, the Australian government, are currently supporting a joint venture project between the Australian vegetable industry and the government through the Vegetable Industry Partnership Project. The project is designed to support the vegetable industry in evaluating its current situation and develop-
ing practical strategies and actions to improve the industry’s performance and economic sustainability. This will be done through a lot of consultation, and prior consultation has given us this impetus to move forward. We have had consultation as a government through members of this parliament with the National Farmers Federation and many industry growers. I would be very interested to know what consultation Senator Bob Brown and his partners have had with the National Farmers Federation, in particular, in relation to truth in labelling or food labelling.

There has been $200,000 allocated to the Vegetable Industry Partnership Project, which was initiated in June this year. This will be completed in November this year and will result in practical strategies that will guide the vegetable production industry, its supply chain partners and government to improve the industry’s ability to continuously yield positive financial returns, improve its capacity to operate in future environmental and social settings, improve its ability to compete in the global marketplace, improve its capability to respond to change and be flexible and give it the confidence to manage its affairs. In parallel to this project the Australian government has also committed to an ABARE study to quantify the competitiveness of the Australian vegetable production sector. This project will be completed by March 2006 and will inform ongoing industry driven strategies.

The Australian government could confirm its commitment to assist the vegetable industry through a significant change period. Specifically, this commitment could build upon the Vegetable Industry Partnership Project. This government has also introduced a $3 million package to supplement the industry partnership project, which was announced earlier. This government has demonstrated its commitment to the vegetable growers. It is undertaking ongoing consultation—continuing to consult with the farmers and producers and to listen to consumer needs.

We need to ensure that we progress this matter further through the correct channels rather than introduce a bill into this parliament, as Senator Bob Brown has done, which in effect cannot come into force because we cannot look after the state and territory jurisdictions. That is where we need to negotiate effectively. We need to move into that area and continue this constructive negotiation and not allow time to be spent in this place on bills that do not have the proper effect and do not meet the objectives of this government, this parliament and the consumers of this country.

Senator McGauran (Victoria) (5.34 pm)—Today we are discussing the Truth in Food Labelling Bill 2003 [2005]—

Senator Sherry—After you have just voted to sell Telstra.

Senator McGauran—If Senator Sherry continues to object I will get through my 20 minutes quite easily. This bill is very light on, at best. I notice that most of the speakers never made their 20 minutes. I would like to speak for 20 minutes; I am under instruction to speak for 20 minutes. It is very hard, given the lack of substance of this bill, but should Senator Sherry continue to interject I suspect I will make my 20 minutes. Senator Bob Brown, it may surprise you but I have your bill in hand and I have actually read it. I know that it has three parts: GM food and animal feed, country of origin labelling—

Senator Sherry—Mr Acting Deputy President, I raise a point of order on relevance. Senator McGauran has clearly indicated that he cannot be relevant, so why is he speaking?
The ACTING DEPUTY PRESIDENT (Senator Marshall)—There is no point of order.

Senator McGauran—The third part of the bill is about residue information. What has taken up most of the debate today has been country of origin labelling. The subject matters are very important. We welcome the debate on the subject matters. Nevertheless, we reject Senator Bob Brown’s private member’s bill because, as with all things Green, it is too extreme. The government rejects out of hand the private member’s bill. It is, as the previous speaker said, opportunistic, particularly in the area of country of origin labelling. That is assigned to the back part of the bill. In 2003 I do not think even Senator Bob Brown thought it would be one of the main issues of the day.

The bill does not really present any solutions. It talks in generalities. This issue of country of origin labelling is a difficult one—all governments have attempted to tackle it; I know Labor did when we were in opposition and we have sought to reform it—because there are so many competing interests in this area. If you give in just a little to each competing interest you get a camel. One of the problems is that the state health ministers have a say in all this. You have the farmers, the manufacturers, the importers, the exporters and, worst of all, the state health ministers trying to form labelling laws and conditions. You have produce of Australia, product of Australia, made in Australia, certain contents of Australia. It really does need reforming. It needs review. That is exactly what is happening. The government has it under review at the moment.

We are not denying that what Senator Bob Brown has brought forward today are matters of substance that need solutions, but his bill does not present practical, commonsense solutions for any of the three matters he has raised, most of all in regard to labelling. The Greens stood up today to say they are friends of the farmers—the Tasmanian farmers, what is more, said the Tasmanian speakers. The previous speaker, Senator Parry, put that to bed. You are not. You are simply not, you can never be and you will never convince them that you are, and when you stand up here and make those assertions you just delude yourself. It is going to require a great deal of determination, a straight-line approach and a lot of skill to get the new labelling laws up given the competing interests, let alone the extreme interests.

I want to assure Senator Bob Brown, and the chamber, that the government has started on that process. Christopher Pyne, the Parliamentary Secretary to the Minister for Health and Ageing, issued a press release on 11 August. I want to quote parts of that press release because it should assure the Greens that the process is in train. I note that the Labor Party are not supporting the Greens private member’s bill. One of the most contentious areas to begin with was unpackaged food. There was an option open to Food Standards Australia New Zealand to have unpackaged produce not labelled at all. That was simply an option they were considering. To that end, the government has made this statement:

For unpackaged produce we intend that food will either have a sticker on it, or for there to be a sign right in the barrow or the box in which it is been sold, that indicates its country of origin.

In other words, clear, definite labelling. He goes on to say:

In the case of packaged food we support a clearly separate and obvious country of origin label, in larger font and bolding …

I must say, I am glad he has said that, because any of us who go to the supermarket know only too well that even if existing labelling were clear—I am saying it is not, because of the different product, produce and
made in’ labels—it is too small. It is minute. You simply cannot read it. Mr Pyne makes it clear that country of origin labelling will be: … to ensure there is no confusion with other information provided on the label.

Consumers would not be so confused about country of origin labelling if the state and territory enforcement agencies had taken action in the past to ensure existing country of origin labelling was enforced.

Consumers would not be so confused about country of origin labelling if it were not for state and territory enforcement agencies not doing their jobs. That is where most of the problem lies—in the fact that the state health ministers have governance over this and that they do not properly enforce it anyway.

Senator Sherry—Send the police in!

Senator McGauran—You speak to your state counterpart, Senator Sherry. They are the ones who should be enforcing it. Mr Pyne goes on to say:

I’ll be taking the country of original labelling proposals to the Australia New Zealand Food Regulation Ministerial Council at the end of October …

That is very swift action, Senator Bob Brown. Even you must concede that. At the end of October, this matter will be before all the relevant parties to conclude.

I’ll be urging the states and territories to support the strengthened standard and to commit themselves to an enforcement program …

It is crucial that they enforce any new rules and regulations that are brought in but more than that, as previous speakers have said, the farmers of Tasmania, in their tractor protest, really sparked a fuse on this matter. They brought the issue to the forefront and congratulations to them for it. We support them. The government has been one of the best supporters. There is no doubt that they jolted the issue to a higher level than it would probably have otherwise reached and have accelerated any reform that may be brought in. To that end, they are to be congratulated. They have done it out of desperation, as we all know, having lost valuable contracts overseas. But the government has not left them high and dry and stranded. The Australian government has pledged more than $3 million to the Australian vegetable industry. From the Minister for Agriculture, Fisheries and Forestry, Mr McGauran, I quote:

Under the Industry Partnership project, which is due to report in November—another speedy turnaround on this most serious issue—the vegetable industry is evaluating its current situation and developing strategies to improve its performance and economic sustainability.

The industry knows only too well that information is what is needed so that they can plan for the future. To this end, the government is pledging over $3 million—a very generous pledge indeed.

I want to move on to the GM issue, which was the main substance, believe it or not, of Senator Brown’s bill. I think I have made most of my points on the country of origin labelling issue. I have another statement here from the minister and I am just looking at it to see if there are any points that I have not covered. I will say this: the department will be following the process very closely to ensure all stakeholders are given due consideration. There has been support for the farmers’ Fair Dinkum Food campaign. The minister also notes that what really needs to be clarified, as I said before myself, is ‘made in Australia’ and ‘product of Australia’ labels. Also, the ACCC needs a more prominent role in ensuring the transparency and policing of the country of origin labelling. I think that is a very big statement.

On to the other matter, really the main point of Senator Bob Brown’s bill—and I will say, Senator Brown, that I even read
your second reading speech so I have done my homework on your bill and you have failed to convince me. One of the main reasons you have failed to convince me is that the language you used in your second reading speech is extreme. You used the phrase ‘contaminated with GM material’. You sprinkled these extreme words all the way through it with the intention of raising a fear factor that, at its rawest base, GM material is dangerous to the consumer. So naturally we reject it on those grounds, because we do not believe that GM products, if properly tested for health reasons, are unsafe. But if a consumer read your second reading speech they would be very concerned by the word ‘contaminated’.

Also, I am not sure how genuine you are. In your second reading speech, you said that this was a Greens push and that some 800 people attended the Greens conference. Whatever relevance that had to this particular bill I will never know. You said:

The legislation is the product of the growing internationalisation of the Greens worldwide.
What a free plug for the party. What an unnecessary plug for the party. What a distraction to the seriousness of things. Why would you put that in your second reading speech, other than because you are trying to politicise this into some worldwide Greens movement? It requires cooperation from all parties, Senator Bob Brown, rather than just some sort of Greens self-promotion. That is the other reason we reject it.

The third reason we reject this bill is that the threshold standards you set are unnecessary and ominous. They are virtually unachievable. In your second reading speech you said:

The threshold for labelling foods that are inadvertently contaminated with GM material will be lowered from 1% to 0.5%.

The proposed bill differs from the existing food standard for food products using gene technology in that you require all food derived by gene technology to be labelled, including food where there is no novel DNA or protein present and when there is no alteration to the characteristics of the food. True, Australia has taken a conservative approach and requires GM food to be labelled if there is novel DNA and/or protein in the final food or the food has altered characteristics. This is on the basis of providing information to the consumer and is not related to safety. They are two separate issues. The safety aspect of GM food is rigorously assessed by FSANZ before approval. The labelling of all GM food will be impractical under your scheme. It is an inappropriate impost on industry and does not really give consumers useful information at all.

They are the three main reasons we reject that part of Senator Bob Brown’s bill. However, I should also point out, if he is not satisfied with the scrutiny of us on this side of the house, that his bill was actually sent off to a committee—one of his beloved committees. Senator Brown loves sending bills off to committees, but when his own bill was sent off to a committee and did not get the answer he wanted he complained, rejected the committee’s findings and put in a dissenting report. Senator Brown, this committee properly and fairly scrutinised your private member’s bill, and I believe Senator Parry read out all the members of that committee.

**Senator Bob Brown**—He wasn’t there.

**Senator McGauran**—I said Senator Parry. The members of that committee were all fair-minded ALP and Liberal Party people. They were all there, and they extensively studied your private member’s bill.

**Senator Sherry**—Were you there on behalf of The Nationals?
Senator McGauran—No National Party member oversaw this bill. The recommendation was:

The Committee reports to the Senate that it has considered the Truth in Food Labelling Bill 2003 and recommends that the Bill not proceed.

The committee heard from many witnesses indeed—more than the bill deserved, quite frankly. Nevertheless, I will read what the report says, in paragraph 1.12, about the evidence of some of those witnesses:

Some peak organisations expressed strong support for the existing legislation and regulation which they consider ensures that any GM crop or food is rigorously assessed for its impact on human health, and that existing food labelling requirements ensure that consumers have information available to enable them to make informed choices. They therefore considered that the proposed legislation was unnecessary.

One of the major witnesses, Avicare, the national association for crop production and animal health, had this to say:

The strength of the current Australian legislation in relation to the labelling of foods as GM is that it links labelling to presence of DNA and protein in the final food. There is a defined threshold that a competent laboratory can test for in the final food. The standard is therefore enforceable, without reference to documentation and the records of growers and food manufacturers. This emphasis on product and not process is a positive attribute of the current labelling regime.

The report also notes:
Avicare also pointed out that the Food Standards Code is complemented by provisions in the Trade Practices Act which ensures food manufacturers and retailers provide accurate information to consumers.

We understand that this is an important issue for the rural sector, going right down to the farm gate. There are varying views on and definitions of what exactly GM is, varying from genuine concern to hysteria. Much of this bill is on the hysteria side of the scale, but it is an issue that is encroaching on and developing within the rural sector. Gene technology is rapidly contributing to the changing face of agriculture, and in Australia the cotton industry has embraced gene technology with open arms—and rightly so. Today, the minister, coincidently and fortunately, sent around a comprehensive booklet titled GM Foods: Safety assessment of genetically modified foods. The minister compiled this booklet to comprehensively outline Australia’s strategy and its checks and balances. I will read from page 14 of the booklet, regarding the federal and state governments’ policy in this regard:

GM foods available in Australia and New Zealand

GM foods from soybeans, canola, corn, potato, sugar beet and cotton are currently approved for sale in Australia and New Zealand ... the main GM crops, the traits that have been added through genetic modification and the potential food uses of these crops. So far, insect protection and herbicide tolerance are the characteristics most commonly introduced into crops.

Genetic modification of foods, products and crops is often a benefit. So you could equally argue that they are a benefit. Senator Bob Brown takes the other extreme view: that he would basically—and I know all the Greens would—like to eliminate them. We know there is a market for green, clean products and a niche part of the rural sector has adapted to that. Where there is a market, the rural sector will adapt to it. There is also a need for GM crops to be approved in this country and for farmers to have an ability to access them so they can grow their product herbicide and chemical free. I would have thought that the Greens would have appreciated that end of the argument. We reject this bill.

Senator Kemp (Victoria—Minister for the Arts and Sport) (5.54 pm)—I was not planning to speak on the Truth in Food Labelling Bill 2003 [2005], and I have been in
the chamber for the last hour. I heard on the monitor the excellent speech by my colleague Senator Watson and while here I listened to the really excellent speeches by Senator Parry and Senator McGauran.

Senator Sherry—Senator McGauran?

Senator KEMP—Yes, Senator McGauran. I did say Senator McGauran and I mean it. They have outlined the reasons why the government will not be supporting this bill. I think the arguments are persuasive. I have turned to the report that was tabled. I notice that Senator Bob Brown was one of the participating members on this committee. I have views on Senator Bob Brown and the Greens attending committees. Over a very long period of time, my experience of the Greens is that they very rarely attend the hearings of committees. They have a really appalling record of attending these hearings.

Senator Bob Brown—You’re hardly ever in here, let alone at committees.

Senator KEMP—Senator Bob Brown, I know you are sensitive on this, and every time we discuss the attendance record of Greens at committees it seems to provoke an outburst from you. Senator Bob Brown, your attendance at committees has been appalling. You do not wish to come to estimates committees. You very rarely appear there. I do not know whether or not you are a regular attendee at this committee, but I have looked at your dissenting report—and is that a thin report!—and it rather suggests to me that if you did attend the committee you were not listening carefully to the evidence that was given. I am happy to be contradicted in this and I hope I am wrong, but Senator Bob Brown and his colleagues—

Senator Bob Brown—Mr Acting Deputy President, I rise on a point of order. The senator and minister on his feet failed totally to be at that committee, and I was there for the lot.

The ACTING DEPUTY PRESIDENT (Senator Ferguson)—Resume your seat, Senator Bob Brown. There is no point of order, as you well know.

Senator KEMP—Mr Acting Deputy President, thank you for that protection from the spleen of Senator Bob Brown. There are two new Greens in the chamber and, in a sense, I am speaking to them rather than to Senator Bob Brown and Senator Nettle because, in terms of their committee work, they have gone missing in action. That is the truth with Senator Bob Brown and Senator Nettle. Even with the Telstra inquiry, I thought you were on that committee but no-one ever saw you there. It was a significant issue, but you were probably rushing out to set up some media event or stunt, as you normally do. But I do plead to the new Greens: the Greens have to take a more active role in the Senate and in the committee work of the Senate. I certainly urge them to not follow the example of Senator Bob Brown and Senator Nettle and to attend committee hearings and make a contribution.

Senator McGauran interjecting—

Senator Bob Brown interjecting—

Senator KEMP—Senator Bob Brown, I notice that you have not stood up and said to me, ‘Senator Kemp, you are wrong; I attended every day and every hour of this committee hearing.’ I notice that you have not said that. You are more than welcome to stand up and say that you did attend, but you did not. You have not done that, so listeners will draw their conclusion that this was another case of Senator Bob Brown missing in action and, rather than doing the hard yards, trying to set up some media stunt so that he was the 10th item on the Channel 2 news. I plead with the new Greens senators—

Senator Bob Brown—Mr Acting Deputy President—
The DEPUTY PRESIDENT—Is this a point of order?

Senator Bob Brown—It is.

The DEPUTY PRESIDENT—Well, make it clear.

Senator Bob Brown—I will need to with you, Mr Acting Deputy President.

The DEPUTY PRESIDENT—You will. What is your point of order?

Senator Bob Brown—There is no relevance in that waffle coming from the minister. He should speak to the subject.

The DEPUTY PRESIDENT—There is no point of order.

Senator Kemp—I was discussing the dissenting report of Senator Bob Brown and the Australian Greens, and he says that this is waffle and not relevant to the debate. If discussing your minuscule dissenting report is not relevant to this debate, I do not know what is. I came in here and I was interested to hear the debate. As the debate came on, I took more and more interest in it, as senators normally do. That is why I grabbed the report and said, ‘What is Bob Brown on about with this bill?’ Then I read what has to be one of the thinnest dissenting reports I have ever seen in the history of the Senate; it is a truly thin dissenting report. I have mused whether Senator Bob Brown attended every day and every hour of the hearings and I have suggested that if he followed his usual practice he would not have attended those hearings. Senator Bob Brown has taken two points of order and he could have said that I am wrong, but he has not done that.

All I can say is that it was the same old Senator Bob Brown wanting to get others in the Senate to do his work and never appearing. I do make an appeal. We have two new Greens and we welcome them very warmly to the chamber, but I plead with Senator Milne and her colleague: do not follow the dreadful example of Senator Bob Brown. Make sure that you attend these committee hearings and make sure that you make a significant contribution. Do not produce dissenting reports which have no intellectual merit at all, are extraordinarily thin on facts and do not tackle the evidence that was produced before the committee. If I had never attended a committee hearing, this is exactly the sort of dissenting report I would produce.

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

DOCUMENTS
Sydney Harbour Federation Trust

Debate resumed from 8 September, on motion by Senator Bartlett:

That the Senate take note of the document.

Senator Watson (Tasmania) (6.00 pm)—I would like to commend Mr Bailey and his committee on the wonderful work they are doing in restoring the land on the shores of Sydney Harbour. The federal government set up this federation trust and has provided a great deal of money for the former Defence Force land between Mosman and the harbour. I would like to take this opportunity to make a suggestion. There is the possibility that this federation trust will have a limited life and then be transferred to the government of New South Wales. When I was recently looking over the wonderful work that has been done on restoring the land on the shores of Sydney Harbour, I was surprised to find out that the historical parts of that land and opening it up to historians and visitors alike in a very sensitive and meaningful way, my attention was drawn to adjacent land that was handed over by Malcolm Fraser, when he was Prime Minister, to the government of New South Wales. Almost nothing has been done there in the intervening years. I think it would be a tragedy if this federation trust, with all of the effort and resources that have been put into it, was to be handed over to the government.
of New South Wales. It does not have a good record on this—you only have to look at the Cockatoo Island dockyards. That, of course, has now been taken over by the federation trust and I am sure they will do an equally good job there, despite the years of neglect by the state government in that particular area.

I think this is a wonderful opportunity. It does not necessarily have to be handed over to the government of New South Wales. But the bill, when we passed it about five years ago, opened up that opportunity. I use this time of the Senate to implore the people in the area and the residents of New South Wales, including the members who have electorates in that area, to ensure that the federal government continues to take absolute controlling interest in this land, because of the need to maintain the history and aesthetics of the area and to open it up in a very sensitive and meaningful way to the people of Australia. I thank the Senate.

Question agreed to.

Palmer Report

Debate resumed from 18 August, on motion by Senator Ludwig:

That the Senate take note of the document.

Senator KIRK (South Australia) (6.05 pm)—I rise this evening to make a few comments in relation to the Inquiry into the circumstances of the immigration detention of Cornelia Rau, otherwise known as the Palmer report. In July 2005 the Palmer inquiry identified what many of us had known previously—that is, the immigration department, at least as it was previously constituted, operates within a culture of assumption, denial and cover-up. Unfortunately, the department does not usually assume the best or that anyone is telling the truth—that is, unless the story that is told happens to be what the department wants to hear, whether it is the truth or otherwise.

It is pretty clear that this culture of assumption, denial and cover-up that I have just referred to was shown in a most disturbing fashion in the wrongful detention of Ms Cornelia Rau. Ms Rau’s case is well known and I will not go over the details of it this afternoon, given the limited time I have. We do know that the Palmer inquiry only ever had the power to scratch the surface in relation to the immigration department. It was able to reveal what it has. There is more, I believe, to the extent of the problems that exist in the immigration department that were within the reach of the Palmer inquiry.

We know that this matter is now in the hands of Mr Comrie and we will be awaiting the full report of his inquiry, which I understand will be delivered later this month or early in October. We know that Ms Rau was wrongfully held in detention because of the story that she gave, far-fetched and unbelievable as it was. The reason it was accepted was because the immigration department officers who dealt with her were looking for ‘unlawful non-citizens’, because that is the role that they see themselves as having under the Migration Act.

Her story was pretty unbelievable. Nevertheless, Immigration acted on a story that Ms Rau was Anna Brotmeyer, who had apparently arrived in Australia illegally only three months beforehand. Ms Rau offered this story, yet it was pretty clear that she was someone who spoke German only at the level of a child and that she spoke English well and, what is more, with an Australian accent. This really should have rung a few alarm bells in the department. They should have realised that there was something a bit odd here and that it was unlikely that she was who she said she was, given the way that she told her story, particularly the accent in which she told it. Unfortunately, Ms Rau’s case does demonstrate the culture of assumption in the immigration department, an over-
bearing department with unchecked powers. It led to a situation where one individual’s legal and human rights were simply ignored.

The Palmer report was critical of the immigration department’s procedures with regard to psychiatric assessments. It appears from the report that the quality of the assessment that was made about her condition was impaired by the presence of two guards throughout the interview that took place with two doctors who were asked to assess her mental condition. The doctors also conceded that at the time of the assessment they had been told, and they believed, that Ms Rau was a German citizen about to be repatriated to Germany. We can understand that if this was the information that you were told as a doctor assessing her mental condition you would have been influenced by the information that had been provided to you by the immigration department.

I have only limited time this evening, but I think that it is pretty clear from the Palmer report that there are many problems in the immigration department, in the culture of assumption and the culture of denial that I have referred to. As I said, there will be a further report coming from the Ombudsman quite soon. I seek leave to continue my remarks on the Palmer report and also the new report of the Ombudsman at a future time.

Leave granted; debate adjourned.

Consideration

The following orders of the day relating to government documents were considered:


Aboriginal and Torres Strait Islander Social Justice Commissioner—Social justice—Report for 2004. Motion of Senator Carr to take note of document agreed to.

Aboriginal and Torres Strait Islander Social Justice Commissioner—Native title—Report for 2004. Motion of Senator Carr to take note of document agreed to.


Human Rights and Equal Opportunity Commission—Report—No. 28—Inquiry into complaints by immigration detainees concerning their detention at the Curtin Immigration Reception and Processing Centre. Motion of Senator Bartlett to take note of document agreed to.

Natural Heritage Trust—Report for 2003-04. Motion of Senator Bartlett to take note of document agreed to.

Gene Technology Regulator—Quarterly report for the period 1 January to 31 March 2005. Motion of Senator Bartlett to take note of document agreed to.
Thursday, 15 September 2005

**Sydney Airport Demand Management Act 1997**—Quarterly report on the maximum movement limit for Sydney Airport for the period 1 January to 31 March 2005. Motion of Senator George Campbell to take note of document agreed to.

**Civil Aviation Safety Authority**—Corporate plan 2005-06 to 2007-08. Motion of Senator George Campbell to take note of document agreed to.

**Department of Communications, Information Technology and the Arts**—Report—Review into the viability of establishing an Indigenous television service and the regulatory arrangements that should apply to the digital transmission of such a service using spectrum in the broadcasting services bands, August 2005. Motion of Senator Bartlett to take note of document agreed to.

**Asia-Pacific Partnership on Clean Development and Climate**—Joint ministerial statement by the Minister for Foreign Affairs (Mr Downer) and the Minister for the Environment and Heritage (Senator Ian Campbell). Motion of Senator Milne to take note of document agreed to.

**ASC Pty Ltd**—Statement of corporate intent 2005-08. Motion of Senator Bishop to take note of document agreed to.

**General business orders of the day nos 20 and 21 relating to government documents** were called on but no motion was moved.

**COMMITTEES**

**Foreign Affairs, Defence and Trade References Committee**

**Report**

Debate resumed from 12 September, on motion by Senator Hutchins:

That the Senate take note of the report.

**Senator HOGG** (Queensland) (6:12 pm)—I would like to make some comments about the Foreign Affairs, Defence and Trade References Committee report on Mr Chen Yonglin’s request for political asylum and I thank the Senate for the opportunity to go to this report. As a member of the committee I have a keen interest in what took place in this inquiry. If one had read the report one could have been a little misled, to start off with, into thinking that this might have been an episode from *Fawlty Towers* or an episode of *Monty Python*, so clumsily had it been handled by DIMIA and by DFAT, the Department of Foreign Affairs and Trade.

The report itself is not a unanimous one; there is a minority report by Senator Johnston and additional comments by Senator Bartlett and Senator Bob Brown. It is not common for the Foreign Affairs, Defence and Trade References Committee to have a report such as this, but I think it does indicate that there was quite a difference of opinion as to the handling of this matter. As I said, if it were not for the fact that there was a sad handling of the matter it would have been quite funny indeed. But that is not the case.

The report goes into the fact that Mr Chen Yonglin sought political asylum on 26 May this year and, at chapter 2, outlines his request. The *Hansard* report sets up the scene very well:

I approached DIMIA on the morning of 26 May to ask for an appointment with the state director of DIMIA. I stood in the public space outside the department’s inquiry office and I used my mobile phone to call the department ... The male official transferred the call to the state director’s office, but the phone line to the state director’s office was busy. A few minutes later I called the director’s office directly. I introduced myself and identified myself.

I am obviously quoting selectively from a fairly lengthy report. In respect of the checking of his ID, he said:

I said that would not be necessary, that I had shown my ID to the security guard, and said that I would be in danger—my life would be in danger ...

And so on. Here we have a person who is seeking political asylum. Fearing for his life,
he approaches DIMIA, and his version says that he was most cautious in the way in which he went about his approach of DIMIA. Of course DIMIA's version is recorded in the report as well. Page 7 states:

According to Mr Jim O’Callaghan, the current State Director ... Mr Chen was told that Mr O’Callaghan was unavailable. Mr O’Callaghan stated 'at one point the executive assistants sought to confirm he (Mr Chen) was who he said he was. He provided some telephone numbers for us to confirm that with the Chinese consulate'.

The report identifies a number of discrepancies between the evidence given by Mr Chen and DIMIA of what happened on 26 May. But, regardless of the discrepancies, from my perspective it was clearly a very unusual event indeed. I must say I was astounded that officers of DIMIA would seek to check out the identity of a person who was seeking political asylum. Because it is not an everyday, common event for people from foreign embassies in Australia, it would require a great deal of discretion. I believe that at the end of the day that discretion was not shown by either DIMIA or the Department of Foreign Affairs and Trade, particularly in the meeting that the Minister for Foreign Affairs had with the Chinese ambassador.

Mr Chen had undoubtedly, from his version to the committee, made clear the fact that he was sensitive about his circumstances and about his safety and that of his family. The committee report, at paragraph 2.26, says:

Evidence provided to the committee is consistent with Mr Chen’s claims regarding likely persecution.

So there was a fear in Mr Chen’s mind. Interestingly enough, the report then went on to discuss the fact that Mr Chen was denied territorial asylum because that would have required an instrument by Minister Downer, who had decided overnight, by 27 May, that Mr Chen Yonglin’s claim for asylum would not be facilitated by the issuing of an instrument by the minister. No reasons were given, and this came about as a result of Mr Chen Yonglin not even being interviewed by representatives of the Department of Foreign Affairs and Trade or even by senior officials from the minister’s office. It was not a decision on the spur of the moment; it was clearly a contemplated decision that Mr Chen Yonglin was going to be denied the right to an instrument by which he could seek territorial asylum.

This was an extraordinary event, and an affair in its own right. But we then got into the very interesting aspect of Mr Chen Yonglin’s identity being made known to the Chinese embassy. It came down to a reading of the Migration Act 1958. Paragraph 2.39, on page 14 of the committee report, says:

DIMIA, DFAT and the Minister for Foreign Affairs were also criticised in the press with suggestions that the Migration Act 1958 may have been breached by providing compromising information to the Chinese government about Mr Chen Yonglin’s bid for political asylum.

At paragraph 2.40 it goes on to explain:

Part 4A of the Migration Act (Obligations Relating to Identifying Information) contains the following provisions regarding the prohibitions on the authorisation to disclose and the disclosure of identifying information to foreign countries which are central to determining whether a breach occurred.

Whether a breach had occurred hinged on identifying information. The thing that absolutely struck me in the committee inquiry was that a person’s name was not an identifier within the meaning of the act. It was not identifying information. If I say the words ‘Senator Eggleston’, people immediately know who Senator Eggleston is—or Senator Ferguson, or Senator Hogg, or whomever it might be. But for some reason, in the case of Chen Yonglin, within the meaning of the act his personal name was not an identifier. I
found this absolutely astounding. It may have been a technicality on which the minister escaped the proper censure that he and officers of his department deserved for the use of Mr Chen Yonglin’s name with the Chinese embassy. Paragraph 2.46 sums it up. It says:

Even so ... members of the committee are concerned that a strict interpretation of this provision in the Act—
that is, about identifiers—
fails to take account of the circumstances of Mr Chen’s case. A common sense approach dictates that disclosing the name of an individual seeking to remain anonymous because they fear that their life and that of their family may be in jeopardy is a serious breach of that individual’s rights. Such rights should be protected under the law.

One hopes that, arising from this report, appropriate action will be taken by the government to change the act to ensure that a person’s name, by any stretch of the imagination, is an identifier of that person. I do not think that that is unreasonable. I think it is quite fair and quite reasonable and it should be there such that the technicalities that were alluded to are not used again in the future. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**Consideration**

The following orders of the day relating to committee reports and government responses were considered:


Foreign Affairs, Defence and Trade—Joint Standing Committee—Report—Australia’s human rights dialogue process. Motion of Senator Payne to take note of report agreed to.

Environment, Communications, Information Technology and the Arts Legislation Committee—Report—Telstra (Transition to Full Private Ownership) Bill 2005 and related bills. Motion of the chair of the committee (Senator Bartlett) to take note of report agreed to.

Environment, Communications, Information Technology and the Arts References Committee—Report—The performance of the Australian telecommunications regulatory regime. Motion of the chair of the committee (Senator Bartlett) to take note of report agreed to.

Regulations and Ordinances—Standing Committee—112th report—40th Parliament report. Motion to take note of report agreed to.

Community Affairs References Committee—Report—Quality and equity in aged care. Motion of the chair of the committee (Senator Marshall) to take note of report called on. Debate adjourned till the next day of sitting. Senator McLucas in continuation.

Community Affairs References Committee—Report—The cancer journey: Informing choice—Report on the inquiry into services and treatment options for persons with cancer. Motion to take note of report called on. Debate adjourned till the next day of sitting; Senator Moore in continuation.


**AUDITOR-GENERAL’S REPORTS**

**Report No. 30 of 2004-05**

Debate resumed from 8 September, on motion by Senator Bartlett:

That the Senate take note of the document.

Senator Moore (Queensland) (6.23 pm)—I know that Senator Forshaw has made comments on the Regulation of Commonwealth Radiation and Nuclear Activities au-
dit report. I think that it is important for us to note that this audit report is very serious. It comes up with 19 recommendations that must be addressed to ensure that the Australian Radiation Protection and Nuclear Safety Agency, or ARPANSA, fulfils the requirements that the government gave it under the ARPANSA Act 1998. ARPANSA was established to play a very important role in our community, which was:

... to protect the health and safety of people, and to protect the environment, from the harmful effects of radiation.

ARPANSA has powers to regulate Commonwealth activities involving radiation sources and facilities, including nuclear installations, by licensing controlled people to deal with a source or to undertake any work within a facility.

At the time of the audit, in March 2005, ARPANSA had licensed 37 entities which were responsible for nearly 6,000 sources of radiation and 48 facilities. The key areas that ARPANSA works with are other Commonwealth agencies. For example, the Department of Defence has 2,674 radiation sources, while ANSTO holds 31 facility licences. In talking about ARPANSA there needs to be a clear understanding that the Commonwealth agency looks after Commonwealth licences. The private sector and state and territory entities, particularly hospitals, come under the jurisdiction of the state and territory government licensing arrangements. That is the key point to understand. The way the licensing operates in our country is that all the states and territories have their own regulatory functions and the Commonwealth, through ARPANSA, looks after the national ones.

Key to ARPANSA's responsibilities is the coordination of these activities. There seems to me to be quite a clear expectation from the community that the highest levels of safety and regulation are in place. This particular audit was determined by an order of the Senate, earlier in 2005, which focused specifically on looking at how the regulation of radiation and nuclear activities was operating within ARPANSA. As a result of the audit a range of quite serious issues were raised, which led to, as I said, 19 recommendations. As we always note with audit reports, serious issues are found, then there is a process involving the organisation, which in this case is ARPANSA, and the Audit Office. They work together to look at the issues that have been raised and they work through a process to acknowledge what can be done.

As so often happens with these audits, all the issues have been agreed. So ARPANSA has acknowledged that the recommendations of the Audit Office are accurate. In fact, the ARPANSA response says that it accepts the recommendations. It says:

ARPANSA acknowledges the work of the ANAO and agrees that the business processes supporting its regulatory functions need improvement. It has established a review...

How often have we heard that? When issues are found, the resultant action is that the organisation establishes a review. In this case, members of the Joint Committee of Public Accounts and Audit were able to talk with the senior executive of ARPANSA and with the gentleman who is the leader of the review team. I believe that there has been a genuinely positive response from the organisation. In his discussions with us the CEO was quite open about his concerns about resources. He said quite clearly that it was not just a resource issue. I found it refreshing that the CEO was able to say that it is not just a resource issue and that there is a need for the organisation to reconsider the way it prioritises its work.

We on the committee found out that about 16 per cent of the resources of ARPANSA...
are dedicated to the regulatory functions. The other functions, which are the consultancies and the scientific research, take up the other part of the resources. We talked also about the way that an organisation can become consumed by the workload to the extent that its planning and regulatory functions can be overlooked. This was one of the key aspects of this audit report. It showed that the organisation needs to take a step back to clearly identify its core business and to equate appropriate priority to the issues of regulation. There was an understanding that the personnel who work in this organisation have intensive knowledge of their area. The main personnel who work in ARPANSA come from a scientific background, or from engineering or research, and their knowledge of the area is beyond doubt. Their commitment to the area is beyond doubt. Their understanding of the importance of safety and appropriate mechanisms to ensure that the community is safe is again, beyond doubt.

What needed to be considered, within their planning process, were the issues of appropriate documentation and appropriate administrative processes and ensuring that there is a very strong IT business system operating. Once again, this is an issue we hear about consistently: in a business plan there is a need to have appropriate support through IT mechanisms so that the documentation can be clearly traced to ensure that people are aware of what jobs have been done, what tasks need to be prioritised and what the time frame is to complete them. That kind of basic business information must be given considerable import in the overall activities of the department. I believe that that has been picked up by the review. It shows an understanding that not only has the work of the regulator got to be completed but also that there has to be clear documentation that assures everybody—not only the minister but also the people of Australia—that the appropriate protections are in place. My understanding of the focus of the review is that that will be one of the key aspects of the end result of its recommendations.

In terms of where we are going with the review process, my understanding is that they have until March next year to look at the whole range of the audit recommendations, and that as of now they are hoping to have the bulk of those recommendations completed by Christmas 2005. So they are feeling quite confident and positive about where they are going. But in terms of the general messages of this review, it seems to come up with that common theme that so many of our audit reports are talking about, which is the whole process of identifying exactly in the business plan and in the corporate culture the importance of the various tasks that have to take place.

On the issue of ARPANSA, it was very clear that when it was set up in 1998, when resources were being put into the organisation, the whole issue of regulation was underestimated. Objectives and activities were not prioritised in terms of specific action and accountabilities. Its performance measurements were weak in terms of sheeting home within the structure exactly who was responsible for what tasks and what the follow-up would be for any tasks once completed. When that kind of culture is allowed to continue the former behaviour becomes entrenched. One of the real issues out of this audit is the need to consistently review these operations.

When this organisation was set up in 1998 it had a huge backlog of licences to activate. It was caught up in such a busy workload that the underlying planning processes were overlooked. Time passed, and it was not until 2005 that the audit was done to look at these things that need to be addressed. Such a long period of time has passed, and I think that
should be reflected in the way that ARPANSA reacts to the audit. It has accepted the recommendations, but it is not enough just to make changes. The important aspect is that within the organisation acknowledgement must be coupled with a training regime which ensures that the kind of misprioritising that has been evident in this audit is not allowed to happen again. What we need from ARPANSA is not only acceptance of the recommendations but also commitment to making changes and ensuring that the changed culture will continue. If that happens, once again, the audit process will have been successful, not in a punitive way—I again stress that it is not a punishment to be audited—but in providing the chance to improve performance and ensure that the public sector is well-managed and effective.

Senator HOGG (Queensland) (6.33 pm)—I am pleased to follow my colleague Senator Moore in speaking on the Joint Committee of Public Accounts and Audit report entitled Regulation of Commonwealth Radiation and Nuclear Activities—she has laid the groundwork for many of the things that I hope to say on this particular issue. It is indeed an excellent report, once again, from the Australian National Audit Office. It shows the value of having an independent audit office and the need for an independent audit office to ensure that there is transparency and accountability of the agencies of government. And that is precisely what this report sets out to do. It does not doubt, as Senator Moore said quite rightly, the scientific integrity of those people who are employed under ARPANSA to do the work of scrutinising the science that takes place. That is not the issue at hand here at all. It is basically about the management and control of what they do.

It is therefore worth while to refer to the report to see why the number of recommendations on the steps that have to be taken were made. The licensing chapter, under the key findings at page 15, says:

ARPANSA provides guidance to applicants. However, the guidance does not explicitly ask applicants to address the statutory matters against which they will be assessed.

That is profound indeed. Here they have a guide that they give to the applicants, which the applicants need to address, but ARPANSA do not address it in trying to assess the applications that are put before them. Recommendation 26 says:

Consequently, applications are often inadequate. ARPANSA has often had to seek clarification from applicants during the assessment process.

The report goes on, at recommendation 27, to say:

The bulk of license assessments—some 75 per cent—were made without the support of robust, documented procedures. Assessments of applications were supported by draft procedures only, which staff were not required to follow.

That is a major cause for concern. ARPANSA, a major regulatory authority, do not have a robust procedure for their assessments of applications. Furthermore, the report says:

Some 60 per cent of applications accepted for assessment have been processed without a fee. Accepting applications without a fee is a breach of ARPANS legislation.

You have the organisation breaching their own legislation.

As Senator Moore said, ARPANSA have accepted the recommendations of the Audit Office report and are seeking to redress those deficiencies. But the fact that the deficiencies occurred in the first place is a cause for grave concern. One wonders why these deficiencies were allowed to take place. Why did they grow? Why did they prosper under the guidance of the CEO and whoever else may have been responsible? It raises the issue of
responsibility, it raises the issue of accountability and it raises the issue of transparency. Although this report is quite damning of ARPANSA, it is good to know that such reports exist and are made available to the members of this parliament, whether they be in the House of Representatives or in the Senate.

It is interesting to go on and look at some of the overall audit conclusions. Under the heading ‘Key findings’ at page 18, the report concludes:

The ANAO concluded that improvements are required in the management of ARPANSA’s regulatory function ... ARPANSA’s systems and procedures are still not sufficiently mature to adequately support the cost-effective delivery of regulatory responsibilities. In particular, deficiencies in planning, risk management and performance management limit ARPANSA’s ability to align its regulatory operations with risks, and to assess its regulatory effectiveness. ... Current arrangements do not adequately support the setting of fees in a user-pays environment, nor ARPANSA’s responsibilities for transparently managing the potential for conflict of interest. ARPANSA has recognised the need to address these gaps, and advised that it intends to review and improve the business processes supporting its regulatory function to address this audit’s recommendations.

Senator Moore and I would both say that that is very welcome indeed.

In fairness to ARPANSA, one should say that the agency did include a detailed response, which is attached to the rear of the report from pages 91 through to 94. That was pleasing indeed. As Senator Moore pointed out, in many of the responses that one sees to some of these reports the responses to the list of recommendations from the Audit Office generally are along the lines of ‘agreed’, ‘agreed’ and ‘agreed’ or ‘agreed in part’. One does not necessarily see the level of detail that ARPANSA were prepared to go to in addressing the audit report. That is welcome. It is important that recommendations are not just taken on board and then put in the bottom drawer and filed for attention later on.

The fact is that there seems to be a very proactive response by ARPANSA to a report, which, as I said, in many ways is very damning indeed of the organisation. I will quote from ARPANSA’s response so that they can say that they have been fairly represented here tonight:

ARPANSA acknowledges the work of the ANAO in this audit and agrees that the business processes supporting its regulatory functions need improvement. A formal review has been established to recommend changes to business processes and to oversee their implementation. The review will act upon all the ANAO recommendations.

That was pointed out by Senator Moore. It is the second time I have alluded to it in my brief statement here this evening.

I commend the report to those who want to look at a clinical assessment by the ANAO of an agency of the federal parliament. It is not a lengthy report, but it does go into quite fine detail and shows the clinical work that is done by the Audit Office in undertaking performance audits. It is important that performance audits are continued and are done to the standard of the Australian National Audit Office. While financial audits show one part of the business of government departments and agencies, performance audits have a function and a role in highlighting the way in which the agencies of government are operating and working. I commend the report to the Senate. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Report No. 45 of 2004-05

Debate resumed from 8 September, on motion by Senator Mark Bishop:

That the Senate take note of the document.
Senator MARK BISHOP (Western Australia) (6.43 pm)—I rise to take note of Audit Report No. 45 of 2004-05, Management of selected Defence system program offices. At the outset, I should say that this could almost become a daily event in the business of the Senate: Labor addressing another disaster in the government’s management of Defence. I focus on the government because after nine long years nothing has changed. Here we have yet another ANAO report taking strips off the management of procurement. I spoke recently on ANAO Report No. 3, which was about the armed personnel carrier refit which to this day continues to remain a disaster. I have also spoken on the report of the PMKeyS system. The report under discussion this evening, No. 45, deals with four major projects: the refit of F18 systems; the management, acquisition and support of Leopard tanks and APCs; acquisition and support for over-the-horizon systems; and the frigate upgrade project.

These are only four of 46 projects managed by dedicated officers called systems programs officers, or SPOs, within the Australian Defence Force. These projects and the SPOs were selected as case studies of the overall effectiveness of Defence procurement systems. This is important because, as we endure each saga of overrun on cost and time, we ask ourselves again and again what is going wrong and why this continues. That is exactly what the ANAO has asked itself and addressed in this particular report.

By way of background, the ANAO summarises the problem as follows. Prior to the establishment of the Defence Materiel Organisation—or the DMO, for short—a due diligence study was undertaken; that is, a study to find out the strengths and weaknesses of the business about to be undertaken. In shorthand, DMO did not want to buy a lemon. That due diligence study found that, of 156 major acquisition targets, 30 per cent had already missed their delivery date or had unrecoverable slippage; a further 20 per cent would require intensive management to get them delivered on time; and only 50 per cent would make it on time.

Further, the study found that, in the 23-year period 1981 to 2004, the top 64 projects incurred price increases totalling $11.8 billion. Let me repeat that: $11.8 billion. That is almost an entire year’s budget for the Department of Defence. Of that $11.8 billion, 89 per cent was due to cost escalation associated with the cost of labour and materials and, to some extent, due to foreign exchange fluctuations—all because of time slippage. Only 11 per cent resulted from changed specifications. This is very instructive because it points not so much to poor specifications but to project management.

The report provides a useful description of that management process. From that it is clear that, when applied to the four case studies, some parts of Defence manage quite well and others, unfortunately, are a disaster. This is catalogued in the report by making comparisons between the SPOs on their own internal accreditations. For example, in the aerospace division, all nine SPOs had achieved the necessary certification but, of the 19 SPOs in the electronic and weapons systems division, only three were certified.

There are some common problems, and the important ones seem to be support systems by which projects are tracked. Two of these were found by ANAO to be inadequate. The first was the quality and environmental management system, or QEMS. It was described in the report as ‘difficult to access and lacked necessary level of guidance to translate policy into practice’. It was also found to be deficient on financial policy, project approval and variations to approved project costs. It is always easy to blame systems but, if they are not fully operational and
properly tested in a real working environment, perhaps they should not be used—or, perhaps, some of the SPOs have simply been smarter and managed better by working around the problems. We do recognise, though, that some projects are far more complex than others. The second system was the improved project scheduling and status reporting system. Again, this system was considered to be immature, adding little value, if any, to the overall process.

The point to be made here is that systems failure seems to be a common thread in so much of the procurement in Defence. The so-called $8 billion black hole—so described in the media—is in part due to poor systems development, incompatibility or human lack of confidence. One of these is the SDSS, which underpins the stores and warehousing function. The second is the PMKeyS personnel system on which I spoke last week. The PMKeyS system has been a spectacular failure due to what can only be described as incompetent management. Both these systems need many tens of millions of dollars invested to get them up to speed. Until this investment occurs, the problems will continue—they will not go away. Perhaps there should be greater scrutiny of the IT management regime and why the necessary investment is not being made.

Let me turn to one of the four case studies—the frigate upgrade project. I will quote the ANAO’s problem, because even they had no chance of finding out what was going on. They said:

A high level of audit assurance is not able to be provided on the FFG upgrade project given deficiencies in the FFG SPO information management systems in the level of design and development disclosure provided to SPO personnel by the prime contractor.

That is, the SPO—the systems project office—did not know what was going on because the contractor, contracted by the SPO, could not tell them. In turn, ANAO were not able to find out—as the ANAO has advised the parliament. So here we are in the parliament with the parliament’s watchdog, the ANAO, telling us that this project involving hundreds of millions of dollars cannot be properly audited.

This project was established in 2000 to upgrade six FFGs over eight years at a cost of almost $1.5 billion. It became part of the new Defence Capability Plan announced in November 2003. But, instead of refitting six, two were to be retired. This would produce, we were told, savings of $680 million over 10 years to help pay for changed specifications for the upgrade of the remaining four ships. Despite this change, the contract with the contractor still has not been made. The DMO estimate was that, by changing from six ships to four—retiring two—the individual costs would increase from $253 million to $350 million per ship; that is, there would be no savings at all. It is almost a carbon copy of the armed personnel carrier episode. The story is the same: original specifications drawn up; contract signed; new specifications; contract renegotiated; continuing delay; increased costs; and, wait for it, no delivery. In the meantime, the work is not done, the cost has blown out and the Navy still does not have one frigate refitted.

This is only a work in progress. ANAO made a number of the detailed recommendations for change. The agency response, however, probably best sums up the problem because it seems they have not read the report. They said that the department is:

... heartened to have a finding that most of our System Program Offices have in place a good business structure ...

Further, they said:

Defence acknowledges that there is still work to be done, noting that the majority of this work is of a routine nature and does not represent a significant fundamental flaw.
Perhaps Defence was reading a different draft from the one I read and the one that is under discussion tonight. Accordingly, we might expect that all procurement problems will soon be fixed. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Report No. 58 of 2004-05

Debate resumed from 8 September, on motion by Senator Moore:

That the Senate take note of the document.

Senator McLUCAS (Queensland) (6.54 pm)—I have spoken in the chamber a number of times about the National Respite for Carers Program. Senators will remember that I have been critical of the way in which the government undertook a competitive tendering round for this particular program. When I have been critical of that competitive tendering round I have also pointed out that at the same time as the government adopted this new funding process they were well aware that the Australian National Audit Office was conducting a performance audit review of the operations of the National Respite for Carers Program. I referred last week to the audit report on the program and I expressed some concern that the report identified significant concerns in the way the National Respite for Carers Program has been administered. As I said, during that process the government decided to introduce compulsory competitive tendering for the National Respite for Carers Program.

I want to bring to the attention of the Senate a result of that process, and that is the situation that Mr and Mrs Terry and Jodie Heimerl, who live in Kingaroy in Queensland, are faced with as a direct result of the government pursuing this absolutely ideological obsession with market based thinking in human services. Mr and Mrs Heimerl have two sons who have significant disabilities. They have for some years now been able to access very good quality respite care from Blue Care in Kingaroy. They have been able to have school camp holidays and weekend respite while their children were well cared for by Blue Care. In particular, Mrs Heimerl had in many cases at least a night of unbroken sleep. One of their children has downs syndrome and the other child has attention deficit hyperactivity disorder.

As a result of Minister Bishop’s competitive tendering, Blue Care Kingaroy applied for $120,000 and they were unsuccessful. The tender was given to another organisation, a very deserving organisation. I understand that tender was for $30,000. As a result, the successful organisation—maybe not as a result of receiving less money—is not going to provide weekend care for parents of children with disabilities. They are not going to provide school holiday camps any more. The option for Mr and Mrs Heimerl is that they have to travel to Maryborough, which is 200 kilometres away, for weekend care for their children. That is not something that this family can contemplate. They cannot hop in the car after school on Friday afternoon, drive 200 kilometres down to Maryborough, come back and get some respite and then hop back in the car again on Sunday night. I do not think that is a reasonable alternative.

Senator Hogg—There is not much respite in that.

Senator McLUCAS—You are absolutely right, Senator Hogg. The reality would be that you would need some respite after you had done that. The thing that really troubles me about this is that earlier this year when Mrs Justine Elliot, a member in the House of Representatives, asked Ms Bishop a question about what was going to happen through this competitive tendering round, Ms Bishop said this: ‘We are not cutting services.’ That is not true. Certainly Blue Care Kingaroy’s service has been cut and the Heimerls and the other
families in that area cannot get respite care. Ms Bishop went on to say:

... and so no service will in fact be cut and people will continue to receive community services as they did previously.

That is certainly not the case for Mr and Mrs Heimerl. I was concerned about this so I put a question on notice in the Senate—No. 1017 on 5 July this year. All I wanted to know was which programs under the National Respite for Carers Program were funded up to 30 June and which programs were going to be funded from 1 July. That question was due to be answered on 4 August. Today, it is 42 days overdue. I cannot imagine that the Department of Health and Ageing is so badly run that there is not a list of what we used to fund and what we now fund. I cannot imagine that that question is so hard that it is 42 days overdue. It is not that difficult.

The only conclusion I can draw is that Ms Bishop does not want me to know. It is not only me that she does not want knowing what has been defunded and what respite services are not being delivered now, she also does not want the community to know. It is 42 days overdue. I put it on notice for Ms Bishop that in the next parliamentary sitting I will formally request that question No. 1017 be answered. I wrote to Ms Bishop yesterday—it was only yesterday so, of course, I do not have a response yet. In the next parliamentary sitting period we will make sure that we keep this government under scrutiny, keep them accountable and make sure that the people of Australia truly know which respite services were defunded.

There are six recommendations in this report. I want to go to one of them today. It suggests that a good thing for the Department of Health and Ageing to do would be to implement a needs based planning methodology to underpin NRCP service provision, comprising a methodology, incorporating a common assessment tool for determining carers’ needs, and regional planning, incorporating program data from relevant community care programs. When you read the context of the report, there is a startling observation made by the Audit Office. There is a description of the National Respite for Carers Program’s regional mapping project. The department recently conducted this regional mapping project across the nation. It identified information about each NRCP centre and service, HAC funded respite services, residential respite services and Carelink centres. Paragraph 3.22 says:

The information that Health collated differed for each program, but did include some common information. Health advised ANAO that it will use the information collected as part of this project to inform future planning considerations. The value of activities such as the regional mapping project would increase—

This is the lovely and very sensitive language used by the ANAO that tells you in no uncertain terms, if you can read between the lines, what in fact you should do—if they took account of all service provision within a particular area because this would better inform the department of gaps in service provision. The inclusion of respite services delivered by state and territory governments would further enhance the value of future mapping exercises.

What the ANAO is saying in a very polite way is that this has basically been a waste of time. They have gone and collected all this information but they did not use a systematic approach so that they were comparing apples with apples. They have collected different data about each of the four streams of the program. They have not bothered to collect any data from state and territory governments, so they have a map but half the towns are missing. That is really useful! That is a helpful thing to do! Maybe that explains why my questions have not been answered—there are all these holes in the map and the gov-
ernment do not know what they are doing. But I have more faith than that. I believe that there is at least a list of what they used to fund and what is currently being funded, and I am calling on Minister Bishop to provide it to the community. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Report No. 8 of 2005-06

Debate resumed from 5 September, on motion by Senator Mark Bishop:

That the Senate take note of the document.

Senator HOGG (Queensland) (7.04 pm)—This is another Auditor-General’s report which looks at a project undertaken by the Department of Defence. It looks at the Personnel Management Key Solutions—PMKeyS—implementation project. It becomes a little bit tiresome in some ways looking at the botched projects that have been undertaken by the Department of Defence. This is more or less another one of those projects. It arose out of the Defence Efficiency Review, which I had the pleasure of trawling over in estimates over a long period of time in the late 1990s, and formed part of the Defence Reform Program. This is a project that has now closed, with some major deficiencies indeed.

If one looks at the summary of the report put out by the Department of Defence, one finds that, for example, the project suffered extensive schedule slippages—phase one was 39 weeks late and, for phase two, components rolled out between 75 and 158 weeks late. When the project closed in December 2002, the major outcomes under phase three and phase four had not been delivered. It was designed under the Defence Efficiency Review to deliver savings of $100 million dollars per annum but those savings never materialised. The report goes on to show that the cost of this project exceeded $131 million. The original project, according to the report, had a notional budget of $25 million. That was exceeded by $38.4 million, which was an increase of more than 150 per cent. This is not uncommon in these Department of Defence projects. One could understand it if it was at the cutting edge, but this was something that was a personnel management system, in effect, and we had these blowouts of quite substantial proportions indeed.

The report goes on to say:

... Defence reportedly incurred additional costs for Infrastructure ($26.3 million) and Production Support ($41.2 million) between July 1998 and June 2003. The total cost to Defence ... is estimated to be ... $131 million. It is astounding for a project that was supposed to save $100 million per annum to cost $131 million. There is no logic, rhyme or reason to that at all. I congratulate the ANAO once again on being able to draw this to our attention and showing the lack of accountability that exists within the Department of Defence. Why was it allowed to get off the rails for so long and why was so much public money allowed to be expended? The report goes on to point out:

... the Project was not approved in accordance with Government requirements, including failure to obtain Cabinet approval.

Where was the minister in this? Where was the ministerial responsibility? Where was the accountability of the minister to ensure that his department played by the rules and did things in the correct manner? The minister was once again missing in action.

The report goes on to look at the fact that, after the notional budget of $25 million was approved in March 1998, it was not formally endorsed and, even though the project office had not received approval by the appropriate authority, the funding was allocated. The project was closed down in 2002 with expenditure in excess of $63.4 million. As I
said, that is a substantial increase over the original allocation by any stretch of the imagination. This asks: just where were those responsible for the conduct of this project? The report goes on to say:

Major Project outcomes, including payroll functionality for military staff (Phase 3) and website enablement and employee self service (Phase 4), were not delivered.

Earlier, the report says:
The Project did not deliver significant elements of the scope for which it was initially funded, such as ADF Payroll, Career Management functionality, a major element of PMKeyS Phase 2, is not fully utilised by Army when planning its annual posting cycle.

If anyone knows anything about the gripes within Defence, a posting cycle causes grave angst indeed among defence personnel.

The report really lays open once again the lack of accountability in the Department of Defence and the need to ensure that more constraints and compliance structures are put in place to ensure that Defence does not fritter away the valuable resources that are given to it by government. I am the first to argue for the best equipment and facilities to be available for our defence forces, but it really sticks in your craw when this happens. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Consideration

The following orders of the day relating to reports of the Auditor-General were considered:

Auditor-General—Audit report no. 38 of 2004-05—Performance audit—Payment of goods and services tax to the states and territories. Motion of Senator Bartlett to take note of document agreed to.

Auditor-General—Audit report no. 49 of 2004-05—Business support process audit—Administration of fringe benefits tax. Motion of Senator Moore to take note of document agreed to.

Auditor-General—Audit report no. 51 of 2004-05—Performance audit—DEWR’s oversight of Job Network services to job seekers; Department of Employment and Workplace Relations; Centrelink. Motion of Senator Moore to take note of document. Debate adjourned till the next day of sitting, Senator Moore in continuation.

Auditor-General—Audit report no. 1 of 2005-06—Performance audit—Management of detention centre contracts—Part B: Department of Immigration and Multicultural and Indigenous Affairs. Motion of Senator Bartlett to take note of document agreed to.

Auditor-General—Audit report no. 3 of 2005-06—Performance audit—Management of the M113 Armoured Personnel Carrier Upgrade Project. Motion of Senator Bishop to take note of document agreed to.

Auditor-General—Audit report no. 4 of 2005-06—Performance audit—Post sale management of privatised rail business contractual rights and obligations. Motion to take note of document moved by Senator Moore. Debate adjourned till the next day of sitting, Senator Moore in continuation.

Orders of the day nos 10 to 12 relating to reports of the Auditor-General were called on but no motion was moved.

COMMITTEES

Membership

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

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (7.11 pm)—by leave—I move:

That Senator Fifield replace Senator Barnett on the Employment, Workplace Relations and Education Legislation Committee for the commit-
...tee’s inquiry into the provisions of the Student Assistance Legislation Amendment Bill 2005.

Question agreed to.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Marshall)—Order! There being no further consideration of committee reports, government responses and Auditor-General’s reports, I propose the question:

That the Senate do now adjourn.

Trade: Exports

Senator SANDY MACDONALD (New South Wales—Parliamentary Secretary to the Minister for Trade) (7.11 pm)—Tonight I want to tell the Senate about the importance of rural exports. Over the years, the Australian government has helped to lay a solid foundation for the economic success of this country, which sees us this financial year, according to the economic forecasts, entering our 15th straight year of economic expansion, following the setting last financial year of a new record of $162.3 billion for our exports. Our economy is broadly based and has many strengths, and the contribution of our rural community remains a vital part of this success and the Australian export equation, with recent research by the Australian Farm Institute indicating that farming supports about 12 per cent of the Australian gross domestic product and generates around 1.6 million Australian jobs. Exports are of course important to all areas of Australia, with one in every five jobs directly or indirectly linked to exports. However, this is even more the case in regional Australia, where around one-quarter of jobs are export related and exports account for over a quarter of all income.

In the June quarter we saw our economy grow by 1.3 per cent, helped by a 1.6 per cent rise in exports overall, including a 3.9 per cent increase in rural exports. At the same time, our terms of trade recorded a 5.8 per cent increase—its highest quarterly growth figure in 17 years. Rural production has served us well in the past, as it does now, and we need to plan so that it will be able to do so into the future.

A recent Productivity Commission research paper, titled *Trends in Australian agriculture*, found that agricultural productivity is up and there are fewer, but larger, farms. Putting Australian agriculture under the microscope, the commission found that, despite droughts, the volume of farm production is about 2½ times greater than it was 40 years ago. It is probably good that it is, in view of the change in the terms of trade that farmers have experienced over the last 50 years. However, the volume of production is substantially higher than it was 40 years ago. The commission also found that 10 per cent of farms account for more than half the nation’s agricultural products and that agriculture’s export focus is increasing and we now export around two-thirds of production. That is why market access is a prime concern for Australian exporters. Exports have become more diverse, with less reliance on traditional commodities such as wool and more reliance on processed products like wine, cheese and seafood.

Australian farmers, though, are up to the challenge of moving with the times. The Australian government—and here I particularly want to mention the efforts of the Deputy Prime Minister, Mark Vaile, who has been the trade minister for six years—has been unwavering in its efforts to address one of the major hurdles that our farmers have faced; namely, the highly distorted and protected nature of the global agricultural trading system. While Australian farmers are amongst the most efficient producers in the world, they continue to have to compete in the international marketplace against agricultural industries of major developed countries propped up by massive subsidies.
To highlight the magnitude of the problem, I note that, according to OECD estimates, in 2003 the monetary value of transfers—that is, subsidies—from consumers and taxpayers to support EU farmers was equivalent to 37 per cent of their gross income; for US farmers, it was 18 per cent; and for Japanese and Korean farmers, it was around 60 per cent. Indeed, the average person in sub-Saharan Africa earns less than $1 a day, while the average cow in Europe, thanks to EU government subsidies, earns about $2 a day. Future generations of social and economic historians will shake their heads at the world’s current subsidy regimes.

This problem is often compounded when these developed countries combine high subsidies—sometimes as high as 1,000 per cent for key agricultural goods—with high levels of border protection and impose restrictive tariff rate quota regimes which limit trade further.

These practices encourage overproduction and depress world prices, impacting on efficient producers such as those in Australia and limiting the opportunities of developing countries to prosper in a sector typically of considerable importance to their economies and where they have a comparative advantage. Recent World Bank analysis has suggested that, if all regions removed all protection in agriculture and food, the global gains by 2015 would amount to around $265 billion, with nearly half of these gains going to developing countries and, at the same time, increasing world trade in the agriculture and food sectors by some 74 per cent.

So, in support of a better go for our farmers and the regional community more broadly, Mark Vaile and his team have been pursuing an aggressive trade strategy that combines efforts at a multilateral level in the WTO to improve the international marketplace, along with free trade agreements to deliver deeper and faster gains in key markets than are possible through the very slow pace of multilateral negotiations. In the context of the WTO negotiations, this has involved working with fellow Cairns Group members and like-minded agricultural fair traders. These efforts have reaped some valuable rewards, including the securing in July last year of an historic commitment from the big subsidisers of Europe and the United States to abolish agricultural export subsidies potentially worth hundred of millions of dollars to Australian exporters.

Despite these successes—and as Minister Vaile would no doubt attest—securing movement on agriculture is extremely difficult, as demonstrated by the failure to secure much-needed breakthroughs in the WTO negotiations before the northern summer break, as we move to the WTO ministerial in Hong Kong in December. If there is to be a successful outcome to the Doha Round more broadly, it will require further movement on agriculture—truly a linchpin to concluding these negotiations. I know that Minister Vaile and the Australian government remain committed to ambitious results in the round for our farmers, as well as for our manufacturers and service providers, and will be working hard in the lead-up to the sixth WTO ministerial meeting in Hong Kong later in the year and, of course, after that, to achieve ongoing results. The Howard-Vaile government is not letting trade opportunities like free trade agreements, which I will speak about on another occasion, or the opportunities offered by the Doha Round to slip beyond our grasp; nor will it waste them.

Middle East

Senator FORSHAW (New South Wales) (7.20 pm)—Tonight I rise in the adjournment debate to make some remarks about developments in the Middle East, particularly in relation to Israel’s disengagement from Gaza. I want to start by once again placing
on the record the fact that the Labor Party has a long and proud history of support for the state of Israel. Indeed, Labor were there, as a Labor government, at the establishment of the modern state of Israel by the United Nations General Assembly in 1947-48.

In this debate it is important for people to pause at times, because we know it is an emotional debate, people are very passionate on both sides of the issue and it is unfortunate that it often divides into two sides. But it is important to remember that the state of Israel was established by a United Nations resolution. It was a resolution that proposed the establishment of two separate states in the old Palestine mandate—a state of Israel and a state of Palestine. Unfortunately, the Arab countries at the time would not accept the existence of a state of Israel, a Jewish state, and sought to obliterate it. At that time, and ever since then, most of those countries have never accepted either the legitimacy of the state of Israel or the proposal to establish a separate, independent Palestinian state.

The Labor Party carried its support on, both in opposition and in government, through the fifties, sixties, seventies, eighties and nineties. Today it is just as strong. Former Prime Minister Bob Hawke was a passionate advocate and supporter of the state of Israel and was instrumental in assisting the emigration of many hundreds of Jewish families from the Soviet Union to settle in Israel. The Labor Party has also had long links with the Israeli labour party and the trade union movement, Histadrut, and a close affinity with the Jewish people and their struggle for a homeland. Former Premier Bob Carr, when I first got involved in the Labor Party, introduced me to an understanding of Middle East issues when I became a member of Labor Friends of Israel. Our current leader, Kim Beazley, and our current shadow minister for foreign affairs, Kevin Rudd, are both passionate and strong supporters of Israel.

Hand in hand with that goes our ongoing support for the peace process and for the establishment of an independent democratic state of Palestine. We will continue to support and urge that, and do anything we can to bring that about. I know that many of my colleagues in the Labor Party and, indeed, on the government side—I think that generally this is a bipartisan debate in this parliament—firstly have had the opportunity to visit Israel, Palestine and other countries in the region to learn first-hand more about the issues and, secondly, to do whatever we can to provide support for a final peace agreement and the establishment of the state of Palestine alongside the state of Israel.

I want to comment on the disengagement. This has been a unilateral decision taken by the Israeli government and by Prime Minister Ariel Sharon. It was a brave decision. Yasser Arafat often used to talk about the ‘peace of the brave’ but, I am afraid to say, did very little if anything to promote it. In fact, he actively worked against it. But the current Prime Minister of Israel, notwithstanding the calumny that has been said against him—and I would not put myself in the category of a political supporter, if you like, of Mr Sharon—certainly took a brave decision to unilaterally disengage from Gaza. It was one that was not accepted within his own Likud party and it may well be to his political cost. That is not out of character with previous leaders of the Israeli government such as Golda Meir, Yitzhak Rabin, Ehud Barak and others who at times have had to take courageous decisions, in spite of opposition within their own country and their own government, to try to develop the peace process.

It is unfortunate, I think, that this decision to disengage has not been accepted as it
should, particularly amongst some elements of the Arab world and the Palestinian movement. Some, notably Hamas and other terrorist groups, see it as, rather, a victory for them. Just as they think they drove the Israelis out of southern Lebanon, they think they have now driven them out of Gaza because of ongoing terror attacks and suicide bombings. They see it as one more step toward the ultimate obliteration of the state of Israel and the establishment of one single land of Palestine stretching from the Mediterranean to the Jordan River. That, of course, is the way it is viewed by some.

I am forever confident and hopeful that the moderate leadership in the Palestinian territories, currently led by Abu Mazen, is committed to a process that will keep the peace process on track and take it another step. To a large extent with the disengagement of Gaza and the removal of those settlements, the next step needs to come from the Palestinian authority leadership. They need to show a willingness to meet and engage Israel in furthering the peace process. That, of course, means taking action against suicide bombings and terrorist elements and so on. It is also unfortunate that recent scenes in Gaza of the destruction of those synagogues, irrespective of whether or not they were seen as some symbol of occupation, have not helped to promote the development of peace.

In the last couple of minutes of my speech I want to deal with what I believe were unfortunate remarks—I think that is probably putting it mildly—that were made by a member in the other place, the member for Fowler, on Tuesday night in an adjournment speech. I know that the member for Fowler, on Tuesday night in an adjournment speech. I know that the member for Fowler, on Tuesday night in an adjournment speech. I know that the member for Fowler, on Tuesday night in an adjournment speech. I know that the member for Fowler, on Tuesday night in an adjournment speech. I know that the member for Fowler, on Tuesday night in an adjournment speech. I know that the member for Fowler, on Tuesday night in an adjournment speech. I know that the member for Fowler, on Tuesday night in an adjournment speech. I know that the member for Fowler, on Tuesday night in an adjournment speech. I know that the member for Fowler, on Tuesday night in an adjournment speech. I know that the member for Fowler, on Tuesday night in an adjournment speech.

To suggest that we are witnessing the ethnic cleansing of East Jerusalem, the heart and soul of the Palestinian nation, is not only wrong but also offensive. As I said, these terms—"concentration camp", "ghetto" and "ethnic cleansing"—are being used against a people who have suffered that fate for thousands of years. It is not what is happening today and it is, I believe, unfortunate that that language was used. I note that the words were withdrawn in the House of Representatives today and I commend the member for Fowler for doing that. I understand her strong emotional support for the Palestinian people, but I think the language she used was not appropriate. I say once again that, in this debate, we in this country need to be ever mindful that we need to use the language of peace, not language that incites and encourages violence and anti-Semitism. (Time expired)

Australian Film Industry

Senator EGGLESTON (Western Australia) (7.30 pm)—Tonight I would like to speak about the Australian film industry. The Australian feature film industry is undergoing one of the most difficult periods in its history. In the last few years commercially successful Australian feature films have been thin on the ground, and so too have audiences. This has been accompanied by a downward trend in feature film production
and spending. In 2004-05, 19 Australian features were produced with a total value of $61 million. This is below the 10-year average of 24 local feature productions with a total value of $107 million annually.

It has been a while since we have witnessed commercial or critical successes of the magnitude of *Crocodile Dundee; Babe; The Dish; Muriel's Wedding; The Adventures of Priscilla, Queen of the Desert; Strictly Ballroom; Mad Max; or Picnic at Hanging Rock.* The last major commercial success was in 2001 with *Moulin Rouge,* which generated $27.7 million at the Australian box office, and we have to go back further to some of the really great Australian films such as *Gallipoli* or *Breaker Morant.* It is a long time since we have had a film of the calibre of those last two produced here in Australia.

Of late, the Australian film industry has been turning out films that have not captured the imagination or enthusiasm of audiences. This has been reflected in box office takings. Between 1997 and 2003, Australian films took an average of 5.3 per cent of box office revenue but in 2004 could only manage 1.3 per cent, a record low—although it should be acknowledged that this is partly a reflection of the fact that only 16 films were released in 2004 compared to an average of 24 annually between 1997 and 2003.

The local film industry’s lack of commercial success in recent years certainly is not for lack of talent. We have some very talented writers, actors, producers, directors and crew in this country and their overrepresentation in Hollywood is a testament to that. It is always going to be difficult for a small country like Australia to compete with Hollywood’s monolithic film industry and their very large budgets of tens of millions, if not hundreds of millions, of dollars. In fact, there is no sense in trying to emulate Hollywood. It is just not possible for us with the sorts of budgets that local films have if all that is produced is some pale, unappetising imitation of the American films. What are needed in Australia are quality films with broad mainstream appeal capable of generating box office revenues.

According to the Australian Film Commission:

With the increase in foreign feature activity over the past 10 years, Australian films now account for a much smaller proportion of total spending by feature productions in Australia—just 18 per cent in 2004/05, down from 60 per cent in 1995/96.

I do not think anyone wants to see Australia reduced to purely a back lot for Hollywood films, not that this should be seen as a criticism of foreign feature film production here in Australia—far from it—especially given that foreign feature film production in Australia provides great opportunities for Australian actors and crews. In 2004-05 there were nine foreign titles shot in Australia, costing some $243 million, which was virtually unchanged on the previous year. Over the past five years, 33 foreign films were shot or substantially shot in Australia, which is a tribute to some degree to the technological backup we offer in Australia and to the lower costs of production here.

 Calls to limit the number of Hollywood films entering Australia are unrealistic, in my opinion, and misguided. We cannot hold back the tide. Unfortunately, while it may be difficult for Australian films, competition is healthy and should be a stimulus for producing high-quality films. Our films need to be able to compete in the global environment, and throwing up the protective barriers is surely not the answer.

A greater proportion of film budgets could also be directed towards improving the quality of scripts. In this respect I welcome the federal government’s initiative to increase
funding to the Australian Film Commission to help develop better quality scripts and assist short-film makers to move on to feature production. Surely one might regard films as the version of the storyteller of ancient times who wandered from village to village telling tales. I think it is probably a truism that if our films have universal themes and tell stories which appeal to people around the world then those films will sell. There have been too many low-quality and mediocre films produced. Stephen Smith, the President of the Screen Producers Association of Australia, has said that films are being rushed into production prematurely. He stated that:

... we are project and production driven. And lately, with so much of the backend of a film being negotiated away and so few films going into profit, the producer ends up working for a fee only. This leaves little money to live on between projects let alone anything left for re-investment or development.

This explains the cottage industry nature of the feature film industry in Australia, because the amount of finance is small and the economies of scale are so low that we are really trapped in a problem area in terms of the finance to develop our film industry. Brian Rosen, CEO of the Film Finance Corporation, said:

There are now about 2000 registered businesses involved in film and video production in Australia ... In the UK, which is obviously a much bigger market, there are only about 100 companies and, in France, there are about 700 companies.

There has been a substantial decline in foreign investment in Australian feature films. Last year, foreign sources invested $12.4 million in five films, accounting for 19.7 per cent of total funding. This is considerably below the 10-year average of annual investment in eight features, with a funding of $48.6 million, representing 40 per cent of the total. I think we need to encourage and provide incentives for private investment in film, but it will remain difficult for film makers to attract finance until there is a better track record of success.

The new evaluation program developed by the Film Finance Corporation to determine which films should receive government investment holds out some hope that better quality, more popularly received films will be developed. Many films have been a commercial failure because they have not had a clearly defined audience. Perhaps one of the real problems of the Australian film industry is that it is not commercially focused as, for example, the great film industries of the United States and India are. Having to recover costs, make a profit and generate funds for future investment certainly adds a discipline to film making. Many Australian film people are concerned about the impact of digital technology on the film industry and see it as a threat. But perhaps it is a hope and a great opportunity for them, because digital film and television around the world will require a huge amount of product. If Australia can produce films with good stories, then surely there is a great opportunity in the digital world for Australian film and television production.

**Telstra**

Senator LUNDY (Australian Capital Territory) (7.40 pm)—I think this adjournment debate is a useful opportunity to raise a few of the issues that I certainly think ought to have been raised in previous debates this week, particularly relating to the Telstra debate. There are a number of very serious concerns about the way the committee stages were dealt with and how it happened. Notwithstanding the specific environment in this place yesterday evening, the gagging of the Telstra debate will forever remain in my mind as one of my most appalling and disgraceful experiences in this chamber.
Sitting here and waiting patiently during that debate for the call—which, I have to say, never came—one of the issues I was hoping I would have the opportunity to raise directly with the minister related to the $1.1 billion fund. As I am sure everyone has heard in the course of the week, there was a lot of concern about the way in which the bills were worded, especially surrounding the operation of the $2 billion Communications Fund.

I sat here, looking through the papers, and I think it is testimony to the value of scrutiny that I came across another inconsistency in the government’s position. You just do not see these sorts of problems unless you have ample time for scrutiny. It was only by cross-referencing the minister’s original statement upon the tabling of the five bills, *Telecommunications for the future*, with the specific content of the Appropriation (Regional Telecommunications Services) Bill 2005-2006, that I saw another glaring inconsistency which I think still requires a full and thorough explanation by the minister.

The problem is this: the $219 million that is appropriated as part of these bills, purports to establish the first quarter of the $1.1 billion fund—is actually substantially less than the $275 million that would constitute a quarter of $1.1 billion given that that fund is to be expended over four years. In fact, the minister’s tabling statement says about that bill:

The key elements of the Bill are that it:
- appropriates approximately $152.3 million as the first tranche of the Connect Australia measures; and
- appropriates $67 million previously approved by the Government to continue the Higher Bandwidth Incentive Scheme for the remainder of 2005.

Added together, those amounts equal $219,218,000, which is the number that you find in the appropriation bill. Nowhere in the appropriation bill does it talk about that $219 million being anything other than the first instalment of the Connect Australia fund. This is a rebadging of $67 million of money that had been previously committed by the Howard government. That means that Senator Joyce and the National Party have been duped, getting $67 million less than the government has purported to give to that fund.

The Howard government have form on this with every successive fund relating to telecommunications, starting with the RTIF and going right through to Networking the Nation and the social bonus funds like Building Additional Rural Networks, or BARN, and the Internet Assistance Program—any number of that suite of funds that have been paid out over the years. Whenever there has been an underspend or they have stuffed up the program and have not allocated the money properly or people have not applied for the money—the myriad problems that have occurred with the ad hoc expenditure of those funds over the years—they have consistently wrapped up the underspend, badged it as a new program and rolled it forward. I have looked at all of those funds and analysed every bit of expenditure in each of the out years. I can draw a picture of how that has occurred.

So the government have form on rebadging existing commitments, and that is exactly what they seem to have done with this. Of the $218 million purported to be the first instalment of the $1.1 billion for the Connect Australia fund, $67 million is old money. It is what they had committed to spend on Hi-BIS and have conveniently rolled forward into this fund. What a con! It makes the tricky wording of ‘up to $2 billion’ look like a distraction. What has happened here is that there has been a fundamental shortfall in what the government have said they have committed and what they have given to this fund.
It is not acceptable for the Howard government to get away with this, and it is absolutely unacceptable that I and my colleagues were denied the right to ask these questions of the minister. Let us take a look at that for just a minute. In the debate on the Telstra bills it became clear and obvious at the very beginning of the day that the committee stage would be limited. My colleague Senator Conroy had a comprehensive list of issues that he had prepared and planned to ask questions on, as is his duty as shadow minister in this portfolio. This was compounded by the fact that we had had 12 minutes with the ACCC in the hearing, an appallingly truncated committee process, limited time to prepare for that committee process anyway and a multitude of submissions and views coming in from around the country as we spoke in this place.

To then find ourselves at the end of the day in the committee stage with Senators Brandis and Ronaldson standing up and asking dorothy dixers at the tail end of full 15-minute presentations was the most outrageous flouting of every tradition and of every purpose and role that the committee stage was established for. It was the most appalling example of that. Senator Conroy did not get to ask any of his questions then. He got to ask a few earlier in the day. He was appropriately generous and understood that the crossbenches also deserved the right to ask questions. He understood, too, that the chair is under an obligation to give the call to the government. But no-one expected the government to so blatantly abuse their power in this place and prevent any of the questions from being asked. Had I been able to ask my question about funding, the minister presumably would have been in a position to either confirm or deny. The question has to be asked: if she had been able to confirm that the $67 million was rolled forward, surely every senator in this place, including Senator Joyce, would have had the right to factor that information into their decision on how they would vote.

There are a few other issues I want to touch on before I conclude. One that deserves much more air time than it has received in this debate is the needs of people with disabilities. Telecommunications, communications and information technology can do great things for society but they can do brilliant things for people with disabilities. TEDICORE and CTN brought to the committee hurriedly put together submissions to make the point that if the government is throwing money at telecommunications there is probably no greater need than to service the needs of the 3.5 million Australians who suffer some sort of disability. There are obviously a smaller proportion who could benefit directly and specifically from having the government fund the independent equipment program needed to ensure that all people with disabilities have the rights of every other consumer—that is, to choose their telecommunications carrier. I urge the government again to look closely at those submissions.

Let me conclude on this point: now that this legislation has been passed, Telstra will no longer be required to come to estimates committee hearings. Where will that leave consumers when we cannot ask Telstra the tough questions? We would never have got them to admit that pair gains existed. We would never have got them to admit the faults in their network. That accountability is now gone and Australian citizens will be worse off for it. (Time expired)

Senate adjourned at 7.51 pm

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:
Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number.

Civil Aviation Act—Civil Aviation Regulations—Instruments Nos—

CASA 369/05—Instructions — use of RNAV (GNSS) approaches by RNP capable aircraft [F2005L02595]*.
CASA 395/05—Approval — operations without an approved digital flight data recorder [F2005L02621]*.
CASA 396/05—Approval — operations without an approved digital flight data recorder [F2005L02624]*.

Corporations Act—ASIC Class Order [CO 05/938] [F2005L02615]*.

Customs Act—Declaration of Places No. 1 of 2005 [F2005L02566]*.

Tariff Concession Orders—
0504376 [F2005L02642]*.
0504571 [F2005L02643]*.
0504708 [F2005L02644]*.
0504710 [F2005L02645]*.
0504713 [F2005L02646]*.
0504720 [F2005L02647]*.
0504759 [F2005L02631]*.
0504792 [F2005L02632]*.
0506771 [F2005L02633]*.
0507060 [F2005L02634]*.
0507509 [F2005L02649]*.
0507510 [F2005L02636]*.
0507512 [F2005L02650]*.
0507655 [F2005L02637]*.
0507657 [F2005L02638]*.
0507661 [F2005L02585]*.
0508245 [F2005L02639]*.
0508312 [F2005L02640]*.

Financial Management and Accountability Act—Net Appropriation Agreements for—

AusAID (Administered) [F2005L02567]*.

Department of Agriculture, Fisheries and Forestry [F2005L02630]*.

Higher Education Support Act—
Administration Guidelines, dated 5 September 2005 [F2005L02593]*.

Migration Act—Migration Regulations—
Specification of Commonwealth, State or Territory legislation for the purpose of subregulation 3.10A(1), agencies for the purpose of paragraph 3.10A(2)(a), employees for the purpose of paragraph 3.10A(2)(b) and purposes for the purpose of paragraph 3.10A(2)(c), dated 1 September 2005 [F2005L02563]*.
Specification of organisations for the purposes of paragraph 459.214(c), dated 31 August 2005 [F2005L02560]*.


Indexed Lists of Files
The following document was tabled pursuant to the order of the Senate of 30 May 1996, as amended:
Indexed lists of departmental and agency files for the period 1 January to 30 June 2005—Statement of compliance—Department of Transport and Regional Services.

Departmental and Agency Contracts
The following document was tabled pursuant to the order of the Senate of 20 June 2001, as amended:
Departmental and agency contracts for 2004-05—Letter of advice—Agriculture, Fisheries and Forestry portfolio agencies.
The following answers to questions were circulated:

Mr Ali Bakhtiyari
(Question No. 341)

Senator Stott Despoja asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 15 February 2005:

(1) What was the Bakhtiyaris address in Quetta.
(2) Was anyone ever interviewed who employed Mr Ali Bakhtiyari as an electrical plumber.
(3) Is it true that none of the Bakhtiyaris spoke any Pakistani language; if so, why was it believed they were Pakistani.
(4) Why is linguistic evidence ignored by the department.
(5) Where are the Bakhtiyaris now located.
(6) Is it true that in January 2005 Pakistani authorities decided the Bakhtiyaris were not Pakistanis and immediately helped them go to Afghanistan.
(7) If the Bakhtiyaris were from Pakistan, and presumably had relatives and friends there, why did they choose to go to Afghanistan.
(8) If the Bakhtiyaris are from Afghanistan, why was $5 million spent denying they were.
(9) Can the Minister provide linguistic proof that the Bakhtiyaris were from Pakistan; if not, will the Minister admit the Bakhtiyaris were innocent as charged and apologise for their torment and suffering, especially that of the children.
(10) What will the Minister do to recompense them for their suffering and the mistakes made by the department that distorted and probably ruined their lives.

Senator Vanstone—The answer to the honourable senator’s question is as follows:

(1) The Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) received confirmation from a number of sources regarding the Bakhtiari’s address in Quetta before they came to Australia. Due to privacy considerations I cannot release these details.
(2) A range of sources were considered in determining the family’s nationality.
(3) Mr and Mrs Bakhtiari were found to speak Dari with a Pakistani accent and Pakistani pronunciation.
(4) Linguistic analysis forms part of a range of evidence that is considered by DIMIA when determining a person’s nationality. I am advised by my Department that in the Bakhtiari’s case, the linguistic evidence supported the assessment that the family is Pakistani, which was subsequently confirmed by the Pakistani authorities.
(5) The Australian Government respects the principles of state sovereignty and does not monitor citizens of other countries in their homeland. However, I can advise that on 8 February 2005 several of the family members visited the Australian High Commission in Islamabad, Pakistan, claiming to have returned to Afghanistan and enquiring about the return of goods in Australia.
(6) The Australian Government respects the principles of state sovereignty and does not monitor citizens of other countries in their homeland. The Pakistani authorities accepted that the family is Pakistani. The Pakistani Government issued the family with Pakistani travel documents before the family left Australia. Upon the family’s arrival in Pakistan, the Pakistani authorities accepted that the family is Pakistani and allowed the family to enter Pakistan.
(7) Please refer to the answer to part (5). However, I cannot confirm.
(8) The Bakhtiari family were confirmed by Pakistani authorities to be Pakistan nationals.
(9) Linguistic analysis forms part of a range of evidence that is considered by the Department when determining a person’s nationality. In the Bakhtiari’s case, the linguistic evidence supported the view that the family is Pakistani, which was subsequently formally confirmed by the Pakistani authorities.
(10) The family was detained and removed lawfully. They had ample opportunity to have their claims heard through numerous processes, including in the courts and these claims were exhaustively examined in these processes. The result of those assessments was that the Bakhtiari family was conclusively found not to be owed protection by Australia. The family could have returned to Pakistan earlier but chose not to do so.

Medical Procedures
(Question No. 577)

Senator Nettle asked the Minister representing the Minister for Health and Ageing, upon notice, on 28 April 2005:

(1) Is the Minister aware of the study of medical literature regarding iatrogenesis entitled Death by Medicine, reprinted by the World Natural Health Organisation.
(2) Is the Minister aware that Australian authors who have studied the literature relating to iatrogenic harm used the term ‘epidemic’ to describe the extent of that harm.
(3) With relation to the following categories of the iatrogenic spectrum, what are the Government’s estimates of annual fatalities arising from: (a) adverse reactions to prescribed drugs; (b) medical error; (c) deaths occurring as a result of unnecessary procedures; and (d) surgery-related deaths.
(4) What measures has the government undertaken to ensure appropriate risk assessment and risk management by medical practitioners and that patients are adequately informed of the risks associated with medical procedures.

Senator Patterson—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) Yes.
(2) No.
(3) The Australian Government does not make estimates of annual fatalities arising from these categories.

The Australian Bureau of Statistics has provided the following data from its Deaths Collection. With regards to information supplied for part (d) of the question (surgery related deaths), the data also includes medical procedures (for example renal dialysis). In relation to part (c) of the question, the ABS is unable to supply data for deaths occurring as a result of unnecessary procedures. There is no provision for deaths of this nature to be coded in the World Health Organization’s International Classification of Diseases and Related Health Problems (ICD) which is used by the ABS for mortality statistics.

Data in the response has been provided on the basis of multiple causes of death counts, as it provides a more complete picture of medical condition at death. In technical terms, multiple cause is defined as all morbid conditions, diseases and injuries entered on the death certificate. These include those conditions involved in the morbid train of events leading to the death which were classified as either the underlying cause, the immediate cause, or any intervening causes and those conditions which contributed to death, but were not related to the disease or condition causing death. The underlying cause of death is the disease or injury which initiated the train of morbidity.
events leading directly to death. Associated causes are all causes listed on a death certificate other than the underlying cause. An explanation has been provided in footnotes to the table in order to explain the types of conditions that would be included in each of the cause of death groupings.

<table>
<thead>
<tr>
<th></th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Drugs, medicaments and biological substances causing adverse effects in therapeutic use (Y40-Y59)</td>
<td>670</td>
<td>664</td>
<td>780</td>
</tr>
<tr>
<td>(b) Misadventures to patients during surgical and medical care (Y60-Y69)</td>
<td>10</td>
<td>27</td>
<td>17</td>
</tr>
<tr>
<td>(d) Surgical and other medical procedures as the cause of abnormal reaction of the patient, or of later complication, without mention of misadventure at the time of the procedure (Y83-Y84)</td>
<td>2184</td>
<td>2163</td>
<td>1937</td>
</tr>
</tbody>
</table>

(4) Risk assessment and risk management by doctors is a competency criteria that is the responsibility of the state and territory registration authorities.

Footnotes

1 This would include the effects of drugs prescribed to treat or prevent medical conditions eg stomach ulcers resulting from cortisone therapy for rheumatoid arthritis. The underlying cause of death in this example would be the condition for which the drug was prescribed ie rheumatoid arthritis and adverse effects of drugs, medicaments and biological substances would be an associated cause.

2 This category is only used when there is clear coronial evidence that inappropriate treatment has occurred eg mismatched blood used in transfusion.

3 The underlying cause would usually be assigned to the condition for which the treatment was performed. An example surgical procedure would be postoperative haemorrhage after coronary bypass grafting for coronary artery disease. The underlying cause would be the coronary artery disease and the surgery code would be an associated cause. An example adverse effect of medical procedures would be an infection as a result of long term renal dialysis. The underlying cause would be the chronic renal failure and the procedures code would be an associated cause.

(Australian Bureau of Statistics, Deaths collection, Multiple cause by Registration Years)

Detention Centres

(Question No. 581)

Senator Allison asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 3 May 2005:

(1) Over the past 3 years: (a) how many detainees have sought treatment for mental health problems in each of the detention centres, including those offshore; (b) how many were diagnosed with mental health conditions and what treatment was provided in each case; (c) how many mental health staff were provided in each immigration detention centre and what were their qualifications; (d) what was the ratio of mental health staff to detainees; (e) for each immigration detention centre, what has been the range and average waiting time for people to be assessed by a mental health professional; (f) within each immigration detention centre: (i) how many mental health consultations and treatment sessions have been provided to each client, and (ii) how many consultations and treatment sessions were provided to detainees outside detention centres; and (g) what range and quantity of drugs have been administered to people in immigration detention centres for mental health conditions.

(2) (a) What are the protocols and policies of screening for, and treatment of, the mental health problems of people in immigration detention centres; and (b) can copies of these policies be provided.
(3) Over the past 8 years, what percentage of detainees, who have spent more than 6 months in immigration detention, were prescribed drugs for mental health conditions.

(4) Can the Government provide a list of all staff, contractors and consultant psychiatrists, psychiatric nurses, psychologists, social workers, counsellors and others providing mental health services to people in immigration detention centres, including their qualifications, hours and conditions of employment, state of registration (where applicable), and location of service.

(5) Which of these mental health workers have specific training in the needs of refugees and training in working with people who have experienced trauma.

(6) Can the Minister confirm recent reports suggesting that some people working under the title of psychologist in immigration detention centres are not registered with the appropriate professional board in their state; if so, what has the Government done to investigate these reports.

(7) What has the Government done to ensure that staff providing mental health services to people in immigration detention services have the necessary qualifications to provide adequate treatment.

(8) Will the Minister take any action to examine and evaluate the performance of immigration detention centres with regard to the mental health and welfare of people in detention.

(9) In how many instances have detainees presenting with mental health problems been advised by mental health workers to return to their country or origin.

(10) Have mental health workers advised detainees what they should agree to return to their country of origin; if so, have they done this on the instructions, written or verbal, of the officers of the department, or centre managers.

Senator Vanstone—The answer to the honourable senator’s question is as follows:

(1) (a) In terms of both Immigration Detention Facilities (IDFs) and Offshore Processing Centres (where asylum seekers are not held in immigration detention) the Department of Immigration and Multicultural and Indigenous Affairs does not have this information readily available and to collate this information would involve a manual examination of individual files, which is an unreasonable diversion of departmental resources.

(b) The numbers of detainees with a mental illness, and the treatment of these individuals vary over time and centre. The Department does not have this information readily available and to collate this would involve a manual examination of individual files, which is an unreasonable diversion of departmental resources.

(c) The Department does not have this information readily available and to collate this would involve a manual examination of many departmental records, which is an unreasonable diversion of departmental resources. However, as of 30 June 2005, the following qualified mental health staff were provided in the following IDFs:

- At Christmas Island Immigration Reception and Processing Centre (IRPC), a visiting psychologist attends one week per month. A local community General Practitioner (GP) may consult with Western Australia Mental Health Services via the phone.

- At Maribyrnong Immigration Detention Centre (IDC), there is one full-time psychologist and one part-time psychologist (three hours per week). For acute and/or urgent treatment, a GP can refer detainees to Werribee Mercy Hospital Psychiatric Unit or through Crisis Assessment Teams.

- At Perth IDC, there is one part-time psychologist (5 hours per week). A GP can refer for a tele-consultation with Bentley Hospital or Graylands Selby-Lemnos and Special Care Health Service.
- At Villawood IDC, there is one full-time psychologist and two part-time psychologists (one for 16 hours per week and another for 20 hours per week). Contracted GP’s can refer detainees to a private off-site psychiatrist or Banks House Acute Inpatient Mental Health Unit.

- A psychiatrist visits every two weeks at Baxter IDF. There is one on-site psychologist, two on-site counsellors and three psychiatric nurses. Detainees are also able to access weekday GP clinics. Urgent psychiatric care can also be accessed through agreed procedures with the South Australian Government’s Mental Health Services.

(d) As the Detention Services Contract (DSC) is outcomes based, staffing ratios are not set out within the contract, with changes in the service provision required to respond to the needs of the detainee population.

(e) The Department does not have this information readily available and to collate this information would involve a manual examination of many departmental records, which is an unreasonable diversion of departmental resources.

(f) To compile this information would involve a manual examination of individual files which is an unreasonable diversion of departmental resources. However, the latest monthly information for June 2005 is:

(i) Within each IDF:

- At Baxter IDF, there were 20 in-centre psychiatrist appointments, 36 in-centre psychologist appointments and 204 in-centre counsellor appointments.
- At Christmas Island IRPC, there were 21 psychological appointments, including 11 in-centre psychologist appointments.
- At Maribyrnong IDC, there were 10 in-centre psychiatrist appointments, 70 in-centre psychologist appointments and 1 in-centre group counselling session.
- At Perth IDC, there were 25 in-centre psychologist appointments.
- At Villawood IDC, there were 8 in-centre psychiatric appointments and 175 in-centre psychologist appointments.

(ii) Outside each IDF:

- At Baxter IDF, two detainees were admitted to an external psychiatric hospital.
- At Christmas Island IRPC, no detainees were referred for external psychiatric care.
- At Maribyrnong IDC, there were two out of centre psychiatric appointments.
- At Perth IDC, there was one out of centre psychiatrist appointments.
- At Villawood IDC, six detainees were referred to hospital on psychiatric grounds. Two referrals were made to psychiatrists.

(g) As part of a detainee’s treatment for mental health concerns, sometimes the treating GP or psychiatrist will prescribe medications according to their professional view. As in the community this is a matter between the patient and their treating doctor. Where medication is prescribed, the vast majority of prescriptions at any point in time are for medication such as antidepressants to relieve anxiety to reactive depression, while a very small number are for psychotropic medication.

2 (a) The provision of health care to immigration detainees is undertaken at each facility through a combination of on-site health care professionals and access or referral to external health facilities and specialists. Approved operational procedures underpin the delivery of all health services.

On entering immigration detention, all detainees are screened by a trained nurse for evidence of physical and mental conditions.

QUESTIONS ON NOTICE
Where a mental health issue is identified by the nurse during the induction assessment, the individual is referred for further investigation and as required, ongoing intervention. Detainee Care Plans, which reflect the special needs of detainees, are maintained to facilitate an appropriate level of health management.

In the immigration detention environment, mental health issues are managed in a multidisciplinary way. Detainees in each of the IDFs have access to the on-site or on-call services of qualified medical practitioners, psychologists and counsellors who provide a range of treatment options. Psychiatrists either visit IDFs or detainees are referred for external specialist treatment as needed. Other specialist health services are also accessed for broader health needs.

In some instances, health care professionals indicate that treatment may not be able to be provided within IDFs and detainees will require referral to specialists or to use hospital outpatient services. Medical practices are followed to arrange admission to hospitals or residence in facilities other than IDFs, with the legal provisions of the Migration Act 1958 covered through arrangements made with the relevant facility and the Detention Service Provider (DSP).

(b) For operational reasons it would not be appropriate to provide Operational Procedures for release into a public forum.

(3) The Department does not have this information readily available and to collate this would involve a manual examination of individual files, which is an unreasonable diversion of departmental resources.

(4) For the month of June 2005, the following staff were involved in the provision of mental health services to people in IDFs.

<table>
<thead>
<tr>
<th>Centre</th>
<th>Position</th>
<th>Qualifications</th>
<th>State of Registration</th>
<th>Hours of Work</th>
</tr>
</thead>
<tbody>
<tr>
<td>Baxter IDF</td>
<td>Case Manager</td>
<td>Social Worker</td>
<td>N/A</td>
<td>Full Time</td>
</tr>
<tr>
<td>Baxter IDF</td>
<td>Counsellor</td>
<td>Counsellor</td>
<td>N/A</td>
<td>Full Time</td>
</tr>
<tr>
<td>Baxter IDF</td>
<td>Psychiatrist</td>
<td>Psychiatrist</td>
<td>FRANZCP</td>
<td>Contractor</td>
</tr>
<tr>
<td>Baxter IDF</td>
<td>Psychologist</td>
<td>Psychologist</td>
<td>Per state govern-</td>
<td>Full Time</td>
</tr>
<tr>
<td>Baxter IDF</td>
<td>Registered Nurse-Psychiatric</td>
<td>RN</td>
<td>requirements SA</td>
<td></td>
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<tr>
<td>Baxter IDF</td>
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<td>Baxter IDF</td>
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<td>Christmas Island</td>
<td>Psychologist</td>
<td>Psychologist</td>
<td>Per state govern-</td>
<td>Rotation</td>
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<tr>
<td>IRPC</td>
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<tr>
<td>Maribyrnong IDC</td>
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<td>Full Time</td>
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<td>Maribyrnong IDC</td>
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<tr>
<td>Perth IDC</td>
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<td>Psychologist</td>
<td>Per state govern-</td>
<td>Contractor</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>requirements</td>
<td></td>
</tr>
</tbody>
</table>
Centre | Position | Qualifications | State of Registration | Hours of Work
---|---|---|---|---
Villawood IDC | Psychologist | Psychologist | Per state government requirements | Full Time
Villawood IDC | Psychologist | Psychologist | Per state government requirements | Part Time
Villawood IDC | Psychologist | Psychologist | Per state government requirements | Part Time

(5) The DSC requires that staff employed at IDFs possess a range of personal skills, knowledge and capacities including the capacity to understand and appreciate the anxiety and stress detainees may experience, particularly those who have been traumatised. This is reflected in the training the DSP is required to provide to staff, which is to be periodically refreshed. Monitoring by members of the Department’s Expert Panel, which is drawn upon by the Department to assist in oversight of those areas of the DSC involving specialist technical knowledge, has confirmed that there is clear understanding about the need to identify and support detainees who have experienced torture and trauma and specialists in this area are involved in their assessment and management where required.

(6) I am aware of the recent reports suggesting that some people working under the title of psychologist in IDFs are not registered with the appropriate professional board.

In each case I have been advised that the professional in question was trained and registered to work as a psychologist in another state of Australia and there is therefore no suggestion that they did not have the appropriate skills and training to provide psychological services to detainees.

However, any failure to fully comply with State registration requirements is a breach of the Department’s contract with GSL and will be considered under the sanctions regime in the contract. The contractor now has developed arrangements to ensure that appropriate interstate registration must be in place before any relief work occurs. The Department has also requested that full details of the registration of all staff (where applicable) be included in monthly reporting on psychological services.

(7) The DSC requires that detainee care needs be met by appropriately qualified, registered and trained health professionals. The DSP is required to have systems in place to identify, assess and respond to any special care needs, including detainees in need of psychological or psychiatric treatment; and detainees at risk of self-harm. The DSC also requires the DSP to develop Operational Procedures containing details of its approach to service delivery. These have been reviewed by a member of the Department’s Expert Panel.

(8) Each health subcontractor has auditing arrangements in place to monitor service delivery. The DSP also undertakes quality assurance and audit activities to monitor service delivery on the ground. The Department has its own monitoring regimes, both from the Department staff located at the various IDFs and Central Office staff. This includes reviewing health documentation and other basic processes.

The Department has developed a program of expert panel onsite review of service delivery in each of the IDFs – Maribyrnong IDC was reviewed in January 2005, Villawood IDC was reviewed in March 2005. The first part of the review at Baxter IDF was completed in June 2005, with the second part scheduled for August 2005.
to (10) Health professionals contracted by the DSP are not employed to canvass immigration matters with detainees. Their advice is limited strictly to matters concerning health care and health service.

Ministerial Responsibilities
(Question Nos 772, 773, 775 to 793, 795 to 801)

Senator Chris Evans asked the Special Minister of State and other ministers, upon notice, on 4 May 2005:

(1) For each of the financial years from 2000-01 to 2004-05 to date, what boards, councils, committees and advisory bodies fall within the responsibilities of the Minister.

(2) For each body referred to in paragraph (1): (a) who are the members; (b) when were they appointed; (c) how were they appointed and what mechanism was used in the selection process; (d) how long is their term and when does their term expire; (e) what fees, allowances and other benefits are enjoyed by the members; (f) have these fees, allowances and other benefits varied since 2000; if so, what was the reason for each variation, and what was the quantum of each variation.

(3) For each of the financial years from 2000-01 to 2004-05 to date, can details be provided of the members’ publicly-funded travel.

(4) (a) When have these appointees/boards provided formal reports to the Minister; and (b) can a copy of these reports be provided; if not, why not.

Senator Abetz—I am providing the following answer on behalf of all ministers to the honourable senator’s question:

(1) to (4) Information concerning boards, councils and committees are listed in the Government Directories for various years and the current Government Online Directory. These directories generally identify the members of these bodies. In relation to the appointment process, fees, travel and reports to the minister, the preparation of a response would require a significant diversion of resources which the government is not prepared to authorise.

Minister for Immigration and Multicultural and Indigenous Affairs and Minister for Citizenship and Multicultural Affairs
(Question Nos 878 and 889)

Senator Chris Evans asked the Minister for Immigration and Multicultural and Indigenous Affairs and the Minister representing the Minister for Citizenship and Multicultural Affairs, upon notice, on 6 May 2005:

For each of the financial years 2000-01, 2001-02, 2002-03, 2003-04 and 2004-05 to date, can details be provided of all privately or commercially sponsored travel, including cost and sponsor for: (a) the Minister; (b) the Minister’s family; (c) the Minister’s personal staff; and (d) officers of the Minister’s department.

Senator Vanstone—The answer to the honourable senator’s questions is as follows:

(a) and (b) The Special Minister of State will respond to these parts on behalf of all ministers.

(c) The personal staff to the Minister for Immigration and Multicultural and Indigenous Affairs and the Minister for Citizenship and Multicultural Affairs have not undertaken any privately or commercially sponsored travel for any of the financial years 2000-01 to 2004-05 inclusive.

(d) The Department of Immigration and Multicultural and Indigenous Affairs deals with travel on a case by case basis and records of the occasions on which sponsored travel may have been undertaken are not available and could not readily be created.
Avian Influenza
(Question No. 1106)

Senator Bob Brown asked the Minister representing the Minister for Health and Ageing, upon notice, on 19 August 2005:

Given that feeding of the anti-viral drug amantadine to chickens in China has rendered it useless in protecting humans from some influenza strains, what assurances has the Minister received from the Chinese Government that it will prevent the potent bird flu anti-viral drug oseltamivir (Tamiflu) from similar abuse.

Senator Patterson—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

Despite rumours, there are no confirmed reports, including from the World Health Organization (WHO), that authorities in China have allowed the use of amantadine in treatment or prevention of avian influenza in poultry.

It is possible there may have been unauthorised use of amantadine. Amantadine is an inexpensive drug widely available. Oseltamivir availability is limited worldwide and unlikely to be available to farmers or local authorities in China for such use.

The WHO and the Food and Agriculture Organization of the United Nations are working with China to reduce the spread of avian influenza and to reduce the threat of pandemic influenza to China and the rest of the world.