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SITTING DAYS—2005

<table>
<thead>
<tr>
<th>Month</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>February</td>
<td>8, 9, 10</td>
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<tr>
<td>March</td>
<td>7, 8, 9, 10, 14, 15, 16, 17</td>
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<td>May</td>
<td>10, 11, 12</td>
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<td>June</td>
<td>14, 15, 16, 20, 21, 22, 23</td>
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<td>August</td>
<td>9, 10, 11, 16, 17, 18</td>
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<td>September</td>
<td>5, 6, 7, 8, 12, 13, 14, 15</td>
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<td>October</td>
<td>4, 5, 6, 10, 11, 12, 13</td>
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<td>November</td>
<td>7, 8, 9, 10, 28, 29, 30</td>
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<td>December</td>
<td>1, 5, 6, 7, 8</td>
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RADIO BROADCASTS

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

Governor-General

His Excellency Major-General Michael Jeffery, Companion in the Order of Australia, Com-
mander 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

Temporary Chairmen of Committees—Senators Guy Barnett, George Henry Brandis, Hedley
Grant Pearson Chapman, Patricia Margaret Crossin, Alan Baird Ferguson, Michael George
Forshaw, Stephen Patrick Hutchins, Linda Jean Kirk, Philip Ross Lightfoot, Gavin Mark Mar-
shall, Claire Mary Moore, Andrew James Marshall Murray, Hon. Judith Mary Troeth and
John Odin Wentworth Watson

Leader of the Government in the Senate—Senator the Hon. Robert Murray Hill
Deputy Leader of the Government in the Senate—Senator the Hon. Nicholas Hugh Minchin

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

Senate Party Leaders and Whips

Leader of the Liberal Party of Australia—Senator the Hon. Robert Murray Hill
Deputy Leader of the Liberal Party of Australia—Senator the Hon. Nicholas Hugh Minchin
Leader of the Nationals—Senator the Hon. Ronald Leslie Doyle Boswell
Deputy Leader of the Nationals—Senator John Alexander Lindsay (Sandy) Macdonald

Leader of the Australian Labor Party—Senator Christopher Vaughan Evans
Deputy Leader of the Australian Labor Party—Senator Stephen Michael Conroy
Leader of the Australian Democrats—Senator Lynette Fay Allison
Liberal Party of Australia Whips—Senators Jeannie Margaret Ferris and Alan Eggleston
National Whips—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

Printed by authority of the Senate
<table>
<thead>
<tr>
<th>Senator</th>
<th>State or Territory</th>
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<th>Party</th>
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<tr>
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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)
<table>
<thead>
<tr>
<th>Position</th>
<th>Member</th>
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</thead>
<tbody>
<tr>
<td>Minister for Justice and Customs and Manager of Government Business in the Senate</td>
<td>Senator the Hon. Christopher Martin Ellison</td>
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<td>Minister for Fisheries, Forestry and Conservation</td>
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<td>Minister for the Arts and Sport</td>
<td>Senator the Hon. Charles Roderick Kemp</td>
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<td>Minister for Human Services</td>
<td>The Hon. Joseph Benedict Hockey MP</td>
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<td>Minister for Citizenship and Multicultural Affairs</td>
<td>The Hon. John Kenneth Cobb MP</td>
</tr>
<tr>
<td>Minister for Revenue and Assistant Treasurer</td>
<td>The Hon. Malcolm Thomas Brough MP</td>
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<tr>
<td>Special Minister of State</td>
<td>Senator the Hon. Eric Abetz</td>
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<tr>
<td>Minister for Vocational and Technical Education and Minister Assisting the Prime Minister</td>
<td>The Hon. Gary Douglas Hardgrave MP</td>
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<tr>
<td>Minister for Ageing</td>
<td>The Hon. Julie Isabel Bishop MP</td>
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<tr>
<td>Minister for Small Business and Tourism</td>
<td>The Hon. Frances Esther Bailey MP</td>
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<tr>
<td>Minister for Local Government, Territories and Roads</td>
<td>The Hon. James Eric Lloyd MP</td>
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<tr>
<td>Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence</td>
<td>The Hon. De-Anne Margaret Kelly MP</td>
</tr>
<tr>
<td>Minister for Workforce Participation</td>
<td>The Hon. Peter Craig Dutton MP</td>
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<tr>
<td>Parliamentary Secretary to the Minister for Finance and Administration</td>
<td>The Hon. Dr Sharman Nancy Stone MP</td>
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<tr>
<td>Parliamentary Secretary to the Minister for Industry, Tourism and Resources</td>
<td>The Hon. Warren George Entsch MP</td>
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<td>Parliamentary Secretary to the Minister for Defence</td>
<td>The Hon. Teresa Gambaro MP</td>
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<td>Parliamentary Secretary (Foreign Affairs) and Parliamentary Secretary to the Minister for Immigration and Multicultural and Indigenous Affairs</td>
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<td>The Hon. Gary Roy Nairn MP</td>
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<td>Parliamentary Secretary to the Treasurer</td>
<td>The Hon. Christopher John Pearce MP</td>
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<tr>
<td>Parliamentary Secretary to the Minister for the Environment and Heritage</td>
<td>The Hon. Gregory Andrew Hunt MP</td>
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<tr>
<td>Parliamentary Secretary (Children and Youth Affairs)</td>
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<td>The Hon. Patrick Francis Farmer MP</td>
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<tr>
<td>Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry</td>
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**SHADOW MINISTRY**

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<td>Leader of the Opposition</td>
<td>The Hon. Kim Christian Beazley MP</td>
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<td>Leader of the Opposition in the Senate, Shadow</td>
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<td>Minister for Family and Community Services</td>
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<td>Shadow Minister for Health and Manager of Opposition Business in the House</td>
<td>Julia Eileen Gillard MP</td>
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<td>and Shadow Minister for International Security</td>
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<td>Shadow Minister for Defence</td>
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<td>Anthony Norman Albanese MP</td>
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<tr>
<td>and Deputy Manager of Opposition Business in the House</td>
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<td>Shadow Minister for Housing, Shadow Minister for Urban Development and Shadow Minister for Local Government and Territories</td>
<td>Senator Kim John Carr</td>
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<td>Shadow Minister for Public Accountability and Shadow Minister for Human Services</td>
<td>Kelvin John Thomson MP</td>
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<td>Shadow Minister for Finance</td>
<td>Lindsay James Tanner MP</td>
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<td>Shadow Minister for Superannuation and Intergenerational Finance and Shadow Minister for Banking and Financial Services</td>
<td>Senator the Hon. Nicholas John Sherry</td>
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<td>Shadow Minister for Child Care, Shadow Minister for Youth and Shadow Minister for Women</td>
<td>Tanya Joan Plibersek MP</td>
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<td>Shadow Minister for Employment and Workforce Participation and Shadow Minister for Corporate Governance and Responsibility</td>
<td>Senator Penelope Ying Yen Wong</td>
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(The above are shadow cabinet ministers)
### SHADOW MINISTRY—continued

<table>
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<tr>
<th>Position</th>
<th>Shadow Minister</th>
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<tr>
<td>Shadow Minister for Consumer Affairs and</td>
<td>Laurie Donald Thomas Ferguson MP</td>
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<td>Shadow Minister for Agriculture and Fisheries</td>
<td>Gavan Michael O’Connor MP</td>
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<td>Shadow Assistant Treasurer, Shadow Minister for Revenue and Shadow</td>
<td>Joel Andrew Fitzgibbon MP</td>
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<td>Minister for Small Business and Competition</td>
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<td>Shadow Minister for Transport</td>
<td>Senator Kerry Williams Kelso O’Brien</td>
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<td>Shadow Minister for Sport and Recreation</td>
<td>Senator Kate Alexandra Lundy</td>
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<td>Shadow Minister for Homeland Security and</td>
<td>The Hon. Archibald Ronald Bevis MP</td>
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<td>Shadow Minister for Aviation and Transport Security</td>
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<td>Shadow Minister for Veterans’ Affairs and</td>
<td>Alan Peter Griffin MP</td>
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<td>Shadow Minister for Defence Industry, Procurement and Personnel</td>
<td>Senator Thomas Mark Bishop</td>
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<td>Shadow Minister for Immigration</td>
<td>Anthony Stephen Burke MP</td>
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<td>Shadow Minister for Aged Care, Disabilities and Carers</td>
<td>Senator Jan Elizabeth McLucas</td>
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<td>Shadow Minister for Justice and Customs and Manager of Opposition</td>
<td>Senator Joseph William Ludwig</td>
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<td>Business in the Senate</td>
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<td>Shadow Minister for Overseas Aid and Pacific Island Affairs</td>
<td>Robert Charles Grant Sercombe MP</td>
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<td>Shadow Parliamentary Secretary for Reconciliation and the Arts</td>
<td>Peter Robert Garrett MP</td>
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<td>Shadow Parliamentary Secretary to the Leader of the Opposition</td>
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<td>Shadow Parliamentary Secretary for Defence and Veterans’ Affairs</td>
<td>The Hon. Graham John Edwards MP</td>
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<td>Shadow Parliamentary Secretary for Education</td>
<td>Kirsten Fiona Livermore MP</td>
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<td>Shadow Parliamentary Secretary for Environment and Heritage</td>
<td>Jennie George MP</td>
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<td>Shadow Parliamentary Secretary for Industry, Infrastructure and</td>
<td>Bernard Fernando Ripoll MP</td>
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<td>Industrial Relations</td>
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<td>Shadow Parliamentary Secretary for Immigration</td>
<td>Ann Kathleen Corcoran MP</td>
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<td>Shadow Parliamentary Secretary for Treasury</td>
<td>Catherine Fiona King MP</td>
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<td>Shadow Parliamentary Secretary for Science and Water</td>
<td>Senator Ursula Mary Stephens</td>
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<tr>
<td>Shadow Parliamentary Secretary for Northern Australia and Indigenous Affairs</td>
<td>The Hon. Warren Edward Snowdon MP</td>
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</tbody>
</table>
CONTENTS

WEDNESDAY, 12 OCTOBER

Chamber
Defence Legislation Amendment Bill (No. 2) 2005 ................................................................. 1
Aboriginal and Torres Strait Islander Heritage Protection Amendment Bill 2005—
  First Reading .................................................................................................................. 1
  Second Reading ............................................................................................................. 1
Law and Justice Legislation Amendment (Serious Drug Offences and Other Measures) Bill 2005—
  Second Reading ............................................................................................................. 4
  In Committee .................................................................................................................. 15
  Third Reading ............................................................................................................... 31
Business—
  Consideration of Legislation .......................................................................................... 32
Migration Litigation Reform Bill 2005—
  Second Reading .......................................................................................................... 32
Matters of Public Interest—
  Moral Equivalence and Multiculturalism ....................................................................... 39
  Money Laundering ........................................................................................................ 43
  Fuel Prices .................................................................................................................... 46
  National Breast Cancer Day .......................................................................................... 49
  Indigenous Education .................................................................................................... 51
  Indigenous Education .................................................................................................... 55
  Fuel Prices .................................................................................................................... 55
Ministerial Arrangements ........................................................................................................ 56
Questions Without Notice—
  Workplace Relations ................................................................................................... 56
Distinguished Visitors ......................................................................................................... 58
Questions Without Notice—
  Workplace Relations ................................................................................................... 58
  Workplace Relations ................................................................................................... 59
  Teleworking ................................................................................................................ 60
  Workplace Relations ................................................................................................... 61
  Illegal Fishing ............................................................................................................... 62
  Immigration .................................................................................................................. 63
  Climate Change ............................................................................................................ 65
  Workplace Relations ................................................................................................... 66
  Workplace Relations ................................................................................................... 68
  Workplace Relations ................................................................................................... 69
Answers to Questions on Notice—
  Question Nos 167, 554, 557, 1042, 1049, 1065, 1088, 1095, 1096 and 1097 ............. 71
Parliamentary Behaviour ...................................................................................................... 71
Questions Without Notice: Take Note of Answers—
  Workplace Relations ................................................................................................... 76
United Nations Population Fund ......................................................................................... 83
Notices—
  Withdrawal .................................................................................................................. 84
  Presentation ................................................................................................................... 84
CONTENTS—continued

Committees—
Selection of Bills Committee—Report.................................................................86
Notices—
Postponement .......................................................................................................87
Family Services: Child Care .....................................................................................88
Mental Health Week ................................................................................................90
Poverty ......................................................................................................................91
Matters of Public Importance—
Mental Health .......................................................................................................92
Committees—
Scrutiny of Bills Committee—Report.................................................................105
Public Works Committee—Report.....................................................................106
Documents—
Department of the Senate: Annual Report ........................................................107
Higher Education Legislation Amendment (Workplace Relations Requirements)
Bill 2005 and
National Health Amendment (Immunisation Program) Bill 2005—
First Reading ....................................................................................................107
Second Reading ...............................................................................................107
Tax Laws Amendment (Loss Recoupment Rules and Other Measures) Bill 2005—
First Reading ....................................................................................................110
Second Reading ...............................................................................................110
Intelligence Services Legislation Amendment Bill 2005—
Returned from the House of Representatives ................................................112
Committees—
Migration Committee—Membership ...............................................................112
Employment, Workplace Relations and Education References Committee—
Reference ........................................................................................................112
Documents—
Australian Electoral Commission .......................................................................129
Australian Electoral Commission .......................................................................131
Employment Advocate Report ............................................................................132
Consideration .......................................................................................................132
Adjournment—
Superannuation .................................................................................................133
Crocodile Safaris .................................................................................................135
Indigenous Affairs: Native Title .........................................................................138
Poverty ..................................................................................................................140
Documents—
Tabling ................................................................................................................142
Tabling ................................................................................................................143
Questions on Notice
Attorney-General: Overseas Travel—(Question No. 717) ....................................145
Minister for Local Government, Territories and Roads: Overseas Travel—(Question
No. 737) ............................................................................................................146
Minister for Communications, Information Technology and the Arts—(Question
No. 883).............................................................................................................147
Minister for the Arts and Sport—(Question No. 887) ...........................................148
Parliamentary Departments: Overseas Travel—(Question No. 966 supplementary) 148
CONTENTS—continued

Imports: Genetically Modified Crops—(Question No. 1083) ........................................... 151
Canberra Airport—(Question No. 1129) ........................................................................ 158
Imports: Rabbits—(Question No. 1162)....................................................................... 158
Foreign Ships—(Question No. 1167) ........................................................................... 159
Wednesday, 12 October 2005

The PRESIDENT (Senator the Hon. Paul Calvert) took the chair at 10.00 am and read prayers.

DEFENCE LEGISLATION AMENDMENT BILL (No. 2) 2005
ABORIGINAL AND TORRES STRAIT ISLANDER HERITAGE PROTECTION AMENDMENT BILL 2005

First Reading

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues) (10.01 am)—I move:

That the following bills be introduced:

A Bill for an Act to amend legislation relating to defence, and for related purposes; and

A Bill for an Act to amend legislation relating to Aboriginal and Torres Strait Islander heritage protection, and for related purposes.

Question agreed to.

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues) (10.01 am)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

DEFENCE LEGISLATION AMENDMENT BILL (No. 2) 2005

This bill makes various amendments to the Defence Force Discipline Act 1982 and Defence Act 1903 including the creation of three new statutory appointments for the Director of Military Prosecutions, Registrar of Military Justice and Inspector General of the Australian Defence Force. The amendments indicate the government’s ongoing commitment to ensuring an open, transparent and fair military justice system.

The amendments in the bill are consistent with the Government’s response to the 2005 Senate Report into the Effectiveness of Australia’s military justice system. There will be a need for further amendments as additional parts of the governments’ response to the report are implemented in the future.

This bill will also give effect to certain recommendations contained in two previous reports made by Brigadier the Honourable Mr Justice Abadee in his Study into the Judicial System under the Defence Force Discipline Act (the Abadee Report) and Mr James Burchett QC in his Report of an Inquiry into Military Justice in the Australian Defence Force (the Burchett Report). The proposed amendments contained in the bill will, among other things, eliminate the role of a convening authority and will allocate these prosecution functions to a “Director of Military Prosecutions” and a “Registrar of Military Justice”. The Burchett Report recommended the establishment of the Director of Military Prosecutions as an independent prosecutorial authority for the Australian Defence Force (ADF), which would undertake prosecutions of members of the ADF facing trial by either court martial or Defence Force magistrate under the Defence Force Discipline Act.

Turning firstly to the measures amending the Defence Force Discipline Act set out in Schedule 1 of the bill.
There are four major measures included in the bill that relate to the Defence Force Discipline Act.

The first relates to the establishment of a statutory position of the Director of Military Prosecutions. As mentioned, these changes will implement recommendations from the June 2005 Senate Report and previous reports into the military justice system. The creation of Director of Military Prosecutions will make the prosecution of serious offences under the Defence Force disciplinary system similar to the prosecution procedures used in the civil criminal system.

In addition to creating the position, specifying the required qualifications for the position and mechanism for the appointment of Director of Military Prosecutions, the bill makes provision for the determination of the remuneration, the provision of staffing, and the roles, functions and powers of Director of Military Prosecutions.

Principally, the Director of Military Prosecutions will be responsible for decisions on what charges should be tried before a court martial or Defence Force magistrate, the provision of a prosecutor for those charges, and the power to, if required, either initiate charges or direct that charges not be proceeded with.

The second measure creates a statutory position of the Registrar of Military Justice. The creation of the Registrar of Military Justice also implements recommendations from previous reports into the military justice system to ensure an open, transparent and fair military justice system. The bill makes provision for the required qualifications, mechanism for appointment, and determination of the remuneration of the Registrar of Military Justice, along with the roles, functions and powers of the Registrar. The Registrar will be responsible for the panelling and administration of courts martial, and the administration of Defence Force magistrate trials.

The third measure terminates the establishment of convening authorities. Currently a convening authority is a senior commander appointed by a Service Chief. The convening authority decides whether the prosecution of a service offence should proceed before a court martial or a Defence Force magistrate or not at all. The roles of a convening authority will predominantly be distributed between the Director of Military Prosecutions and Registrar of Military Justice. However, to ensure that the Director of Military Prosecutions is aware of the service aspects of offences, the bill creates the concept of a Superior Authority. The functions of a Superior Authority will be performed by senior officers, and most likely by the appointments currently performing functions as convening authorities.

Finally, the bill makes provision for the remuneration of the existing statutory position of the Chief Judge Advocate to be determined by the Remuneration Tribunal. This is similar to what is proposed for the remuneration of Director of Military Prosecutions and Registrar of Military Justice. It should ensure consistency between the three positions.

The amendments to the Defence Act set out in Schedule 2 of this bill relate to the Inspector General of the Australian Defence Force.

An essential feature of an effective armed Service is the need for discipline which is, and is seen to be, rigorously enforced. Failures in the military justice system, when they occur, not only soon become publicly known, but if not properly dealt with, can quickly result in damage to reputation, morale and ultimately, operational effectiveness. The military justice system must meet its obligations to ensure that ADF members are treated fairly and in accordance with the law.

In the 2001 Burchett Report it was recommended that a Military Inspector General be appointed to provide the Chief of the Defence Force with constant scrutiny of the military justice system, independent of the ordinary chain of command.

To give effect to this recommendation, the Inspector General of the Australian Defence Force was administratively established with effect from 13 January 2003. The role of the Inspector General ADF is to provide the Chief of the Defence Force with ongoing review of the military justice system, independent of the ordinary chain of command. This includes both ADF discipline and Defence inquiries system.

To ensure that the position is independent of the normal military chain of command and has the capacity to act impartially and with the appropriate authority, the bill will formalise the position in the Defence Act.
ABORIGINAL AND TORRES STRAIT ISLANDER HERITAGE PROTECTION AMENDMENT BILL 2005

The purpose of the Aboriginal and Torres Strait Islander Heritage Protection Amendment Bill 2005 is to make amendments to the Aboriginal and Torres Strait Islander Heritage Protection Act 1984 and to the Aboriginal Land (Lake Condah and Framlingham Forest) Act 1987.

The Aboriginal and Torres Strait Islander Heritage Protection Act 1984 preserves and protects places, areas and objects of particular significance to Aboriginal and Torres Strait Islander people. It contributes to this protection at the national level, but is available concurrently with the laws of most Australian States and Territories. In 1987, however, it was extended to include a series of provisions that would apply specifically to, and only in, Victoria. These provisions serve the national framework for Indigenous heritage protection, at the State level, but they also stand in the way of State legislation being put in place by Victoria for this purpose. All other States and Territories have legislation to protect this heritage. The Victorian Government wrote to the Australian Government this year to explore how this obstacle could be removed to allow proposed new Victorian cultural heritage legislation to be put in place.

This bill proposes to amend the Aboriginal and Torres Strait Islander Heritage Protection Act 1984 to remove the Victoria-specific provisions. The Australian Government legislation will then provide the same level of protection in Victoria that it provides for Aboriginal and Torres Strait Islander heritage in other parts of Australia. Pursuant to the amendments contained in the bill, the Victorian Government will then be able to administer Aboriginal heritage protection directly through its own new legislation, as is the case for all other Australian States and Territories.

The Victoria-specific parts of the Australian Government legislation will not be removed, however, until a time to be set within a 12-month period. This will allow their repeal and replacement by the proposed new Victorian legislation in a coordinated fashion and prevent any lapse in protection for Victoria’s significant Aboriginal cultural heritage.

The consequential amendments to the Aboriginal Land (Lake Condah and Framlingham Forest) Act 1987 contained in the bill remove references to the Victoria-specific provisions of the Aboriginal and Torres Strait Islander Heritage Protection Act 1984. The consequential amendments would remove an exception to the obligation upon two Aboriginal landowner corporations to not disclose information about sacred or significant places without the appropriate permission. After the amendment, the obligation to protect the information about sacred or significant sites will continue without exception.

The bill makes other changes to the Aboriginal and Torres Strait Islander Heritage Protection Act 1984 that are needed to ensure that Australians continue to have opportunities to see, in Australia, significant Aboriginal cultural heritage objects that are owned by institutions overseas.

Museums and other cultural institutions in Australia are often entrusted with objects under contractual and other loan arrangements for temporary exhibition in Australia. Overseas institutions are reluctant to loan material unless they have the protection of a certificate under the Protection of Movable Cultural Heritage Act 1986, to allow the return of the important objects to the lender and owner overseas. Recently, the return of a number of loaned Aboriginal objects was prevented by declarations made under the Aboriginal and Torres Strait Islander Heritage Protection Act 1984. This occurred even though a certificate to allow return had been obtained under the Protection of Movable Cultural Heritage Act 1986. The objects were eventually returned, but only after court proceedings. Uncorrected, this kind of uncertainty would discourage overseas institutions from ever allowing items from their collections to be exhibited in Australia.

The bill provides that a certificate allowing the return of loaned cultural heritage objects cannot be overridden by a declaration under the Aboriginal and Torres Strait Islander Heritage Protection Act 1984. In this way, it will help to secure the framework for future international cultural exchanges of benefit to Australia.
The bill also provides for technical amendments to be made to the Aboriginal and Torres Strait Islander Heritage Protection Act 1984 to bring it into line with the Legislative Instruments Act 2003. These amendments help clarify which class of instruments contained in the Act are non-exempt legislative instruments for the purposes of the Legislative Instruments Act 2003.

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

LAW AND JUSTICE LEGISLATION AMENDMENT (SERIOUS DRUG OFFENCES AND OTHER MEASURES) BILL 2005

Second Reading

Debate resumed from 5 September, on motion by Senator Colbeck:

That this bill be now read a second time.

Senator LUDWIG (Queensland) (10.02 am)—The Law and Justice Legislation Amendment (Serious Drug Offences and Other Measures) Bill 2005 represents an overhaul of the federal legislative regime for drug related offences. The bill migrates some offences from the Customs Act 1901 to the Criminal Code while introducing new anti-drug offences in line with chapter 6 of the Model Criminal Code. Offences that have been migrated from the Customs Act include but are not limited to the importation and exportation of commercial or marketable quantities of border controlled drugs or plants, the possession of commercial or marketable quantities of unlawfully imported border controlled plants, and possession of commercial or marketable quantities of border controlled drugs or plants that are or are suspected of being unlawfully imported.

The Model Criminal Code Officers Committee of the Standing Committee of Attorneys-General developed chapter 6 offences in 1998 after nationwide consultation. The chapter takes into account the 1980 report by the Hon. Mr Justice E. S. Williams, who called for greater consistency in Australian drug laws. Since then, the pattern of drug use in Australia has changed and chapter 6 has been appropriately modified to take into account developments that have occurred over the last few years.

One of the most significant changes is the increased trade in manufactured drugs and chemical substances used to make those drugs. The bill will preserve the existing regulatory offences involving controlled substances, such as the scheme in place for the issuing of licences for the manufacture of controlled substances under the Narcotic Drugs Act 1967. However, for the purposes of replacing other offences, the bill proposes to streamline the terms which refer to illicit drugs, as current federal drug offences employ a number of different terms. For offences relating to import and export, ‘border controlled drugs’, ‘border controlled plants’ and ‘border controlled precursors’ would be used. For the other offences with broader domestic application, the terms ‘controlled drugs’, ‘controlled plants’ and ‘controlled precursors’ would be used.

Existing state and territory regulatory schemes will continue to operate, and it will be a defence to the offences in the bill if the relevant conduct is justified or excused under a law of the Commonwealth or a state or territory. Significant new offences that are proposed for introduction into the Criminal Code include—and this list is not exhaustive—the trafficking of controlled drugs, the cultivation of controlled plants, the selling of controlled plants, manufacturing controlled drugs, pretrafficking controlled precursors, possessing controlled drugs, supplying controlled drugs to children, and procuring children for pretrafficking controlled precursors. To increase the enforceability of the precursor offences, the bill includes a presumption
of intent to manufacture an illicit drug where a person is illegally selling, manufacturing or possessing prescribed precursors.

Labor recognises that drugs and serious drug offences have a major detrimental effect on society, and that is why we support this bill. Harm minimisation is the ultimate goal in drug policy and law enforcement does play a vital role. Federal Labor supports an evidence based approach to drugs. These drugs are proven to be harmful. That is why they are controlled substances. Law enforcement by Australia’s major anti-drug agencies in the Federal Police, Customs and the Australian Crime Commission is the appropriate method of stopping drugs at the border. They in turn must work with the states to disrupt criminal networks operating within Australia and minimise the supply of harmful drugs in the community. Labor is in total support of our national law enforcement efforts in fighting the scourge of drugs.

Labor referred the Law and Justice Legislation Amendment (Serious Drug Offences and Other Measures) Bill 2005 to the Senate Legal and Constitutional Legislation Committee for detailed scrutiny. Thirteen submissions were received by the committee in relation to the bill. In addition, 11 witnesses were heard in the committee’s public hearing in Canberra on 3 August 2005. There were some areas of concern to federal Labor, including the extent to which the bill complies with the Model Criminal Code and the suitability of new penalties under the bill. Where the offences deviate from those of the code we think the onus is on the government to offer a complete rationale for doing so.

In future, it would it would be a wise path for the government, when dealing with potentially contentious legislation, to take this advice so it is apparent to legislators, lawyers and the wider community that the offences have not been pulled from thin air. The committee only made one substantive recommendation and that was not in relation to the drugs provisions but instead directed towards the mutual assistance provisions, which I will refer to later.

Labor recognises the need for the overhaul of the legislative regime regarding drug related offences. The drug problem, especially the trafficking and supply of drugs to minors, is of great concern and not something that can be tackled half-heartedly. Since originally viewing the bill, the government supplied additional information and only 11 of the offences proposed are derived outside of the Model Criminal Code or the Customs Act 1901. According to the government, the proposed new offences are principally targeted at organised illicit drug traders and commercially motivated crime. The aim of the proposed new offences is to remove the legal loopholes being exploited by drug traders who structure the illegal trafficking of serious drugs in a way which means they avoid the consequences of their conduct under the existing law.

The penalty regime contained in the bill includes greater penalties where commercial or marketable quantities of a controlled or border controlled substance are involved. The new offences provide an avenue for accumulating the amount of drugs traded on multiple occasions within a specific period into a single offence to avoid traffickers escaping liability by manipulating the amount of drugs traded on each occasion. Of those 11 offences, nine extend additional protection to children to ensure they are safe from criminal activity involved with drug and precursor trafficking. Labor gives its full support to these measures to protect kids from drugs.

The remaining two new offences are proposed section 308.1, Possessing controlled drugs, and proposed section 308.2, Possess-
ing controlled precursors. These offences exist to cover quantities less than the prescribed trafficable quantities. There are good reasons for making laws on basic possession. However, Labor does have some questions as to how expiation as practiced in a minority of states and territories will interact with the new Commonwealth regime and on the apparent lack of consultation involved. Specifically, Labor is interested in just outcomes from the justice system. It is a matter of historical and legal reality that we have eight state and territory jurisdictions, each with their own drug legislation that have developed under governments of all political colours. The differential treatment of offenders for the same crime across the states is not an ideal outcome and, in Labor’s view, does not reflect a just one.

After scrutinizing these offences in their context very carefully, Labor offers its support for the provisions of proposed sections 308.1 and 308.2, but we ask the government to commit to reporting on the operation of the bill 18 months from the date these provisions take effect. The reason Labor is prepared to offer its support for these provisions is based on the following: firstly, Labor has a great respect for the professionalism of the officers of the Australian Federal Police and the Australian Customs Service; secondly, as the authority that decides whether or not a charge is to be pursued, the Commonwealth Director of Public Prosecutions is independent from both the Federal Police and the government and has discretion on whether or not to pursue a minor possession charge. They have a significant policy that they are required to adhere to in dealing with these matters or with charges that have been referred to them. Labor similarly has a great deal of confidence in the professionalism and competence of the Commonwealth Director of Public Prosecutions.

The extensive protections under the sentencing provisions of the Crimes Act 1914 allow a sentencing judge wide latitude to ensure a just outcome from sentencing. That includes, but is not limited to: the judge satisfying himself or herself that no other sentence but a term of imprisonment is appropriate and making a statement as to those reasons—section 17A; the judge taking into account relevant circumstances, including the likely effect of a sentence upon the defendant—section 16A; before imposing a fine, the judge can take into account the defendant’s ability to pay—section 16C; the court may immediately release the defendant under a good behaviour bond without passing a sentence—section 20; where under the law of a participating state or territory, the court is empowered in particular cases to pass a sentence or make an order known as a community service order, a work order, a sentence of periodic detention, an attendance centre order, a sentence of weekend detention or an attendance order, the court may impose a similar sentence or order—section 20AB; and a child convicted of a federal offence may be tried, punished or otherwise dealt with as if the offence were an offence against a law of the state or territory—section 20C. In addition, there are wide powers for the court to supervise offenders and over what sentences will in fact be imposed. An additional final safeguard is that the Attorney-General also has the power to order the release of a federal prisoner under section 19AP. Labor believes there are sufficient safeguards for this legislation to be supported.

We have every confidence in our Commonwealth officers, the office of the DPP and our judiciary to get it right. But, as an additional check, we ask the government to report on the operation of the anti-drug provisions contained within this bill 18 months from commencement. As an example of how
important this area of law is and what we are doing here today in dealing with this legislation, let us remember that illicit drugs kill far too many people world wide and ruin far too many lives—those of both users and their families.

Other matters that Labor sought to resolve through the scrutiny of the bill by the committee are the extent to which the new federal offences complement state offences—with regard to definitions and punishments—and whether the state and territory jurisdictions have been adequately consulted on the bill. Victoria, Tasmania and the ACT have already implemented many of the provisions contained within chapter 6 of the Model Criminal Code. In response to questions on notice, the Attorney-General’s Department stated that no consultation had been undertaken together with states or territories regarding this bill as they would have been aware of the model offences since the Model Criminal Code Officers Committee completed its report on serious drug offences in 1998.

However, in the same set of responses, the Attorney-General’s Department also listed each offence within the bill and the corresponding offence from the Model Criminal Code. There were almost a dozen offences that had no corresponding offence within the code. The question is: how then were the states and territories consulted on these offences? The answer is, of course, they could not have been. That is just not good enough when you look at the Commonwealth’s stretch in dealing with this legislation. It is a pattern oft repeated by a federal government that is unable to manage consultation because it is out of touch. However, of themselves, the new offences do not have sufficient purpose to hold up the passage of the bill. Labor is disappointed that the government is not able to offer an exposure draft of the regulations as well, as that may have gone some way to mitigate its failure to consult adequately before this bill was brought forward.

I will now briefly outline some of the other non-drug related provisions of the bill. Most important to Labor is the schedule 4 amendment to the Australian Federal Police Act 1979. The bill amends the Australian Federal Police Act 1979 to clarify that the functions of the Australian Federal Police extend to providing assistance to and cooperating with foreign law enforcement agencies. The explanatory memorandum states:

Such activities are not expressly covered by any of the specific functions in section 8 of the AFP Act, but generally fall within the incidental category of the provision of police services in relation to the laws of the Commonwealth and the safeguarding of Commonwealth interests.

Because the Attorney-General’s Department have identified a need to clarify the law in this regard, there is also a need to clarify the policy and the procedures of the AFP in international police assistance. In addition, the Attorney-General’s Department’s Mutual Assistance Manual of 2000, if it has not fallen into disuse, has certainly not been found or recently used and is no longer referred to, as I understand it, and has not been updated since that time. The Attorney-General’s Department advised that they now interpret the legislation without reference to the manual.

Finally, recommendation 1 of the Senate committee’s report into the bill recommends:

...the Australian Government, in conjunction with the Australian Federal Police and other stakeholders, review its policy and procedures on international police assistance. In particular, the Australian Government should ensure appropriate ministerial supervision of assistance provided to overseas jurisdictions by Australian law enforcement agencies, where that assistance may expose Australians overseas to cruel, harsh or inhumane
treatment or punishment, including the death penalty.

That was the recommendation made by the committee. Being a responsible party, Labor have been trying to work constructively with the government on this issue, and the government, through the Attorney-General’s Department, are conducting a review into Australia’s extradition and mutual assistance arrangements. The report on extradition is expected to be handed down before the end of the year—unless they are going to tell me otherwise—while the report on mutual assistance is to be handed down at an as yet to be determined date within the next year. Labor welcome those reviews, but this morning on Channel 9’s Today show, Minister Ellison made it clear that the mutual assistance review would not cover police to police assistance as specifically requested by the Senate Legal and Constitutional Affairs Committee.

So now it seems apparent that the government are backtracking to try and hide themselves from scrutiny. This is completely unacceptable to Labor.

Police to police cooperation in circumstances where that assistance may expose Australians overseas to cruel, harsh or inhumane treatment or punishment, including the death penalty, is a legitimate ethical concern and a legitimate area of review, especially in light of the recent Corby and Bali Nine cases. Labor will therefore move an amendment along those lines, and I foreshadow that now.

Schedule 2, regarding other measures contained within the bill, would ensure that Australia complies with the optional protocol that states that the recruitment or use of persons under the age of 18 in hostilities by armed groups not part of the state should be criminalised. The bill would comply with this obligation by amending the Criminal Code to provide that these activities constitute federal offences and would be punishable by imprisonment for up to 17 years.

Schedule 5 seeks to amend the mutual assistance in the Business Regulation Act 1992 to facilitate the transfer of responsibility from the Attorney-General to the Treasurer for the consideration of requests received from foreign regulators for information, documents or evidence relating to the foreign enforcement of business law. Similarly, Schedule 6 amends the Financial Transaction Reports Act 1988 to clarify that cash dealers are not required to obtain multiple identification references from a person who is a signatory to different accounts with the cash dealer.


In conclusion, Labor support the intent of this bill, but we make two additional demands of the government in relation to it: firstly, a review into the policy and procedures on international police assistance; and, secondly, a report examining the operation of the anti-drug trafficking provisions to be brought before the parliament after three years of operation. Labor are pleased to say that we have worked with the government to get the latter report up, but we are disappointed the government have tried to squib on the former. We will be holding them to the recommendation of the Senate committee. With those comments, and foreshadowing our intention to move amendments, I commend the bill to the Senate.

Senator BARTLETT (Queensland) (10.22 am)—Senator Stott Despoja is the Democrat senator who has responsibility for
Attorney-General and justice issues and she has examined this legislation from when it was introduced, through the relevant Senate committee inquiry. Whilst supporting the bill, she raises a number of issues in her speech, which I seek leave to have incorporated in Hansard.

Leave granted.

Senator STOTT DESPOJA (South Australia) (10.22 am)—The incorporated speech read as follows—

I rise to speak on the Law and Justice Legislation Amendment (Serious Drug Offences and Other Measures) Bill 2005.

The Democrats recognise the adverse impact that drug abuse and related crimes have on all levels of society, and also recognise that a significant part of this bill is appropriately aimed at addressing this problem. For this reason, the Democrats support this bill.

There are a number of aspects of this bill that deserve attention, in particular, the operation of the presumptions and absolute liability that effectively shifts the burden from proving guilt to establishing innocence. This represents a marked departure from current practice and would appear to dramatically undermine the presumption of innocence as set out in article 14(2) of the International Covenant on Civil and Political Rights (ICCPR).

Appearing before the Legal and Constitutional Legislation Committee’s inquiry into this bill, Law Council President John North stated that “after hundreds of years of trial and effort … we have reached the presumption that you are innocent and the crown should prove matters beyond reasonable doubt. We should not give this away lightly…”

Mr North also added that “no senate and no government should walk away from that just because we currently have a … serious problem of drug use in our community.”

This is not about making it easier for criminals to escape justice, it is about ensuring that no one is convicted of a crime they did not commit. For this reason, the Democrats believe that the burden of proof should remain with the Crown.

During the inquiry, there were also a number of concerns raised that this bill, particularly in relation to section 308.1, will characterise all drug users as guilty of “serious drug offences” for possession of even a small quantity of drugs. The Democrats note that the Model Criminal Code Officers Committee’s (MCOCC) 1998 report on Serious Drug Offences did not contain a simple possession offence.

The Committee also heard from Families and Friends for Drug Reform who argued that the bulk of the “grass roots distribution of drugs is in the hands of user-dealers.” And that this bill “transforms all these into very serious criminals.” The Committee also heard that the illicit drug market is organised as a “pyramid selling system with those higher up the pyramid using the desperation of dependent users and venality of young people to sell to other young people.”

The bill characterises a number of activities, involving possession and dealing in small quantities among users at the bottom of the “drug distribution pyramid,” as “serious drug offences.” While the Democrats recognise that these may be classified as drug offences, we also recognise that during the Committee inquiry, there were a number of questions raised in relation to the appropriateness of labelling them “serious” drug offences—particularly in light of the harsh penalties that this would impose.

I acknowledge this is a troubling issue that requires careful consideration.

However, it is worrying and possible that this bill will adversely and disproportionately target young people.

The MCOCC makes the point that chapter 6 is “entitled Serious Drug Offences to emphasise the point that not all drug offences are appropriately located in the Model Criminal Code.” The central theme of the chapter is that “the serious offences should focus on individuals who make a business out of drug trafficking.”

Furthermore, while there are provisions for the continued operation of State and Territory laws, in proposed sections 308.1 and 300.4, there appears to be no guarantee that an individual who commits an offence in a jurisdiction that allows for such an offence to be expi-
ated on payment of a fine will not be proceeded against under Commonwealth law.

The Democrats believe there must be more emphasis placed on the treatment of drug abuse as a health and social problem with much more effort put into currently under-funded prevention and treatment services.

There also needs to be greater research into the medium to long term effects of designer drugs and treatment options; an expansion of detox facilities and greater investment and support for rehabilitation programs—particularly, those that cater for drug dependent adults with children.

There should also be an expansion of drug diversion programs that offer an alternative to the traditional criminal justice system. While I acknowledge the attempt to address this in the bill, the provisions appear limited.

I would also like to raise concerns in relation to Schedule 4, which amends the Australian Federal Police Act 1979—the purpose of which is to clarify that the functions of the Australian Federal Police extend to providing assistance to, and cooperating with, Australian and foreign law enforcement agencies, intelligence or security agencies and government regulatory agencies, and establishing, developing and monitoring peace, stability and security in other countries.

While the Democrats offer in principle support to this amendment, we believe, in accordance with the Legal and Constitutional Legislation Committee’s recommendation, that the Australian Government, in conjunction with the Australian Federal Police, “review its policy and procedures on international police to police assistance. In particular, the Australian Government should ensure appropriate ministerial supervision of assistance provided to overseas jurisdictions by Australian law enforcement agencies, where that assistance may expose Australians overseas to cruel, harsh or inhumane treatment or punishment, including the death penalty.”

The case of the Bali nine is perhaps the most significant and most recent example of the problems that may arise in such situations. Furthermore, I note the recent claims that Mr. Lee Rush, the father of 19-year-old alleged drug smuggler Scott Rush, contacted the Australian Federal Police to inform them that his son may be involved in drug smuggling. Mr. Rush has also alleged that he was assured that his son would be warned.

President of the Australian Council for Civil Liberties Terry O’Gorman commented on ABC radio on the 22 September that “we’ve had a bipartisan policy in this country that we will not be party to Australians being put to death for alleged criminal offences in other countries. In this instance this policy has been seriously and significantly deviated from.”

While Senator Ellison has commented that he does not “think the Australian Federal Police have contravened Australian law in any way,” surely this situation clearly highlights the need for clarification of when police to police assistance should be provided. In respect to assisting Indonesian authorities in this case, there is obviously a significant risk that a person who is convicted of a drug offence could be sentenced to death.

During the inquiry into the bill, the Committee received a submission from the Law Council proposing that such assistance should only be provided where there is a memorandum of understanding between Australia and the foreign jurisdiction. The Law Council proposed that such a memorandum should state that “cruel, harsh or inhumane treatment or punishment, such as the death penalty, would not be applied where the Australian Federal Police assisted in the process of conviction.” I would urge the Government to consider the implementation of such a proposal.

The Democrats recognise the positive aspects of this bill and the need to address the problems associated with drug abuse. In relation to Schedule 4, I acknowledge that cooperation at an international level is an essential element of modern law enforcement and support such cooperation. However, we must also ensure that laws do not adversely target the vulnerable and that we provide alternative measures to deal with drug abuse. We must also ensure that the provision of assistance to overseas jurisdictions does not expose Australians to cruel, harsh or inhumane treatment or punishment.”

 Senator MASON (Queensland) (10.22 am)—I too wish to make a few remarks on the Law and Justice Legislation Amendment
(Serious Drug Offences and Other Measures) Bill 2005. This bill is an important part of the coalition government’s Tough on Drugs strategy. There is nothing more important than protecting our children from the dangers of drugs and the criminals who supply them. I notice some young people up there in the gallery today. It is their welfare that the government and indeed all honourable senators wish to protect. When I visit schools in Queensland, one of the issues always raised by students and indeed by the parents of students is the problem of drugs. It is an issue that confronts us every day, and the cost to young people’s lives and to communities is vast. Indeed, drugs can certainly poison community life.

The $1 billion Tough on Drugs program was launched by the Prime Minister in 1997. It is based on three elements: law enforcement, education and rehabilitation. This bill builds on the law enforcement aspect of that program. It is the largest single initiative ever undertaken in this country to combat illicit drugs.

Is the government’s Tough on Drugs strategy working? It is. Fewer people are engaging in drug abuse—down from 22 per cent in 1998 to 15.3 per cent in 2003; fewer people are dying of drug overdoses—down from 1,100 in 1999 to under 400 in 2002; and more parents are talking to their children about drugs—78 per cent of parents spoke to their children about drugs as part of the 2001 illicit drugs campaign. All of us have seen those ads on television where parents speak to their children, and young people speak to other young people about the dangers of drugs. It is a very important part of the government’s Tough on Drugs strategy. Law enforcement efforts continue to disrupt criminal drug importation following the coalition’s increased assistance to Customs and the Australian Federal Police. There have been record seizures, with over 11 tonnes of illicit drugs seized since late 1997.

One of the marvellous aspects of being a senator is being involved in very interesting committees. Two of the committees I am involved in have touched on this particular bill. I want to say a couple of words about issues those committees have raised about this bill. First of all, the Scrutiny of Bills Committee in its seventh report of 2005 raised a couple of issues. This bill:

... inserts new serious drug offences into the Criminal Code.

It does some really important things. Among the provisions are measures dealing with:

- trade in ‘precursor’ chemicals—
  which is becoming a much larger issue—
- increased penalties, including heavier penalties for people who use children to traffic in drugs ... 

Those penalties have increased markedly and, we think, appropriately, and with the support of all parties. There are provisions dealing with:

- offences aimed at those who harm or endanger children by exposing them to the manufacture of drugs; and
- adding new drugs to the list of illicit substances.

Schedule 2 of the bill also makes amendments to the Criminal Code to criminalise the recruitment by armed groups (not part of the State) of persons under 18 years of age, an obligation under the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict.

There are also seven further schedules to the bill, and my friend Senator Ludwig mentioned those earlier. There are provisions:

- clarifying the functions of the Australian Federal Police in assisting other agencies and in operations in other countries ...; and
- clarifying the application of the power which allows Customs officers to detain a person in
breach of a bail condition intended to prevent that person leaving Australia ...

The one issue that the Scrutiny of Bills Committee raised in relation to this bill was the uncertainty of the commencement date of the bill:

By virtue of item 3 in the table in subclause 2(1) of this bill, the amendments proposed by Schedule 2 may commence on the day on which the Optional Protocol enters into force for Australia, but do not commence at all if the Optional Protocol does not come into force. However, the item does not provide any fixed date by which it can be finally determined that the Optional Protocol will not come into force.

The Scrutiny of Bills Committee has always taken the view that parliament is responsible for determining when laws are to come into effect. I am happy to note that the minister agreed that the bill should be amended to provide certainty of commencement of the optional protocol. He did that appropriately.

Finally, my friend Senator Ludwig mentioned also the Legal and Constitutional Legislation Committee’s report on this bill. The report of the committee was unanimous, although there were some comments by Senator Stott Despoja from the Australian Democrats. They were additional comments rather than a dissenting report. Most of the submissions received by the committee were in favour of and supported the bill. In particular, the committee supported the need for greater national consistency in Australian drug law. I can remember, many years ago when I was a Commonwealth prosecutor, one of the difficulties in prosecuting—

**Senator Ian Macdonald**—I did not know that.

**Senator MASON**—It was a long time ago, Senator Macdonald. I recall one of the great difficulties was prosecuting drug criminals because of the multiplicity of applicable laws, both state and federal. What this report has done and what this bill continues to do in a slow and methodical way is to streamline and harmonise state and federal drug laws. It is a long process. It started in the 1990s with Sir Harry Gibbs and the Model Criminal Code Officers Committee, which is part of the Standing Committee of Attorneys-General. This is a long process and there is still a way to go but it will facilitate the prosecution of drug criminals.

In relation to the concerns raised about the use of presumptions and absolute liability in the bill, the committee considered that these provisions have been adequately justified in the explanatory memorandum and by departmental representatives. I note that, in her additional comments, Senator Stott Despoja raises concerns that that can impinge upon the presumption of innocence. Of course, in a sense, she is right. But, given the nature of these offences and the difficulty at times of proving drug offences, to facilitate that, it has been common in recent times to use and change the presumptions relating to strict and absolute liability.

The committee also received evidence of concerns about the potential impact of the bill, particularly on smaller scale drug crime. I recall the Families and Friends for Drug Law Reform giving evidence to the Legal and Constitutional Legislation Committee saying that, in effect, this bill may criminalise activity that otherwise would not be criminalised and that the umbrella of Commonwealth criminal law is becoming too large. The committee rejected that overwhelmingly. The committee noted that many of the offences in the bill already exist at the state and territory level. The committee took the view that prosecutorial discretion would be the best avenue for addressing any inconsistencies in state and federal prosecutions.

One issue that my friend Senator Ludwig did mention—and it is a legitimate issue—was in relation to schedule 4 of the bill. The
committee acknowledged concerns that the Australian Federal Police is providing assistance in matters in foreign countries which may result in Australians facing the death penalty. This issue, of course, raised its head recently in relation to the Bali Nine—and we saw today on the front pages of all the newspapers around the country pictures of young Australians being prosecuted and charged in Balinese courts.

This is an issue that will not go away, and I know the government is addressing it. It was an issue of concern to the committee, and I know that the minister and his department are looking at it. We certainly need sophisticated protocols so that, when the Australian Federal Police does assist overseas law enforcement agencies, that assistance does not place Australians under threat of the death penalty. In the current context, it is a difficult debate and a difficult time, but I know it is an issue that the government is addressing and will be doing so in the future. With those comments, I commend the bill to the Senate.

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (10.33 am)—I thank those senators who have participated in the debate on the Law and Justice Legislation Amendment (Serious Drug Offences and Other Measures) Bill 2005. I particularly thank Senator Mason for a very thoughtful contribution. It is interesting for me as a fellow Queenslander to know, for the first time, that Senator Mason was once a Commonwealth prosecutor. It does demonstrate that on this side of the chamber we do have a number of people with an expertise in various matters. Senator Mason’s expertise in the criminal prosecution area is very useful and gratefully received by the government in relation to this particular bill.

Senator Mason has clearly and succinctly emphasised what this bill is all about—that is, consolidating a lot of views and bits of legislation and making it consistent with state approaches—and I thank Senator Mason for his contribution. Unfortunately, I was not in the chamber to hear Senator Ludwig speak, but I would expect that his view would have also been thoughtful. I do thank the Labor Party generally for its support for this bill. I have not read Senator Stott Despoja’s tabled speech, but I assume the Democrats are also supporting this bill—and Senator Bartlett has indicated that that is the case.

This bill continues the government’s efforts to reduce the supply of illicit drugs by strengthening anti-drug laws. There has been quite significant progress in combating the trafficking and distribution of illicit drugs since the government announced in November 1997 a $1 billion package of measures under the Tough on Drugs National Illicit Drug Strategy. In the last financial year over 11 tonnes of illicit drugs were seized by Australian law enforcement agencies, preventing a huge amount of dangerous drugs from reaching the community and also disrupting drug-trafficking cartels. This bill strengthens our nation’s legislative response and forms an integral part of that multifaceted package of measures aimed at reducing the demand for, the supply of and the harms caused by illicit drugs in our community.

The bill will promote national consistency by implementing model drug offences that were developed after nationwide consultation. A list of controlled substances that are covered by the offences in the bill and the threshold quantities that relate to different penalty levels will be reviewed next year, following consideration by a national committee of experts. The aim is for the model list developed by that committee to be adopted by all jurisdictions. The bill will also
simplify drug prosecutions, as Senator Mason mentioned, by expanding the scope of existing federal laws to apply to drug dealings within Australia.

The offences in this bill will operate alongside state and territory offences to give more flexibility to law enforcement agencies in identifying and pursuing charges against drug dealers. The approach of having overlapping federal and state offences will ensure that there are no gaps between federal and state laws that can be exploited by drug cartels. I know all senators will be very supportive of that general approach in the bill. The offences in the bill will operate alongside state and territory offences to give more flexibility to law enforcement agencies, as I have indicated.

The bill will introduce a new range of pre-trafficking offences which focus specifically on dealings in precursor chemicals—that is, the substances that can be used to manufacture pills and what is called designer drugs. In addition, it will protect children by increasing penalties for people who use children to traffic in drugs and by targeting people who expose children to the dangers of illicit drugs manufacture in backyard, clandestine drug laboratories.

The Senate Legal and Constitutional Legislation Committee has considered the drug offences in the bill and has given its support. At the request of Senator Ludwig, the government has agreed to report on the operation of the new drugs offences. The report will be made after three years, by which time there should be a sufficient number of cases to make a worthwhile report. Senator Ludwig, I think you might have mentioned two different figures.

**Senator Ludwig**—Yes. I agree with three years, but I tried for 18 months.

**Senator IAN MACDONALD**—Okay. I appreciate your approach to have an earlier review, but, as has been explained, it will need some time for a sufficient number of cases to come forward to make a report worth while. I accept that you accept that the three-year review is appropriate. The report would not cover existing offences that have been transferred over to the Criminal Code in this bill, such as the import and export offences currently in the Customs Act. The bill does ensure that drug users who are charged with relatively minor federal offences of drug possession will be able, at the direction of the court, to participate in state and territory drug diversion schemes. Another issue that Senator Ludwig has raised with the minister is whether the Australian Federal Police should be able to directly refer an offender to a drug diversion scheme without the offender having to attend court. This mechanism is available to police in some state jurisdictions.

At the outset I want to emphasise that, in practice, drug possession offences within Australia will continue to be the responsibility of state and territory police. It is not the intention of this bill to increase the jurisdiction of the Australian Federal Police to compete with or take over the role of state and territory police. However, I have no objection to this issue being considered as part of the report on the new offences in three years time, once we have had some practical experience with the operations of this bill. As well as strengthening anti-drug laws, the bill will give effect to an international obligation under the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict by criminalising the recruitment of children by non-government armed groups and their use of children in hostilities.

The bill also clarifies the scope of the functions of the Australian Federal Police in the current environment of increasingly globalised criminal activity and law en-
forcement responses. I understand that Senator Ludwig, in his speech on the second reading, has flagged a committee stage amendment to the bill requiring the government to review guidelines on police-to-police assistance. It is a matter that Senator Mason also mentioned. The government notes that the Senate Legal and Constitutional Legislation Committee also recommended that police guidelines be reviewed. However, the government considers that the current policy is appropriate in the circumstances. The police-to-police guidelines have in fact stood the test of time over a substantial period, and the government at this stage sees no reason to change those guidelines. The Australian Federal Police are currently assisting the Indonesian authorities in investigating the tragic Bali bombings of recent times and, of course, the original Bali bombings. It is vital that this police cooperation is able to continue into the future. Bearing all of this in mind, as I have mentioned, the government does not accept the opposition’s amendment.

As with all these issues, the government will keep this bill and how it operates—and, indeed, all policies in relation to the police-to-police guidelines—under constant review. It does that as a matter of course, as a government that is able to move with the times and to review policies as situations change. That issue is one that will continue to be kept under review, but for the time being the government does not see the need to change those guidelines. I am pleased to advise that the government has already agreed to conduct policy reviews of extradition and mutual assistance, and it is committed to public consultation as part of that process. In addition to a major program of expedited treaty negotiations, the Attorney-General’s Department has been working on these reviews since April 2005. I expect that an extradition discussion paper will be released for public comment later this year and a mutual assistance discussion paper will be released for public comment next year.

As all senators have indicated, this bill will make a crucial contribution to reducing the demand for, the supply of and the harms caused by illicit drugs in our community. It will send a clear message that exposing people to these dangers will not be accepted by the Australian community, the Australian parliament and, indeed, the Australian government. I commend this bill to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator LUDWIG (Queensland) (10.45 am)—I move opposition amendment (1) on sheet 4649:

(1) Page 3 (after line 5), after clause 3, insert:

4 Review of operation of policies and procedures relating to police services and police support services provided to overseas jurisdictions

(1) Not later than 31 October 2006, the Minister must cause to be conducted a review of the operation of policies and procedures relating to the provision of police services and police support services to overseas jurisdictions, for the purposes of:

(a) making recommendations about whether the policies and procedures are effective; and

(b) ensuring appropriate ministerial supervision of police services and police support services provided to overseas jurisdictions by Australian law enforcement, intelligence, security or government regulatory agencies, where that assistance may expose Australians overseas to cruel, harsh or inhumane treatment or punishment, including the death penalty.

(2) A review in accordance with subsection (1) must be conducted by the Attorney-
General in conjunction with the Australian Federal Police and any other relevant Australian law enforcement, intelligence, security or government regulatory agency.

(3) A review conducted in accordance with subsection (1) must call for submissions from the public and may conduct public hearings.

(4) A review conducted in accordance with subsection (1) must be completed and a written report provided to the Minister not later than 1 December 2006.

(5) The Minister must cause a copy of the report to be laid before each House of the Parliament within 15 sitting days after receiving it.

The amendment relates to a review of the operation of policies and procedures relating to police services and police support services provided to overseas jurisdictions. I understand from the summing-up speech by the minister during the second reading stage that the government is committed to finalising the extradition matter, and I might make some comment about that. Some time ago I was on the treaties committee that started a review into extradition. It is pleasing to see that the government has made some progress in relation to that particular matter and will provide an overview. That treaties committee which I was on made a number of recommendations, including that this area be looked at because it is an area where there are some problems that arise, at least as far as the committee saw, in relation to how the extradition treaty works, whether they use the no evidence rule in civil law countries, and the use of model templates. So I am pleased and I look forward to reading that review some time later this year. The adviser has given me a nod; I note that I will have Christmas reading, so that is very pleasing.

Also, the minister is right: on the original matter of mutual assistance the opposition were seeking 18 months, but we were persuaded by a range of matters, including the government wanting three years, that three years is an appropriate period for that. It is a complex area. There are a range of matters contained within mutual assistance. There are business regulations that relate to mutual assistance; there are a number of treaties that range over various areas; there are regulations made under treaties; and there is the mutual assistance act, which has been amended a couple of times. Therefore it is a significant course that will need to be traversed to ensure that that area is sufficiently examined and dealt with appropriately.

The amendment that I have moved will seek to ensure that there is a broader review of this area, not one simply limited to those pieces of legislation I have mentioned, because mutual assistance is broader. It encompasses the area that I have also mentioned but, in this instance, what underpins it or what might lead to its use is the law enforcement cooperation that does exist. What this amendment seeks to ensure is:

Not later than 31 October 2006, the Minister must cause to be conducted a review of the operation of policies and procedures relating to the provision of police services and police support services to overseas jurisdictions ...

It is necessary to look at this area and to have a review into this area, not simply limit it to mutual assistance. The review should hold public hearings to ensure that the public can make submissions and be heard. A report should finally be produced no later than 1 December 2006 and that report should then be provided to the Senate and the House to ensure that there is parliamentary scrutiny of it. That can lead to reform. Certainly the reason for the review being sought is to see whether or not there is a need to review this area.

As I mentioned in my speech in the second reading debate, and it is worth reiterat-
Labor welcome the commitment to review the mutual assistance scheme. As Senator Ellison indicated, at least this morning, such a review will be limited to assistance under the mutual assistance act. We know that means coercive powers where an official request is involved with the central agency—from the AGD or where that has been delegated to another authority, such as in the business regulatory area. However, much of the everyday police-to-police assistance does not come under this regime. Therefore it has, by default, been left out of the review.

The Senate Legal and Constitutional Committee report into the bill specifically requested that the Australian government, in conjunction with the Australian Federal Police and other stakeholders in the policy and procedures of international police-to-police assistance, should ensure appropriate ministerial supervision of assistance provided to overseas jurisdictions by Australian law enforcement agencies where that assistance may expose Australians overseas to inhuman treatment or punishment, including the death penalty. So the Senate Legal and Constitutional Legislation Committee did look at this area and did understand that there was a mutual assistance scheme in place which dealt with legislative requirements, had the ability to have treaties and treaty regulations made and was limited to the use of coercive powers. That is the scheme. It might be difficult to explain, but that is the scheme that we have in terms of mutual assistance in criminal matters. But what the Senate Legal and Constitutional Legislation Committee was also able to apprehend was that there was another part which effectively surrounds mutual assistance not only as a precursor to it but also where you have police-to-police cooperation that continues to go on.

Police-to-police cooperation might involve contact with Interpol on missing persons or a whole range of issues which do not require the use of coercive powers. Police-to-police cooperation is also necessary for a whole range of other matters such as money laundering and sex trafficking to ensure that the range of treaties and conventions that Australia has signed up to in fighting the serious drug trade is also dealt with. Where that assistance does not require the use of coercive powers then that assistance will not be and does not form part of the mutual assistance in criminal matters legislative scheme or regime, as I have mentioned, and therefore it is necessary to make it broader. It can be the case that regional police-to-police assistance will require a mutual assistance scheme eventually, as I have outlined, or it might start at one point and end up in the other. So they not only are interlinked but also can form a continuum where you will move from one to the other. They can also be discrete.

Nevertheless, I am sure that government senators and other senators who participated in the committee were also cognisant of that fact, and that is why the recommendation was made in the particular way that it was drawn up. It was not simply to limit it to mutual assistance in criminal matters but to ensure that it included a broader inquiry into that area of police-to-police assistance. A situation may arise where, in examining that area, you have policies and procedures of the Australian Federal Police concerning police-to-police cooperation where charges are laid with mutual assistance or where cooperation is required. This is one of the problems.

We know that the AFP have one policy which was provided, if not to an estimates committee then to the committee on treaties a number of times, concerning police-to-police cooperation where charges are laid with mutual assistance or where cooperation is required. One of the areas where they would not go in the committee hearing was into the actual procedures they adopt. The
government may be cognisant of what procedures the AFP employ and how they deal with this particular area, or they may not. The AFP may not have shared that with them or the government may not have asked for it. That is an area that also needs to be looked at a little bit harder.

The Labor Party has looked at the fact that really only half the regime is being reviewed by the government. Half is missing from this area and should be reviewed. As I mentioned in the second reading debate, police-to-police cooperation in circumstances where that assistance may expose Australians overseas to cruel, harsh or inhuman treatment or punishment, including the death penalty, is of legitimate and ethical concern and is a legitimate area of review, especially in light of the recent Corby and Bali nine cases. It should be included within the overall area and it is remiss of this government not to include it.

I suspect that many people who make submissions to the mutual assistance review will not confine themselves to just that one area but will in fact include this. It might be that submissions are made in this area as well but the terms of reference or the area that the government is reviewing would then otherwise exclude it. But it may be very valuable and require examination. Certainly you cannot tell sometimes where some reviews might go and what you might get out of them. They can be helpful in some respects and sometimes they can expose areas which need to be addressed. At other times they can provide a government with support for how they are currently conducting their affairs. So those sorts of issues should be included in the entirety of the review. The review should be an entire review of the area and not just limited in this respect to mutual assistance in criminal matters.

Senator BARTLETT (Queensland) (10.57 am)—As indicated at the second reading stage, this area of law in the Law and Justice Legislation Amendment (Serious Drug Offences and Other Measures) Bill 2005 has been covered by Senator Stott Despoja, who did the work in the committee hearings. The Democrats support Labor’s amendment. I think that it is important to note, particularly in the context of the current debate around the Bali nine and the like, that it is not enough to simply say that current policy is appropriate and has stood the test of time, which is what the minister said in his second reading winding-up remarks. I think that there is clearly an argument for a more proper review of this area. Certainly many in the Australian community, including me, have been critical or have raised concerns about whether or not we crossed that hard-to-define line in our cooperation with the Indonesian police in relation to the Bali nine circumstance.

It also goes more widely than this simple area of drug offences, I might say. It really goes to the overarching principle about the death penalty. That is what concerns me more about some of statements that have been made by government figures with regard to a few different instances where the death penalty has been an issue. Putting aside the different and very valid debates about drug offences and drug laws and the best way to deal with them, the wider and overarching principle about the death penalty is one that I believe is not affirmed as strongly as it should be in current political debate. It is not just a bipartisan official policy of the two major parties to oppose the death penalty federally; Australia has actually signed up to international obligations on this matter, not just to abolish the death penalty but to support moves to have it abolished everywhere else.
I believe that you cannot pick and choose when to support a principle as important as abolition of the death penalty. You cannot choose between the times when you want to stand firm on that and when you want to say, ‘That’s a matter for other countries.’ Obviously it is always a matter for each individual nation to determine its laws, but that does not and should not preclude us from having a position on whether or not those laws are appropriate, certainly in areas such as the death penalty. That is part of what signing up to international conventions is about. Certainly the convention covering this area is about encouraging all nations to move away from the death penalty.

I appreciate that in the context of international cooperation with police in any area, whether it is drug enforcement, terrorism or anything else, it is very difficult to draw a hard and fast line and to say, ‘In this circumstance we will help but in this one we won’t.’ You cannot get pre-existing guarantees on how people will be treated. I appreciate that that is difficult, but the fact that something is difficult should not be an excuse for leaving it all fuzzy and grey and not trying to nail it down more precisely, particularly in the current circumstances, which suggest that it does need to be looked at.

Allegations have been made about the Bali nine situation that is now before the courts that I think need to play out. Let the evidence see the light of day, and people can form their own judgments. But the bottom line in this that causes me concern goes to some of the statements about the death penalty sentences that have been brought down in other cases, including the Bali bombings. It is at times like that, when it is more difficult and awkward to defend a principle, that it is most important that political leaders have the courage to stand up and defend it. On an issue as emotive and distressing as the slaughter of Australians in terrorist attacks it is easy to sit back and say, ‘If they want to put people to death as a consequence of that then it is nothing to do with us,’ but the easy road is not the right road when you are talking about principles such as opposition to the death penalty. I have to say that comments made by the Leader of the Opposition at the time gave that similar half-hearted expression.

I think that attitude is inconsistent and not helpful to our role in foreign jurisdictions when we have to advocate for clemency for Australian citizens, as we do from time to time when they are caught up in drug offences and are at risk of the death penalty. Our government makes representations to various governments in the region, asking them to show clemency and not carry out the death penalty. I think it gets harder for us to be seen to be credible in doing that if we are also sending signals, when the death penalty is imposed on people from other nations, that say, ‘That’s their business; it is nothing to do with us.’ It is something that should be opposed in all circumstances for all people. You cannot say, ‘It is nothing to do with us, it does not matter and it is not our concern,’ when the death penalty is applied to other people, then get upset about it when it is applied to Australians. That inconsistency can very easily be interpreted as hypocrisy. I do not think that helps to strengthen our advocacy when we need to do that for Australian citizens.

That broader, overarching principle needs to be more strongly affirmed by political leaders of all persuasions in the country. You cannot take a half-hearted approach. You cannot stand firm on cases that have public sympathy, like the Schapelle Corby case, for example, but then become more equivocal when cases do not have public sympathy. The whole point of having strong opposition to the death penalty is so that understandable and justifiable public outrage is not able to
create a wave that leads to what I believe is the added atrocity of the death penalty.

The death penalty is the state sanctioned, premeditated killing of human beings. I do not believe that it should be present in any country in the 21st century—nor should it have been present in the 20th century. I believe we need to be doing a lot more internationally to more strongly affirm our country’s strong opposition to the death penalty, as well as to other harsh or inhumane treatment or punishment, throughout the region and other parts of the world. That does not mean going around and lecturing other countries in an insensitive way about what they should do, but it does mean responsibly and appropriately indicating a firm view of our government and our political leadership that encourages countries to move in that direction, as we do in many other areas.

We quite commonly encourage Indonesia to do certain things. I know there has been debate in the last little while about encouraging Indonesia to ban Jemaah Islamiah. As long as it is done in a constructive manner rather than in an overbearing and lecturing manner then it is appropriate for us to express opinions. It is in the same context that I think we should express opinions about the death penalty in our relationships with countries in our region, particularly, because a number of them do have the death penalty. A lot of work is being done at a government level with the Chinese government. China puts more people to death every year than every other country in the world combined. We should be raising that as a serious human rights issue much more clearly and strongly. We should do it not offensively or inappropriately but, nonetheless, unambiguously. That, I believe, is as important.

We have had a lot of talk in recent times about the culture of the Department of Immigration and Multicultural and Indigenous Affairs and the culture of how law is implemented. The same thing applies to law enforcement officers or anybody else. The broader culture comes from the sorts of statements and signals that are sent by political leaders and particularly by the government. I believe that this government should be sending stronger signals about the death penalty. If it is seen by other countries as something that we are opposed to but that is a bit of an optional extra depending on the circumstances then we are more likely to stray onto the wrong side of that grey and fuzzy line when we are cooperating with other countries. The line will always be grey and fuzzy, but that does not mean that we cannot try to make it a bit clearer when we might be straying onto the wrong side of it.

The current policy on cooperation with overseas police services in matters that may end up involving the death penalty was tabled at the last Senate estimates hearings, at a hearing of the Senate Legal and Constitutional Legislation Committee. I have read those guidelines and I think that they are not terribly clear—certainly not on the phase prior to when a charge is actually laid. Once a charge is laid against someone, the guidelines become rather clear, but prior to then I think they are not as clear as they could be, and that is obviously where some questions are raised. However heinous the crimes are that people are involved in, I do not believe we should knowingly participate in effectively marching those people towards potential death penalties, because that just compounds whatever original crime may have been committed.

It is important to make those stronger, broader statements about the death penalty, because I do not believe our opposition to it has been affirmed as strongly and as unequivocally as it should be. I think it does make a difference in the broader culture of how policies are implemented and how co-
operation occurs between nations. It would send a clearer signal to other countries that we cooperate with in an appropriate way—not through megaphone diplomacy but in an appropriate and sensitive way. As part of that, particularly given current circumstances, a review of the operation of procedures and policies would be appropriate—particularly given these new laws we are passing today. I do not think that the minister’s statement—’Well, it’s all going okay and we’ll just keep an eye on it’—is really sufficient. It is an issue that is clearly raising some concerns. It is an issue that is likely to continue to come up, whether it is on cooperation around drugs or cooperation around security and terrorism issues. In those circumstances, I think the time is right for a measured review of the operation of those policies, as has been constructively proposed by the Labor Party on this occasion.

Senator LUDWIG (Queensland) (11.09 am)—I want to make it clear, so that we get all these dates right. It is three years for the review of the Law and Justice Legislation Amendment (Serious Drug Offences and Other Measures) Bill 2005 and it is some time in 2006 for the review of the Mutual Assistance in Criminal Matters Act. The dates I have sought in the amendment are quite clear. The particular document I was referring to earlier relates to the Australian Federal Police policy guidelines where the death penalty charge situation applies. I do not have the document with me—I am sure it has been tabled a number of times—but that is probably sufficient to describe it.

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (11.09 am)—I indicated in the second reading debate that the government will not be supporting Senator Ludwig’s amendment to the Law and Justice Legislation Amendment (Serious Drug Offences and Other Measures) Bill 2005. Just for clarification, I did indicate that the government will be conducting a policy review of extradition and mutual assistance. The discussion paper on extradition will be out later this year and the other discussion paper will be out early next year. I have also indicated that, at Senator Ludwig’s request, the government has given an undertaking to conduct that review in three years. I am more or less just confirming Senator Ludwig’s clarification.

In relation to the amendment: again, as I indicated, the government always keep under review all of our policies, particularly in areas like this and particularly where situations change from time to time. We do not rule anything out in our reviews of all policies. I will, Senator Ludwig, draw your speech on this amendment to the attention of Senator Ellison so that he can be aware of your views on that. It does not persuade us to change the bill at this time. And do not over-read what I am saying: we are not likely to change that in the future. I just want to emphasise that a good government continues to review its policies in all fields. We are a good government and we continue to keep all policy issues under review. I should mention, having said that I will refer that to Senator Ellison, that Senator Ellison is, as I think most senators are aware, in Bali representing the Australian government at the commemoration for the Bali massacre three years ago, which is why he is not here to personally tend to this bill.

I reiterate: we will not be supporting the amendment. Senator Bartlett, I understand what you said; although, on the initial parts of what you were saying, a listener not closely following your argument might have been a fraction confused. I just want to make it absolutely clear that the government is strongly opposed to the death penalty. That is certainly a view that I very strongly support and it is a view that I am reasonably confident in saying that all senators would sup-
port. I just want to make that clear, lest your comments—and I appreciate that they were not directly on that point—might have been misunderstood.

Senator Bartlett, I also draw your attention to the Mutual Assistance in Criminal Matters Act, which, as you may know, was legislated in 1987. It provides that, where a foreign country requests mutual assistance—that is, assistance in investigations or prosecutions—when a person has been charged with or convicted of an offence that carries the death penalty, the Attorney-General or the Minister for Justice and Customs must refuse to provide the assistance unless there are certain special circumstances. Special circumstances under that act include where the evidence would assist the defence or where the foreign country undertakes not to impose or carry out the death penalty. So there are some safeguards in the area you are talking about. That is not directly on the point that you were making, but I draw that act to your attention, and I reiterate that the government will not be supporting the amendment.

Senator BOB BROWN (Tasmania) (11.14 am)—I have a commentary which says this about the intent of the bill: The existing commitment to harm minimisation as a central object of drug law enforcement requires laws which discriminate, so far as it is possible to do so, between those who are traffickers and those who are not.

On reading the legislation, that discrimination is not there. For example, the reversal of onus of proof applies to people who are possessors for personal use as well as to people who are trafficking large quantities. Can the minister tell the committee how a person who has small amounts of drugs for personal use or for personal use with friends is going to be protected from being caught by a burden of proof reversal—which is a change to common law and the inheritance of law that we have—so that they are not put in the invidious position of having to prove that they had the drugs for personal use, when quite clearly that can be impossible?

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (11.16 am)—I am not quite following Senator Brown’s question. Can you refer me to the section of the bill that you are referring to?

Senator BOB BROWN (Tasmania) (11.16 am)—The reversal of onus of proof is written into the bill. If you care to look at that section, that is what I want to tease out.

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (11.16 am)—I am advised that there is no reversal of onus of proof for possession offences.

Senator BOB BROWN (Tasmania) (11.16 am)—Your advice is that there is no reversal of onus of proof? In other words, the prosecution has to prove that a person intended to traffic—

Senator LUDWIG (Queensland) (11.17 am)—I raise a point of clarification. There is reversal of onus of proof within the bill. But in relation to possessory offences, there is not—there is requirement for intent to be proven. Under the provisions which you have mentioned, such as trafficking, there is a qualified reversal of onus of proof. I do not have the provisions currently before me. It would be worth the government explaining how the reversal of onus of proof operates. I am sure they can do that. It does so only in certain areas. We will leave that to the government to do.

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (11.18 am)—I am not sure if Senator Ludwig had a question. Senator Brown had a question about possession. I have indicated that there is no reversal of onus of proof in possession offences, which
is what Senator Ludwig has confirmed. If you can give me the particular section you are referring to, I will have a look at it.

**Senator BOB BROWN** (Tasmania) (11.18 am)—How does the government discern between possession with the intent of trafficking and possession with the intent of personal use? That is what I am really asking the minister about.

**Senator IAN MACDONALD** (Queensland—Minister for Fisheries, Forestry and Conservation) (11.18 am)—I am trying to locate the section, which I have asked Senator Brown to help me with. Not having that help, my officials are trying to find the relevant sections of the bill. There is a presumption of commercial purpose where a trafficable quantity of drugs is involved. It is a rebuttable presumption. But these sorts of issues would almost follow as a matter of logic, one might say. Where a trafficable—which obviously means ‘large’; although I am sure it is better defined than ‘large’, but that is good enough for my purposes—quantity of drugs is involved, the drugs are presumed to be for commercial purposes. That is a rebuttable presumption, so the defendant or the accused can prove that they just happened to be carrying around a large quantity of drugs for fun and not for commercial purposes. If they can prove that to the courts, they will be all right. But there is a commonsense view—one might say in fairly broad language—that, where there are big quantities of drugs involved, they are presumed to be for commercial purposes.

**Senator BOB BROWN** (Tasmania) (11.20 am)—I will ask the minister specifically about concerns that come from a group of parents whose children have been involved with drugs. In the example of somebody with maybe eight or 10 tablets of ecstasy which she or he intended to share with friends, is there going to be a Commonwealth imposition on them to prove that they were not going to traffic those drugs? Secondly, would that come within the purview of this legislation or would it be left to state and territory legislation if it involved a domestic arrest?

**Senator IAN MACDONALD** (Queensland—Minister for Fisheries, Forestry and Conservation) (11.21 am)—Senator Brown, I do not think you were in the chamber at the time, but I indicated that the jurisdiction of the states is not altered by this. Where it is relevant to the federal act, by way of explanation I refer you to clause 302.5 of the bill, which says:

For the purposes of proving an offence against this Division, if a person has:

(a) prepared a trafficable quantity of a substance for supply; or
(b) transported a trafficable quantity of a substance; or
(c) guarded or concealed a trafficable quantity of a substance; or
(d) possessed a trafficable quantity of a substance;

the person is taken to have had the necessary intention or belief concerning the sale of the substance to have been trafficking in the substance.

It goes on to say that that subsection:

... does not apply if the person proves that he or she had neither that intention nor belief.

I am trying to get my officials to point out to me, so I can point out to you, the definitions of trafficable quantities. As I understand, they are in the schedule and they are different amounts for different substances. I am told that, in the schedule, MDMA—Methylenedioxymethamphetamine—is the ecstasy pills, which I think you specifically asked about. In the schedule you will see that a trafficable quantity is 0.5 grams, a marketable quantity is 100 grams and a commercial quantity is 0.75 kilograms. I am also told that the quantities in the schedule are a consolida-
tion of the state legislation that is already in place.

Senator BOB BROWN (Tasmania) (11.25 am)—Because I talked about tablets and the minister is talking about grams and kilograms, I will come back to the submission which went to the committee looking into this matter from Families and Friends for Drug Law Reform. That group, which includes parents who have youngsters who have gotten into trouble through the use of drugs, said that the legislation imposes draconian penalties of many years of imprisonment and huge fines for actions that many young people engage in. For example, the party-goer who buys two tablets on behalf of each of her four friends for a night out would be treated as a serious drug trafficker. Could the minister comment on whether the concern of Families and Friends for Drug Law Reform is a real one or whether that number of ecstasy tablets, for example, would not come within the definition of trafficking and therefore would not come within the penalties that apply here or the reversal of onus of proof?

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (11.26 am)—I must confess that I do not know how many grams are in a tablet of ecstasy. I must confess to never having seen one, so do not ask me those things! I can only tell you what is in the legislation. If you have the knowledge, you can convert the quantity of grams to the number of tablets. The legislation deals with weights and quantities. You will have to make your own interpretations. Again, in relation to your questions, I refer you to the provisions of the bill—specifically clauses 302.1, 302.2 and subsequent paragraphs of the bill, which really do answer the questions that you have asked. For example, clause 302.1 states:

(1) For the purposes of this Part, a person traffics in a substance if:

(a) the person sells the substance; or
(b) the person prepares the substance for supply with the intention of selling any of it or believing that another person intends to sell any of it; or
(c) the person transports the substance with the intention of selling any of it ... or
(d) the person guards or conceals the substance with the intention of selling any of it ... or
(e) the person possesses the substance with the intention of selling any of it.

The clause goes on to say:

(2) For the purposes of paragraph (1)(b), preparing a substance for supply includes packaging the substance or separating the substance into discrete units.

Clause 302.2 then says:

(1) A person commits an offence if:

(a) the person traffics in a substance; and
(b) the substance is a controlled drug; and
(c) the quantity trafficked is a commercial quantity.

The penalty as shown is:

Imprisonment for life or 7,500 penalty units, or both.

The next clause talks about a person committing an offence regarding marketable quantities if:

(a) the person traffics in a substance; and
(b) the substance is a controlled drug; and
(c) the quantity trafficked is a marketable quantity.

Again, substantial penalties apply.

These are examples. We can go through and read out every clause of the bill, but I know you have already read it, so there is no great benefit in that. I am just giving examples. Going on to clause 302.5 and the presumption that you are inquiring about: for the purpose of proving a defence against a decision, if a person has prepared a trafficable quantity of a substance for supply or has transported or guarded it et cetera, the person is taken to have had the necessary intention...
or belief concerning the sale of the substance to have been trafficking in the substance. It goes on, as I indicated before, to say that that presumption does not apply if the person proves that he or she had neither that intention nor that belief. So you are right—in these very serious and I might say quite obvious provisions, there is a reversal of the presumption of proof. It is rebuttable. But, again, in simple and non-technical language, where people have a quantity of drugs that one would not normally expect a person acting lawfully to have in their possession, there is a presumption that there is a problem. That presumption can be rebutted.

Senator BOB BROWN (Tasmania) (11.31 am)—One knows that proving intent is the most difficult thing in the world. I have not seen an ecstasy tablet either. One thing that worries me—and the minister has eight advisers and there are a number of senators watching this debate—and that we have to be very clear about is the experience of kids or young people who get caught up with the use of drugs for a period of time and end up being marked as serious criminals as a result of misadventure. That is not a good outcome. It is much better that they be diverted and retrieved from a potential situation—and, of course, the vast majority of people are. On the other hand, serious drug traffickers should be jailed, full stop.

What I have not been able to get assurance about for the community group Families and Friends for Drug Law Reform from the minister, and I ought to be able to at this stage, is whether a young person who is a partygoer and who gets eight ecstasy tablets might fall foul of this law and find herself having to prove that she did not have the intent of selling those tablets rather than distributing them to her friends. My counsel to the young person, of course, would be, ‘Don’t get the tablets in the first place.’ But the reality is that they are available widely. I am told, in our community. Part of the merit of legislation like this is to try and stop that availability.

There is a clear analogy with the strong effort that I and the Greens have been putting into trying to stop sniffable petrol being available. That is devastating young people in Central Australia. I share a concern that youngsters can get caught up here, have the difficulty of reversing the onus of proof and be marked with a criminal record when there was no intention to traffic and make money out of drugs but, rather, to be foolishly or otherwise involved with them on a night out.

I also ask the minister two other things. He is quite right in telling us that the laws are companion laws with those of the states. But one of the questions which has arisen through the Senate committee inquiry is whether this sets down the ability for the Commonwealth to override state laws in the future—that is, for domestic drug use. The second question I have is: does the Commonwealth maintain its policy of harm minimisation when it comes to the use of drugs in Australia?

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (11.35 am)—Senator Bob Brown, we are well aware of your party’s policies on drugs. I think they were well exposed prior to the last election by an investigative journalist in Melbourne. I do not know and my officials do not know what eight ecstasy tablets might weigh. I am told that there are different sorts of ecstasy tablets and different strengths. The bill deals with precise quantities and weights.

You raised the issue of someone innocently going to a party with eight ecstasy pills. I do not know the technical answer and I should not get involved in technical questions, but that would seem to me as an ordinary citizen, perhaps old-fashioned, to be a pretty silly thing to do and quite a serious
thing to do. But then, I am not into that scene and I do not quite understand it. I think most Australians would think that popping along to the local disco with eight pills in your pocket that could cause severe and lasting damage to young Australians is not a very sensible thing to do. Many would think that that would be a very serious and criminal thing to do. But, as I said, that is what most Australians would think and that is perhaps what I would think in a non-technical way.

You asked about the broader issue of combating the trafficking and abuse of illicit drugs. The offences in the bill aim to reduce the supply of illicit drugs. Other components of the National Drug Strategy aim to reduce the demand for illicit drugs by funding drug treatment programs and drug education programs. Some examples of the drug treatment and education programs funded by the government are the Non-Government Organisation Treatments Grants Program, which has federal funding; the National Illicit Drugs campaign, which educates the community; the National School Drug Education Strategy, which builds on state and territory initiatives in drug education in schools and the Illicit Drug Diversion Initiative, which—as I explained earlier in the debate when you were not here, Senator Bob Brown—provides opportunities for drug users to be diverted from the criminal justice system to get the education, treatment and support they need in addressing their drug problem. The National Drug Strategy is achieving results, I am proud to say. Research has shown that there are fewer people using illicit drugs, there are fewer people dying from drug overdoses, more parents are talking to their children about drugs, more people are accessing treatments for drug use and more drug users are being diverted from jail to drug treatment programs.

Senator Bob Brown asked about the selling of drugs. It is considered a very serious criminal act under this legislation. The penalty for selling a small amount is less than for selling a large amount. In our system, individual circumstances are considered by judges when sentencing. The legislation does have maximum penalties. As I have mentioned, possessing drugs with the intent to sell is also a serious offence. We have been through those sorts of things.

Senator Bob Brown also raised the question of whether offences in this bill override state and territory drug offences. As I have mentioned, the state and territory offences will continue to operate alongside the new federal offences and they will provide law enforcement agencies with much more flexibility than they currently have. The approach of having overlapping federal and state offences will make it absolutely certain that there are no jurisdictional gaps between federal and state laws that can be exploited by drug dealers. Some clever, well-financed drug dealers, which some very small sections of our community seem to ignore, have been finding gaps between the state and federal jurisdictions and keeping themselves out of jail through those gaps. The idea of having coordinated drug laws between the state and federal agencies is something that this bill intends to address. It is something that has come to the fore through the Standing Committee of Attorneys-General which has been looking at this and recommended this sort of approach.

It is not the intention of the bill to increase the Australian Federal Police’s jurisdiction over drug offences or to take over the role of state and territory police. Drug offences will continue to be investigated in accordance with the established division of responsibility between the AFP and state and territory police. Overlapping federal and state offences are not uncommon. This approach has been taken in other areas such as combating terrorism, fraud, computer crime, money-
laundering and sexual servitude offences. This filling of gaps by having complementary and overlapping state and federal laws is a fairly common approach that governments adopt these days in attempting to combat criminals who are more clever and better resourced than we have ever had before and in dealing with those major modern offences—one might almost call them—of terrorism, fraud, computer crime, drug trafficking, money laundering et cetera.

Senator BOB BROWN (Tasmania) (11.42 am)—Except to say that the Press Council found that the Herald Sun article that the minister referred to as having been wrong and having misled voters last year, I am not going to enter into the sort of debate the minister might want because it is important that we keep this on an information basis and ensure that the Australian citizens get a good outcome. One thing I will not be party to, however, is a suppression of debate through the fear that even talking about alternatives when it comes to the massive problem of drug abuse in our country and around the world will see you labelled in some way or other as being soft on drugs or wanting to promote drugs. In fact, I abhor the use of drugs as a cause of harm in the community. That extends beyond the purview of this legislation to the massive cost caused by alcohol, for example, which is advertised with massive expenditure to the detriment of the community that we live in.

I was told by a caller that this law can catch somebody with five ecstasy tablets. We are aware of the current case in Bali of the young Australian who has been caught with a couple of tablets.

Senator Ian Macdonald—That is not under Australian law, if you have not worked that out.

Senator BOB BROWN—The minister says it is not under Australian law. What I was about to say is that I find her circumstances dreadful, to say the least. My heart goes out to her, but that does not mean that I am a supporter of anybody who wants to experiment with or use drugs. That is a case in point. I am concerned that this legislation may catch somebody, as Families and Friends for Drug Law Reform have pointed out, with an amount that is specified in the bill and they can be charged as a trafficker and have to reverse the onus of proof. It is really difficult to set the lines here. This legislation struggles with that but the government has to do that. I do not have a concern about that, but I think we should debate the checks and balances in here without being accusatory of each other.

The minister says he has not seen an ecstasy tablet, nor have I. That is one level of concern because our ignorance has to be overcome with information from the community and through advisers to make sure that, in our ignorance, we do not make mistakes with legislation like this and that we do understand that there are problems, no matter where you set the checks and balances. There will be problems and we need to talk about them in a mature fashion.

The question I asked about the balance between state and federal law, which I recognised, was: is this legislation able to be used to override state law by some amendment or in some regulatory fashion? I think I am hearing from the minister that that is not the case. The second question I asked was: is the government’s policy of harm minimisation maintained?

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (11.46 am)—Senator Bob Brown referred to harm minimisation. I have just checked with my advisers about whether that has a technical meaning. As I am not the minister normally responsible for this, I do
not want to mislead the Senate on a technical term by misunderstanding it. As far as my officials are concerned, there is no technical meaning of harm minimisation. Again I refer Senator Brown to the programs that I referred to in the answer to the previous question and indicate that the government is tough on drugs. There is a multifaceted approach to drugs and drug use which involves education, diversion and various campaigns to educate the public. They are all in place. I have mentioned them before and I will not repeat them now.

Senator Brown, I was not making any allegations about you. Perhaps you have a sensitivity and you feel that you have to out yourself and then deny the issue. I did not say anything. What I do say is that the people of Australia well understand what your party stands for or does not stand for. That is not for me to comment on, except to say that I trust the Australian public and I think they made their views pretty clear to you and your group at the last election, when you did very poorly by comparison. That is not my judgment; that is a judgment for the Australian public and, more often than not, they get it right.

I hear what you say about not supporting drug use and I accept what you say about that. This legislation is about governments who have responsibilities, the duty and the ability to try and help attack this real problem in our community bringing forward legislation. The bill before us now has been well thought through, not just by Commonwealth officials but by state and territory officials too. A lot of consultation has gone into this. There are enormous problems and this bill will address some of the problems. It will give us some better tools to fight and stop some of the drug bosses and criminals from escaping through gaps that have been found in the past.

Senator Brown can again go on about what might happen in another country. As I made clear with my interjection, I am not here to debate the laws in another country; I am here to talk about a bill that the Australian parliament is about to pass that will address some of the problems. I do not have knowledge, and neither do my officials, about whether 4½, five, eight or a truck load of ecstasy pills is a problem. One would assume that a truck load is a real problem, and that is what these rules are about. Where the dividing line is is a matter for the court. Of course, in Australia we are blessed with the British court system that gives everyone the opportunity to put their cases before the court. I do not think anyone has ever been able to think of a better system of justice. Our system is not always perfect, but no-one has ever been able to think of a better system. In Australia we have checks and balances. This bill has checks and balances. If you are trafficking in huge quantities of drugs, you are presumed to be doing the wrong thing, but you can rebut that if you have a good excuse and an Australian judge and jury, as appropriate, would be able to determine that.

Senator BOB BROWN (Tasmania)
(11.50 am)—I do not know what planet this minister and his cloddish reaction come from, but the Greens actually have four senators here now, whereas we had two before. Our vote went from 500,000 to 900,000-plus. That is the fact of the matter. The point I was making was that there is a serious ignorance about what is actually happening with young people and it needs to be debated. The problem is that the response we just got from the minister is meant to effectively close down that debate, but there are parents, for example, who have submitted to this debate and who are hurting because their kids have got into trouble, and some of them are not even with us any more. It is a disaster when that
happens. We are not going to get around that by being accusatory in the way that the minister has led this debate, simply because I asked some questions that came from a family group that has experienced tragedy as a result of the use of drugs and which is concerned that young people who experiment with or take drugs get past that.

The minister mentioned education and diversion. That is harm minimisation. Instead of jailing people who get caught up with this you have an education and diversion program. Let me put it on the record, because the minister does not know: that is Commonwealth policy. It is also Greens policy. It is the same. I suspect it is Labor Party policy.

Senator Ludwig—It is.

Senator BOB BROWN—And the Democrats have been advocates of this for many years. For goodness sake, let us talk about that sensibly. The Commonwealth funds just such harm minimisation programs in the states to stop people going to jail and to divert their lives to a more positive outcome when they are caught with drugs. All I am asking here, in response to an inquiry from outside, is: can this legislation catch people with small amounts of drugs whereby they are caught in a reverse burden of proof in a court? The answer is yes, but we cannot get any definition on that. The legislation is necessary to stop international drug trafficking. We all want to stop that. We have to be concerned about people who might get caught at the margins, because when that happens it becomes a serious matter which is life diverting in the wrong direction for young Australians. That is why I asked the questions.

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (11.53 am)—I do not know that there was a question in that last statement. You always know when Senator Brown is struggling because he comes out with the personal abuse that he has just demonstrated.

Senator George Campbell—Oh!

Senator IAN MACDONALD—It does not worry me at all. When the adjectives start flying you know Senator Brown is struggling. Senator George Campbell, you are always struggling because all you can ever contribute is personal abuse and thuggishness to any debate. You know that is absolutely correct.

Senator Brown, the only thing you said in your speech on the second reading, which you apparently gave just then, was that you had a disagreement with me on the results of the last election. There is a third group who do not like the Labor Party and the Liberal Party, and they vote for the Greens or the Democrats. And they left you both in droves at the last election. I remember before the last election when you were telling everyone that you were going to have a senator from each state. You were going to have eight senators here—nine, 10.

Senator Ludwig—They did all right.

Senator IAN MACDONALD—They did not even get what the Democrats lost. How can that be all right? Their general policies are not the same. I have not heard the Democrats as specific on their drug policy as perhaps the Greens have been. There do not seem to be any other questions about the bill. I thank everyone who has been involved. It is important legislation. It will take the fight up to those who are trafficking drugs and those who are involved in serious drug offences. I thank the Senate for its support.

Senator LUDWIG (Queensland) (11.55 am)—The opposition, as the alternative government, took seriously the issues that Senator Brown raised during this whole debate, both at the committee stage when we first looked at the legislation and then when we
subsequently referred it to a committee for examination. The submitters also raised a number of those issues, particularly in relation to harm minimisation. I will go on to elaborate a little further some of the other issues they raised because the matters that Senator Brown raised are serious and it is a requirement to have a serious debate about this.

There is need for effort to ensure that a number of things occur. Harm minimisation includes the justice part of it. It includes ensuring that there is protection at our borders and that significant work is being done by law enforcement agencies to reduce the traffic of drugs in order to prevent drugs getting into the hands of kids and other people. That is part of it. Harm minimisation also includes, as Senator Brown rightly points out, ensuring that there are harm minimisation programs in place. Only recently the Commonwealth announced a range of programs to ensure that these programs were in place. The states also shoulder their burden of responsibility quite seriously in ensuring that there are pre-court diversionary programs in place in this area and, as Senator Brown mentioned, that there is the ability to steer people away from jail, depending on the type of offence. Law enforcement agencies and the Director of Public Prosecutions do have to play a serious role in ensuring in context that those people involved in serious drugs, drug trafficking and drug pushing are caught and punished accordingly.

Harm minimisation also includes court diversionary programs, and that is another area where there is the ability under the federal legislation, the Crimes Act 1914, to ensure that in some instances—those that warrant it, those argued and recognised by the courts—that there can be court diversionary programs. In my speech on the second reading I went to some of those provisions in the Crimes Act 1914 which provide for court diversionary programs where offenders can be diverted from going to jail or having jail used as a penalty, depending on the nature of the offence. I am not going to go into what that might be, because that is a matter for the court to determine at a particular time and in relation to a particular individual. The court can take a range of issues and factors into account in sentencing. Sentencing has a significant body of law attached to it and the courts exercise a significant oversight of that.

The point I am making is that there are provisions in the Crimes Act, which I mentioned in speech on the second reading, that ensure that there are alternatives to jail as a penalty. They can include good behaviour bonds and programs and a range of other things to ensure that there is total harm minimisation. In other words, it stretches as a continuum. That is what the answer should have been from the government. That is how they should have answered the question. They should have been able to point to some of the programs they have in place. It is not my job to do it for the government. It is a shame, Senator Ian Macdonald, that you do not do that and that your advisers do not provide you with that information to be able to assure us that there is a range of programs.

Senator Ian Macdonald—I went through the list. You must have been asleep.

Senator LUDWIG—There are three elements. You did not address all the elements. There is the justice element of harm minimisation, there are the pre-court diversionary programs and then there are the post-court or court diversionary programs. You also have not gone to the general view of how you then address it in a broader community based approach to ensure that there is information put out that is not just a glossy poster—that the information is relevant, targeted and appropriate.
Another area you did not mention was the role that Customs play. They do significant work, and I congratulate them for their border protection work. If you go to their website—you do not have to go to a party to stumble across a tablet—you see that Customs do have significant information available about identification and the types and ranges of these kinds of things. That is the nature of their work. They come across these types of things and they ensure that the public can be informed about them. It is also part of their frontline efforts to ensure that there is wider community support, that there is an attack on the drug trade and that there is a stop to all of this.

As is their wont, the government can always do more—there is no argument about that—and we always urge the government to do more. The point that I am making is that the government should take this debate seriously—more seriously than Senator Ian Macdonald has taken it—and their responses should have included some of the things I have talked about today.

Question put:
That the amendment (Senator Ludwig’s) be agreed to.

The committee divided. [12.06 pm]
(The Chairman—Senator JJ Hogg)

Ayes .......... 30
Noes .......... 33
Majority ....... 3

AYES


NOES


PAIRS


* denotes teller

Question negatived.
Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (12.10 pm)—I move:

That this bill be now read a third time.

Question agreed to.
Bill read a third time.
BUSINESS
Consideration of Legislation

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (12.11 pm)—I move:

That the Defence Legislation Amendment Bill (No. 2) 2005 and the Aboriginal and Torres Strait Islander Heritage Protection Amendment Bill 2005 be listed on the Notice Paper as separate orders of the day.

Question agreed to.

MIGRATION LITIGATION REFORM BILL 2005
Second Reading

Debate resumed from 11 May, on motion by Senator Coonan:

That this bill be now read a second time.

Senator LUDWIG (Queensland) (12.11 pm)—I rise to speak on the Migration Litigation Reform Bill 2005, which has taken a while to get into this chamber for us to deal with. It has certainly been sitting on the Notice Paper for some time now, and I am pleased to be able to rise and speak on it. Labor supports much of the intent of the bill. Labor supports the object of the bill, which is to improve the efficiency and general operation of the legal process in migration matters. Labor believes in, and has always supported, the proper and just operation of the way migration litigation works, in order to facilitate the more speedy operation of the migration litigation process.

In relation to this legislation, some concerns have arisen. I will begin by renoting several concerns that Mr Laurie Ferguson announced way back in March—some time ago now—about the government not making the report of the Penfold inquiry available to the public. Labor urgently requested that the government make that report available and continues to make that request. In fact, I have made that request probably more times than I need to recall, at estimates and post that. The department has a new secretary, Mr Metcalfe, who is trying to turn a battleship around in a creek. The culture is one area where the government could make a positive commitment, and it could release that report. It could indicate that in fact it has changed its ways, does not operate in a culture of concealment any longer and wants to bring forward the Penfold report and make it available to the public. That would be a positive contribution to changing the culture within the department. But I doubt that DIMIA will in fact do that. I doubt Senator Ian Macdonald has a copy of the Penfold report on his table and is prepared to table it today so that we can have a look at it.

In relation to the view, which Mr Laurie Ferguson raised, that the time limit provisions contained in this bill are similar to the ones in the previous bill, we still consider that they may be unconstitutional. He also made the point that the imposition of time limits had the potential to effectively give some applicants only an illusory right to judicial review, and that is of itself a concern. These were among a number of concerns that were announced.

I take the opportunity to reiterate Labor’s commitment to the principles of this bill and to raise some of Labor’s concerns about how the bill will operate in practice, especially with DIMIA. You might be persuaded to adopt it in other circumstances—I am not sure after my experience with the Cornelia Rau matter, the Alvarez matter and the range of other matters. If we look at some of these issues in the light of, say, the matter where a number of detainees were locked up in a van for a significant time during transportation, together with the detention centre regime, the Senate may forgive me for looking through a slightly jaded prism at how this bill might be chosen to be implemented by DIMIA. That is where, in part, the concerns lie about the
practical way that these things will sometimes be progressed.

I have not yet experienced sufficient time with Mr Metcalfe in control of the ship, so to speak, to know whether he can in fact turn the battleship around in the creek, but it is reasonable to give him an opportunity to try to do so. I have said occasionally before this that I do not think it will be an easy task with the current minister and the culture of the department. Mr Comrie hit the nail on the head when he said that the culture of the department commenced—if he did not quite say ‘commenced’ then I think you could infer it from his report—in about 2001 or could at least be identified from that point and moved forward through Mr Ruddock’s time as minister to the current minister, Senator Vanstone.

Before I talk about some of the substantive issues, I would like to note some comments from Mr Ruddock in 1992, when he was the then opposition spokesperson for immigration. When discussing what he then described as a crisis in assessing refugees, a crisis which can easily claim to have been caused by thousands of claims of Chinese nationals seeking to stay in Australia, Mr Ruddock attacked the Keating government for seeking to blame lawyers and refugee organisations. Specifically, he said:

I want to make it clear that I do not put the blame on the legal profession. I do not find it in the least surprising that those in the legal profession—given their duties and responsibilities, given the nature of the training that they receive and given the employment difficulties that so many of them have in this recession, also a Government creation—use their creative endeavours to find their way through the system that the Government puts in place. That does not surprise me in the least. The lawyers have to be sufficiently adroit and flexible to be able to make the changes to deal with that situation. The Government cannot bleat about the fact that they find ways through the system. It also cannot complain that the refugee organisations would seek to offer advice and assistance because that is exactly what I would expect them to do. So we have a situation in which the then shadow Attorney-General in 1992, who became the current Attorney-General, criticised the Keating government for attempting to apportion some of the blame for the crisis to the lawyers and advocates. I have to say, reflecting upon what he said then and what he has done since then in the immigration portfolio and as Attorney-General leaves me somewhat stunned sometimes that it is the same person—maybe he had a brother at that time!

The ALP congratulates the government on its change of policy on this front and for its eventual realisation that the activities of such advocates could indeed have the—intended or not—effect of prolonging the process and preventing a streamlined system from operating. That is a view he also criticised. You have to reflect on that in the light of the current circumstances, but he is entitled to change his view, I suspect. Labor has previously supported reforms for improved efficiency and speed of migration litigation. Indeed, our 2002 policy, Protecting Australia and Protecting the Australian Way, contains a number of proposals that are consistent with although not necessarily identical to the reforms outlined in this bill. Some of those are worth repeating here. For example, they include inserting a provision that limits the conduct of review of refugee decisions to the Federal Magistrates Court and removing the right of appeal to the Federal Court, a proposal that the legislation should encourage the High Court to remit applications relating to the review of these matters to the Federal Magistrates Court, and provision for cost orders against lawyers and migration agents who encourage litigation with no reasonable prospects of success. All of these points are
present in the bill to some extent, either in principle or with minor changes.

The first and second points I have just mentioned include the streamlining of relationships between the courts. The bill adopts the position of simultaneously allowing for the High Court to remit matters to the Federal Magistrates Court and widening the jurisdiction of that court to more closely match the jurisdiction in this area which the High Court is afforded by the Constitution. Labor believes that this reform would accomplish the task of streamlining the interaction of those courts on migration, immigration and refugee matters by reducing the overflow of refugee appeal cases to the High Court instead of having them dealt with in a lower court. As also mentioned, this is consistent with the ALP policy on this issue. The ALP believes that the streamlining of the appeal process is well served by the removal of the right of review of refugee decisions.

Going to the third point I mentioned, the bill provides power to the courts to summarily dismiss a case where there is no reasonable chance or prospect of success. This is a broadening of the power that the courts currently possess in this area. At the moment the courts possess the power to dismiss a case on the grounds of whether or not the case is fit to go to trial. The bill would significantly broaden the scope of this power. In this way Labor believes that there are several reforms that have much merit, are well designed and will go a long way to achieving their stated goal, that being the improvement of the efficiency of the court and the migration process generally.

Many of the reforms, as I have said, do have merit. For instance, some examples of reform in this bill will include streamlining the relationship between the courts to encourage applicants towards the FMC, the Federal Magistrates Court, and away from the High Court and Federal Court; reapplying time limits on applications for judicial review; and reforms to the management of the Federal Magistrates Service. Labor supports the goal of streamlining the process of judicial review and the reform of unnecessary delays in these matters. Everyone should be expected to have a speedy result, a determination without undue delay, and a streamlined process that is reasonably easy to follow through. Labor believes that people deserve to be given certainty about the outcome of their applications, and many of the provisions contained in the bill do go a long way towards providing that certainty.

Labor also recognises that there is a distinct possibility that some departmental officers might take advantage of the provisions allowed by the act. This is always a difficult area to go to in a speech such as this. You should always be in a position to guard against circumstances—you would expect reasonable legislation to also guard against such circumstances—where officers within the department may act fraudulently or maliciously. That is not to smear the department or its officers—and I have to temper this again. Notwithstanding the Comrie and Palmer reports, I am sure the vast majority of officers work competently, diligently and in accordance with the legislation. My beef in this area is as much with the minister as with anyone else. These sorts of safeguards should also be included to ensure that where there might be a slip then that can also be dealt with in the legislation in a sensible way.

As we have seen too often recently in the cases of Alvarez and Rau, amongst others, there are significant concerns about the exercise of the discretionary power of migration officers and the culture of the department in general. I will not revisit that; I think I said enough of that in my opening remarks and probably elsewhere as well. Labor is justifiably wary of the manner in which certain
DIMIA officers may choose to conduct themselves under the provisions of this new bill. Ultimately, Labor’s view is that in any instance where an incorrect decision has been reached due to malice or fraud on the part of a DIMIA officer it is unjust that that decision be allowed to stand. It is certainly true that we have already seen many examples that could amount to that behaviour and it is also true that we know from these examples that the uncovering of these instances can take some time to occur. It can certainly take more than the 28 days afforded in this bill. Because of this, Labor is concerned that the imposition of arbitrary time limits will be seen as, and indeed will become, a de facto award for those perpetrating the unjust behaviours that I have mentioned, or they may do so.

In terms of the other areas, I reiterate Labor’s concern regarding the 84-day time limit imposed by the bill. In Labor’s view this time limit has a very distinct possibility of being seen as offering only an illusory right of judicial review, which would not be consistent with the Constitution. In that way the imposition of artificial time limits on the bill, in Labor’s view, raises serious constitutional issues which need to be addressed. Does the time limit provide a real right of judicial review or does it strip back the right and so become largely illusory? It is a question that, in the summing-up speech, the minister may also wish to tackle. In other words, there is not a real and substantive right of judicial review. A question that the High Court may eventually have to determine in relation to this legislation is whether it provides for a right of judicial review in an illusory sense, and in the summing-up speech the minister may want to give us some guarantees. But no guarantees can in truth be given when it comes to the High Court, and that also raises the question of whether this legislation, as it is currently drafted, is as tight as it could otherwise be.

I reiterate the ALP’s longstanding commitment to look at serious and genuine reform of the operation of the migration litigation process. We have looked very hard at the Cornelia Rau and Alvarez matters and other matters that are raised. We have now got the Ombudsman coming forward with another 221 cases for examination. Not all of them will be bad, I am sure, for Senator Vanstone but I suspect that some will be. She should take significant cognisance of those cases and do what I have often called for her to do—and I will not call again to frighten her into another refrain from her famous song. In terms of the process, Labor has maintained a consistent approach to this. We will look at serious reform. We will look at ensuring that anything that can be done to improve the process will be done.

I know that Senator Bartlett will contribute to this debate also. The Democrats have been there with Labor on migration matters for some time. Senator Bartlett has been on numerous committees with me since early 2000, when we did A sanctuary under review, which was my first examination into DIMIA. When I recall it, I do not know whether much has changed—certainly a lot more has come out about DIMIA. So the task for DIMIA is to go right back, in Labor’s view, and have a look at all of those matters. Maybe the new DIMIA officers have forgotten some of the issues that were raised back then—I do not know. I would certainly point them back to have a look at those issues and to have a look at the ministerial discretion inquiry that I chaired and some of the recommendations that came out of that as serious issues that should be taken into consideration in this area. They should also look at reform more broadly than, as they are doing now, simply taking the Comrie and Palmer reports and the following Ombudsman’s re-
ports, to ensure that there is a better outcome in this determination process that they undertake on behalf of the Commonwealth. The ALP supports any attempt to address these concerns but at the same time we note the problems in the current bill.

Senator BARTLETT (Queensland) (12.29 pm)—The Migration Litigation Reform Bill 2005 is another piece of legislation aimed at amending the Migration Act. The stated intent of the government is to try to improve the overall efficiency of migration litigation because of concerns about the high volume of migration cases, so-called unmeritorious litigation and delays impacting on the Federal Court, the court system as a whole and the migration system as a whole. There are a number of different facets to this legislation, and I could say a lot about it. I will not get to conclude my remarks before we hit the lunchbreak at a quarter to one.

In summary terms, to put it very simply, the vast bulk of this legislation and the measures within it, I think, are just plain stupid. This bill, inasmuch as it will have any effect on the amount of legal action, will lead to more legal action, not less. Surely, after all the shambles in the migration area, it is about time that we took a step back and said: ‘Maybe we’ve been going in the wrong direction. Maybe we should look at the other end of the process rather than continue to perpetuate the myth that somehow the burden on the courts is all the fault of people abusing the system, encouraged by a bunch of so-called dodgy and greedy lawyers.’ Maybe we need to go back and ask, ‘Why is it that these cases are before the court?’ I would say that it is because of badly thought out, politically motivated legislation like this and a range of other bills as stupid, as counterproductive and as politically motivated as this one that have been put forward time and again in the past.

I draw attention to the committee report on this legislation. The legislation, as Senator Ludwig said, has been around for a while. The Senate Legal and Constitutional Legislation Committee reported on it back in May this year. It is quite a good report, and I would urge people to read it. As part of that inquiry process evidence was given by an acknowledged expert in this area of law, Dr Mary Crock, who stated that Australia has one of the smallest bodies of refugee claims in the world and that the number of people seeking asylum on Australian soil is lower than in most other developed countries in the world. Despite this, we have proportionally one of the most astonishing loads of cases in the courts.

Why is it so? It is certainly not because the people who seek asylum in Australia are much more prone to so-called abuse of the system than they are in other countries or that we have a whole bunch of lawyers in Australia who just love taking unmeritorious cases to court. Surely now the evidence is clear: it is because the decision-making and determination process at the start is so flawed. We hardly need any more evidence publicly of the wide-ranging flaws found throughout DIMIA in the initial decision-making process in many cases. How about we look at why that is rather than continue to strangle more and more the neck of the court system? It will not work. All the different legislative changes in the past have also not worked.

We need to step back, cut the myth making and look at what is going wrong. We all now acknowledge—and even the government acknowledge in large part—that a lot has gone wrong in DIMIA and in the administration of our migration system. The only part where the government do not concede that anything has gone wrong is with themselves, with their own policies and their own law. Until we get that acknowledgment—that
it is the law and the policy that drive the culture of the department—then we will continue to fall short of the significant change that needs to happen. The fact that this legislation is still being pursued after the Palmer report, after the Comrie report into the Vivian Solon debacle and after a range of other cases that have now become public suggests that all the talk of culture change that the government is going on with is, if not a con or a facade, certainly only partial and very much inadequate and incomplete. The culture change in the government’s and the minister’s attitude is clearly still lacking.

There are a couple of okay parts to this bill. I should emphasise that the Democrats are not opposed to directing migration cases to the Federal Magistrates Court. It is a fair enough measure and should alleviate the burden on the High Court. It has to be said that the reason the High Court is so burdened with migration cases is specifically that Labor and the Liberals in this place combined to pass a law that forced all the migration cases to go to the High Court. And then they wonder why the High Court is so burdened with migration cases. Extraordinary! This legislation enables cases to be directed to the Federal Magistrates Court. As long as that court is adequately resourced and has the adequate expertise—and I think it will have to develop that a bit over time—that is okay. Ensuring identical grounds for review as a follow-on from that is okay. I think that about dispenses with the good bits.

The other much more significant and key measures in the legislation are of major concern. It should be emphasised that the overwhelming majority of evidence that was presented to the committee inquiry expressed strong opposition to key aspects of the bill. That evidence was from the people who deal with this area day after day. Yes, a lot of them are lawyers, but the idea that there are all these dodgy lawyers out there pushing unmeritorious claims through the courts is just a joke. If you want to make money in the law you certainly do not run pro bono migration cases in the courts. That is a sure-fire way to bankruptcy, frankly.

This government should be down on its knees giving thanks to the lawyers and migration agents who, time after time, have fixed up the messes, the debacles and the shambles caused by poor decision making at the primary level. We have a Senate inquiry under way at the moment into the administration of the Migration Act. We know that there are hundreds and hundreds of problem cases. You cannot get away with the myth that says, ‘It was just Cornelia Rau,’ or ‘It was just Vivian Solon,’ or ‘It was only a couple; everyone makes a few mistakes.’ There are hundreds of them. There are 220 cases before the Ombudsman just of people who may have been wrongly detained. There are hundreds and hundreds of cases of hopeless mistakes at the initial decision-making stage.

Let us also look at the impact of some of the other measures that have been taken over the years. Because of this bizarre fixation on the idea that lawyers or migration agents trying to advise people of their rights under law are somehow up to no good and that we have to stop people finding out about this stuff, we have had laws passed—again, by both major parties—that prevent people from being given information about what their legal rights are unless they specifically ask for it. People in detention, people locked up indefinitely without trial or charge, cannot be informed of their legal rights unless they know to ask.

Evidence has come through, time and time again, that in many cases mistakes have been made in the early stage or mistakes have been made at the tribunal because the initial information, the initial presentation of the
case, was not put forward properly. It was not put forward properly for people—and not just asylum seekers—because those people had not had proper advice at the start. They had had somebody giving them a bit of bush lawyer information, or they had had people saying, ‘Oh, you’d better do this,’ or they had been getting nods and winks from people all over the place. If things go wrong at the initial stage, it can take years to unpick it all when people who have the expertise actually get involved. If people were given enough assistance through increased funding for legal aid and increased encouragement to provide that advice, whether pro bono or otherwise, all the information would be properly presented at the start and a proper decision would be made at the start. That would save everybody an enormous amount of stress, heartache and expense, and it would alleviate the burden on the courts.

Migration agents, lawyers and people who are having problems with the Migration Act are people who hate the courts being clogged up more than anybody else. They do not like unmeritorious claims. They do not like having delays. It is about time there was recognition that everybody wants things to work better. There is not a bunch of people out there trying to dodge the system all the time. If we could get rid of this culture of automatic suspicion and negativity about everybody who puts in a claim, we would go a long way to reversing the problem.

There is a section in the committee report that does provide some suggestions about other ways to fix the problem, and they inevitably go back to the consistency, quality and transparency of decision making at the tribunal level and at the department level, and improving the availability of legal advice with assistance before the tribunals. What we have instead in this bill are extraordinary measures that send a signal to people that discourages them from providing advice. We have a measure in this bill that raises the prospect of people being fined for encouraging people to engage in unmeritorious claims. This measure, apart from sending a very bad signal to people who may be considering providing advice, inasmuch as it will have any effect if it ever does get used, will lead to more litigation. It moves on from the tried and tested, carefully constructed common law test that currently exists. That allows cases to be summarily dismissed if they are manifestly groundless, hopeless or bound to fail, and it introduces a new one. It introduces a new, lower threshold of a case having ‘no reasonable prospect of success’, but it does not define that.

We have terms that everybody understands that have been built up over years and years of common law practice of something being ‘hopeless’ or ‘bound to fail’, and we are putting that to one side and saying: ‘Well, now you can toss it out if it has no reasonable prospect of success.’ But nobody knows what that means, and they will not know what that means until a whole bunch of people take a whole bunch of court cases to find out what it means. In the meantime, we have a section in the bill that says no person—not just a lawyer or a migration agent—can encourage another person to commence or continue migration litigation if it has no reasonable prospect of success.

Theoretically—and who knows how it will apply, because nobody knows for sure how laws will be interpreted—even electorate officers and staff of parliamentarians who say to somebody, ‘I think you should put in a court case or a claim, just to be safe,’ or anybody who says anything at any stage that could be interpreted as encouraging a person to continue litigation, could come under this provision. That might not happen, but nobody knows. If, in particular, you are providing pro bono assistance or if you are a vastly overstretched community legal centre and
your people are already putting themselves out to provide assistance, to have this extra, unknown, undefined, uncertain provision inserted in the law, saying that you will be breaching the act if you encourage somebody to continue litigation, is a clear disincentive.

I can say quite clearly that the South Brisbane Immigration and Community Legal Service, for example, provides an enormous service and great assistance. It does a lot of work fixing up DIMIA’s mistakes. People there are now already less inclined to provide advice because of this provision. It might never be used or people might never be caught by it, but they do not know. When they are already in a position where they are not flush with funds then they do not need an extra disincentive. So these sorts of measures not only are not going to work but are counterproductive. They undermine long-established legal principles across the entire Migration Act, which deals with millions of cases and visa applications each year, and they potentially undermine principles across broader areas of the law as well.

The Senate committee report clearly identifies the strong concerns that a range of people have with that particular aspect of the legislation. It clearly identifies concerns with putting in rigid and inflexible time limits, as well as raising question marks about whether that will be found to be constitutional when it comes to the High Court. That again shows that this is not well thought through. It is knee-jerk stuff that perpetuates the continuation of a culture that has been shown to have failed.

Debate interrupted.

MATTERS OF PUBLIC INTEREST

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

Moral Equivalence and Multiculturalism

Senator MASON (Queensland) (12.45 pm)—I have spoken many times in this chamber about the significant failings of the Left in the 20th century. You will recall that some of my colleagues believe that economic mismanagement and the lunacy of socialist economics in impoverishing thousands of millions of people last century were the greatest failings of the Left. As you know, I disagree with that. The Left’s greatest failing was, as I term it, their belief in moral equivalence: the implicit assumption that all political systems are basically equal and that all political systems are equally legitimate expressions of a political culture—that liberal democracy in Australia is not inherently superior to, say, communism in the People’s Republic of China. This explains the silence of the Left in criticising Maoist China between 1949 and 1976—a period of perhaps the largest loss of life through crimes of commission and omission in the course of human history. This is the Left’s greatest failing.

But today, you will be pleased to know, I want to talk about moral equivalence with a twist. Whereas in the 20th century the debate was about the moral equivalence of the political ideologies of nation states, moral equivalence is invoked in far more sensitive and difficult contexts today. In particular, moral equivalence is invoked in issues relating not to the nation state but to the individual—the moral equivalence of values and of culture. These are enormously sensitive issues. It is no longer about a nation’s political ideology but matters of an individual’s heart and soul.

Are all values and cultures morally equal? That is a difficult and very sensitive question. If they are not, how does a multicultural nation manage the inevitable tension between different values and different cultures?
The challenge we face now is even more formidable, and the stakes of adopting a morally equivalent approach perhaps even greater, than during the great political clashes in the 20th century.

At the heart of liberal democracy is the Lockean social contract, in which the citizens grant the state the right to govern in exchange for security and other social benefits. During the Cold War, some commentators adopted a morally equivalent approach, but this did not fundamentally endanger Australian society. The state remained to protect its citizens from external threat. But the question today is: can we afford to resort to such equivalency when challenges to Australian democratic values emerge from within the state and undermine the very basis of that Lockean social contract that so legitimises democratic governance? What happens when the dangers posed to our society emerge from one of our fellow citizens?

Considerable attention has already been devoted to the implications of transnational terrorism, but too often our political sensitivities cause us to view this phenomenon through a traditionalist lens. We continue to see the state as a self-contained unit threatened by an external threat, rather than boldly confronting political realities. What the London bombings strikingly demonstrated was that terrorism is as much a product of dynamics within the state as of dynamics outside the state. The youths who instigated the London attacks were not transnational agents but second-generation, soccer-playing Britons indoctrinated by religious fanaticism. The London bombings prompted British commentators to openly debate and fundamentally re-evaluate the ways in which Britain managed ethnic diversity through policies promoting multiculturalism.

Britain is an open and pluralist society that embraces freedom of speech, freedom of association and freedom of religion. It sponsors diversity and supports a wide array of ethnic communities. But to what extent are these democratic rights unconditional? What obligations does multiculturalism presuppose to ensure an integrated national community instead of a polarised one, fractured along lines of ethnic division and hatred? These questions are no less pertinent to our own society. Australians have not yet been forced to endure a terrorist attack on our own shores. But the tyranny of distance has not protected us from political and religious extremism that, over time, could potentially erode the basis of a multicultural and tolerant Australian society.

Over the past few months, a number of Melbourne based radical Islamic clerics have made claims opposing the idea of democracy and advocating that sharia law transcend law forged by national legislators. In one 60 Minutes interview a radical Islamic cleric argued that Australia should become a Muslim society. Some religious extremists have even also made statements that if women are dressed provocatively they have only themselves to blame if they are raped, and that homosexuality is a crime deserving death. Such statements and practices directly contravene the very basis of liberty that lies at the heart of our Western democratic system. Freedom of speech is a prerogative of Australian democracy, but how do we deal with situations in which this right is used to advocate the spread of illiberal practices? If we are to accept such statements and practices, how are we then to protect and assuage the fears of Australia’s citizens? Our concern for cultural sensitivity and political correctness should not be allowed to render our own domestic political traditions and our own commitments to human rights meaningless. To accept such practices in the name of multiculturalism would be to erode the fundamental underpinnings of the modern liberal
state—an aim consistent with that of the terrorists and exponents of political and religious extremism.

Tolerating the intolerant no matter what the price is a mistaken strategy. We are not obliged to tolerate certain practices that go against what our society fundamentally stands for, nor can we expect people to be tolerant towards other members of society if at the same time they are denigrated. Tolerance has to be bounded and reciprocated if it is to be enduring.

Those who advocate tolerance at all costs so as to protect Australia’s image as a multicultural nation fundamentally misinterpret the concept of multiculturalism and what it entails. Multicultural policies have been implemented to foster respect for ethnic diversity, and that is a good thing. But diversity is not an end in itself. Diversity has been the means by which we have sought to build a better Australia, but diversity of itself was never the aim. To emphasise diversity is to perpetuate difference. Our aim surely was always to have a country where citizens, whatever their origin, came together as one. A unified country reflecting common values is a much stronger nation than one that simply celebrates diversity. Multiculturalism is fundamentally about the celebration of many cultures coming together as one and providing support for the special needs of ethnic and migrant groups as they continue to integrate into Australian society.

The coalition has been active in promoting multicultural policies through such measures as the Living in Harmony initiative. The Howard government’s commitment to multiculturalism is evident in the National Multicultural Advisory Council’s 1999 report A new agenda for multicultural Australia. This report advocates respect for:

... the right of all Australians to express and share their individual cultural heritage within an overriding commitment to Australia.

Yet it notes simultaneously that multiculturalism:

... is not an ‘anything goes’ concept since it is built on core societal values of mutual respect, tolerance and harmony, the rule of law and our democratic principles and institutions ...

The 2003 update to this report states:

The freedom of all Australians to express and share their cultural values is dependent on their abiding by mutual civic obligations. All Australians are expected to have an overriding loyalty to Australia and its people, and to respect the basic structures and principles underwriting our democratic society.

Conditions of Australian citizenship entail rights and privileges but also assume obligations and responsibilities. Australia should therefore pursue multicultural policies but should not, at the same time, sacrifice its own character for the sake of excessive political correctness. As John Roskam from the Institute of Public Affairs recently commented:

Democracy is not a suicide pact ... There’s no obligation for those who believe in a healthy, vibrant, liberal democracy to tolerate intolerance. Social liberty is mixed with responsibility. It represents a process of give and take. It is not absolute.

These realisations, during a time in which radicalism is escalating in the West, prompt us to fundamentally revise Australia’s own multicultural policies. As the government instigates its review of these policies, it is important to recognise that multiculturalism must be based on a commitment to shared Australian values and democratic principles in addition to a commitment to respect diversity. This is not to advocate an assimilationist approach. I for one do not want an Australian society homogenised without any regard to the cultural traditions of its citizens. Neither
should we deny funding to those services that provide migrants with language or other forms of social or economic support. However, whatever approach the government adopts should be based on pursuing social integration and interaction. It should not weaken that state by purposefully perpetuating and accentuating social division. The idea of coexistence is too easy and obscures more serious social difficulties.

So how are these problems to be resolved? On surveying recent legislation in both Britain and the United States, a number of possibilities come to mind. Firstly, it is important to maintain, and to further consolidate, existing links with the Australian Islamic community. This community has been integral in assisting the Australian government to dampen religious and political extremism through direct communications with radical Islamic clerics and by liaising with the Australian government in the summit that took place last August. Cooperation with the Islamic community is integral if we are to prevent alienation of second generation Islamic youths. It is important, too, that the Australian Federation of Islamic Councils continues to adopt a consistent approach on this issue and reinforces messages about the importance of shared Australian values and the authority of Australia’s liberal democratic institutions.

Secondly, a number of commentators have recently pointed to the comparative advantages of the American model of multiculturalism vis-a-vis the British model. The American model emphasises the importance of a sense of shared national identity that must exist concomitantly with loyalties to other ethnic groups. It has emphasised the shared glue that exists between different ethnic communities. This is encapsulated by the United States’ motto ‘E pluribus unum’—in many, one. However, emphasis on unity in and of itself is not necessarily enough to provide the sense of belonging necessary for immigrants—and, indeed, for all Australians. More viable long-term options might include integrating to a greater extent knowledge of Australian history, government and civic values into the Australian high school curriculum. Providing greater encouragement for permanent residents to take up citizenship, but also strengthening tests that candidates take to acquire that citizenship, might be another avenue through which a more integrationist multicultural society might develop.

All of these measures are important to ensuring long-term solutions to Australia’s multicultural dilemmas, but they are not sufficient. What we really need to do is to ask the really hard questions and not shy away from them under the cloak of political correctness. How do we include those individuals who do not want to be included? And to what extent should tolerance prevail? For too long these questions have been avoided for fear of further alienating individuals. But doing nothing will also alienate people.

Samuel Huntington wrote about the inevitability of the clash of civilisations. He depicts a world which is increasingly divided along cultural and religious fault lines and argues that globalisation has only exacerbated the divide. Yet he underrepresents the human capacity to overcome this divide. In the domestic context, the key to doing so is to forge multicultural policies based on respect for difference and civic obligation. We must not allow cultural pluralism free rein, to the extent that it erodes the very civil liberties we seek to protect. I believe that the words Winston Churchill once used during the Second World War are equally applicable to our circumstances today:

We do not war primarily with races as such. Tyranny is our foe, whatever trappings or disguise it wears, whatever language it speaks, be it external or internal, we must forever be on our guard, ever
mobilised, ever vigilant, always ready to spring at its throat. In all this, we march together.

The famous song *I am Australian* got it wrong. It is not quite right to say, as the song does, ‘We are one, but we are many.’ It should instead say, ‘We are many, but we are one.’ When all Australians come to share this understanding we will be a greater nation still.

**Money Laundering**

Senator LUDWIG (Queensland) (1.00 pm)—Four years on from the September 11 terrorist attacks, Australia is still unprepared to properly deal with terrorist financing. The Howard government talks tough when it comes to the fight against terrorism, yet they have comprehensively failed to bring forward new anti money laundering legislation. Terrorists have obviously been a target for governments the world over for years and have become increasingly sophisticated about the way they channel money across international borders to support terrorism. The techniques of terrorists have been adopted from successful models by your more regular variety of organised crime members. Members will be familiar with the Mafia type movies where the ill-gotten dirty money is laundered through a casino or some other seemingly legitimate business and returned clean—that is, usable by the crooks and untraceable to its source.

Of course, things are a little more sophisticated than that and, to help government deal with the phenomena, the international anti money laundering policy group known as the Financial Action Task Force, or FATF, published 40 recommendations to combat money laundering and an additional nine that relate directly to terrorist financing. The FATF was created in 1989 and works to bring about legislative and regulatory reform in the areas I have mentioned. Presently, FATF has published 40 plus nine recommendations in order to meet the objectives mentioned above. Eight of those nine recommendations were made in 2001, with the ninth in 2004, but we are still to see the legislative action required by the Howard government to bring Australia into line.

The need for money-laundering reform is abundantly clear, which is why it is a matter of public interest. It is estimated that between $US800 billion and $US2 trillion is involved in global money-laundering activities, and the figure is higher in some other reports. This has the potential to distort markets, destabilise economic development and reduce sustainable growth. It also has the insidious ability to corrupt governments and law enforcement agencies. This can lead to political instability and undermine the legitimate rule of law in a country. Money laundering is occurring in Australia, and our law enforcement agencies still do not have adequate tools to address it. It is reported that more than $2 billion of criminal assets are laundered annually in Australia, earning us a place on the US State Department’s list of major money-laundering countries. Part of the problem is the government’s total lack of regard for coming up with a workable model.

The problem is that the responsible minister, Senator Chris Ellison, has only recently begun to take part in consultations with the banking, finance, real estate and jewellery industries. He should have involved himself in the process right from the start. Minister Ellison originally announced that reforms of money-laundering laws would take place in December 2003 following the release of FATF’s new standards. When asked by Labor in the Senate to explain his lack of progress, Minister Ellison could only say that he has talked about money laundering ‘in 2001,
2002, 2003, 2004 and 2005’. That is the whole problem: not much else has been happening. When asked in question time about the lack of progress, Minister Ellison would not rule out the fact that he had been rolled in cabinet over his original sloppy money-laundering legislation submission in June. Apparently, the laws proposed then were, put simply, unworkable.

FATF is due to release its report on Australia’s progress towards meeting its new standards on Friday. We can anticipate that this report will severely embarrass the minister as the delays in delivering this legislation have become a joke. Indeed, I have it on good authority that that will be the case. In 2002 Senator Ellison said that criminals and terrorists ‘will continue to take advantage of jurisdictions where the law enforcement and regulatory powers are the weakest’. That is where we are today. And that is where the Financial Action Task Force report will find us on Friday. A ministerial advisory group was also announced in December 2003 to assist with the development of the anti money-laundering measures. In addition, the Attorney-General’s Department developed industry-specific issue papers to assist in the consultative process.

The papers outlined anti money-laundering regulatory options and included areas such as financial service providers, lawyers and accountants, the real estate industry, dealers in precious metals and stones and, of course, the gambling industry. It was foreshadowed at that time that these identified industry sectors would have an expanded role in Australia’s anti money-laundering systems. However, it was outlined by the Attorney-General that these new areas would have new customer due diligence and reporting obligations to assist in detecting and preventing money laundering.

I will now turn to the first round of consultation that was supposed to occur. On 10 June 2004, following an extensive round of industry consultation between government and various sectors, the minister released a policy principles paper which contained the key principles that will underpin Australia’s anti money-laundering system. The paper was titled Policy principles for anti-money laundering reform. The Australian government reiterated its need to implement the revised 40 recommendations of the Financial Action Task Force on money laundering. In that policy objective, it stated:

It is important that Australia take action to comply with the FATF Recommendations not only to protect the Australian community from the threats of money laundering and terrorism but also to maintain our reputation as a key regional and global financial sector player.

A key element in the fight against money laundering and the financing of terrorism is the need for countries’ systems to be monitored and evaluated with respect to the international standards. So there should be a monitoring system in place as well.

Australia has been a longstanding member of the international anti money-laundering community, has committed to implementing the new international standards and will be assessed accordingly as to whether it has. To that end, the government proposed that there would be a new legislative structure aimed at meeting Australia’s commitment to fully implement FATF obligations—so far, so good. An exposure bill which would describe an overall regulatory framework was chosen by the government as the best course, with the practical details and information dealt with by regulation. That is what was proposed.

The regulatory framework was to be predicated on a number of specific principles. Customer due diligence would be one of those. CDD obligations would ensure that customers engaged in certain activities were
identified to a reasonable standard, reflecting the type of customer, business relationship or transaction while minimising the compliance burden on industry and the impact on legitimate customers. In addition, transaction reporting and record-keeping systems would provide the second tier of an effective anti-money-laundering system. It was expected that reports of suspicious or significant transaction activities, when combined with successful customer identification and transaction records, would provide law enforcement agencies with critical information that could lead to the detection and prevention of criminal and terrorist activities. The current reporting and record-keeping framework obligations would then be augmented by the new legislation. It was considered that new reporting procedures would be implemented to complement the CDD measures, to ensure timely and comprehensive advice to law enforcement agencies.

Two new reporting streams, suspicious transaction activities reports and threshold transaction reports, would complement the existing reporting system. There would be an oversight of compliance by a new anti-money-laundering regulator which would have overall responsibility for oversight and compliance. That is what we should have today—but we do not.

The next step in the minister’s post June 2004 agenda was for the government to undertake a second consultative round, which included the release of a draft exposure bill. The bill would be released and a round of consultation with industry would be effected. But delays upon delays seem to have beset this minister, not only in this area but in others, it seems, as well. But I will deal with that on another occasion. By July 2005, we found that the minister had delayed important new money-laundering legislation until much later again. It seems that the government had decided to undertake a round of consultations with industry before the exposure draft was made available.

Reports in the *Australian Financial Review* on 6 July 2005 identified that the draft legislation was put on hold as a consequence of industry backlash to the new anti-money-laundering laws affecting the financial services industry, as they would overburden it with regulation and cost. In the same article, the banks were also reported as being opposed to the legislation in its current form. The banks had indicated that the original legislation could cost the banks up to $100 million to implement. Notwithstanding this course, the timeline for Australia to meet its obligations is becoming tight. The Paris Group is tasked with providing a report to the International Finance Action Task Force on how Australia is meeting its 40 plus nine recommendations which go to both money laundering and terrorist financing, yet the minister is having another go.

The minister has now completed four roundtables with industry to progress what might be considered a partial completion, but we still do not have an exposure draft or the legislation. The minister has again had four rounds of the kitchen with industry. Those were on 21 July, 16 August, 1 September and 9 September 2005. It has been reported that the industry group has now achieved an in-principle agreement on key financial sector issues to be included in the forthcoming exposure draft. The government talks tough on terror, but it took almost two years to bring forward an exposure draft of its legislation—from 8 December 2003, when the minister first promised it, until yesterday. Yet the legislation announced yesterday by the minister will still not bring us into compliance with the 40 recommendations to combat money laundering and the nine special recommendations to combat terrorist financing. We still do not have an exposure draft. That is still coming.
The legislation is to be split into two tranches, as it always should have been. It has taken the minister almost two years to work out that a one-size-fits-all, proscriptive approach on this issue will not work, that it is a waste of time and a potential loophole which terrorist organisations like Hamas or Jemaah Islamiah could be using to raise funds in Australia or to transfer funds to and from terrorist cells through Australian networks. Due to the endless delay, it is now unlikely that we will see this legislation passed until industry has assessed the exposure draft of the bill. That will probably take until early next year, at the earliest.

The question that must be asked is: given the minister’s promise in December 2003 to coordinate ‘an extensive consultation process which will involve the industry-specific issues papers and direct consultation with industry sectors’, why was the minister missing in action between 2003 and being rolled in cabinet in 2005? This should have taken place last year but, again, we have been waiting for action while the minister dithered and dawdled. And that is just the first tranche. We still have another tranche to go. What about the rest? Real estate agents, jewellers and professionals such as accountants and lawyers will still not be covered.

Let us be clear now: some of these recommendations date from 2001, and we are still not in compliance with the 40 plus nine recommendations. If Minister Ellison takes as long on the second tranche as he has on the first, Australia could still be unprepared to deal with money laundering and terrorist financing for another four years, until 2009. Hopefully, Labor will be able to intervene by turfing the government out of office for this comprehensive failure before then. Time is ticking away for the government, and it should be of great concern to Minister Ellison. It certainly concerns us that criminals and terrorists could be targeting our weak regulatory system right now while the Howard government does nothing.

Fuel Prices

Senator MILNE (Tasmania) (1.14 pm)—I too rise today to consider the politics of security but in a different context: the context of the politics of scarcity. I rise today to talk about the oil crisis which is currently besetting the world. We have heard a lot of things in the last few weeks since petrol prices have started to rise, and most of the initiatives that are being suggested are very short-term bandaid methods. The Leader of the Opposition, Mr Beazley, has called on the government to increase tax deductibility for motor vehicle running costs, while petrol prices are so high, to help alleviate the cost to small business and to stop small business passing it on to the consumer. That is a laudable aim to protect consumers and to give some relief to small business.

Senator Fielding has called for a reduction in fuel excise, saying that it would, in his view, help the poor. As I will point out in a minute, the only people that it would help would be the rich. The point I want to make is that these are populist, short-term solutions and do not address the reality that Australia has to come to terms with the fact that we are no longer, ever, going to have plentiful cheap oil—never again. As a nation we have to show some leadership in looking at how we respond to the fact that global oil supplies are declining at a time when the demand for oil is increasing. If we look at what is happening with India and China, the Australian economy is benefiting from the growth in those economies; and it is, of course, a response to that that is giving our minerals industry such a boost at this time.

The point that I want to make today is that what drives global insecurity and what drives war and conflict usually comes down to resource scarcity. It usually comes down to a
fight over land, over water, over forests or fisheries, or over oil. The more scarce a resource becomes, the more tensions arise. Already there is a recognition in the United States that there has to be a rapid transition to a new economy, or the alternative is that they take secure supplies of oil by force. Many of us would argue—and I include myself—that the war in Iraq was dressed up in all sorts of ways, but it was about nothing other than taking a supply of oil by force.

Government senators interjecting—

Senator MILNE—You might well laugh about this, but the point that I am making is that we are seeing a major decline in global oil supply, and we have already been through what people have called the great rollover, which is the point at which global demand for oil has outstripped supply. At the point of the rollover and thereafter, oil prices will never come down. If we listen to what people are saying about this around the world, the ramifications for our economy are huge. Already today we have heard the Deputy Governor of the Reserve Bank, Glenn Stevens, say:

The issue before us in the next year or two is whether the world and Australian economies can adapt to higher energy and resource prices without a significant bout of inflation …

We would, of course, include in that an increase in interest rates. We know that the Prime Minister went to the last election on the interest rate issue. The fact is that neither the Prime Minister, the Leader of the Opposition nor anybody else is going to be able to do anything about the fact that global oil production is in decline at a time when demand is rising. Instead of going around calling for short-term and bandaid measures for the Australian economy, such as greater tax deductibility for small businesses so that the costs are not passed on—instead of, as Senator Fielding has done, calling for a reduction in fuel excise—we should be taking national leadership across all parties to have a national summit on how the Australian economy is going to respond to a world in which fuel prices are so much higher.

I want to examine the idea that a lower fuel excise would somehow be good for low-income families. If you had a look at what that would do, you would recognise that the biggest beneficiaries of lower petrol taxes are high-income families. The poorest 20 per cent of households account for only eight per cent of retail consumption of petrol. That is, out of a reduction such as that which is being proposed, they would receive only $336 million in benefit from the $3.8 billion reduction in revenue that would occur.

High-income families spend a disproportionate amount on petrol. Wealthier households own more cars, bigger cars, and drive them longer distances. Often those cars are part of salary packages and those people are not even aware most of the time how much they are actually spending on fuel. Plus, with the fringe benefits tax there is a disincentive to be economical in fuel use; in fact, the incentive is to go further in order to maximise the benefits under the fringe benefits tax. So the richest 20 per cent of households would receive a benefit of nearly $1.2 billion per year if Senator Fielding’s policy of reducing fuel excise were to be introduced. That is, in my view, an inequitable way of going, and it would also help to conceal the problems that are going to face Australian families and businesses in an energy dependent society like Australia.

If one wanted to act on this crisis in the short term and to help the poor, the way to do it would be to take away the GST on public transport. That would make transport more accessible and cheaper. It would also be beneficial in terms of efficiency and in reducing oil consumption and greenhouse
gases. It would also be a good idea to review the fringe benefits tax provisions. There are a whole lot of things one could do in terms of energy efficiency, public transport and so on.

But issues about what we might do in the short term are not what we should be discussing in relation to the crisis that is facing us. People say, 'Oh well, I will use my car less' or 'I will walk more,' and so on. But our whole lives are geared around oil. There is a very good article by a geologist, Dale Allen Pfeiffer, called 'Eating fossil fuels'. It is written in the context of America, but it points out that every step of the modern food production chain is fossil fuel and petrochemical powered. Pesticides are made from oil. Commercial fertilisers are made from ammonia, which is made from natural gas, which it is estimated will peak in production about 10 years after oil peaks. With the exception of a few experimental prototypes, all farming implements, such as tractors and trailers, are constructed and powered using oil. Food storage systems, such as refrigerators, are manufactured in oil powered plants and distributed across oil powered transportation networks. They usually run on electricity, which often comes from natural gas or coal.

In the US, the average piece of food is transported almost 1,500 miles before it gets to the plate. In Canada, the average piece of food is transported 5,000 miles from where it is produced to where it is consumed. I was talking in here last week about the case of orange juice, which is brought from Brazil in refrigerated tankers, pumped out, bottled and sold on the Australian market at huge cost in terms of greenhouse gas production and oil consumption. So if you look at transportation and agriculture you can see that increased fuel and oil prices will have a huge adverse impact right down the production chain. You also see that if you look at modern medicine, water distribution and, of course, national defence. They are all entirely powered by oil and petrol derived chemicals.

I am seeking a cooperative process with the other parties in the Senate and in the parliament to start looking at what the ramifications are for the Australian economy and way of life if we accept that oil prices are going to remain high into the future. Let us stop the suggestion that this is going to change. I notice that Mr Beazley, the Leader of the Opposition, says in a press release that we should be doing this at least 'while petrol prices are so high.' The fact is that petrol prices are going to be high from now on ad infinitum. It would be a failure of leadership if this parliament did not get together and all across the country start talking to industry leaders, the agricultural sector, the medical sector, the defence sector et cetera to work out what our strategy is for dealing with a future of high oil prices and decreasing self-sufficiency. Bass Strait, for example, is going to be in significant decline as a producer of oil in the next couple of decades. By 2020, it will be down to 30 per cent of its current production.

Tomorrow, I will be raising this issue by calling for a Senate inquiry in relation to oil production and capacity in Australia. But I wanted to speak today about taking a leadership role. Instead of politicking and criticising one another about which side of politics can achieve cheaper petrol or fuel prices for the consumer, the farmer, the fisherman or whomever, we should be agreeing that we will have a look at it. If we come to the conclusion, as I am suggesting, that oil is declining in supply, that oil prices are likely to be high into the future, that the impact is likely to be inflationary and lead to high interest rates and that it is likely to cause quite considerable dislocation, then we have to have a national plan for dealing with a future in which economic growth cannot be predicated on ongoing, cheap and plentiful oil supplies.
That would show the strategic leadership that Australians expect from their elected parliamentarians.

National Breast Cancer Day

Senator ADAMS (Western Australia) (1.27 pm)—I would like to remind the Senate of National Breast Cancer Day, which is to be held on Monday, 24 October 2005. This day has become a very important event across Australia and is held to recognise the far-reaching effects of breast cancer. Breast cancer is the most common cancer for women and is the biggest cause of cancer death in Australian women. Approximately 2,500 women die from breast cancer in Australia each year. Currently, about 12,000 women each year in Australia are diagnosed with breast cancer. That number is increasing, and it is estimated that by 2011 it will be 15,000 women per year. These are very frightening statistics. It is very important that breast cancer is not dropped off the agenda because of such good results in the treatment of the disease. While we have made good progress in the treatment and care of breast cancer, there is still a great deal of work to do in making sure that women and their families and loved ones receive appropriate care. We know that many women still do not have access to breast care nurses, a multidisciplinary team, travel assistance, reconstruction or adequate psychosocial support.

I would now like to speak about an organisation I am closely associated with that has led the charge in ensuring that breast cancer sufferers are represented, supported and informed about their disease. Breast Cancer Network Australia, BCNA, is the peak body for Australians affected by breast cancer and the home of the pink lady silhouettes, which are seen in many fields throughout Australia on Breast Cancer Day. Earlier this year Breast Cancer Network Australia visually demonstrated the huge impact of breast cancer in Australia by having 11,500 women standing in pink ponchos on the MCG in Melbourne before the Melbourne versus the Crows AFL game. This image brought home in the most powerful way the enormous impact of breast cancer in our community. It was most moving and inspirational—and showed that there is a lot of work to do yet.

Breast Cancer Network Australia, with more than 15,000 members and over 140 member groups across the country, brings together and represents the experience of Australians affected by breast cancer. BCNA has led the way in this country as a consumer advocacy organisation. Consumer representatives—women just like me—have sat at decision-making tables through BCNA’s unique Seat at the Table program to make sure that services for women with breast cancer are hitting the mark. Through a sensible and determined approach, BCNA has earned the respect of key providers of breast cancer services across the country and ensured that breast cancer services continue to improve.

To assist individual women diagnosed with breast cancer BCNA has developed the My Journey Kit. This is a comprehensive resource available to every woman diagnosed with breast cancer in Australia. More than 10,000 copies have been distributed already—and this program was launched only two years ago. This program is also supported by the federal government. The My Journey Kit is a comprehensive information resource. It has been developed for women who have had breast cancer and for women newly diagnosed with breast cancer. Breast Cancer Network Australia aims to get the kit to everyone diagnosed with breast cancer in Australia within two weeks of their diagnosis.
The My Journey Kit aims to help Australians navigate the breast cancer journey. We know that, when you are diagnosed with breast cancer, you need information and support and, as a breast cancer survivor, I can certainly agree with what is written here. There is a lot of good-quality information and support available for Australians with breast cancer, but women often tell us they were not aware of it at the time they needed it. We believe this kit will make the breast cancer journey easier for all Australians dealing with breast cancer. The My Journey Kit is freely available to those diagnosed with breast cancer within the last 12 months. To get it, ring the My Journey Kit request line on 1300785562.

Another area that Breast Cancer Network Australia have been involved with with their lobbying is the herceptin drug. On 1 September this year, treatment changes were welcomed by women with advanced breast cancer. Breast Cancer Network Australia congratulated the Minister for Health and Ageing, Tony Abbott, on the decision enabling herceptin treatment to now be available to women with advanced breast cancer on a three-weekly basis rather than weekly. Lyn Swinburne, the CEO of Breast Cancer Network Australia, said:

This is a major win for women being treated with Herceptin. Until now, women with advanced breast cancer were required to attend treatment on a weekly basis but the Minister’s decision will alleviate a great deal of pressure upon these women.

I would like to move on to describe the field of women—the pink silhouettes. It becomes rather confusing because we have the pink ribbon, which is for the national Cancer Council—that money goes to research—and then Breast Cancer Network Australia is symbolised by the pink woman silhouette. This year, in October 2005, the field of women will be exhibited for the first time in a regional centre. This will be at Port Lincoln, on South Australia’s Eyre Peninsula, which is 650 kilometres west of Adelaide. The field of women will be able to be seen from the aircraft flying over. I do not know that I will be flying over that day, but they will probably leave it a little bit longer so that we will be able to see it when coming from Western Australia.

We were absolutely delighted to hear of the enthusiastic response from the BCNA members in Port Lincoln when they offered to do this. I really do hope that the media take up the challenge that the women are putting there and at least show the field of women. This year there will be 11,500 pink silhouettes and also 100 blue silhouettes, which represent the number of men diagnosed each year, and 2,700 white silhouettes, which represent the number of people who die each year from this disease.

In other speeches that I have made, I have mentioned the Senate Community Affairs References Committee report, The cancer journey. Lyn Swinburne, as a representative from Breast Cancer Network Australia, attended the inquiry as a witness. She gave an example of something I am also very keen to mention as far as the Patient Assistance Transport Scheme, PATS, goes. She said:

PATS reflects more than just the problem with the travel scheme. It reflects a bigger problem concerning the states and the Commonwealth and the relationship with them. An example is women who live near borders. A woman who lives in Byron Bay has to travel to a treatment centre in New South Wales to be able to get PATS, even though Brisbane or the Gold Coast are much closer and her family and support could be there. There are a lot of things that are not sensible as part of the scheme. There are a lot of bureaucratic difficulties and challenges for women.

I wholeheartedly commend Lyn Swinburne for appearing and giving that example.
I would like to say how pleased BCNA is to have Bakers Delight as a sponsor. It is absolutely amazing. They are a major partner for BCNA and have raised more than $1 million since 2000. I will now mention the pink ribbon, which I hope everyone purchases on Breast Cancer Day and wears with pride. That signifies that you have supported the National Breast Cancer Foundation. I think that that is something we all should do.

Breast screening is something that is very dear to my heart. The two-yearly breast-screening program is available in every state. At this stage it is available, by invitation, for women from the age of 50 through to 69. As I have stated before in this place, I am really working very hard to have that age limit reduced to 45. From the age of 40, women are permitted to make an appointment themselves but they will not be invited. I feel that there is evidence to suggest, with girls menstruating earlier and women going through the menopause earlier, that it be from age 45—that is my recommendation—through to age 74, because, at the other end of the scale, women over 69 are dropped off the invitation list and they have to remember to come. As we all know, at that stage—probably for some of us it is a little earlier—trying to remember these appointments is a little difficult. You have to remember every two years.

I am lucky because I live in a rural community and everyone knows when the pink van is about to come. There would not be a person in my community who does not. But, for those people who live in the city, they probably do not have that reminder because the van is not travelling around. As I said, with people living longer, it is very important that women in this age group are given an invitation to come. Evidence from better technology suggests that the disease is becoming more prevalent among women in the 69 to 74 age group. Somehow we have to beat it. I would like to ask everyone here and anyone who is listening today or who reads the *Hansard* to really support the efforts that are being put in by the Breast Cancer Network Australia. The women who belong to it are the ones who are allowed to attend their conference. At the last one I attended, every one of the 942 women was a breast cancer survivor. We really have a great group of people. The advice and evidence that is provided by the Breast Cancer Network Australia comes from people who have had the disease and coped with it. We really want to be able to give that information to other people. There is nothing worse than having a mammogram and then being rung up two days later and quietly asked to come and have a diagnostic mammogram. You think: ‘Why me? Where do we go? How do we get on with this?’ knowing full well that the treatment is going to be six to eight months. It really does throw your whole life around and the lives of those people who are really dear to you. You are the one who ends up having to be strong for everyone else.

**Indigenous Education**

Senator CROSSIN (Northern Territory) (1.40 pm)—I want to take this opportunity to bring to light the ongoing mess—policy chaos, really—that has been brought about by changes made by this government in relation to Indigenous education funding. We are all aware that there is an urgent need to improve Indigenous education outcomes. The past two social justice reports from the Human Rights and Equal Opportunity Commission were quite scathing about the Howard government’s outcomes in Indigenous affairs as a whole. While some things may have improved, the gap between Indigenous and non-Indigenous people remains large, certainly in education at all levels. We often have quoted to us here in this chamber the improvements made in Indigenous education but I think people need to realise that the gap...
between Indigenous and non-Indigenous education outcomes is getting wider.

In his second reading speech on the Indigenous Education (Targeted Assistance) Amendment Bill 2005 the minister claimed that closing this educational divide remained one of his highest priorities. I said at the time that the bill did little to reassure me that that might happen. Some months later, I am afraid to say, my fears have proved to be correct. I have had many representations from people in my constituency expressing concern not only about the changes proposed but also about the way that they were made. They were made with extremely limited consultation with Indigenous parents. These changes I am talking about are to the tuition program through IEDA and through the funding to what was know as ASSPA, the Aboriginal Student Support and Parental Awareness program, now renamed PSPI.

The policy decisions were based on very flimsy evidence from 62 written submissions—we discovered this at an estimates hearing in June last year—10 responses to a discussion paper and a few meetings with Aboriginal education consultative groups, but not in the Northern Territory, where a huge number of Indigenous people live, as we do not have an Indigenous education consultative group. We were able to uncover last year that the consultation process was seriously questionable. In fact, while this government may have claimed that the policy decision was on the basis of consultation, that really was a smokescreen.

As I said, we are talking about major changes here. The IEDA program, and especially the former ASSPA program and ATAS, were changed radically. What little consultation DEST did manage to do showed that, while the former ASSPA program may not have been perfect, it was extremely effective in involving Indigenous parents in school matters. The survey undertaken by DEST found that, while the old ATAS program may have been a bit unstructured, it was indeed showing some gains and improvements in literacy and numeracy through in-class tuition. It lacked structure and a coherent policy but, despite this, it was reported as getting some results.

The DEST review of the IEDA final report, on page 41 said this:

... there was support for the concept of the ASSPA program among those consulted. Many people were of the view that ... [it is] one of the most important Indigenous education programs.

So what does this government do? Rather than just tinker around at the margins to improve a fairly successful program, it decided to ignore these findings which came from Indigenous parents. It abolished ASSPA and set up a great bureaucratic program, renaming it the Parent School Participation Initiative, that involved masses of paperwork, and under which decisions on who gets what are being made by bureaucrats who are many miles away and largely have little or no knowledge of Indigenous education or the particular schools and communities. Many previously successful programs have now been terminated.

Now, instead of young kids in early childhood who are having literacy or numeracy problems being able to get that tuition in the classroom, on a one-to-one basis, at an early age when it is crucially needed, changes to ITAS mean they actually have to fail the year 3 benchmark test—that is, they have to be at least eight years old and prove to be failing before any help is forthcoming. That is real educational reasoning! That is really going to lift the outcomes of Indigenous kids in this country!

The Senate was sufficiently concerned about this that an inquiry was held into these changes. The report was tabled on 22 June
but, prior to that, such great concern had been raised over the effects of these changes that, in the interim, that Senate committee tabled a report on 15 March—such was the overwhelming concern by members of the committee that I chaired in relation to what they were hearing out there about the impact of these changes on kids' education.

The committee held hearings in Darwin, Alice Springs, Perth, remote Western Australia, and Queensland. Their findings were fairly unanimously bad for this government. The interim report said:

The purpose of this interim report is to alert the Senate to early evidence ... of serious impediments and delays faced by schools in accessing urgently needed funding ...

It went on to say:

... this interim report focuses specifically on the deficiencies in the administration of the new tutorial assistance arrangements, other intervention measures, and the replacement of ASSPA with the proposed PSPI.

The committee pointed out the disadvantage to schools of the lack of continuity in tutorial programs, the discontent and alienation felt by Indigenous parents with the abolition of their school association, and the breakdown in communications between parents and schools—for evidence was overwhelmingly showing that the new PSPI was causing Indigenous parents to vote with their feet and withdraw from being involved in their child's school. In fact, it was all becoming a little bit too hard for Indigenous parents. All of this was caused by the insistence of a minister on making hasty decisions, based on little evidence, to implement poorly thought out and ill-conceived bureaucratic processes which have alienated the people previously so well involved in the education of their kids.

The final Senate committee report says this:

... this report is critical of the rationale and administration of the distribution of Indigenous education funding.

It went on to say that the program is now more difficult to administer, makes heavy demands on the patience and energy of funding recipients, reduces the amount of funding received and reduces the critical involvement of Indigenous parents in the running of schools. Furthermore, it said that there is:

... unequivocal evidence that DEST did not anticipate the problems that would be created by the new processes.

DEST staff were not prepared, schools were poorly informed, advice given was inconsistent and there were anomalous gaps in policy and the administration of that policy. Senior DEST officials actually told the committee—and reconfirmed this later at estimates—that the Senate inquiry had helped the department to identify matters that it should attend to.

Most recently—in fact, in August of this year—a further report was published, of a survey carried out by the Australian Education Union, involving 561 schools which responded—considerably more than DEST got in their IEDA review, I might add. These schools had a total Indigenous enrolment of 17,451 children. This report is on the AEU web site, and is titled Report on a Survey of Schools on the Changes in Commonwealth Indigenous Education Funding. This survey reported that changes to the ASSPA program had significant negative impact on schools and communities. Of the 561 schools responding, 227 said parents were no longer involved. Whereas under ASSPA, funding was automatic to all schools, under PSPI only nine per cent had actually had funding approvals to the date of that survey.

In total, this survey found that schools had lost more than $1.9 million from what they would have previously received under ASSPA. So nearly $2 million was ripped out
of the Indigenous education program—$2 million not in schools being used and funded this year, as we would have expected in previous years. And this is from a government, I remind you, whose minister continually says that reducing Indigenous educational disadvantage is a primary concern. I still find that hard to believe, because the rhetoric from the minister surely does not match what is happening on the ground out there.

Schools reported that cultural programs had diminished, and camps, excursions and sporting activities had dropped off as such applications were getting rejected. Yet, in many schools these were highly successful in getting Indigenous students to participate in mainstream activities. Programs that provided breakfast for students were regularly and frequently rejected. Schools were told that projects had to improve attendance or outcomes to be eligible for funding. But what do you expect, when decisions are made by bureaucrats with little or no understanding of life in many Indigenous communities. They cannot know that many kids go to school without breakfast—and how well can those kids then concentrate or perform? They do not understand that many kids actually have an incentive to get to school because when they get there breakfast will be provided. It is also strange to note that when the Prime Minister visited Wadeye, he managed to give them $40,000 for just such a program in that community. But it seems that other communities are struggling to get their breakfast and nutrition programs funded. So there is no consistency in what this government does or what it says when it comes to Indigenous education.

Let me give you just a few examples from schools that responded to the survey. Anzac Hill High School was $40,000 down on funding from 2004; East Carnarvon, down by $32,000; South Newman Primary School, down by over $18,000; Indulkana Anangu School, down $26,000—in fact, none of these at the time of the survey in July-August had received any PSPI funding this year, and remember that under ASSPA the money was automatically given to schools very early on in the year, based on the number of Indigenous kids in that school, so each school would have well and truly had that funding by at least the end of February—and Yirrkala Homeland Schools, down by $15,000.

I would like to add information from a few emails that I got this week. One was from Laynhapuy Homeland schools out in north-east Arnhem, just to let us know that they have also got nothing from PSPI this year. They applied for $38,000 and answered all the questions, gave additional information and to date they have received nothing. The principal of Tennant Creek High School tells me that under PSPI their funds have dropped from $43,000 last year to only $9,000 this year.

Whereas previously, under ATAS, 46 per cent of the schools responding had run tutorial programs, under the changes to ITAS only 17 per cent of them can now do so. Schools identified 447 people who can no longer be employed as tutors due to funding changes and cuts to tuition programs. Around half of these were Indigenous. Schools identified 2,745 Indigenous students who no longer have access to tutorial assistance, and this will adversely impact on literacy and numeracy outcomes. Schools clearly follow educational reasoning and believed that the new targeting of funds was inappropriate.

The government will claim this survey is just from the teachers union, it is not accurate or relevant. It will be fobbed off. My response would be that any evidence in this survey is at least as relevant as the evidence used in the survey conducted by DEST under this government in trying to justify the changes to the implementation of this pro-
gram. Here we have a minister who has come up with changes based on who knows what evidence. In fact, they are changes which fly in the face of any evidence, changes made on the run without real thought and planning and which have left his own department absolutely floundering, trying to administer the new programs. The changes have forced cuts to many previously successful programs—not perfect perhaps, but certainly successful and popular and understood by Indigenous parents.

Schools have received far less money. School staff have struggled to understand either the reasons for the changes or the morass of new procedures. I can only ask the minister: how do you really think these changes have or will improve the outcomes for Indigenous students? As a former teacher of Indigenous students I say for sure that they will not. The changes made by this government have been highly detrimental to Indigenous education, and the government stands condemned for making changes which flew in the face of Indigenous opinions and desires. *(Time expired)*

**Indigenous Education**

**Fuel Prices**

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (1.56 pm)—I might take the few minutes that are left in this opportunity given for further debate to thank all of the senators who have contributed on a wide range of issues of interest to the Senate, to the parliament and, I am sure, to the people of Australia.

Senator Crossin has been speaking on education matters. I have to say that her criticism of Dr Nelson, the Minister for Education, Science and Training, is quite unfounded. Dr Nelson has, I think, universally been recognised as being quite an exceptional education minister. He has, one might almost say, revolutionised the education approaches in Australia, and he has done it in a way that I am quite confident most Australian parents would approve of. So, to the extent that Senator Crossin criticised Dr Nelson, I would reject that and in fact congratulate Dr Nelson on the fine job he is doing as the Commonwealth education minister.

I could not help but comment on Senator Milne’s contribution on petrol prices. It is always interesting with the Greens; they still run on the fantasyland assumption that the Iraq difficulties were all about a fight over oil. Not once have they ever conceded that Saddam Hussein was a butcher who not only slaughtered hundreds of thousands of people from other countries but also was guilty of slaughtering hundreds of thousands of his own countrymen. Indeed, it was to address that sort of terror that the coalition forces— and there were many of them—undertook the liberation of Iraq.

Senator Milne also talked about reducing the price of petrol. Of course, it was the Howard government that stopped the automatic six-monthly increase on petrol prices with the excise that had been introduced by the Labor government. The Howard government has certainly made a major contribution to that.

Senator Milne sees the solution for lower income people as getting the GST off public transport. Never once does she or anyone in the Greens look at the real problem here: the states get all the GST money. If Senator Milne has an interest in the price of public transport for lower income people, she should be attacking the state governments for the way they continue to put up the prices for public transport. They should be using all of the GST money that they get from the Commonwealth to subsidise those public transport costs. Senator Milne and the Greens, instead of always attacking the Howard gov-
ernment and always supporting the Labor Party, even at state level where they keep increasing the costs of public transport, should be approaching the state governments to use all the GST money they get from the Commonwealth—

**Senator Ian Campbell**—Rivers of gold!

**Senator IAN MACDONALD**—the rivers of gold, as Senator Campbell says—to subsidise public transport costs for lower income people. So, Senator Milne and the Greens, don’t just attack the Howard government as a matter of course—I know that is what you do; you always give preferences to the Labor Party—but look at the real cause of a lot of the problems we see around. It is the state governments. It is them you should be attacking. So get away from your philosophical bent and do something to really assist by getting the state governments to act.

**MINISTERIAL ARRANGEMENTS**

**Senator HILL** (South Australia—Leader of the Government in the Senate) (2.00 pm)—by leave—I inform the Senate that Senator the Hon. Chris Ellison, the Minister for Justice and Customs, will be absent from question time today and tomorrow. Senator Ellison will be away from the Senate because he is travelling to Indonesia to assess Australia’s consular and emergency relief assistance in the aftermath of the recent Bali bombings. During Senator Ellison’s absence Senator Amanda Vanstone, the Minister for Immigration and Multicultural and Indigenous Affairs, has agreed to take questions on behalf of Senator Ellison and the Attorney-General’s portfolio.

**QUESTIONS WITHOUT NOTICE**

**Workplace Relations**

**Senator HURLEY** (2.00 pm)—My question is to Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. I refer the minister to his answer to my question yesterday when he said that the new minimum standards did not need to include redundancy pay because it was protected by state legislation. Is the minister aware that on page 11 of the government’s information booklet it specifically lists only five aspects of state employment law that may continue to apply under the new system? Can the minister confirm that redundancy pay is not included in that list? Is this yet another aspect of the government’s plans that the minister does not understand or was he deliberately seeking to mislead the Senate? Given that the government’s own literature confirms that the minister got it wrong yesterday, can the minister now indicate once and for all why redundancy pay was not included in the new minimum standards?

**Senator ABETZ**—There was no misleading of the Senate, but I will get onto the subject of misleading the Senate after I have answered the specific matters of the honourable senator’s question. Under WorkChoices, where an employee has been made redundant on the basis of operational requirements or on grounds which include this reason, the employee will be excluded from making an unfair dismissal claim. However, WorkChoices will guarantee that such employees will continue to be able to access unlawful termination provisions.

**Senator Lundy**—What about redundancy?

**Senator ABETZ**—Just wait, would you? This means that an employee would be able to seek redress if the employee was made redundant for operational reasons and he or she was terminated for discriminatory reasons—for example, because of race or age. In addition, the employer must give the required period of notice of termination or else compensate the employee as prescribed by the legislation.
Under WorkChoices the Australian government will ensure that employees covered by relevant awards made redundant as a result of operational requirements are entitled to redundancy and termination payments. The government will also be reinstating an exemption from the requirement to provide redundancy pay for small businesses of fewer than 15 employees. This exemption had previously existed in the federal system since 1984 and similar provisions also exist in state systems. This will not prevent small businesses from reaching agreement with their employees to make redundancy payments.

I was also asked about misleading statements to the Senate. Indeed, Senator Hurley asserted in one of her questions that there was a specific employee under an AWA at Banjo’s bakery. When confronted with the fact that this was not the case, Senator Marshall got up during the take note of questions debate yesterday to try to fudge and say that Senator Hurley—it was Senator Wortley, I am sorry—was talking about 50. They cannot have it both ways. Just imagine if Senator Marshall went to Aussies and asked for a cup of coffee then, when confronted with one cup of coffee, said, ‘And where are the other 49?’ Come on—you know that you were dissembling yesterday, Senator Marshall. I apologise for talking across the chamber, Mr President. Somebody with a modicum of intelligence must acknowledge that he was seeking to dissemble and reconstruct for the honourable senator a situation from which he had no escape—

Senator Chris Evans—Mr President, I rise on a point of order. I would ask you to call the minister to the question. He is seeking to debate yesterday’s taking note debate. He was free to join in if he wanted to on that occasion. Now it is question time. He was asked whether or not his answer yesterday regarding redundancy pay was wrong. I think the answer to that is yes. But can you call him back to the question about whether workers will be entitled under state legislation to redundancy pay as he claimed yesterday or whether that is wrong?

The PRESIDENT—Senator Evans, I believe Senator Abetz has been answering the question, but I would remind him that he still has a minute left to complete his answer.

Senator ABETZ—The problem with Senator Evans and the opposition at the moment is that they are trying to put a whole load of questions into the one question and then they want to cherry-pick and demand that I only answer one question. I was specifically asked about the misleading of the Senate and I have been answering that specifically, exposing that sort of conduct by the Australian Labor Party. They put a horrific story into the media. When that is exposed as being wrong, they then dissemble and try to reconstruct to make it sound good. It was like Tancred Fresh with Mr Stephen Smith. But at least he had the decency to withdraw. I suggest that the two senators opposite should do likewise.

Senator HURLEY—Mr President, I ask a supplementary question. Is the minister aware that a national minimum standard for redundancy pay has been in place since 1984? Wasn’t that national standard enhanced by the decision of the Industrial Relations Commission on 26 March 2004, which provided workers with a minimum right to redundancy pay of up to 16 weeks pay? Why has the Howard government ignored existing minimum standards by refusing to include any protection for redundancy pay under its new system?

Senator ABETZ—Once again there are a whole lot of assertions in the honourable senator’s question—a prewritten supplementary question. She asked me whether I was aware of certain activities in 1984. Yes, I
was. In fact, I read it from the script in front of me, which just indicates that she was so busy interjecting that she did not hear the answer that I was delivering. Can I simply suggest to honourable senators opposite, if you are genuinely about looking after the interests of workers, make sure you do not mislead them with the false examples you are peddling around the community.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the President’s Gallery of a very distinguished former President of the Senate and senator for South Australia, Sir Harold Young, and also Lady Young. I welcome you to the Senate and hope you enjoy your stay here. While I am on my feet, I also noticed that seated in the public gallery is former distinguished senator Michael Baume.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Workplace Relations

Senator TROETH (2.07 pm)—My question is to the Special Minister of State, Senator Abetz, representing the Minister for Employment and Workplace Relations. Will the minister outline to the Senate why the government is reforming Australia’s so-called unfair dismissal laws? Will the minister also outline how workers will continue to be protected from unfair dismissal under WorkChoices, and is the minister aware of any alternative policies?

Senator ABETZ—I thank Senator Troeth for her question and note that she is the distinguished chair of the Senate’s Employment, Workplace Relations and Education Legislation Committee. The government is reforming Australia’s so-called unfair dismissal laws because they are a disincentive for job creation. They are a failed experiment of the Keating government that are holding back employment growth in this country. They are a failed social experiment which are not necessary to protect the workers of this country from unfair dismissals because, even after these laws are removed, Australian workers will continue to be protected from unlawful dismissals on grounds including trade union membership—those opposite will be pleased—family responsibilities, pregnancy, temporary absence from work due to illness or injury, religion, gender et cetera. Further, for the first time ever, the Howard government will make legal advice to the value of $4,000 available to assist workers in pursuing such cases of unlawful dismissal.

Those on the other side like to pretend that there is no evidence of the job destroying nature of these unfair laws, but the fact is, indeed all the evidence shows, quite the contrary. Indeed, a survey by Dun and Bradstreet shows that 18 per cent of employers, that is only 200,000 employers, would be likely to employ more people if unfair dismissal laws were removed. It seems like a no-brainer to me.

Senator Hutchins—You should know!

Senator ABETZ—Even Labor knows it, as Senator Hutchins interjects. It is time for today’s ‘who said it?’”, Senator Hutchins. I ask those opposite to listen very carefully. Who said this about the Keating government’s unfair dismissal laws: ‘We were very careful in releasing our industrial relations policy to say we would not reflect in New South Wales’ industrial law the so-called unfair dismissal provision that is in the federal act. I happen to believe after talking to the business community—I am in touch with the business community. I’m interested in them making investment decisions to generate jobs in this state—I happen to believe that the provision in the federal act is a disincentive to take on workers. We are careful to
delineate in the policy we are putting forward that there be nothing that echoes that unfair dismissal provision. I’ve got to say that the unions in this state have accepted that position as well. It is something that has united both them and employer opinion.’ Who said this? Those opposite know. It was a former Labor leader. It was a former Labor opposition leader who, being desperate to get into government, knew that he could not reflect the federal unfair dismissal laws in the state of New South Wales. Those words were spoken in 1995 by the then Leader of the Opposition from the Labor Party, Bob Carr, who went on to become Premier. We have a situation whereby a premier like Bob Carr knew the facts. Even the unions in New South Wales cooperated because they knew the laws were job destroying. Mr Beazley must know it. Everybody knows it, and it is about time the Labor Party recognised the wisdom of what Bob Carr said in 1995.

Workplace Relations

Senator FAULKNER (2.12 pm)—My question is directed to Senator Abetz, the Special Minister of State, representing the Minister for Employment and Workplace Relations. I refer the minister to his comments from Monday about the industrial relations advertising budget that the government would ‘… do that which is necessary to ensure that workers have a full understanding of … our proposals.’ Can the minister confirm that the government has spent over $1 million today on newspaper ads? Is it the case that the government also spent $1.7 million on television advertising on Sunday night alone? Can the minister now inform the Senate how much of taxpayers’ money the Commonwealth has already contracted to expend on the WorkChoices campaign?

Senator ABETZ—On the basis of that question, those watching this program and those listening in would wonder why on earth Mark Latham listened to that man for advice on anything. In relation to Senator Faulkner’s question, I have previously indicated to the Senate that we, as a government, will undertake a campaign sufficient to ensure that the workers of Australia are fully acquainted with their rights and entitlements. I am asked about the latest up-to-date figure and it will not surprise anyone to know that I am not in fact acquainted with the exact figure. In the past, Senator Faulkner has been known to bandy about figures that were, of course, completely and utterly wrong. Just ask Mark Latham about Senator Faulkner’s advice on opinion polling and what that might tell you. Of course, the figures were badly wrong for the Australian Labor Party.

On the basis of that record I am not willing to accept what Senator Faulkner has said about newspaper advertisements or TV advertisements. Suffice to say that it stands to reason that a substantial sum has been spent because of our determination to ensure that the workers of this country know what all their rights and entitlements are. Indeed, if the package were so bad, as asserted by Labor, you would think they would be anxious for us to advertise our proposals, because it would scare the workers. But the reality is that they know how good the proposal is and that is why they are so scared that workers might actually find out the truth and therefore reduce trade union membership to even lower than the current 17 per cent rate.

Senator FAULKNER—Mr President, I ask a supplementary question. I did ask the minister to confirm the figures spent in relation to newspaper advertising this morning and television advertising on Sunday evening. It seems appropriate to me that the minister be required to answer that. If the figures provided by me are wrong, Minister, what are the correct figures? How much money was spent, Minister? How much money has been contracted on this campaign
so far? And, Minister, if you refuse to answer those questions, perhaps you could explain to the Senate—

Senator Hill—Mr President, I raise a point of order. Giving a speech on what should follow from a refusal to answer is clearly not asking a supplementary question.

Senator Chris Evans—At least you accept that he refused to answer. That is a point well made.

Senator Hill—That is the assertion. To assert that is not to ask a supplementary question. I therefore ask you, Mr President, to suggest to Senator Faulkner that he might ask a supplementary question within the terms of the standing orders.

The President—Senator Hill, I hear your point of order. Senator Faulkner, could you address your remarks through the chair? And I did notice that the first part of your question was a repeat of the original question, but you may have some other points that you wish to make and I am sure the minister would be pleased to hear them.

Senator Faulkner—Thank you, Mr President. Of course, I did not receive an answer to my original question. I am asking, as a supplementary question: on what basis does the minister refuse to provide that information to the Senate? Why does the minister consider that he is not accountable to the Senate and the people of Australia to provide that information?

Senator Johnston interjecting—

Senator Abetz—As Senator Johnston behind me quite rightly indicated, that was just a rant. No wonder he is sitting on the back benches. As I have indicated to the Senate previously, all this information will be made available to honourable senators during Senate estimates, which is in about 14 days time, when all the officials will be there and they can go through, chapter and verse, all the detail of any advertising that has been undertaken to date. I was not refusing to answer; in fact, I indicated that I did not know the exact figure. On the basis of Senator Faulkner’s past performance, I was not willing to accept him on face value, and Mark Latham would agree with me on that. So could I suggest to the honourable senator that he waits until Senate estimates and we will get all the details then.

Teleworking

Senator Brandis (2.18 pm)—My question is to the Minister for Communications, Information Technology and the Arts, Senator Coonan. Will the minister advise the Senate on how the Howard government is promoting the use of technology to deliver increased workplace flexibility? Is the minister aware of any alternative policies?

Senator Coonan—I thank Senator Brandis for a very pertinent question and for his interest in technology and the developments in technology. As senators on this side of the chamber would be well aware, the Howard government is committed to providing both flexibility and choice to Australian workers. This flexibility for workers with family commitments is at the very heart of the government’s WorkChoices package. As we know, workplace agreements can incorporate a range of both innovative and flexible practices to help employees balance their work and family obligations and balance work at home. They are simply not part of a one-size-fits-all award structure.

One innovative way of improving the work-life balance which is of particular relevance to the communications portfolio is teleworking. In line with the government’s commitments before the last election, I have established a task force of government, industry and small business to come up with ways of encouraging teleworking as an option, both for businesses and for their staff.
By using technology, workers are often able to perform duties from home or from satellite offices, which can greatly reduce travel time and increase the time available to spend with their families.

The Australian Telework Advisory Committee met most recently on 22 September to discuss feedback from stakeholders, gathered through the public consultation process. Evidence presented to the task force shows that employers see teleworking as a way of improving recruitment and the training of staff, boosting productivity and, of course, saving costs, while employees for their part are attracted to both the convenience and flexibility of working from home. A very revealing figure uncovered by the task force is that a mere nine per cent of teleworking arrangements are formalised in employment agreements. The vast majority are struck as part of one-on-one arrangements between employers and their employees—arrangements that actually suit both of them. This demonstrates very clearly the ability of workers and employees to establish mutually beneficial working arrangements when they are free of the red tape that prevents flexibility.

The capacity to work from home, of course, can be very attractive for many Australians, but I do recognise that it is obviously not very attractive for those who long for the days of a big unionised shop floor. Labor claim to be speaking for working Australians when they are simply acting as mouthpieces for trade union patrons. The ACTU may not be interested in real flexibility and choice for employees but the government certainly are. That is why we are seeking to reform industrial relations and why we are committed to supporting the uptake of high-tech options like teleworking. Australian families are interested in jobs and the ability to do those jobs in a flexible and modern way. Labor are simply interested in protecting the old ways of working and entrenching union power. The Howard government is committed to giving Australian families what they need and what they want, in modern workplaces and in their homes.

**Workplace Relations**

Senator WEBBER (2.22 pm)—My question is to Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. Does the minister recall declining to answer questions yesterday but instead inviting Labor senators interested in the detail of the government’s industrial relations changes to ‘ring the hotline on 1800 025239’? Is the minister aware that when basic questions about the proposed changes were put to the people on the hotline the responses included: ‘I can only give you a general overview,’ or, ‘At this stage many details have not been finalised,’ or, ‘We do not have a lot of information on the changes at this stage,’ or, when I rang them this morning, ‘What is a collective agreement?’ Can the minister now explain the point of having an information hotline if it cannot provide basic information about the proposed changes to workers’ pay and conditions?

Senator ABETZ—In relation to Senator Webber’s question, some people might ask, ‘What’s a drivers licence?’ Some people have difficulty with terms. I will correct two false premises—which the Australian Labor Party are wont to create—in that question. At no stage yesterday did I decline to answer any question nor did I in any way suggest that senators ring the hotline to get information.

Senator George Campbell—You did!

Senator ABETZ—No. What I said to the honourable Senator George Campbell when he was bemoaning the fact that he did not have this lovely glossy booklet was that if he wanted a copy of this glossy booklet he
should ring the hotline number on 1800 025239 or look it up on the web site. I was not telling those opposite to get details from the hotline; what I said was that if you want the booklet then ring the hotline—albeit that it was available on the web site but the unfortunate senator opposite was not sufficiently capable of downloading it off the internet.

The WorkChoices hotline is part and parcel of the government’s commitment to ensuring that workers will get all the information they want. The WorkChoices hotline has been established as part of a wider information campaign to ensure that all Australians are aware of their rights and responsibilities under the new system. The purpose of the hotline is to provide the Australian public with information about the WorkChoices reforms. The hotline is not intended to provide tailored and specific advice for every individual’s workplace circumstance. The WorkChoices hotline has been appropriately staffed to handle the high volume of inquiries that are expected to arise from the WorkChoices nationwide advertising campaign. The government will continue to provide accurate and comprehensive advice to ensure that Australians have a clear understanding of the proposed changes.

Senator WEBBER—Mr President, I ask a supplementary question. I take it from the minister’s answer that the hotline is now only a mechanism to send out the booklet and not to answer people’s questions. Can the minister confirm that the hotline operators are relying on the 16-page overview to answer queries about the government’s changes? Why have the operators not been fully briefed on the details contained in the larger 68-page booklet—the one they send out? Given the proven failure of the hotline to provide information on many aspects of the government’s changes, where does the minister now suggest that people should go if they have questions to ask about the package?

Senator ABETZ—The fact that the honourable senator cannot understand the information that is provided to her over the telephone is in no way a reflection on those people who are doing a fantastic job in the hotline centre in relation to these reforms. The suggestion has been made by the senator that there has been a ‘proven failure’. The hotline has been operating only for a few days and, according to Senator Webber, it is a proven failure. Imagine if Senator Webber were an employer. How would she be treating the people in the hotline call centre today? She would be in there ranting and raving at them and saying that they were a ‘proven failure’. Their disregard for the workers of this country is always highlighted and shown by the way they ask their questions. (Time expired)

Illegal Fishing

Senator EGGLESTON (2.28 pm)—My question is to the Minister for Fisheries, Forestry and Conservation, Senator Ian Macdonald. Will the minister outline to the Senate what further steps the Howard government is taking to protect Australia’s fisheries, our environment and our borders? Is the minister aware of any alternative policies?

Senator IAN MACDONALD—I thank Senator Eggleston for his question and acknowledge his very strong interest in matters in the north-west of his home state of Western Australia. Indeed, as a former very distinguished mayor of the city of Port Hedland, Senator Eggleston obviously has a real focus on north-west and western Australia. The Howard government is strong on border and fisheries protection, it is strong on environmental and quarantine protection and it is about to get stronger with an $88 million addition to the fight against illegal fishing in the north of our nation. That is on top of the
$90 million in new money allocated for this purpose in the May 2005 budget.

Of that $88 million, about $60 million will go to Customs to introduce new arrangements for four new shore patrol vessels and 28 new Customs officers. On top of that, a couple of weeks ago the Australian Fisheries Management Authority announced 30 new fisheries officers for the north. There will be $20 million going to the immigration department for increased detention and removal costs, $4 million for increased disposal costs, money for the Horn Island detention centre and some additional funds to the Director of Public Prosecutions. Senator Ellison and I announced yesterday that this new funding will commence immediately and the work being done by Customs, the Navy, fisheries officers and quarantine officers will commence very soon.

So far this year, our strong presence in the north has resulted in the apprehension of some 168 illegal fishing vessels, surpassing last year’s record of 162 for the whole year, and the seizure of gear from 236 vessels compared to 128 vessels for the whole of last year. Our Navy, Customs, Coastwatch, fisheries, quarantine and immigration officers do a fabulous job in protecting our northern borders, and the Howard government is determined to support them with additional funds.

I am asked if I am aware of alternative policies. I am delighted to tell the Senate that I am now—for the first time in a long time—aware of alternative policies, because Senator Ludwig mentioned the other day that Labor had now converted Kim Beazley’s coastguard version No. 5 back to Mark Latham’s coastguard version No. 4. Senator Ludwig, thank you for making us aware of that. This is the ALP’s new version of roll-back: you actually revert to the policies of the man who was described by the Labor Party as being beyond repair. I am pleased that Senator Ludwig has told us that their coastguard policy includes three helicopters. You will remember that they were the helicopters that were going to have snipers to shoot out the motors of the illegal vessels. It would be amazing to see how they would do that to those inboard engines.

So that is the Labor proposal: a few new boats. That compares very unfavourably with the current government’s approach of Coastwatch, with eight Customs vessels, 12 Navy patrol boats, 15 Coastwatch aircraft and soon another four Customs patrol vessels to help out in the area. We are determined to win the battle against illegal fishing. We will win the battle against illegal fishing. As this announcement has shown, the Howard government will divert whatever resources are needed to win this battle.

Immigration

Senator NETTLE (2.33 pm)—My question is to the Minister for Immigration and Multicultural and Indigenous Affairs, and it is about permanent residents who, having completed their criminal sentence, are held in detention under section 200 or 501 of the Migration Act, often for much longer than their original sentence. Senator, senators have visited a man in Villawood Detention Centre who has a wife and baby in the community and who used to run two small businesses. He has now been in immigration detention for over five years—more than three times as long as he spent in prison. Can the minister explain why she supports this double jeopardy? Will the minister commit herself to ensuring that people who have been in Australia for more than 10 years are not caught by this unfair provision of the Migration Act?

Senator VANSTONE—I thank the senator for the question. I am not going to comment on the particular case. I do not have
advice on it and it is not fresh in my mind. Nonetheless, the point the senator makes, if I can paraphrase it generally, is: there are people who might be permanent residents but have not taken the opportunity to take Australian citizenship and who later, presumably as a consequence of committing some criminal act or engaging in some activity that leads to a conclusion of them being of bad character, have their permanent residence cancelled. I do not know what it is in this particular case—at this point in time I cannot tell you what it is—that is stopping that person going home.

No-one wants to see anybody in detention any longer than they need be. It is an expense to the Australian government. We do not want to see it. But there are two points that I would make generally—not targeted at this case, because I do not have this case in mind. I will repeat that for you, Senator Nettle, because you are the person who called a press conference to claim that someone had committed suicide whilst in immigration care at Sydney airport. You were quite sure that that was the case, but my advice is that that is simply not the case.

Senator Nettle—They did commit suicide.

Senator VANSTONE—But they were not in immigration care, were they? Were they in immigration care? No.

Senator Nettle interjecting—

Senator VANSTONE—Precisely—they were not. You just run on a rumour. That is what feeds your petrol tank.

Senator Nettle—Just answer the question.

Senator VANSTONE—Mr President, the senator can interject and say, ‘Answer the question,’ but I think it is relevant when a senator uses the gravitas of her office to call a press conference and say, ‘I’ve been told that somebody committed suicide at Sydney airport, I have been told that they were in the care of immigration officers and I really want all this answered,’ so the story hopefully gets a run, and then it turns out that they had nothing to do with immigration. As I understand it, it was an incoming passenger from Indonesia. That is worth mentioning. I understand why the senator does not want it raised—because there are other instances of the senator getting things wrong.

But there are two points to make with respect to people who are permanent residents and have their visa cancelled. If someone comes to Australia they come on the conditions set by the Australian government. They take up the opportunity of permanent residence and we welcome them here permanently—saving and except for the risk they run of a bad character cancellation. They can obviate that risk—they can bypass it—by choosing to become an Australian citizen. Frankly, I put a lot of store on someone being a citizen and I take into account the fact that someone has not chosen to do that. Of course, the other thing they can do is not be of bad character, and then they will not end up having their visa cancelled. Everyone who is a permanent resident gets the chance to become a citizen and they get the chance to live a law-abiding and decent life—and, in both of those circumstances, we will keep them in Australia as long as they want.

Senator NETTLE—Before I ask the minister my supplementary question, the person I asked about went to drop off—

The PRESIDENT—Senator, you will ask a supplementary question, not debate the situation.

Senator NETTLE—All right. I will explain that to the minister later. In a recent Federal Court judgment on this issue, the majority of justices stated:

This is yet another disturbing application of s 501 of the Migration Act ... [which] suggests that ad-
ministration of this aspect of the Act may have lost its way.
Is the minister confident that the administration of section 501 of the Migration Act has been fairly, justly and reasonably implemented? Will she commit to review the cases of people held under sections 501 and 200 who have been in detention for over six months?

Senator VANSTONE—There is another factor that I think should be taken into account—and I will just advise the senator of this—and that is the welfare of the rest of the Australian community. People have had their visas cancelled, and when I read reports in the media about how sad it is that they have to leave their family and friends, I think, ‘Gee, isn’t that sad.’ And I sometimes think, ‘Gee, wouldn’t it be nice if they printed the full charges that someone has been convicted of so that the Australian community can decide if—

Senator Bob Brown—Mr President, I rise on a point of order. The question was about a Federal Court comment, and the minister should be addressing that instead of waffling on about her opinion. The question that was placed was about the Federal Court opinion.

The PRESIDENT—The minister has 30-odd seconds left, and I am sure she will return to the question.

Senator VANSTONE—One of the great checks and balances in this community is that we have community opinion, we have opinion of advocates, we have opinion of opposition, we have opinion of governments and, of course, we have opinion of judges. They can make the law within the strictures of making the law. I respect their right to have an opinion and to express it publicly. They can express that opinion as they choose. Of course, the situation of each person in detention is being regularly reviewed, not just the particular cases to which the senator referred. It is not restricted to those people.

Climate Change

Senator MASON (2.39 pm)—My question is to the Minister for the Environment and Heritage, Senator Ian Campbell. Will the minister inform the Senate about the Howard government’s ongoing commitment to addressing climate change, both domestically and internationally, including the development of new renewable technologies? Is the minister aware of any alternative policies?

Senator IAN CAMPBELL—I thank the senator for his question. Yesterday the Minister for Industry, Tourism and Resources, Ian Macfarlane, and I announced the opening for bids for the $500 million Low Emissions Technology Demonstration Fund. This is a fund to bring forward new technologies in both existing fossil fuels and renewables. It supports the renewable fund for $100 million and the Solar Cities program for $75 million. It is designed to leverage another $1 billion of investment from the private sector to attack the issue of bringing forward technologies to reduce greenhouse gases and, quite frankly, to save the planet from the adverse impacts of human induced climate change.

The government has worked very hard, both domestically and internationally, to forge a policy that will save the planet from climate change. We have announced the climate change Asia-Pacific partnership with other nations. I was going through some papers this morning and picked up a speech that put it more eloquently than I could. The speech says:

This is where the recent Asia-Pacific Partnership on clean development and climate change really comes into its own, offering Australia an opportunity for its own economic growth and an opportunity to be a part of the solution to the environ-
mental consequences of what is happening in our region.

The speech goes on:
By any measure, the six countries in the Asia-Pacific Partnership—Australia, the United States, Japan, China, India and South Korea—represent a regional partnership of great significance and even greater opportunity.

Those countries are all key trading partners of Australia. The speech goes on:
Together, they constitute 45% of the world’s population, 49% of the world’s gross domestic product, and 48% of the world’s energy consumption.

I thought, ‘How could you put this better?’ I immediately rang up Ian Macfarlane—it had to be Macfarlane’s speech—and I said: ‘This is fantastic stuff. I have to give a speech next week. Can I borrow it?’ He said, ‘I know it sounds very good, but they weren’t my words.’ So I immediately picked up the phone to Alexander Downer and said: ‘Foreign Minister, great words, great speech, fantastic exposition of the government’s commitment to climate change action. Can I use your words?’ He said, ‘Of course you can, but they are not mine.’ So I flipped over to the front of the speech to find out ‘Who said it?’—to use an Abetzism—only to find that it was in fact none other than the shadow minister for primary industries, Martin Ferguson AM, MP.

I commend Martin Ferguson AM, MP for what he said. He said it very well. His leader, in describing the Asia-Pacific climate change action partnership, did not use prolix words. He is a self-confessed prolix person, but when it comes to the environment you cannot accuse Mr Beazley of being prolix. His words were: ‘The partnership is nothing; it’s spin.’ Mr Ferguson puts it very well. There is a huge division in the Labor Party on climate change policy. You have Martin Ferguson saying that the Australian government’s approach to bringing forward greenhouse gas reduction technologies to attack climate change is the right approach. I quote from the Martin Ferguson speech again. He said:
This is a regional grouping of countries that, working in partnership, has within its gift the capacity to make a serious global impact on patterns of energy use and greenhouse emissions—and Australia is part of it.

And what does Mr Beazley say? ‘It’s nothing; it’s spin.’ The Labor Party’s policy on this is out of date. They have the Latham policy on this. They have a policy that is years behind the rest of the world, and they should get on with it. *(Time expired)*

**Workplace Relations**

Senator WONG (2.44 pm)—My question is to Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. Can the minister confirm that penalty rates, shift allowances and overtime loadings are not included in the government’s minimum standards? Can the minister further confirm that the booklets on the government’s changes make it clear that penalty rates, allowances and overtime loadings can be removed in an AWA through a simple clause stating that these payments are removed in the agreement? Doesn’t this mean that under the government’s changes these payments can be legally removed in an AWA without the employee getting any additional payments or benefits whatsoever in return? Can the minister explain why Australian employees should have to put up with the loss of their penalty rates, overtime or shift allowances without any financial compensation for this loss?

Senator ABETZ—Once again the honourable senator representing the Australian Labor Party has got it wrong. Under our proposals, what you have got you keep. In relation to people, if you have those entitlements under your award, there are those benefits that flow to you. What is very important...
about these changes is not only that we are anxious that workers have choice to be able to negotiate and discuss these issues with their employers and to come to an agreement that is to the satisfaction of both sides but also that they are designed to assist people into employment. That is why making workplace arrangements more flexible will assist employers to employ more people and allow people to actually get into employment, a factor that was not lost on the now long-serving Prime Minister of the United Kingdom, Tony Blair, when he acknowledged that some of the reforms in the United Kingdom were necessary and beneficial for people to get employment. We have—

Senator Conroy—Mr President, I raise a point of order on relevance. I am wondering what the UK’s industrial laws have to do with Senator Wong’s question, which was very specific and very targeted to a specific point in the booklet. I ask you to remind the minister of relevance and draw him back to the question.

The PRESIDENT—I cannot direct the minister how to answer the question. I have told you that before. I believe that in this particular case the minister is being relevant, because it is part of the question that was asked. In any event, the minister has 2½ minutes left to answer the question. I remind him of that question, and he can return to it.

Senator ABETZ—it is just such a pity that the Australian Labor Party have no interest in getting people into employment. That is what their opposition to our removal of unfair dismissal laws is all about. It is their opposition to us—

Opposition senators interjecting—

The PRESIDENT—Order! How can a minister answer a question if he is being interjected on all the time? Come to order!

Senator ABETZ—Thank you, Mr President. As much as I would like you to direct those opposite to ask sensible and appropriate questions, and you cannot, I say this to honourable senators: if you ask such open-ended questions as you do then of course you give ministers licence to cover the totality of the issues before us. The totality of the issue before us is WorkChoices and the booklet that I would commend honourable senators to read. The information is in the booklet for the honourable senator to read. If she were genuinely interested, she would read the 68-page document, acknowledge it—

Senator Conroy—Have you read it?

Senator ABETZ—Senator Conroy from the Transport Workers Union and all of them—

The PRESIDENT—Order! Minister, ignore the interjections and return to the question.

Senator ABETZ—I will try to ignore the interjections, Mr President, but it does become somewhat tiresome when those opposite claim to be seeking information and then when you are actually giving it to them they kick up a cacophony which does not allow you to respond in the way that the workers of Australia actually want. We have made no bones about the fact that we want a more flexible arrangement. What Senator Wong is pointing to is an example of that flexibility. At the end of the day, we want people to have jobs. We know from overseas experience such as that of the United Kingdom that flexibility does create greater employment opportunities. If you do not believe me, have a look at Germany, France and Spain, who have such very regulated employment markets with 10 per cent—double digit—unemployment rates.

Senator WONG—Mr President, I ask a supplementary question. In his answer, the minister stated that what you have got you would keep. I refer the minister to page 22 of the booklet to which he keeps referring, in
which, in relation to the conditions which I outlined, it is specifically stated:

A collective agreement or AWA ... need simply set out how the new agreement will either change or remove these matters in that agreement.

Can the minister confirm, therefore, that these matters can be removed simply by a clause indicating that they are removed, with no compensation? Is the minister not aware that many Australian workers and their families rely on penalty rates and overtime to meet their living expenses and mortgage repayments? Why is the government insisting on introducing a system which fails to protect these payments and allows for their complete removal without any guarantee of equivalent compensation? Can the minister explain why the government is refusing the protect the take-home pay of Australians and their families?

Senator ABETZ—I cannot believe that the honourable senator could not comprehend page 22, paragraph 4.4, ‘Protecting award conditions in bargaining’, which states:

WorkChoices will protect certain award conditions when new workplace agreements are negotiated. These award conditions can be the subject of bargaining by the employee/s and employer.

And ‘penalty rates’ is in there. It continues:

These award conditions can only be modified or removed by specific provisions in the new agreement. If these award conditions are not specifically referred to in the new agreement, these award conditions will continue to apply.

Workplace Relations

Senator MURRAY (2.51 pm)—My question is to Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. Minister, in answering questions on the coalition’s workplace relations proposals you have been making comparisons with other countries. Is the minister aware that the World Economic Forum’s 2005 global competitiveness ranking puts Australia as the 10th most competitive country in the world? Is the minister aware that Finland is No. 1, Sweden is No. 3, Denmark is No. 4, Iceland is No. 7 and Norway is No. 9? Is the minister aware that Australia’s unemployment rate is five per cent, Norway’s is 4.6 per cent, Sweden’s is 6.3 per cent, Denmark’s is 4.8 per cent and Iceland’s is 3.0 per cent? Is the minister aware that not only do most Scandinavian countries have a lower unemployment rate than Australia but the OECD notes that Norway, Iceland and Sweden all have lower long-term unemployment rates than Australia? Is the minister aware that these Scandinavian countries have higher regulation of industrial relations than Australia, but they are better at creating jobs, are more productive and are wealthier than we are? When is the government going to examine Scandinavian countries to learn why their policies are so effective?

Senator ABETZ—For Senator Murray, it seems, to be 10th in the world rankings is good enough. We as a government believe we can always improve and do better, and we will not rest with an unemployment rate of five per cent, which, it seems, is acceptable to Senator Murray. We are proud of our achievements but we accept that we need to go a lot further to remove even more people from the social scrap heap of unemployment.

If we are to make international comparisons, as I am being invited to by Senator Murray, he would know that the International Monetary Fund has recommended our workplace relations changes and reforms as being important for the economy and for reducing the level of unemployment in this country. I do not know how often we have to say it but I will say it again: we are proud of our five per cent unemployment rate and we are relatively pleased with our No. 10 position in the world rankings, but we believe that we can do a lot better and that is what we are striv-
ing to do. It seems that for the Australian Democrats near enough is good enough. That is not the way we approach this issue. We do listen to international advice such as that from the International Monetary Fund to assist us and to help us determine the appropriate approach, and the appropriate approach quite clearly is for us to continue with these workplace relations reforms.

I would invite the honourable senator to make comparisons with countries that have a similar social culture to our own, such as the United Kingdom and New Zealand. I think we can make those sorts of comparisons and people can identify more easily with those countries. Reforms were introduced under long-term Labour governments both in the United Kingdom and in New Zealand and they have not turned back those reforms. Why? As Mr Blair told the first Trades Union Congress when he became Prime Minister, fairness in the workplace begins with the opportunity of a job.

We have given over one million Australians the opportunity of a job—opportunities that, if the policies of the former Labor government had continued to be pursued, they would not have had. The Leader of the Opposition, a former minister for employment, Mr Beazley, presided over one million unemployed Australians. They are the sorts of policies that the Labor Party want to go back to. We do not. We have introduced tax reform, welfare reform and waterfront reform to assist us in this.

There is another important aspect to this and that is to continue—and might I give those opposite a bit of a hint—the reforms in industrial relations that were timidly approached even by the Keating government. Reality, in the end, mugged even Mr Keating. That was a big ask, but reality did mug him, as it mugged Mr Blair and Helen Clark—and I hope that it mugs the opposition soon, because then we will get their support to introduce the WorkChoices reforms.

Senator MURRAY—Mr President, I ask a supplementary question. As you know, it is my practice to thank ministers for their answers, but I do not think that the minister answered the question so I will not do so this time. Responding to the economic argument in the minister’s answer, when is the government going to produce the empirically based models and substantive arguments for your workplace relations proposals, like you did very effectively for the A New Tax System, to be thoroughly tested by the Senate? When is the government going to stop making unsubstantiated economic assertions to justify trashing our very effective IR federal system?

Senator ABETZ—I start my answer by suggesting to the honourable senator that he should be gracious in defeat. In relation to the empirical evidence, there is the MYOB survey which clearly indicates that, if the unfair dismissal laws were changed, one-third of employers would take on more staff. You have the Dun and Bradstreet survey that I have referred to, which indicated that 18 per cent of employers, or 200,000 businesses, would be interested in employing more Australians if we got rid of the unfair dismissal laws. That is the sort of empirical evidence that advises us as a government that things need to be changed in this country, things that were acknowledged by the former Labor Premier of New South Wales, Bob Carr, as early as 1995. Here we are a decade later and the Australian Democrats still have not caught up with the learnings of the Labor Party of a decade ago. (Time expired)

Workplace Relations

Senator MARSHALL (2.58 pm)—My question is also to Senator Abetz, the Minister representing the Minister for Employment
and Workplace Relations. Is the minister aware of the economic disadvantage that the government has inflicted on Australian construction companies such as Multiplex, Baulderstone Hornibrook, Leighton Holdings, LU Simon and Probuild by arbitrarily changing the building industry code of practice? Haven’t the government’s actions rendered noncompliant many certified agreements applying to these companies that were previously code compliant, thereby making these businesses ineligible to tender for government projects? Can the minister explain why the government is retrospectively penalising these Australian construction companies for entering into genuine and legal collective bargains with their employees?

Senator ABETZ—On this occasion I thank the honourable senator for the question. The Australian people know about the corruption and thug type practices in the construction industry, as revealed by the Cole royal commission. As a result of that, we engaged a task force which exposed a litany of behaviour—thuggery, illegal activity and inappropriate activity—which those on the other side, beholden to the construction unions, are willing to defend, to their great shame.

I indicate to the Senate that we as a government believed that the construction industry needed to be cleaned up. The Cole royal commission agreed that the industry needed to be cleaned up. What gave us the idea to have the royal commission in the first place? A lot of builders and small businesses came to senators such as me, indicating a legacy of behaviour that is completely inappropriate in the Australian workplace. We as a government have therefore not only introduced legislation in relation to the Australian building industry commission but also dealt with a building code. We will continue to monitor the building industry. When things such as blue flu continue to exist in the construction industry, it ill behoves the likes of Senator Marshall to get up in this place and suggest that all is rosy between employer and employee. We also know that from time to time employers are—

Senator Chris Evans—Mr President, I rise on a point of order. My point of order relates to relevance. We have allowed Senator Abetz to go on for a couple of minutes. I am happy to debate that issue with him another time, but the question went to whether or not those major building companies are now ineligible for government contracts. That is the key part of the question. Could you direct the minister, please, to address that question. Are those companies now ineligible for government contracts as a result of the government’s decision?

The PRESIDENT—Senator Abetz, you have over two minutes left to complete your answer. I remind you of the question.

Senator ABETZ—It is always unhelpful when Senator Chris Evans tries to reinterpret the question for one of his backbenchers when he sees that they are struggling. He tried to do it for Senator Wortley the other day and the Hansard proved him wrong. Yet again, today he is wrong.

We as a government are concerned to clean up the construction industry. As a result, we have an amended code of conduct for the building industry. We expect every employer-builder to abide by the law. Unlike those opposite, we do not believe that there ought to be one law for a certain section of the community and another law for another. It is up to each of those individual building companies to determine whether or not they can comply with our new building code. It would be against standing orders for me to try to give legal advice in relation to whether that particular agreement may or may not be in breach of a building code. What I can say to the honourable senator is that we are about
cleaning up the building industry. We note
for the record, yet again, the Labor Party’s
implacable opposition to our cleaning up the
industry to get rid of the sort of behaviour of
the Craig Johnstons and the Kevin Reynolds
of this world.

Senator MARSHALL—Mr President, I
ask a supplementary question. I am glad that
the minister thanked me for the question. It is
a pity that he did not put more of an effort
into answering it. Is the minister further
aware that the government’s actions have
jeopardised the viability of these construc-
tion companies and the jobs of many thou-
sands of their workers? Can the minister ex-
plain why the government changed the rules
after genuine and legal workplace agree-
ments had been negotiated by these compa-
nies? Has the government shifted the goal-
posts on these companies to simply under-
mine collective agreements so that it can
promote its industrial relations agenda?

Senator ABETZ—No.

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

ANSWERS TO QUESTIONS ON
NOTICE

Question Nos 167, 554, 557, 1042, 1048,
1049, 1065, 1088, 1095, 1096 and 1097

Senator HILL (South Australia—
Minister for Defence) (3.04 pm)—by
leave—I understand that Senator Bishop re-
ferred yesterday to 11 questions on notice. I
am advised that three of those questions, Nos
1042, 1048 and 1049, were tabled in early
August. Three questions are under ministre-
ial consideration, but two of those have only
just recently returned from the department.
Three questions are with the minister assist-
ing, for her consideration. One is with the
Department of Defence and one was referred
to the Department of the Prime Minister and
Cabinet as part of a broader whole-of-
government response.

PARLIAMENTARY BEHAVIOUR

Senator CONROY (Victoria) (3.05
pm)—I seek leave to make a short statement of
no more than three minutes and to ask a
question relating to the behaviour of sena-
tors.

The PRESIDENT—Leave is not granted.

Senator CONROY—Mr President, I ask
you a question relating to the operation of
standing order 205. As you are aware, the
standing order states:
The Senate may intervene to prevent the prosecu-
tion of a quarrel between senators arising out of
debates or proceedings of the Senate or of a
committee.

Senator HILL interjecting—

Senator CONROY—I am asking a ques-
tion.

Senator Hill—Mr President, I rise on a
point of order. Upon what basis can a ques-
tion be asked at this time?

Senator CONROY—Standing order 205.
I have been advised that this is the point at
which to raise it. Mr President, last night
Senator Joyce voted against the govern-
ment’s changes to merger laws. In the divi-
sions following this critical vote, it appeared
to me and to other senators that Senator Hef-
fernan engaged in intimidating behaviour
towards Senator Joyce.

Senator Hill—Mr President, I rise on a
point of order. I have just read standing order
205 and it does not seem to me to give any
right to the honourable senator to ask a ques-
tion at this time. So I pursue my point of or-
der and ask you to rule that this question is at
this time out of order. He had an hour to
ask that question. He had the correct time of
the day to ask it and he apparently had other
priorities.
The PRESIDENT—Are you raising a point of order, Senator Conroy?

Senator CONROY—I am happy to raise it as a point of order, because I am seeking some action from the President. If I could complete—

The PRESIDENT—My suggestion would be to put your questions in writing to me and I will give it a considered reply.

Senator CONROY—I understand why the government want to cover up Senator Heffernan’s activities, but it was quite disgraceful behaviour last night.

The PRESIDENT—Would you put that question in writing to me and I will have it investigated.

Senator Bob Brown—On a point of order, Mr President: I ask you to review that decision. If the honourable senator puts the question to you in writing, then we senators, who ultimately may have to judge on this matter, because we are the controllers of decisions about standing orders, will not know what the question is. It is much better that we hear the matter raised by the senator.

The PRESIDENT—if the—

Senator Hill—he has had question time!

The PRESIDENT—we have had question time, that is quite correct, but I am not going to respond to that again. The fact is that if any senator has a complaint about something that happened in this chamber when I was not here, it is usually referred to the President for investigation. And if you—

Senator CONROY—I do not need to do it in writing; I am seeking to do it right now.

The PRESIDENT—I am asking you to do it in writing and I will consider it.

Senator CONROY—I will also put it to you in writing, but I would like to make my point to you directly. I am entitled to do it now.

The PRESIDENT—Question time has finished.

Senator Wong—the point of order is this, Mr President: I understand you might have a preference for this to be in writing, but what I respectfully suggest is that there are occasions on which it is appropriate that these issues be raised publicly with the President. I understand Senator Conroy is simply asking you to consider an issue. He is not asking for a ruling at this time. Respectfully suggest to you that it is appropriate for him to raise it. I understand that the government may not want this on the public record, but it is not inappropriate for a senator to raise this issue in the chamber.

Senator Hill—On a procedural matter, Mr President, on the point of order: I do not know—

The PRESIDENT—is it on the same matter?

Senator Hill—Yes. I do not know the issue that is to be raised, but I know the correct time to do it. The honourable senator has just had an hour to do it and he chose not to. Apparently he had other priorities. So, unless he gets leave, he cannot ask the question at this time and he ought to get on with the business of taking note of answers that have arisen out of question time.

Senator CONROY—you know what your advice is!

The PRESIDENT—yes, I know what my advice is: you put it in writing and send it to me, and I will have the matter investigated.

Senator CONROY—that is not the ruling.

The PRESIDENT—well, that is the advice I have had and that is the advice I am going to stick to.

Senator CONROY—that is your ruling; that is not the advice!

The PRESIDENT—it is the advice.
Senator CONROY—It is your preference.

The PRESIDENT—No, it is the advice I have received.

Senator Wong—On a point of order, Mr President: is it the case that your ruling is now that, whenever there is an issue about the application of standing orders, you intend to request that senators provide the question in writing, and they will not have the capacity in debate in the chamber to raise this issue?

Senator Hill—You can raise an issue in debate. This is not the time!

The PRESIDENT—When other matters like this have happened—if I get the drift of what Senator Conroy is trying to raise—they are raised with me in writing, I have them investigated and I report back to the Senate. I do not recall when there has been an intended allegation, like the one I think you were trying to raise—

Senator CONROY—If you would let me finish, you would know!

The PRESIDENT—under a point of order. You are raising it under a point of order and perhaps it should have been raised at question time.

Senator CONROY—I am referring a matter to you.

Senator Hill—Take note of answers—that is what we are supposed to be doing now.

Senator CONROY—I am making a point about the conduct of senators—

The PRESIDENT—The appropriate thing to do is to make the complaint to me in writing. I will accept it in writing, have it investigated and report back to the Senate. You can then make your points if you wish.

Senator CONROY—You are gagging me here.

Senator Hill—Yes, and he should. You are out of order!

Senator Bob Brown—Mr President, on the point of order: the serious matter here is that the ultimate arbiters on the standing orders are the members of this Senate. It is within our power to consider your judgment and then vote on it. It is absolutely imperative that, in this process, if a point of order is made regarding the prosecution of a quarrel under standing order 205, we ought to know about it from the outset. Otherwise, how are we to make such a judgment? The correct procedure here is to hear the point of order put to you by Senator Conroy. He can then follow it in writing, but that is the correct procedure. That is the obvious, reasonable procedure that you should follow.

Senator Ian Campbell—On the point of order, Mr President: when coalition senators ever dare rise to their feet at three o’clock, when we are up to item 6 on the Notice Paper, which is motions to take note of answers, the senator now absent, who is in the United Nations in New York for the second time, Senator Robert Ray, leaps to his feet and says that this is the wrong time to raise this point. Senator Conroy had the chance to raise any issue under standing order 205 from the moment he saw any contravention of standing order 205, and he chose not to do so. He chose to wait until there were journalists in the gallery, when he could big-note, grandstand and make a big fella of himself.

Opposition senators interjecting—

Senator Ian Campbell—Senator Conroy should take your advice—

The PRESIDENT—Order!

Senator Ian Campbell—and he should—

The PRESIDENT—Thank you, Senator.

Senator Ian Campbell—He had a whole hour at question time to prosecute the question if he wanted to ask you a question.
The PRESIDENT—Order!

Senator Ian Campbell—He should do what you have told him to.

The PRESIDENT—Thank you, Senator. Senator Conroy, you are able to raise a point of order, but I do not know what your point of order is.

Senator CONROY—My point of order is about standing order 205.

The PRESIDENT—Which is?

Senator CONROY—Which is to do with quarrels of senators. If I can actually make my point of order, then we can get on with the business of the Senate. As I was saying, last night Senator Joyce voted against the government’s changes to merger laws. In the divisions following this critical vote, it appeared to me and to other senators that Senator Heffernan engaged in intimidating behaviour towards Senator Joyce. It did appear—

Senator CONROY—I am on my feet!

The PRESIDENT—Resume your seat! I hear what you say. Put the matter in writing—

Senator CONROY—You have not heard what I said.

The PRESIDENT—You have made allegations. Put them to me in writing and I will have them investigated.

Senator CONROY—On the point of order—

The PRESIDENT—I am on my feet!

Senator CONROY—you were sitting down, so I stood up again.

The PRESIDENT—Look, I am not ruling on this; I am just saying that you should put the matter to me in writing. I hear what you say. I will reply to you in writing.

Senator Ferguson—I rise on a point of order. Under standing orders, when you are on your feet, other senators—

The PRESIDENT—You are quite right.

Senator Ferguson—are required to be silent. You were addressing Senator Conroy and he sat there and argued with you from his seat while you were on your feet. He is out of order, and he should obey your original ruling.

Senator Chris Evans—I rise on the same point of order Senator Ferguson raised. I accept his point. When you are on your feet, senators ought to remain seated and silent. We all accept that. Senator Conroy thought you had started to sit down.

The general point regarding the other point of order is that Senator Conroy is attempting to raise two concerns with you in accordance with the standing orders, as has traditionally been done. If you then choose not to rule on it now but to take it away, that has been the procedure in the past and I have no problem with that. Senator Conroy’s frustration stems from the fact that he wants to make those two points to you. He has made one. He wanted to finish that. If you then rule that you want to take it away and consider it, that would be perfectly appropriate.
That has been past procedure. But Senator Conroy should be allowed to outline what his concern is. You can then take whatever decision you think is appropriate in dealing with that.

Senator Hill—On a point of order: clearly, this is not being raised as a point of order. Senator Conroy is seeking to make a statement. He apparently got halfway through his statement. He sought to justify it by calling it a point of order when clearly it was not a point of order.

Senator CONROY—It is a point of order.

Senator Hill—No, this is just straight abuse. Senator Conroy got to his feet and said he wanted to ask a question. If he had been given leave, he would have been able to ask it. I did not give him leave because, under the standing orders, at this time of the day senators are supposed to be debating answers that have arisen out of question time. There are many opportunities within the standing orders for Senator Conroy to raise the issue that he is talking about.

Senator Chris Evans—The fact that we gave you leave to do a couple of things yesterday has been conveniently forgotten.

Senator Hill—I do not mind you criticising me for it. You may choose to do that. But that does not alter the point that Senator Conroy has to operate within the standing orders, as does any other senator. He is not making a point of order. He should not be allowed to make a statement and claim it to be a point of order. He should be ruled—

Senator Chris Evans—How else should he raise this issue?

Senator Hill—If he does not know how to do it within the standing orders, I suggest he make an appointment with the Clerk, because it is about time he learnt how to do it.

The PRESIDENT—We are now descending, if we have not already, into a long debate on an issue which should never have arisen in the first place. Obviously, Senator Conroy’s point of order is a statement because it is written. I will be more than happy to consider it and reply. I have the gist of the first part of it and I am quite capable of reading the rest of it. You have it written down there, so I would ask you to put it in writing to me and then I will investigate the matter.

Senator Bob Brown—Mr President, I rise on a point of order. The Senate must be informed from the outset. If you are going to take this arbitrary decision that we shall not hear what Senator Conroy has to say, I ask that his statement, his question, his point of order, his reasoning be circulated to senators.

The PRESIDENT—No. Senator Conroy has plenty of other ways of putting forward his point of view. There is no point of order. Senator Conroy is on his feet again.

Senator Bob Brown—I have not finished yet.

The PRESIDENT—I said that there is no point of order.

Senator Bob Brown—I have not finished.

The PRESIDENT—I have said that there is no point of order. You have finished so far as I am concerned at the moment.

Senator CONROY—Mr President, I rise on a point of order. I had made one of the two points that I wanted to make. This is a serious matter. I am taking another point of order under standing order 205. This is a serious matter, Mr President.

Senator Ian Campbell—that is not a point of order.

Senator CONROY—I am on a point of order.
Senator Ian Campbell—Mr President, I rise on a point of order. Standing order 205 reads:
The Senate may intervene to prevent the prosecution of a quarrel between senators arising out of debates or proceedings of the Senate or of a committee.
Under standing order 205, the proper process if there is a quarrel is that, one would presume, one of the senators involved in that quarrel would come to the President or to the Senate and seek a resolution of it, and not take a point of order on it. Senator Conroy is now defying your ruling. If he wants to move dissent to your ruling, that is his next course of action.

The PRESIDENT—I hear your point of order. As has been pointed out to me, the chair listens to a point of order and, when he is sufficiently appraised of what that point of order is, he then can rule on that point of order. I heard what Senator Conroy said—not all of his point of order but enough to know what it is about—and I am ruling on that point of order. He will present that to me in writing and I will have the matter investigated and then report back to the Senate. Then the Senate can deal with it.

Senator CONROY—I rise on a separate point of order. I draw your attention to Odgers. Under ‘Questions to the President’ it says:
The standing orders do not provide for the President to be asked questions, either without or on notice. Nonetheless, it is now common practice for questions to be asked of the President, on the ground that certain matters, particularly dealing with parliamentary administration, can be answered satisfactorily only by the President, rather than by a Minister to whom otherwise the question...

Senator Ian Campbell—I rise on a point of order. Senator Conroy is now dissenting from your ruling. If he wants to dissent from your ruling, he should do so formally. You have ruled.

The PRESIDENT—There is no point of order. In fact, Senator Conroy was not asking me a question; he was taking a point of order, so that does not apply.

Senator CONROY—that is because you would not let me ask you a question.

The PRESIDENT—We are moving on from here. I have told you what my decision is, and that is final.

Senator CONROY—that is a disgraceful shepherding.

The PRESIDENT—are you reflecting on the chair?

Senator CONROY—No. I withdraw.

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS
Workplace Relations

Senator LUNDY (Australian Capital Territory) (3.21 pm)—I move:
That the Senate take note of the answers given by the Special Minister of State (Senator Abetz) to questions without notice asked today relating to proposed changes to industrial relations.

Firstly, I note the time it took and the great difficulty which my colleague Senator Conroy had in asking a question—indeed, that was denied leave by the Leader of the Government in the Senate—and making a reasonable point of order. However, that is not the subject of my taking note. What an appalling performance that was today. Let us get back to the issue of industrial relations. Senator Abetz was up there like a schoolboy in a sweat today, pretending that he knew what the government IR package is about but, being so high on rhetoric and so low on actual facts, he could not explain it to save himself. The bottom line with the government's industrial relations changes—the so-called WorkChoices—is that they absolutely show that this government is pursuing an ideological vendetta against Australia's trade unions and against working people throughout this nation.

Senator Abetz was not able to answer basic questions about the provisions of their industrial relations package. He was not able to explain what would happen to redundancy entitlements under awards. In fact, he read the wrong brief—the unfair dismissal brief. He was not able to answer questions about the hotline or the reference material that the people servicing the hotline are using. In answering Senator Wong's question—a very specific question about whether penalty rates, allowances and overtime loading can be removed in an AWA—Senator Abetz misled this chamber. He stood up and said, 'What you have, you keep.' That is not true. If it were true, the Prime Minister would be able to say that no worker will be worse off. The Prime Minister is not saying that no worker will be worse off, because workers will be worse off, and what workers have under their awards is able to be taken away from them. Public holidays, rest breaks, incentive based payments, annual leave loadings, allowances, penalty rates, and shift and overtime loadings are up for grabs. Senator Abetz chose to be selective in what he read from the WorkChoices booklet, but the document says:

A Collective Agreement or AWA under WorkChoices need simply set out how the new agreement will either change or remove these matters in that agreement.

The agreement will need to identify the particular award conditions that are being removed. Senator Abetz misled the chamber on that point this afternoon. What workers have they will not be able to keep if the employer chooses to remove those provisions, and there is nothing that anyone from the Howard government can say to deny that, because it is there in black and white in their booklet.

It is also worth while reflecting on some of the comments made by Senator Abetz to the question Senator Murray asked. Senator Murray asked a question about the effect on the Australian economy, and I think it is quite extraordinary that Senator Abetz implied that this is somehow the only way that Australians will have access to work. How does that work, when unemployment has dropped and the minimum wage has risen—albeit more than I think the Howard government would have liked it to? In a growing economy, unemployment has dropped, wages have risen and the government is trying to mount an argument that downward pressure on wages will help unemployment. It actually does not stack up. The Howard government cannot use economic arguments to justify this particular package. How can you, when the facts and experience show that, even over the last nine long years of the Howard government, their own arguments have been undermined by the reality and
trends in the workplace with wages and economic growth?

What we are actually seeing here is an ideological vendetta. The Howard government have pursued this. They get excited about VSU and industrial relations. We know they have no practical knowledge of workplace reality. You only need to turn to the example of a young person who is in the workplace for the first time. Do they have any power in negotiating an agreement with their employer? Absolutely not. I speak of my own experience as a 16-year-old, when I became a builder’s labourer. Did my boss tell me to put on that safety mask because I was working with asbestos? No, they did not. It was the union that told me that. It was the union that enforced the safety regulations in the workplace. It was the union that got superannuation and dignity for retirement for transient workers like building workers. It was the union that made it possible to earn a living wage from that type of work. This legislation is nothing more than an attack on trade unions and workers. (Time expired)

Senator MASON (Queensland) (3.27 pm)—What I think this debate on workplace relations has lacked is a sense of context and history. In Paul Kelly’s book The End of Certainty, he talks about the five pillars of Federation in 1901—pillars that were, in a sense, agreed to by all sides of politics. They were: imperial benevolence, White Australia, high tariffs, state paternalism and wage arbitration. Imperial benevolence has gone—we no longer rely, and can no longer rely, on the United Kingdom. White Australia, thankfully, has also gone. High tariffs have gone. State paternalism has also gone. The last one left—the last part of the settlement that Mr Kelly talks about—is wage arbitration.

The fact is that the tide of history is against the Labor Party. Wage arbitration, as it was constructed 100 years ago, is on the way out. Indeed, the role of trade unions in civil society is far less than it once was. One hundred years ago, wage arbitration was used as a form of wealth redistribution. Rather than talking about increasing the size of the cake, the trade unions spoke about cutting up the cake. I have noticed in my lifetime that the role of trade unions in civil society and in the community is diminishing. If people want to make a contribution to their community these days, they do not do it through the trade union movement. They do it through other forms of community involvement. It could be through charities, or through the church or other sorts of community consultation and obligation. That is how people do it. The role of trade unions is diminishing, and that is why, in the end, the Labor Party is on the wrong side of history.

You might ask: why has that happened? Not only has civil society changed but, as John Button said so eloquently in that famous Quarterly Essay article ‘Beyond belief: what future for Labor?’:

In August 2001 unions made up less than 25 per cent of the total workforce and only 19.2 per cent of the private sector workforce. (Compare this to 1978 when union membership made up 57 per cent of the workforce.) Unions affiliated with the ALP represent less than 15 per cent of the workforce.

So another reason is that the Labor Party does not even represent the labour movement anymore. Finally, the real reason why the Labor Party is on the wrong side of history—and the Rt Hon. Tony Blair understood this; the Australian Labor Party is yet to understand it, but the English Labour Party accepted it—is that job security is derived not from a form of wage arbitration or industrial regulation but from a strong economy, pure and simple. All the regulation of wages and labour in the world will not save jobs. It did not save jobs during the Great Depression. It
did not save jobs during the ‘recession we had to have’.

Why is unemployment so low today? Why is it at five per cent? I will tell you why. It is because the economy is so strong. Any system of arbitration or industrial relations regulation that is not conducive to flexibility and a growing economy is a system that does not work, will force employers to lay people off and costs jobs. The English Labour Party understood this. This is one thing that the Australian Labor Party are going to have to come to terms with over the next few years, whether they like it or not. The English Labour Party understood that the only way to secure good jobs for the future in a globalised economy is through a strong economy. No system of industrial arbitration or wage regulation will solve that.

Senator GEORGE CAMPBELL (New South Wales) (3.31 pm)—If there is one thing that is clear from the contribution by Senator Mason it is that he knows absolutely nothing about industrial relations and industrial relations issues.

Senator Mason—I know about history, George.

Senator GEORGE CAMPBELL—We are not talking about history.

Senator Mason—Yes, we are.

Senator GEORGE CAMPBELL—we are talking about the current environment. We are talking about the future that you are trying to create, not the history that we have come from. That is what we are talking about. We are talking about a government that is hell-bent on using its powers to create a set of circumstances in this country where workers will be oppressed and suppressed and where the balance of power in the workplace will be shifted to employers.

You have only to look at what happened with the question asked by Senator Marshall of Senator Abetz—which Senator Abetz could not answer—about the application of the code of conduct in the building industry in Victoria. You introduced legislation in the building industry and made it retrospective so that unions and employers or companies in Victoria could not do certain things. They accepted that situation and sat down and negotiated amongst themselves arrangements for their industry into the future. What did you do as a government? You moved in in the middle of it, after they negotiated the agreements and registered the agreements legally, under the laws that stood at the time, and arbitrarily changed the regulations. You changed the rules. You shifted the goalposts. You changed the goalposts from AFL to Rugby League. You changed the nature of the game and penalised them as a result of it.

Is that what we can expect under the new laws that you are introducing if they do not get the outcomes that you expect to get and you do not get the cut in wages of workers that you expect to get? Will you keep shifting the goalposts on the AWAs? Will you keep shifting the goalposts on the powers you give to the Office of the Employment Advocate? Will you keep shifting the goalposts on the restrictions you put upon unions and their capacity to operate in the work force? If you have done this in respect of the building industry then we can expect you to do it in the rest of industry.

I found it interesting on opening the papers this morning to see, in every newspaper I opened, four pages of intense propaganda on behalf of the government, selling the government’s message about its industrial reform. It was not informing the Australian public about the IR changes. It was nothing more than propaganda. Again, it was full of this government’s Orwellian doublespeak—say one thing, mean another. Tell people you are good, but at the end the reality is that you are bad. It was full of it.
Senator Abetz was asked a question about the expenditure on this campaign. He said he did not know. He is the minister responsible for it. He is the minister who sits down and chairs the meetings with the cabinet, ministers or whomever his meetings are with. He determines the government’s spend on advertising, yet he has the cheek to come into this chamber and say that he does not know, not even within a ballpark figure, how much money they are spending on the advertising campaign. You would not have to be a genius to know that a very significant amount of Australia’s tax dollar is going into this campaign. It is money that could be going to creating jobs. It could be invested in training in skills, hospitals and a whole range of other services that the Australian community is crying out for.

This government has no difficulty finding money to promote its own ideological agendas when it suits it, but when it comes to finding money to deal with some of the social problems we have in this country, that is a totally different matter. You are sitting on a $13 billion surplus at the moment, yet you will do nothing about trying to remove the burden of increased petrol costs and charges on the businesses of this country. (Time expired)

Senator LIGHTFOOT (Western Australia) (3.37 pm)—I want to continue where my colleague Senator Brett Mason left off—although I will perhaps not be as eloquent as he was. Firstly, I have lived and worked on both sides of politics. I have been a member of five unions—obviously, in my younger days. I have been a member of the Waterside Workers Federation, when at 14 years of age I was working on the wharves in Port Lincoln in South Australia assisting in loading wheat boats. Wheat boat loads in those days were made up of bags. I was a 14-year-old working on a ship in the middle of summer.

Senator George Campbell—Don’t worry about it. I worked on them too.

Senator LIGHTFOOT—It did me good, but it was not the unions that did me good. I soon recognised where my fortunes lay and it was not in being a unionist. Then I was an apprentice plasterer and the union secretary was Jimmy Cavanagh, who became a minister in the Whitlam government. Jim was a nice little fellow, innocuous—would not set the world on fire—and trustworthy, but Jim never got me a job. The union secretary of the plasterers society never got me a single job. The union never did anything for me. All I did when I was 16 was work like a man and get paid like a boy. That is what the union did for me—nothing at all.

I joined the police union when I came out of national service and that was a little better. They seemed to be a lot more in touch with the idea of a fair day’s pay for a fair day’s work. There was nothing of the Arthur Scargills about the police union in South Australia or the one which I forgot to name and have never been a part of in Western Australia either. Not surprisingly, I was part of Actors Equity. Some people say I should still be part of it, but, in fact, I am not. Actors Equity was never meant for anyone who was used to hard work. But the union did put pressure on. You did not have to work in Actors Equity; it was a slothful sort of union. One union that I did have some time for, 40 years ago, was the Australian Workers Union. It used to be a decent union. I understand that Senator Ludwig’s father was a great mover and shaker in the Australian Workers Union in Queensland. He was a decent bloke by all standards. The Australian Workers Union throughout Australia was quite a decent union. I do not mean that in an oxymoronic sense. I got to know that my future, and the future of any children I was likely to have, and did have, was not through the union movement or organised labour. My future
was through an organisation that allowed reward for effort. My future was through an organisation that allowed me to pursue excellence. You cannot pursue excellence in a unionised organisation. You do not necessarily get reward for effort in a union organisation.

What about the ALP and the Australian labour movement? Who wants to be a member of a labour organisation? It sounds like you should be wearing crosses or something on white uniforms. It seems like something is amiss in the third millennium when the only alternative to the conservative movement is a labour movement. It does not seem to right to me. Arthur Scargill confirmed for me that the union organisation throughout the world—as the Anglo-Saxon world knew it, anyway—was at an end when, in his selfishness, he brought the coalmines in England, Scotland and Wales to a halt. He brought about their demise with a little assistance from the now Baroness Thatcher. The labour movement is finished in Australia, and thank the Lord for that. Not much more than 10 per cent of the private sector are unionised. Fifty-odd per cent were unionised after the First World War. What is it today that drives people to do it?

The Australian Labor Party keeps on saying that we are going to cut wages and minimum awards. We will not cut minimum and award classified wages. With over 4,000 different awards, no doubt they will be organised or reorganised. The $450 minimum legal wage for a 21-year-old will stay. We will not remove protection from unlawful termination. Unfair dismissal remains illegal. We will not abolish awards. Some awards that ought to be abolished are for those people who want to get into the top end of town. I am only sorry that I have not got 10 minutes, 15 minutes or even half an hour to speak here today. Coming from both sides of the working spectrum, I can tell you that I know what you are about and you are on the wrong track. (Time expired)

Senator WEBBER (Western Australia) (3.42 pm)—What a difference a day makes in this place. Yesterday we had Senator Abetz extolling the virtues of the hotline, referring us and everyone else in Australia to the magical hotline if we wanted further information about this supposed reform package. Today we learned that it is not actually a hotline that will answer your questions; it is just a hotline that will give you a bit of information and basically acts as a clearing house for sending out the glossy brochure—the one that you cannot download from the computer. As I learned when I rang the hotline, down there in Tasmania—I have to congratulate Senator Abetz on making sure that the hotline people are based in Tasmania—they do not even know what a collective agreement is. So they cannot even answer the most fundamental questions on this reform package.

While Senator Lightfoot’s contributions may be amusing as always, in Western Australia you can have all the glossy booklets and television and newspaper ads that you like, full of smiling, singing and happy faces with all the slogans and rhetoric—and precious little in the way of detail—but it just will not work. This is the same system that the people of Western Australia have rejected. It will not work. This advertising campaign, that is costing so much money that the government will not tell us how much, will use our money, taxpayers’ money, to attempt to convince people that they can apparently rely on the government to look after their interests—but only by removing their rights, as far as I can work out. The government is saying, ‘You can rely on us’ but you cannot rely on the hotline.

As I was saying, it is not going to work in Western Australia because those of us who
have lived through this have experienced what these so-called WorkChoices deliver. We have seen the cases of people, especially those in low skilled occupations, who have engaged in a race to the bottom through insidious workplace agreements. We have seen cases like the one that was recently drawn to the attention of the Office of the Employment Advocate of an AWA that had a proposed hourly rate of $6.90. It was a flat rate, no matter what hour of the day you were forced to work and no matter how many hours you worked in the week. It stripped away all other conditions. What was the Office of the Employment Advocate’s concern for those employees? They said, ‘That agreement looks okay, as long as the rate is upped to $7.15 an hour. We do not care about anything else.’ This $7.15 an hour is an all-up rate. It includes sick pay, public holiday pay, weekend and late penalty shifts, split shift allowance—the full conditions for someone working in the hospitality industry.

When you look at the terms of the AWA for the employee that I am talking about you will see that, before her trade union took up the matter with the Office of the Employment Advocate, she was paid $472.38 less than the award would have given her for the same period. This is so-called reform; this is the so-called ‘we’re going to create jobs and look after people and nobody is going to be worse off’ reform. This is an example of what happened in Western Australia and what the rest of Australia can now look forward to thanks to those opposite.

As I said, you were paid a flat $7.15 an hour, no matter what hour of the day or night you were required to work in the hospitality industry, as opposed to the normal hourly rate between Monday and Friday. On Saturdays and Sundays, under the award you should have been paid $8.99 an hour. It should have been $14.98 per hour on a public holiday. And there should have been sick leave, leave loading and a whole lot of other conditions that help to make life on a family budget a lot easier for an apprentice or a low-income earner. There were additional rates on ordinary hours for things like overtime. What was in the agreement? Nothing. What should have been under the award? It should have been $1.35 or $1.41 per hour, depending on whether the extra hours were worked before or after 7 pm. There was the split shift allowance. What was in the agreement? Nothing. What should have been there? It should have been $2.22 per day. As we know, split shifts are quite common in the hospitality industry. Hours of work were 40 hours a week, weren’t they? The award said it should have been 76 hours per fortnight. Overtime, if you were lucky to get it, was a flat 1.5 times the hourly rate for the first 104 hours of overtime you worked. (Time expired)

Senator BARTLETT (Queensland) (3.47 pm)—What we have seen today in question time and particularly from the quite extraordinary performances of the Liberal Party contributors to this debate, Senators Mason and Lightfoot, is what this whole issue is really about. It is really just about Liberal Party ideologues finally having the chance to win their ideological wars. We had a version of the history wars from Senator Mason; we had Senator Lightfoot giving his life story and his disdain for unions and the union movement. If Senator Lightfoot or anyone else does not want to join a union, they do not have to. We do not have compulsory unionism in this country, and that is a good thing. But to prevent people who wish to be part of a union from doing so is abhorrent; it is against freedom of choice. In this chamber just last night legislation was passed that contained a clause which invalidated any collective-bargaining agreement that was put forward by a union. That is grotesque, pointless, counterproductive, ideologically driven
and sticking it in the neck of the unions just because you can. That is what this government is doing now that it has the power in the Senate.

The simple fact is that this is not, and should not be, about the government seizing its chance to finally win its century-long ideological battle and sticking it in the neck of the trade unions. This is not about business versus unions. This is about the people and what is best for the people. It is not a battle between government and unions or business and unions. What this government is proposing to do with its extremist, ideologically driven industrial relations changes will impact negatively on many Australians. Sure, they will help some. It is a workers market for some people in some areas, as the Prime Minister said, and they may well do better out of it, but it is quite clear that many people will do worse. Certainly, the Democrats believe that we have an obligation to ensure that some people are not left worse off, particularly because they will almost inevitably be those who are already on the lower end of the socioeconomic spectrum.

These changes will make things more complicated for small businesses. Big business will be fine—that is what last night’s legislation was about, as far as most in the government are concerned—but small business will find it more difficult. It may be hard for some people in the coalition to believe it, but doing things collectively, whether through a union or anything else, can be quite efficient sometimes. That is why you have things like political parties rather than a whole bunch of Independents. You all come to a collective decision and then you all vote for it. The Liberal Party does that as much as anyone else, and that is rather more efficient. It might have its downsides but it is more efficient. Similarly, when people have to determine employment agreements, workplace situations and all sorts of arrangements in the employment market, doing it collectively can be far more efficient for the employer, for the business, as well as for the employee.

On this issue Mr Howard has said, ‘Just trust me.’ He says that he is running on his record and that his record in the industrial relations area has delivered certain things, so just trust him on the changes he wants to make now. But the fact is that the record of the Howard government, in terms of legislation in the industrial relations area over the last nine years, is not Mr Howard’s record; it is, quite frankly, the Democrats’ record. It is the Democrats who have chosen what has passed through the Senate in the industrial relations area. We have been able to take off the ideological extremism of what the Howard government has continually put forward and we have still delivered many pieces of amended legislation that have been responsible for some of the significant economic improvements that have provided some of the gains that have occurred, but with significant protections that have delivered good results for many people. They could still do with some tweaking, as they always do, but this government wants to take away those protections. This is the first time that John Howard has had a chance to implement his agenda without those protections, without the safeguards of the Senate and what the Democrats have been able to provide. So there is nothing to go by on the basis of Mr Howard’s record, because he has had to temper that record on the basis of the rational and constructive approach of the Democrats in the Senate. (Time expired)

Question agreed to.

UNITED NATIONS POPULATION FUND

Senator MOORE (Queensland) (3.52 pm)—by leave—I, and also on behalf of Senator Allison, move:
That the Senate—

(a) recognises:

(i) that the report of the United Nations Population Fund (UNFPA), *State of world population 2005—The promise of equality: Gender equality, reproductive health and the Millennium Development Goals*, will be released on 12 October 2005, and that the theme of the report is that gender equality reduces poverty, saves and improves lives,

(ii) that a major platform for achieving sustainable development is gender equality and the empowerment of women, and

(iii) that gender inequalities in all countries limit the economic and social participation of women in the building of healthy and dynamic nations;

(b) encourages the UNFPA to continue to work towards achieving gender equality;

(c) urges the Government to continue to support the Millennium Development Goals because they have led to significant improvements in women’s health, safety and economic participation and increased their share in the benefits of strengthened economic growth; and

(d) recognises that these improvements have been achieved through culturally and religiously appropriate activities and has resulted in a reduction in the incidence of fistula, maternal and child mortality.

Question agreed to.

NOTICES

Withdrawal

Senator WATSON (Tasmania) (3.54 pm)—Pursuant to notice given on the last day of sitting, and on behalf of the Senate Regulations and Ordinances Committee, I now withdraw business of the Senate notice of motion No. 1 standing in my name for today; business of the Senate notices of motion Nos 1, 2, 3 and 4 standing in my name for four sitting days after today; and business of the Senate notice of motion No. 5 standing in my name for seven sitting days after today.

Presentation

Senator Humphries to move on the next day of sitting:

That the Community Affairs Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 13 October 2005, from 4 pm, to take evidence for the committee’s inquiries into the provisions of the Therapeutic Goods Amendment Bill 2005, the provisions of the Health Legislation Amendment Bill 2005 and the provisions of the National Health Amendment (Budget Measures—Pharmaceutical Benefits Safety Net) Bill 2005.

Senator Humphries to move on the next day of sitting:

That the time for the presentation of the following reports of the Community Affairs Legislation Committee be extended to 7 November 2005:

(a) provisions of the Therapeutic Goods Amendment Bill 2005;

(b) provisions of the Health Legislation Amendment Bill 2005; and

(c) provisions of the National Health Amendment (Budget Measures—Pharmaceutical Benefits Safety Net) Bill 2005.

Senator Allison to move on the next day of sitting:

That the Senate—

(a) notes that:

(i) there are 45 million blind people and a further 135 million people with serious visual impairment in the world today,

(ii) if urgent action is not taken these numbers will double over the next 20 years,

(iii) cost-effective interventions are available for all major blinding conditions,

(iv) the resources available are insufficient to tackle the problem, particularly in developing countries where nine out of 10 of the world’s blind live, and
(v) there is a lack of trained eye personnel, medicines, ophthalmic equipment, eye care facilities and patient referral systems; and

(b) urges the Government to assist the Vision 2020 international partnership of organisations and individuals in its aim to prevent an additional 100 million people from being blind by 2020.

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

(a) notes:

(i) that on 24 October 2005 Daw Aung San Suu Kyi will have spent a total of 10 years in detention,

(ii) the Joint Action Committee for a Democratic Burma will conduct a candlelight vigil to pray for the release of Daw Aung San Suu Kyi and all remaining political prisoners, and

(iii) the continued suffering of the Burmese people at the hands of the Burmese military regime; and

(d) urges the Government to increase pressure on the regime.

Senator Milne to move on the next day of sitting:
That the Senate—

(a) notes that the second week in October is national Weedbuster Week; and

(b) calls on the Government to:

(i) list the infestation of introduced gamba grass (Andropogon gayanus) across the top end of the Northern Territory as a key threatening process under the Environment Protection and Biodiversity Conservation Act 1999,

(ii) list the infestation of introduced buffel grass (Cenchrus ciliaris) in central Australia as a key threatening process under the Act, and

(iii) to include gamba grass and buffel grass on the list of Weeds of National Significance due to their severe adverse impacts on ecosystems.

Senator Bob Brown to move on the next day of sitting:
That the Senate offers its great sympathy and condolences to the people of Pakistan following the catastrophic earthquake.

Senator Bob Brown to move on the next day of sitting:
That the Senate offers its great sympathy and condolences to the people of India following the catastrophic earthquake.

Senator Marshall to move on the next day of sitting:
That, because of the Government's failure to provide a short and reasonable extension of time of only 7 sitting days to the Employment, Workplace Relations and Education References Committee to complete its current inquiry on industrial agreements, the following matter be referred to the Employment, Workplace Relations and Education References Committee for further inquiry and report by 1 December 2005:

Whether the objectives of various forms of industrial agreement-making, including Australian Workplace Agreements, are being met and whether the agreement-making system, including proposed Federal Government changes, meet the social and economic needs of all Australians, with particular reference to:

(a) the scope and coverage of agreements, including the extent to which employees are covered by non-comprehensive agreements;

(b) the capacity for employers and employees to choose the form of agreement-making which best suits their needs;

(c) the parties' ability to genuinely bargain, focusing on groups such as women, youth and casual employees;

(d) the social objectives, including addressing the gender pay gap and enabling employees to better balance their work and family responsibilities;

(e) the capacity of the agreement to contribute to productivity improvements, efficiency,
competitiveness, flexibility, fairness and growing living standards; and
(f) Australia’s international obligations.

Senator Milne to move on the next day of sitting:
That the Senate—
(a) notes that 24 October is United Nations Day, which marks the 60th birthday of the United Nations (UN);
(b) commends the principles and ideals of the UN, including continued support for the principles of multilateralism;
(c) recognises that the UN is only as good as its member nations’ efforts and commitment; and
(d) calls on the Government to work with other UN members to:
(i) further international cooperation to reduce hunger and poverty as agreed by world leaders in the 2000 UN Millennium Declaration and the 2005 World Summit,
(ii) act on all Millennium Development Goals,
(iii) strengthen efforts to quickly and efficiently define terrorism,
(iv) make renewed efforts towards preventing nuclear proliferation,
(v) secure further agreements on preventing climate change,
(vi) incorporate a definition of environmental refugee into the 1951 Convention relating to the Status of Refugees, and
(vii) reform the UN Security Council.

COMMITTEES

Selection of Bills Committee

Senator EGGLESTON (Western Australia) (3.59 pm)—I present the 12th report of 2005 of the Selection of Bills Committee.
Ordered that the report be adopted.

Senator EGGLESTON—I seek leave to have the report incorporated in Hansard.
Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE
REPORT NO. 12 OF 2005

(1) The committee met in private session on Tuesday, 11 October 2005 at 4.21 pm.
(2) The committee resolved to recommend—
That—
(a) the provisions of the Higher Education Legislation Amendment (2005 Measures No. 4) Bill 2005 and the Education Services for Overseas Students Amendment Bill 2005 be referred immediately to the Employment, Workplace Relations and Education Legislation Committee for inquiry and report by 7 November 2005 (see appendices 1 and 2 for statements of reasons for referral); and
(b) the provisions of the Tax Laws Amendment (Loss Recoupment Rules and Other Measures) Bill 2005 be referred immediately to the Economics Legislation Committee for inquiry and report by 8 November 2005 (see appendix 3 for statement of reasons for referral).

(Alan Eggleston)
Acting Chair
12 October 2005

Appendix 1
Proposal to refer a bill to a committee
Name of bill:
Higher Education Legislation Amendment (2005 Measures No. 4) Bill 2005
Reasons for referral/principal issues for consideration:
The bill raises a number of fundamental questions that need to be debated further, including:
(1) This is the first such application by an offshore provider and it has ramifications
(2) The issue of subsidies—FEE HELP—to overseas providers
(3) The lack of transparency surrounding Carnegie’s application and establishment in Australia.

(4) The implications for the accreditation regime in other States and Territories.

(5) The implications for the National Protocols.

(6) The implications for other providers—in this case the three SA universities.

Possible submissions or evidence from:
National Tertiary Education Union; Australian Vice-Chancellors’ Committee; National Union of Students; the Council of Australian Postgraduate Associations; the National Liaison Committee for International Students in Australia; the three South Australian Universities; the South Australian Government.

Committee to which bill is to be referred:
Senate Employment, Workplace Relations and Education Legislation Committee.

Possible hearing date(s): possibly submissions only.
Possible reporting date: 10 November 2005.

Appendix 2
Proposal to refer a bill to a committee
Name of bill:
Education Services for Overseas Students-Amendment Bill 2005.

Reasons for referral/principal issues for consideration:
To examine the bill with particular reference to the implications of the bill on the overseas student market, and the implications of foreign owned education providers being registered within the meaning of the ESOS Act.

Possible submissions or evidence from:
National Tertiary Education Union; Australian Vice-Chancellors’ Committee; National Union of Students; the Council of Australian Postgraduate Associations; the National Liaison Committee for International Students in Australia.

Committee to which bill is to be referred:
Senate Employment, Workplace Relations and Education Committee.

Possible hearing date(s): possibly submissions only.
Possible reporting date: 10 November 2005.

NOTICES
Postponement

Senator BOB BROWN (Tasmania) (3.59 pm)—by leave—I amend general business notice of motion No. 283 to read as follows:

That the Senate—

(a) notes:

(i) the recent deportation of long-standing performer with the Sydney Dance Company and Australian citizen Xue-Jun Wang from China where he was due to perform in the week beginning 16 October 2005, and

(ii) that China is a signatory to the International Covenant on Civil and Political Rights (ICCPR) and that Article 18 of the covenant protects the right to religious freedom and freedom of expression;
(b) calls on the Chinese Government to ratify the ICCPR and to uphold human rights including freedom of speech;

(c) calls on the Australian Government to make representations to the Chinese Government on behalf of Xue-Jun Wang so that he can visit China in the future.

I move:

That general business notice of motion No. 283 be postponed till the next day of sitting.

Question agreed to.

The following items of business were postponed:

Business of the Senate notices of motion nos 2, 3 and 4 standing in the name of the Leader of the Opposition in the Senate (Senator Evans) for today, proposing the disallowance of certain social security declarations, postponed till 8 November 2005.

General business notice of motion no. 286 standing in the name of the Chair of the Employment, Workplace Relations and Education References Committee (Senator Marshall) for today, relating to an extension of time for the committee to report, postponed till 13 October 2005.

FAMILY SERVICES: CHILD CARE

Senator ALLISON (Victoria—Leader of the Australian Democrats) (4.00 pm)—I ask that general business notice of motion No. 289, standing in my name and Senator Siewert’s name for today, relating to child care funding and facilities, be taken as a formal motion.

Senator Hill—We object to it being taken as formal.

Senator George Campbell—The minister should get to his feet if he wants to withdraw his objection.

Senator Hill—We withdraw our objection.

Senator ALLISON—I am not at all sure what is going on. I thought I heard the Leader of the Government in the Senate say he withdrew his objection. Is this the case?

The ACTING DEPUTY PRESIDENT (Senator Hutchins)—He did.

Senator ALLISON—Then I move the motion standing in my name.

The ACTING DEPUTY PRESIDENT—Senator Campbell was already on his feet.

Senator George Campbell—I just need some clarification as to which motion it is that we are dealing with. A motion has been circulated, of which I have a copy. Is that the motion, or is it the one that is in the Notice Paper?

Senator ALLISON—The amended version was circulated with a letter last night, as I understand it, so it is the amended version.

The ACTING DEPUTY PRESIDENT—As I understand it, the amended version is on the Notice Paper.

Senator ALLISON—They should be the same.

The ACTING DEPUTY PRESIDENT—There is no objection to this motion being taken as formal.

Senator ALLISON—I move:

That the Senate—

(a) notes that:

(i) child care waiting lists for infants under 2 years of age have grown alarmingly,

(ii) 1 935 families cannot access child care in the City of Port Phillip, Victoria, an increase of 20 per cent since 2004,

(iii) more than 13 000 children across Victoria and over 174 000 Australia-wide also need a child care place and cannot get one, and

(iv) these shortages translate to approximately 160 000 women who want to work but cannot because they are unable to access child care;

(b) urges the Government to recognise through its child care funding that
marketplace is not meeting the needs of these families because of the higher cost of caring for children under 2 years of age; and

(c) requests the Government to:

(i) further reduce the fee gap;

(ii) increase capital support for community-based centres so parents can choose the centre in their local area and to meet the unmet needs that create long waiting lists,

(iii) increase subsidies for 0-2 year olds and children with special needs,

(iv) support wage increases to child care workers, and

(v) work with state and local governments to:

(A) put in place planning mechanisms to ensure centres and services are equitably distributed,

(B) enforce national child care standards, and

(c) better integrate pre-school and child care.

Question put.

The Senate divided. [4.06 pm]

(The President—Senator the Hon. Paul Calvert)

Ayes……………… 31
Noes……………… 34
Majority………… 3

AYES

Allison, L.F. Bartlett, A.J.J.
Bishop, T.M. Brown, B.J.
Brown, C.L. Campbell, G.*
Conroy, S.M. Crossin, P.M.
Faulkner, J.F. Hogg, J.J.
Harley, 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.
O’Brien, K.W.K. Polley, H.
Siewert, R. Stephens, U.
Sterle, G. Stott Despoja, N.
Webber, R. Wong, P.
Wortley, D.

NOES

Abetz, E. Adams, J.
Barnett, G. Boswell, R.L.D.
Brandis, G.H. Calvert, P.H.
Campbell, I.G. Chapman, H.G.P.
Colbeck, R. Coonan, H.L.
Eggleston, A.* Fierravanti-Wells, C.
 Fifield, M.P. Heffernan, W.
Humphries, G. Johnston, D.
Joyce, B. Kemp, C.R.
Lightfoot, P.R. Macdonald, I.
Macdonald, J.A.L. Mason, B.J.
McGauran, J.J.J. Minchin, N.H.
Nash, F. Parry, S.
Patterson, K.C. Payne, M.A.
Santoro, S. Scullion, N.G.
Troeth, J.M. Trood, R.
Vanstone, A.E. Watson, J.O.W.

PAIRS

Carr, K.J. Ronaldson, M.
Evans, C.V. Hill, R.M.
Forshaw, M.G. Ferguson, A.B.
Ray, R.F. Ellison, C.M.
Sherry, N.J. Ferris, J.M.

* denotes teller

Question negatived.

MENTAL HEALTH WEEK

Senator McLUCAS (Queensland) (4.10 pm)—I move:

That the Senate—

(a) notes, during Mental Health Week 2005, that:

(i) a recent report commissioned by Carers Australia and undertaken by Access Economics found that 9 per cent of those receiving informal care in the community are suffering from a psychological illness, and that this equates to approximately 350 000 people,

(ii) the cost of informal care provided to people with mental illness is estimated at $2 745 000 000 per year, and

(iii) the Access Economics report states that carers of people with a psychological
disability were among the most likely to need additional support in their caring activities; and

(b) calls on the Government to:

(i) acknowledge the significant cost savings made to the economy by those who provide informal care to people with a mental illness, and

(ii) increase community understanding of the contribution made by carers of people with mental illness and the nature of the caring role.

Question negatived.

Senator McLUCAS (Queensland) (4.10 pm)—At this point I could call for a division, but I am aware that we are a bit pressed for time. I seek leave to make a short statement.

Leave granted.

Senator McLUCAS—I am very disappointed that the government sought today not to support what I thought was a fairly straightforward motion. The motion is simply to recognise that in this week, Mental Health Week, and next week, Carers Week, there are many Australians who are caring informally for people with mental illness in our community. In a recent report that came out last Monday, commissioned by Carers Australia and completed by Access Economics, they found that nine per cent of those people receiving informal care in the community are suffering from a psychological illness. We ascertain that is something like 350,000 people in Australia who are caring for people with mental illness.

I think it is very disappointing that this government did not take the opportunity to recognise this in Mental Health Week and that next week is Carers Week. The report goes further: it also recognises the value of informal care to the community—about 1.2 billion hours of care will be provided in 2005 to people who are being cared for in our community. We estimate that something like $2.74 billion in informal care to the community is being provided to people with mental illness. It is unfortunate that the government did not take the opportunity to say to those people who are caring for people with mental illness: ‘We recognise this. We acknowledge this and we value the work that you do.’ It is very disappointing and it makes carers around Australia quite angry that the government does not acknowledge and recognise the contribution that they have made.

I am also disappointed that the government did not take the opportunity to vote for a clause that said that we call on the government—

Senator McGauran—I rise on a point of order: leave was given on the condition that a short statement would be made. I know it is a question of how long is a piece of string, but I would appeal to your judgment, Mr Acting Deputy President, that this is no longer a short statement.

The ACTING DEPUTY PRESIDENT (Senator Hutchins)—I am sure Senator McLucas will take that into account in her response.

Senator McLUCAS—The last point that I was making, Senator McGauran, is that this motion called on the government to increase community understanding of the contribution made by carers of people with mental illness—and I think a very important point—and the nature of the caring role. We know that people with mental illness are a hidden part of our community. We do not understand the nature of their illness, but I put to the Senate that we understand even less the nature of the role of the carer of those who have a mental illness. It is poorly understood. We do not know the persistent difficulties that they live through. I think it is unfortunate that in Mental Health Week and the week before Carers Week this government has not taken the opportunity to say, ‘Yes, we
value what we do and, yes, we will assist you to share your role and an understanding of your role with the community in these important weeks of recognition.’ I have now completed my short statement.

POVERTY

Senator SIEWERT (Western Australia) (4.14 pm)—I move:
That the Senate—
(a) notes that:
(i) the Luxembourg Income Study database claims that Australia has the fourth worst level of poverty of 24 major developed economies,
(ii) in the Organisation for Economic Co-operation and Development (OECD) report, Income distribution and poverty in OECD countries in the second half of the 1990s, released in 2005, Australia had the 11th highest level of poverty of 27 major developed economies,
(iii) Professor Peter Saunders, of the Social Policy Research Centre at the University of New South Wales, estimates that federal government spending equal to 2.4 per cent of Australia’s gross domestic product would eliminate poverty in Australia,
(iv) there has been no official government inquiry into national poverty since the inquiry conducted by Professor Henderson in the 1970s,
(v) the governments of France, New Zealand, Ireland and Britain currently have official government poverty reduction strategies but Australia has none,
(vi) the Community Affairs References Committee report, A hand up not a hand out: Renewing the fight against poverty—Report on poverty and financial hardship, tabled on 11 March 2004, recommended ‘that a comprehensive anti-poverty strategy be developed at the national level’, and
(vii) Anti-Poverty Week will be held from 16 October to 22 October 2005; and
(b) calls on the Government to:
(i) increase the current payment level of Newstart and Austudy allowances to the level of aged pensions (which is just above the half-median income poverty line), and
(ii) develop a national poverty strategy that includes better job opportunities for poor people and better government research into national poverty.

Question put.
The Senate divided. [4.19 pm]
(The Acting Deputy President—Senator SP Hutchins)

Ayes…………..  8
N oes………….. 36
Majority………. 28

AYES
Allison, L.F.
Brown, B.J.
Murray, A.J.M.
Siewert, R. *
Stott Despoja, N.

NOES
Adams, J.
Barnett, G.
Bishop, T.M.
Brown, C.L.
Campbell, G.
Colbeck, R.
Evans, C.V.
Faulkner, J.P.
Fierravanti-Wells, Heffernan, W.
Hogg, J.J.
Humphries, G.
Hurley, A.
Joyce, B.
Johnston, D.
Kirk, L.
Lightfoot, P.R.
Lundy, K.A.
Marshall, G.
McEwen, A.
McGauran, J.J.
McLucas, J.E.
Moore, C.
Nash, F.
Patterson, K.C.
Polley, H.
Ronaldson, M.
Scullion, N.G.
Stephens, U.
Sterle, G.
Trood, R.
Watson, J.O.W.
Webber, R.
Wong, P.
Wortley, D.

* denotes teller

Question negatived.
MATTERS OF PUBLIC IMPORTANCE
Mental Health

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

The need for the Howard Government to treat mental illness as a national health priority.
I call upon those senators who approve of the proposed discussion to rise in their places.

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

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

Senator STEPHENS (New South Wales) (4.23 pm)—As we all know, this week is National Mental Health Week, a time when carers, sufferers, advocates, academics, policy makers, communities and indeed politicians promote greater awareness and understanding of mental illness. Mental illness will affect about one in five Australians, or 20 per cent, at some stage in their lives, so everyone in this chamber is going to be affected in some way at some time. For those aged between 18 and 24 the figure skyrockets to 27 per cent, or close to one in three. As Dr Pat McGorry from ORYGEN in Melbourne told many of us yesterday:

For those in this age group, mental illness is by far their most serious health issue. Anxiety disorders are the most common mental illness, with one in 10 adults being affected. Half of those experience anxiety so crippling it will affect every aspect of their lives. This is followed by affective disorders at 5.8 per cent, of which depression is 5.1 per cent, and substance abuse disorders, at 7.7 per cent, of which 6½ per cent are alcohol related. Each year a further 20,000 Australians are found to have a mental illness. With only about half of those with a mental illness actually receiving treatment, this figure is only half the story.

Mental illness in all its forms places enormous and growing burdens on Australia. There are social and family burdens on communities, carers, families and sufferers of mental illness. There are economic burdens—both the cost of caring for and treating those in our society who suffer from mental illness and, very importantly, the lost opportunity costs for those people who, through mental illness, withdraw or are withdrawn from an active working life because the stresses they are trying to deal with mean that they cannot cope with work for long periods of time. What is often forgotten is the cost to civil society of mental illness—that, by not giving priority to supporting those with mental illness in practical ways, we confine them to a life of exclusion. Nothing could describe that better than the words of distraught mother Tilly Brascie, who yesterday told the Parliamentary Friends of Schizophrenia about her son Riley. In her speech she said:

... because of the stigma associated with mental illness in our society and the lack of citizenship opportunities provided for mentally ill people, Riley became an isolated individual—when it was his simple desire to be an independent useful member of society.
He wanted to be independent and enjoy the normal relationships that we all take for granted in our mentally well lives.
He wanted employment that would have given him a sense of achievement and self-esteem; and he wanted to live with dignity in safe accommodation—and none of these things happened for him.
How frustrating and distressing it was for carers, advocates and people like Tilly and Riley—God rest his poor soul—to hear Minister Abbott’s Mental Health Week announcement that $63 million had been sent back to Treasury because this government was not able to spend the money on addressing mental health issues in our communities. It is a national disgrace. The minister and every senator opposite should hang their heads in shame.

I have here the Howard government’s mental health policy from the last election. The 2001 budget promise was $120 million. The 2004 election promise was to:

... provide a funding increase of $30 million over 4 years to enable an expansion of the Initiative to address new issues such as the need for better integration of mental health, drug and alcohol and suicide prevention activities and additional support for GPs and their patients in rural and remote communities.

It was a $150 million gold plated promise. As we have seen so often with this government and a mental health minister that gave new meaning to ‘rock solid’ and ‘ironclad’, this promise lasted only until the votes were counted. First there was a budget announcement that revised the $120 million to $102 million—that is $18 million that disappeared—then there was no evidence of the promised additional $30 million funding, and now we have a revelation that they could not even spend $63 million of the downgraded $102 million. Here we are halfway through National Mental Health Week and I have the inglorious task of informing the Senate and all of those Australians listening that, instead of the $150 million promised, mental health services have been short-changed by $63 million.

Christopher Pyne, the person to whom health minister Tony Abbott fobbed off his mental health responsibilities, has tried to say that some of this $63 million has been moved to chronic disease management items, but he fails to say how much of this actually went into mental health services. In many ways, that is beside the point. What is the greatest shame is the need to send back money to Treasury in the first place, when mental health services in this country are so stretched and many who need them cannot access them.

Professor Ian Hickie, the clinical adviser to beyondblue, recently said that the 4,000 GPs involved in Better Outcomes for Mental Health was double the 1,500 to 2,000 that the health department budgeted for when the program was introduced in 2001. GPs are still joining the program at an average rate of 54 a month, yet this government still could not find a way to spend the money. Dr Julie Thompson, chairwoman of the Better Outcomes Implementation Advisory Group, has said that because of this budget cut they:

... certainly will now struggle to improve the access of consumers—particularly in rural areas—to quality, community-based mental health care, which we were doing by linking GPs and allied health professionals, particularly psychologists, through this program.

Yet they still could not find some way to spend this money. Mental health services in rural and regional Australia are critical to community wellbeing, an issue highlighted so starkly at the drought summit in Parkes earlier this year. I know we are going to hear from the government that this is a state responsibility but, according to the national mental health report for 2004:

The main driver of growth in Commonwealth spending on mental health since 1992-93 has been ... increases in the cost of psychiatric drugs provided through the PBS. This accounted for 68% of the increase in Commonwealth spending on mental health ...

Only 7.9 per cent of Commonwealth expenditure on mental health was directed towards the National Mental Health Strategy. Accord-
According to the recent national mental health report, the Commonwealth government spent just over $9 million on mental health research in the form of research grants in 2001-02. That equals 0.008 per cent—less than one-hundredth of one per cent of total Commonwealth expenditure on mental health research. This government has no excuse for breaking its promise on mental health funding and, as we know now, has no commitment to funding a comprehensive, effective national mental health strategy.

Let me now tell you about one serious incident that happened yesterday. It is about the plight of dNet, a unique online peer support and referral service for Australians living with depression. Thanks to this government, it will effectively close down on Saturday. So effective has the service been that not only has the number of users grown by 20 per cent per year, with more than one million people being assisted since 2000, but also it is used in Canada and Sweden as a model for services there. Respected mental health advocates and professionals, including Gordon Parker, the head of the Black Dog Institute, and Michael Carr-Gregg, founder of CanTeen and one of Australia’s respected psychologists, have gone on record to say that it is a great service. But this government will not fund it any more. They offered a paltry $300,000 over two years—Chris Pyne did it as a stunt on Sunrise this morning. dNet have said they simply cannot continue.

So, what do we have? We have Christopher Pyne who said today that the point about dNet ‘is that they are a centre for people with depression, helping other people with depression’ and ‘it is run by volunteers’. That is a line that has come out of the minister’s office and is a disgrace. It is tacky, tasteless and dismissive. We know that it is an indictment on Christopher Pyne—and the Minister for Health and Ageing—that he should think about and treat people involved in mental health this way.

Senator HUMPHRIES (Australian Capital Territory) (4.33 pm)—I welcome the fact that the Senate has embarked on a debate about mental health at the onset of Mental Health Week. I think it is an extremely important issue to be discussing. As Senator Stephens noted, mental illness, in any given year, will affect almost one in five Australians. Of course, over a lifetime, it impacts on many more than that; indeed, nobody’s life remains untouched by mental illness. Mental illness is a particularly social illness. What I mean by that is, if you have cancer, diabetes or some other disease, generally speaking, you will deal with it yourself, it is between you and your doctor or other health professional; if you are mentally ill, you are very likely to ensure that the impact of that illness is felt by many people around you—your family, your workmates and many other people.

It is a disease, an illness, which needs to be addressed in a better way in the future than it has been in the past. The fact that supports that statement is that, today in Australia, only something in the order of 38 per cent of those people who are mentally ill in any given year have their illness diagnosed and treated. The majority of Australians suffering mental illness remain untreated. Indeed, that enormous burden of ill health is borne by individuals and the people around them. There is no doubt that the greatest mismatch between size of problem and size of response to it occurs in the area of mental illness in this country. Despite the fact that about 30 per cent of the disease burden is borne by mental illness in this country, we only spend something in the order of 6.4 per cent of our gross health expenditure on addressing mental illness.
All that is true and, therefore, I welcome a debate about mental illness. What I do not welcome, however, is the unfortunate decision by the Labor Party to attempt to use this important opportunity for community debate about mental illness as a chance to bash the Australian government over the head for its performance on mental illness. If you were genuinely concerned about mental illness and the lack of services for mentally ill people in Australia today, Senator Stephens, you would talk about the inadequacy of the response by governments at the state and territorial level in this country. That is where the greatest disservice has been done to the mentally ill in this country. That is where the most foot dragging has occurred and where, at the moment, the services available to mentally ill people are most in need.

Senator Stephens, you can shake your head about that, but that is the truth. I know it is the truth because I have been part of the Senate select committee inquiring into mental health, along with Senator Scullion and Senator Troeth. I have been travelling the length and breadth of this country hearing evidence from people. Their message is almost always the same: services at the state level—and we know which governments run those services at the moment—are sorely missing their mark. They are sorely inadequate for the size of the problem they are addressing. We know that a generation or so ago Australian mental institutions were closed down, that deinstitutionalisation was seen as a great step towards better treatment of mentally ill people—and perhaps, conceptually, it was. But the fact is that the level of spending on mental illness fell as a result of that decision and it has only recently begun to be restored by governments across Australia.

The most urgent and acute services required by mentally ill people in this country are services required at the state and territory level. They are the services in public and psychiatric hospitals, the services in the community in the nature of support services, the early diagnosis services and the services offering employment and other things like that to people with mental illness—those services which generally fall under the umbrella of state and territory government and which have not been adequately funded. I will not exempt the Commonwealth from the charge that more could be done and should have been done in the past. We have a challenge as a community, but to isolate the Howard federal government in this exercise is to take the opportunity of Mental Health Week in this country and to twist it for political purposes. It is political myopia to look at the shortcomings in Commonwealth responses to mental illness and ignore, as Senator Stephens comprehensively did in her speech, the inadequacy of services at the state and territory level.

Earlier today, Senator McLucash bemoaned the fact that there is not enough support for carers of mentally ill people and, indeed, carers of people generally in this country. We all recognise the need to more greatly support those in the community who are taking the decision on a day-to-day basis to care for people, particularly those with mental illness. But the fact also remains that we have never provided better support services through income support and other means to carers in this country than we do today. The support for carers in this community has never been at such a high level. Carer payments are at an unprecedented level, the acknowledgement and support for people in a range of ways—directly and indirectly—by the Commonwealth government is of a higher order than we have previously seen in this country. It is churlishness and selective analysis in the extreme to argue that those services are inadequate. Nothing that was done when Sena-
tor McLucas was last in government matches what is happening today in that field.

Senator Stephens bemoaned the fact that most of the increase in Commonwealth spending in mental health comes in the form of pharmaceuticals. I acknowledge that point. It is true that a very large part of the increased expenditure by the Commonwealth has been in the area of drugs under the Pharmaceutical Benefits Scheme. But let us not forget that at the moment, with the present state of knowledge, pharmaceuticals are the most significant treatment option available for many people suffering from mental illness. We do not have a sophisticated armoury of treatments available for many mental illnesses, as we do for other forms of illness. Wish as we might, we do not have them. It has been made clear in evidence to the committee inquiry that I have been a part of that support for people through the availability of affordable pharmaceuticals is an extremely important part of our response to mental illness. As a community, we might wish that there was less reliance on drugs. But the fact is that in many respects they are the chief form of treatment that many psychiatrists and doctors turn to.

The remarks made about depressioNet by Senator Stephens were, frankly, beneath contempt. It is simply not true to say that, thanks to this government, depressioNet will close down. This government has not been depressioNet's principal source of funding to date. It has had other sources of funding, and those other sources of funding have apparently dried up. The Commonwealth government has offered to come to the party to the tune of $300,000. Apparently, that is not enough for depressioNet. I am sorry to hear that, for depressioNet's sake, but to blame the Commonwealth because it is not prepared to step in and fund depressioNet to the level it now demands is slightly absurd. We have not withdrawn funding from depressioNet. In fact, we have increased the level of support we have offered to depressioNet, and it is simply political game playing to pretend that we are somehow to blame for that fact.

What has the Commonwealth done to support mental illness in this country? Its increase in mental health expenditure since 1995-96 has been in the order of 47 per cent in real terms, from $777 million to $1.145 billion. Bear in mind, it does not provide direct services to those people with mental illness for the most part; the services provided are of an indirect nature. The Commonwealth has funded mental illness much better through the Australian healthcare agreements—providing $331 million more to states and territories to facilitate mental health reform. It has funded the Youth Mental Health Foundation. It has significantly improved funding to doctors and their capacity to deal with mental illness in their patients through the Better Outcomes in Mental Health program, with $120 million over four years. It has funded initiatives like beyondblue very significantly in recent years. MindMatters, Mindframe resources and suicide prevention programs all receive funding from the Commonwealth. (Time expired)

Senator ALLISON (Victoria—Leader of the Australian Democrats) (4.43 pm)—I rise to join this debate with some trepidation. As Chair of the Senate Select Committee on Mental Health, I am not altogether sure that it is useful. However, perhaps it is time for us to talk about some of the findings of that inquiry. We have received 550 submissions and have held some 13 days of hearings so far, with site visits taken on other days. We have three more days of hearings planned and we have been right around the country, other than Tasmania, where we plan to go in a week or so.

The committee is dealing with dozens of profoundly important and serious issues as
part of this inquiry. The National Mental Health Strategy is being examined, as are the inadequacy of funding across the board and human rights to do with restraint and access to services. We are dealing with discrimination and with stigma. There is a great focus on deinstitutionalisation, the failure to support and care for people now out of hospitals, and the shocking understanding that our jails are full of people for whom the current system has been an utter failure. There are the people identified in the HREOC report as being labelled in hospitals as ‘not for service’. This is not to their knowledge, of course, but those people were rejected as not being sick enough or dangerous enough to themselves to warrant admission. Imagine labelling people with heart or lung disease as ‘not for service’. It simply would not be tolerated.

The inadequacy of state governments in dealing with the acutely ill is seriously problematic and results in what has been commonly referred to as the ‘revolving door syndrome’. That is a costly fault in our system, in both monetary and human terms. The committee visited Baxter detention centre, where there is, belatedly, a new environment for dealing with people with a mental illness. Previously people were severely punished for difficult behaviour and put into seclusion—the worst possible treatment for such people. The committee has also heard evidence that the PBS has delivered a medical model to the exclusion of therapies with longer term benefits.

There are hundreds of other things I could say about what the committee has heard, but I have drawn attention to those few issues because I want to convey a very important message—that is, there is no one government that can point a finger at and say, ‘It is your fault.’ Good, appropriate mental health services are the responsibility of all levels of government, including local government—less so than state and federal governments, but I think that level of government must also be included. Rather than blaming other governments, we should all be taking responsibility for a decade or more of neglect and a decade of reform that has been too slow and inadequately funded.

We all have a responsibility to solve work force problems and to see that there is far more prevention and early intervention. We have a responsibility to make sure that consumers are consulted much more than they currently are. We have a responsibility to ensure that mental health services for Aboriginal people and other groups, like the aged, are much better delivered. We all have a responsibility to remove the stigma of mental illness. And we all have a responsibility to remind our members of parliament that mental health has been the poor cousin of health for many years and it urgently needs our efforts.

Not only do those who deliver mental health services need a culture change; the culture of blame also needs to be addressed. We heard just last week that blame is one of the reasons why the National Mental Health Strategy has taken so long to deliver change. The Parliamentary Secretary to the Minister for Health and Ageing, Christopher Pyne, blames the states. The state ministers have not turned up to the inquiry—presumably because they expect to be blamed. The federal minister has not appeared, probably for the same reason. I have great hopes for this inquiry, and those are: that we will reach consensus, that we will not look for blame, and that we will make good recommendations which are informed by very sound advice and evidence to the committee.

I hope our committee will be persuasive. I want our recommendations to be adopted at some stage. We are not there yet; we have not even written the recommendations. But
that is my aim for this committee, and I am expecting that we will get there. We will identify good practice, because there is plenty of it around the country. The problem is that it is not made more widely available. (Time expired)

Senator KIRK (South Australia) (4.48 pm)—I rise to speak on this matter of public importance proposed by Senator Stephens. In the time I have available to me today, I would like to focus on one most unfortunate aspect of mental health care in this country, and that is mental health services—or the lack thereof—in immigration detention centres.

The recently released reports of Mr Palmer and Mr Comrie make it very clear that the Minister for Immigration and Multicultural and Indigenous Affairs, Senator Vanstone, and the department over which she presides have simply failed in their duty of care for the mentally ill in immigration detention centres throughout this country. In these places, mental illness is systematically overlooked, ignored and even exacerbated by a system which is structured so that people who are unfortunate enough to come into contact with it are treated with suspicion and disdain rather than as human beings. It is no wonder that the mental health problems of Cornelia Rau and many other detainees have been neglected. It is a negative, punitive environment that is designed to catch people out.

The Department of Immigration and Multicultural and Indigenous Affairs fails on every level in its duty of care with regard to mental illness. People who arrive with a mental illness, often as a result of the traumatic conditions they have fled, find that their condition is discounted and ignored by an uncaring immigration system. Worse still, once these people are in detention, their mental health often deteriorates. This is often because of the environment and the lack of adequate, independent mental health care. Then there are people who, when they arrive in this country, are perfectly fine in terms of their mental health but then develop mental health problems as a result of being detained in a prison-like environment where they are faced with indefinite detention and the possibility of forced deportation.

The system of contracting out the management of detention centres enables the government to bypass its duty of care for the mentally ill because the provision of mental health services is also contracted out. Mental health care simply cannot be contracted out. A conflict of interest is inevitable when the system that employs the mental health providers is itself damaging the mental health of the patients the health professionals are treating. The result of this absurd arrangement is that the overall care and support of detainees is callously neglected. In the world of private contracting, everything happens behind closed doors, and visiting professionals are treated with suspicion rather than as valuable resources. So you have the ridiculous situation where independent social workers, lawyers and doctors are not allowed to visit a detainee unless a detainee actually asks for their help. Clearly this is a problem for those who are suffering from a mental illness.

Recently, in a Senate inquiry into the administration of the Migration Act 1958, we had before us an eminent psychiatrist, Dr Louise Newman, who is with the Royal Australian and New Zealand College of Psychiatrists. She told us that when she visited Baxter she asked to see a particularly ill patient. She had been told by other detainees that they were very concerned about a particular individual who was in detention and who was acting in a most unusual manner. Dr Newman was denied access to that detainee by those running the centre. The reason was that the detainee, who turned out to be Cor-
nelsia Rau, had not herself requested an independent specialist assessment. The mentally ill who need help the most are those who are least able to ask for it. That simply would not have happened in our state prison system, where there are appropriate standards of accountability and independent review. Yet the government continues to deny proper mental health care to people who have committed no crime but who have had the misfortune to end up in its immigration system. The response of the minister is to announce upgrades to Baxter—(Time expired)

Senator BARNETT (Tasmania) (4.53 pm)—I am pleased to stand here to speak to this matter of public importance, which was proposed by Senator Ursula Stephens. I acknowledge the interest and common objectives of the many senators in this place standing to speak on this particular issue. However, I take issue with some of the comments made and objectives expressed by some of the speakers on the other side, in particular the Labor senators. Before I comment on or respond to them, I want to say that this is a matter that affects us all. In any 12-month period, one in five adult Australians experiences some form of mental illness. I am sure that just about everybody in this place knows, and has a personal relationship with, a person with a mental illness. It is a very important issue and it is great that it has been raised. In past decades, across the length and breadth of this country, not enough attention has been given to mental health issues and the lack of mental health services being delivered in this country. So it is excellent that we are having a debate and discussing some of these issues so that we can get the focus right.

In terms of the areas of responsibility, I want to say at the outset that, yes, the Australian government have a very important role to play. They have been taking a leadership position, primarily through the Hon. Christo-

pher Pyne, who, as the parliamentary secretary responsible for health, has demonstrated excellent credentials and leadership skills in that role. But let us accept right up front the fact that this is primarily a responsibility of the state governments of Australia. That point seems to have been omitted. Not a word has been expressed on the other side by Labor senators about the important and primary role of the state governments. They are all Labor governments, and they have been lacking in their ability to address this issue, to the great annoyance and disappointment of people across the country. People do not want governments whingeing and moaning about who is responsible, but this is an important issue and we want the state governments to face up to the fact that they have a responsibility.

I want to also acknowledge the important work of the non-government organisations which represent people with mental illnesses. Of course, 10 October marked 2005 World Mental Health Day. That was an important point acknowledged in an announcement made by the parliamentary secretary for health, Christopher Pyne, and I congratulate him on his leadership on that. The key message that he shared with us was the importance, for all Australians, of getting physical to improve our total wellbeing, which includes mental wellbeing. He said that physical and mental health are the two inseparable aspects of wellbeing. I think most people in this place would be aware of my interest in the importance of a healthy lifestyle and, in particular, addressing the obesity epidemic. There are two sides to that. You have to have a balance—a balance of regular exercise and a balanced diet. In the same way, in terms of mental health, there is physical and mental health. The two are inseparable. On 10 October, World Mental Health Day was acknowledged. It is an initiative of the World Federation for Mental Health, and it coincided with
Australia’s Mental Health Week. The theme, as Christopher Pyne mentioned, was mental and physical health across the span of our lives.

So I want to acknowledge non-government organisations and their role with and advocacy for those people throughout Australia with a mental illness. The Mental Health Council of Australia, for example, raise community awareness and have an important role to play. I want to acknowledge the important investment that the Australian government have made in giving the council $80,000 to promote the importance and awareness of mental health in the community through the promotion of World Mental Health Day. That was on the back of the $116 million the Australian government committed to addressing the childhood obesity epidemic in this country through the Building a Healthy, Active Australia program. Ninety million dollars of that went to the Active After-School Communities campaign, which is intended to encourage more physical activity by children in schools across the country. By 2007, 50 per cent of all schools, we hope, will have been targeted. Again, even in that regard, the states had to be made to get on board. They were pulled kicking and screaming to admit, ‘Yes, two hours of physical activity in schools is the way to go.’ They did not want to do it. We took a leadership role and said, ‘You must act in the best interests of children.’ And that is exactly what happened.

In terms of the leadership role of the Australian government, Senator Gary Humphries has made some excellent points in this debate already. He is the deputy chairman of the Senate inquiry that is already travelling the breadth and length of this country. Senator Lyn Allison is the chairperson. On the government side, Senator Nigel Scullion is a member of that committee, as is Senator Judith Troeth. They have already made valuable contributions on this important issue. Senator Humphries has highlighted the important role of the Australian government through our contribution to the Pharmaceutical Benefits Scheme. Remember that, back in 1990, that was about $1 billion. The contribution by the government has increased to $5 billion, going up to $6 billion. In a few years time it will be closer to $8 billion. What an investment! We know that that is a key role in terms of GPs treating mental illnesses—in fact, one of the most important contributions that a government can make. Seemingly, the Labor opposition in this chamber have omitted to even acknowledge the importance of that contribution.

In terms of the government’s contribution, I am proud of the record of the Howard government and the 47 per cent increase since 1995-96, when the government came into power. It has gone from $777 million to $1.145 billion. That is a big increase. We negotiate with the state ministers over the Australian health care agreements. Yes, they finally came on board, but it was reluctantly and they fought kicking and screaming. Even today they complain about the funding being cut. We know that is nonsense. In Tasmania, for example, they have had an increase from some $700 million to $922 million—a $222 million increase over that five-year period. (Time expired)

Senator NETTLE (New South Wales) (5.01 pm)—The Greens support this motion to reprioritise the neglected mental health care services sector. We are also supportive of National Mental Health Week. This initiative aims to increase knowledge about mental health issues, to foster more supportive and informed attitudes to those who live with mental illness and to encourage participation in healthy lifestyle strategies.

Increasing public knowledge about this issue is critical at a time when the AMA tells
us that over two million people in Australia experience a mental illness of some degree each year. Yet, according to the Mental Health Council of Australia, 62 per cent of people suffering with mental disorders fail to access any mental health services. This is for reasons such as the stigma associated with mental disorders or fear of medical treatment. While the remaining 38 per cent do manage to access care, that care is largely provided by general practitioners. The long-term decline in bulk-billing places further pressure on this very limited access to basic primary health services. This is further compounded by the rapid increases in out-of-pocket medical costs, up to an average of just under $25 per medical visit. The Howard government simply does not give mental health care services the priority they deserve, and this is well illustrated by the fact that Australia spends only seven per cent of its health budget on mental health issues while the OECD average is 12 per cent. Meanwhile, mental health accounts for at least 20 per cent of total health costs in Australia due to death and disability.

Deinstitutionalisation, combined with inadequate funding for community-based services, has meant the overflow for mental health services has fallen onto charities and non-government organisations as well as the police and corrective services. People with mental health problems have inadequate access to primary care, emergency care and specialist care and rehabilitation services. There are also reports of ongoing discrimination in the areas of employment and insurance, as well as restricted access to basic welfare services and support.

The Greens believe that we must ensure that people with mental health issues are treated with dignity and respect and afforded their human rights. One area in which mental health issues have been highlighted recently is immigration detention. The Federal Court recently concluded that mental health services in immigration detention centres were woefully inadequate and that the Department of Immigration and Multicultural and Indigenous Affairs had breached its duty of care in respect of two particular detainees by not providing adequate mental health services for them. Most long-term detainees in immigration detention centres suffer at least one form of mental illness, such as major depression or engaging in numerous suicide attempts.

The department of immigration has responded to criticism by employing more mental health staff, but several psychiatrists have commented that it does not matter how many extra mental health workers are put into immigration detention centres, because that environment is itself a contributing factor to mental illness. So we will not be able to fix the problems unless we deal with the central issue of mandatory detention and the impact that those immigration detention facilities have on people’s mental health. The Royal Australian and New Zealand College of Psychiatrists has recommended to its members that they should not be employed by a detention service provider, because they face an inherent ethical dilemma. They do not want psychiatrists to be caught in a situation where they are employed by the company detaining people, whilst the best medical advice those psychiatrists can give is that particular people should not be detained.

The Greens believe a significant increase in funding to all mental health services is urgently required. We need to allocate appropriate resources not only to directly support those with mental health issues but also to assist and support the families and carers. We also need to address the social conditions that contribute to mental health problems in the first place, including social isolation, exclusion, bullying and violence in homes, schools and workplaces, as well as discrimi-
nation and employment insecurity—something that is clearly not addressed by the latest industrial relations changes proposed by this government. There is also a serious need to address the high rate of homelessness amongst people who experience mental illness. We support this motion.

Senator HUTCHINS (New South Wales) (5.06 pm)—It is certainly a pleasure to support Senator Stephens and her motion concerning mental illness. Senator Stephens has a very passionate approach to this issue. Indeed, over the last few weeks, as she was preparing for this debate today, she was canvassing her colleagues to raise the awareness of mental health and Mental Health Week and to make us conscious that there is a difficulty at the moment and that it needs to be addressed—not by shifting the blame, as we have heard from coalition senators, but by fixing the problems.

I am disturbed that there has been a decrease in funding for one of the programs that should be available for mental health and, in particular, that it was announced this week. In the last few years I have had the duty of chairing three Senate inquiries that dealt with aspects of people’s mental and psychiatric state. The first dealt with poverty and financial injustice, the second was about children in institutions and the third was an inquiry into military justice, which we reported on in June this year.

The inquiry into poverty highlighted the fact that an overwhelming number of people on the streets suffer from mental illness. The inquiry into children in institutions clearly identified that ongoing support is required for those men and women who were raised in Dickensian institutions right up until the 1960s. They will require assistance, help, aid and comfort from a federal or state government for some time.

Only recently we had an inquiry that dealt with suicides in the Australian Defence Force, how they should be dealt with and discussed and how we should as a nation seek to prevent them. It is surprising that we have this level of mental disorder in the defence forces because, when men and women sign up with the forces, they are required to see a psychologist. They have to fill out a questionnaire and identify family mental illness, if there is any, and they have to talk to a doctor regarding any mental health issues. However, the mental health issues within the Australian Defence Force are no different from anywhere else in the country, which in itself is a problem. The reasons identified for mental health issues are sudden and prolonged isolation from family, restriction of choice and freedom, discipline, interstate moves and performance anxiety.

But unstated in all that is the practice of bastardisation and victimisation that occurred, and probably still does occur to a degree, within the Australian defence forces. Indeed, the Commonwealth and the defence forces have sought to stamp out those areas of bastardisation and victimisation. But that, unfortunately, has not prevented high-profile suicides over the last few years, which accounted for the nature of the inquiry that I chaired. Young men and women were put under such pressure—indeed, were humiliated on occasions—by people in authority and felt so distressed, so isolated and so abandoned that they took their own lives. The committee spoke to their families, and often we ended those inquiries in tears because those young men and women were driven to the brink and to a mental breakdown which led them to take their own lives. This is an ongoing problem that has been addressed by the ADF and is still being addressed. (Time expired)

Senator NASH (New South Wales) (5.11 pm)—I am very pleased to be able to stand
here today and talk to this MPI on mental health. I am a little perplexed by the senator putting forward this MPI on the need for the Howard government to treat mental illness as a national health priority. We do. That already happens. The government recognises this, and mental health is a designated national health priority area. While I do recognise the senator’s interest in this particular area, it is something that this government already does. Indeed, in 1996 the state and territory governments agreed with this government to give mental health that priority status.

I would also remind the Senate that it is the state and territory governments who are responsible for the specialist public mental health services. They are responsible for the planning, delivery, management and statutory regulation of public mental health services. To follow on from my colleague Senator Humphries: it is a bit disingenuous to try to lump all the problems we see in mental health with the Australian government. I believe we need to look at all the governments and all the roles they play in this very important matter.

I believe that the issue of mental health is an extremely important one. I know that my colleagues agree with me on that point. Indeed, in my first speech I referred to this issue of mental health, how important it is and particularly its impact on regional communities. I recognise, as do my colleagues on both sides of the chamber, that there are many people who suffer depression in this nation. As has been commented on earlier, one in five people in Australia will experience depression at some point in their lives. We know that it is inescapable that we all will be touched by mental illness at some point.

Around one million adults and 100,000 young people live with depression each year. Living in a regional community, I am very aware of the factors particular to a rural lifestyle that can contribute to depression. Issues such as isolation, difficult financial circumstances and social difficulty contribute to depression in those areas. In spite of what those opposite have said today, this government has a real commitment to addressing the problem of mental health in this nation. We are addressing this problem. We do realise that it has a very serious impact on our society, on our families, on our friends and on all of our communities right across this nation. It has a devastating impact. This government is taking real and solid steps to address this very important issue. Certainly there has been a very significant increase in funding since 1996. That has been very important in terms of mental health care delivery in this nation. We have seen the Australian health care agreements, up to $331 million to all states and territories, to bring about further mental health reform under the National Mental Health Strategy.

I think it is important to run through some of the programs that are in place that address this issue and show what a very, very high priority this is for this government. The government, of course, has a leading role, through the National Mental Health Strategy, which was endorsed by all health ministers in 1992 and reaffirmed in 1998 and 2003. Indeed, in July this year, all health ministers agreed to undertake a revision of the national mental health policy. I think it is important to point out that there are things that we can do better, but certainly we need to acknowledge the work that the government has done to date in addressing this very serious issue.

Youth mental health is a very important area and we have seen $69 million delivered to help young people with their mental health problems. Funding was announced to assist in countering mental illness and associated drug and alcohol problems faced by young people. I think it is very important that we
recognise the impact this has on young people. It is important to look at the drug and alcohol problems that are often associated with mental illness in our young people. Being a mother in a regional area, I am very aware of how important it is that we do focus on the young people in our communities suffering from this very serious disease.

We have seen the Better Outcomes in Mental Health Care program—$263 million for education and training for GPs. Over 4,000 GPs are participating in that program, increasing their mental health skills and their knowledge. We have seen a three-step mental health process and focused psychological strategies put in place, and there is access to allied psychological services and to psychiatrist support. I think it is important that we recognise the work that is being done in all these areas.

One other area I would like to just touch on is beyondblue and the additional $39 million, to 2009, that has gone in to continue the important work that started with this program in 2000. It is going to be building on its school and youth depression activities, and developing prevention programs for men, the elderly and Indigenous Australians.

Another initiative which I think is particularly important is the establishment of a national preventative postnatal depression screening and follow-up program for new mothers. Again, I believe it is very important that we focus on that, particularly in our regional areas, and that we do address and recognise the very real problems in that area.

We are also seeing promotion, prevention and early intervention for mental health. We have also seen suicide prevention programs and, while we have seen a downward trend in the number of people dying as a result of suicide, we still need to do more work in this area and the government has been providing around $10 million a year to address this particular mental health illness issue.

In summary, the government does have a plan to address mental health, in contrast to Labor who really appear to have nothing—nonsense, actually. In summary, we have seen a great deal of funding by this government: Australian health care agreements, the National Mental Health Strategy, youth mental health funding, the Better Outcomes in Mental Health—(Time expired)

Senator POLLEY (Tasmania) (5.18 pm)—I rise to speak today in support of the matter of public importance raised by Senator Stephens. With a health minister who can trivialise a suicide attempt, the future of mental health in Australia is itself plagued by the black dog. The Minister for Health and Ageing, Minister Abbott, thinks so little of the issue that he has handed responsibility to his parliamentary secretary, Christopher Pyne. Just to correct the record, dNet will be closing on Saturday. But in what will surely be the final insult for those staff of depressionNet, after being forced out of their jobs and going home to turn on the television, they will have to watch endless taxpayer funded industrial relations commercials and reflect on Chris Pyne’s comments this morning: ‘We are spending taxpayers’ money, so we want to make sure it is spent properly.’

Good old-fashioned denial will get you nowhere, Mr Abbott. We need national leadership to drive a realistic national mental health strategy. Here is another comment from this caring government, from the federal Treasurer, Peter Costello, who is on record as saying that it is not possible to meet the health needs of Australians without self-help and preventative mechanisms. Yet, here they are now, turning their backs on essential services like dNet.

One in five of us will be challenged by mental illness during our lifetime and nearly...
10 per cent of us will be left with a long-term mental or behavioural problem. Heaven forbid you live in regional Australia when your nervous breakdown strikes. Because of the extreme shortage of general practitioners, the mentally ill are not receiving the help they require. According to a report submitted by the Australian Medical Association to the Senate Select Committee on Mental Health, the problems in rural and regional Australia are chronic. They say the patterns of mental illness in the country are different; there is a well-documented increase in suicide among young men compared to their city counterparts.

Mental health issues should be treated as mainstream issues. It is well documented that poor mental or emotional health leads to a range of physical ailments. Cancer and heart disease are regularly linked to stress and emotional health. The conditions are linked and should be treated as such across the health system, not isolated and treated on the fringe.

The state governments, who are being blamed endlessly today by the coalition government in this chamber, are expected to carry the burden of providing long-term mental health services. Of the $2.56 billion spent on mental health, just $928 million comes from the out-of-touch Howard government’s coffers. What a sham!

This is more denial from Minister Abbott. What does he hope to achieve, locking away the mental health issue with his parliamentary secretary? Did you see Mr Pyne arrogantly politicising mental illness on national television last night? What a disgrace to use flim-flam budget figures among an audience of family, friends and professionals working hard to bring light into the lives of the mentally ill. He was shown for what he is: an arrogant and out-of-touch Liberal. What message is he sending the families and partners of people with a mental illness? Does he seriously still attach shame to mental illness? Is that why he is trying to lock the issue away? There must be community, school and workplace programs to take away that stigma. There must be access to training for GPs to ease the workload and facilitate early diagnosis.

The National Rural Health Alliance has called for an increased national expenditure on mental health of 12 per cent of national health expenditure. Maybe some of the money could come from this arrogant government’s advertising campaigns. The alliance calls for formalised support for the carers of people with mental illness and stronger professional mental health work forces in rural and remote areas. Why can’t Tony Abbott face up to the truth? Why won’t he admit, as Tasmanian health minister David Llewellyn has admitted, that mental health systems remain under pressure? Why won’t he make the improvements to services that mental health advocates are pleading for?

There is no shame in mental illness, just as there is no shame attached to having diabetes or heart disease. The government owes it to the community to openly tackle the mental health issues of Australians in the same way we have embraced dealing with breast cancer and heart disease. Much mental illness can be prevented, like its physical counterparts. Australia deserves a health minister who can speak openly and intelligently about mental health. (Time expired)

The ACTING DEPUTY PRESIDENT (Senator Crossin)—Order! The time for consideration of the matter of public importance has expired.

COMMITTEES
Scrutiny of Bills Committee
Report
Senator HEFFERNAN (New South Wales) (5.23 pm)—On behalf of the chair of
the committee, Senator Robert Ray, I present the 12th report of 2005 of the Senate Standing Committee for the Scrutiny of Bills.

Ordered that the report be printed.

Public Works Committee Report

Senator HEFFERNAN (New South Wales) (5.24 pm)—On behalf of the Parliamentary Standing Committee on Public Works, I present report No. 17 of 2005 entitled Proposed refurbishment of the Royal Australian Mint, Canberra, ACT. I move:

That the Senate take note of the report.

I seek leave to incorporate my tabling statement in Hansard.

Leave granted.

The statement read as follows—

The Royal Australian Mint was built in 1965 and is responsible, and purpose built, for meeting the coin circulation and numismatic needs of Australia. The Mint buildings have not had any major upgrade works undertaken since they were built, and reports have indicated that non-structural elements of the buildings have passed their useful economic life.

The proposed work is intended to refurbish the Royal Australian Mint, extending the life of the buildings by at least another 25 years. Major refurbishment also enables the Mint to consolidate operations to one building providing two tenancies: the Process Building leased to the Mint; and the Administration Building which will be available for lease by other government agencies. The estimated cost of the proposed works is $41.2 million.

The major refurbishment of the Process and Administration buildings seeks to address Occupational Health and Safety, and Building Code of Australia non-compliance issues through:

• new building and mechanical, electrical and fire services;
• reconfiguration and re-carpeting of office areas;
• refurbishment of the existing stone flooring to the lobby;
• new public forecourt and entry courtyard;
• new basement tunnel link to vault;
• new goods delivery security gates;
• new public and staff amenities; and
• new public and staff parking arrangements.

The Committee conducted a site inspection of the Royal Australian Mint on Friday, 19 August 2005 prior to the confidential briefing and public hearing. Whilst inspecting the site, the Committee experienced the Mint under normal operating conditions and saw the shortcomings of the current facilities at first hand.

As could be expected with works to the Royal Australian Mint, the Committee expressed concern at any heritage issues that may arise by major refurbishment of such buildings. The Department assured the Committee that the heritage value of the buildings was a major consideration in planning the refurbishment, and would not be compromised as a result of the work. The National Capital Authority supported the statements made by the Department and was happy with the proposed refurbishment.

The Committee questioned the Department on existing hazardous materials within the buildings and what would be done to address this issue, noting that there had been previous projects undertaken to remove hazardous materials. The Department explained that hazardous materials in the buildings were mainly PCBs (Polychlorinated Biphenyls) and asbestos, which would be removed in accordance with national code requirements. The Department added that any such materials not removed as part of this refurbishment, were in a contained state and therefore present no hazard.

Subject to parliamentary approval, construction works are planned to commence in October 2006 with completion by June 2008 for the Mint occupation of the Process Building, and April 2009 for tenant occupation of the Administration Building. However, the Department was unable to specify the method of project delivery at the time of the hearing. Whilst the Committee remain confident that the Department could deliver the project in the stated time frame, it recommended that the Department advise the Committee of the project
delivery strategy to be employed, once it has been determined.
In project costings provided by the Department, the Committee noted a discrepancy in the stated total project cost. At the public hearing the Department explained that the initial project cost estimate, as included in their main submission, were calculated very early in the process, based on a concept design. By the time of the Committee's hearing, the Department was able to present a more robust project cost estimate, accounting for the difference between the original predicted out-turn cost and the budget appropriation. The revised amount provides for a greater contingency allowance. The Committee was pleased that savings had already been made on the project, and commends the Department in this regard.
Having given detailed consideration to the proposal, the Committee recommends that proposed refurbishment of the Royal Australian Mint proceed at the estimated cost of $41.2 million.
Mr President, I wish to thank those who assisted with the public hearing and my Committee colleagues.
I commend the Report to the Senate.

Question agreed to.

BILLS

The ACTING DEPUTY PRESIDENT (Senator Crossin) (5.24 pm)—I table the report of the Department of the Senate for 2004-05.
Ordered that the report be printed.

HIGHER EDUCATION LEGISLATION AMENDMENT (WORKPLACE RELATIONS REQUIREMENTS) BILL 2005

NATIONAL HEALTH AMENDMENT (IMMUNISATION PROGRAM) BILL 2005

First Reading

Bills received from the House of Representatives.

Senator ABETZ (Tasmania—Special Minister of State) (5.26 pm)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I shall move a motion to have the bills listed separately on the Notice Paper. I move:

That these bills may proceed without formalities, may be taken together and be now read a first time.

Question agreed to.

Bills read a first time.

Second Reading

Senator ABETZ (Tasmania—Special Minister of State) (5.26 pm)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

HIGHHER EDUCATION LEGISLATION AMENDMENT (WORKPLACE RELATIONS REQUIREMENTS) BILL 2005

If Australia is to remain internationally competitive in the provision of higher education, it needs to promote the sustainability of its universities by enabling them to attract, retain and reward the very best people.

The higher education sector is not immune from the pressure to adapt, reform and become more productive. Universities need to be able to respond flexibly to the needs of their constituencies including potential and existing students, staff, employers, industry, local and regional and national communities.

Increasingly, both Australian and overseas students will make their choices on the basis of cost, reputation for standards, and local and overseas career options. In order to compete with international universities, Australian universities need to be able to attract and keep the best staff, and reward them accordingly.

The Australian Government has committed an additional $11 billion to the higher education sector over 10 years through the 2003 Our Universities: Backing Australia's Future package. However, this funding will only assist the sector
if it is accompanied by changes in the way universities are managed. Management and leadership capability is central to the ability of universities to deal with the challenges they face.

While the Government recognises that, over the last few years, some workplace reform has occurred in the university sector, change has been slow and there is a need for further reform in line with the Government’s broader workplace agenda.

To accelerate the pace of workplace reform in higher education the Minister for Employment and Workplace Relations, the Hon Kevin Andrews MP, and I announced on 29 April 2005 new workplace relations requirements for universities which will provide staff with greater choice and institutions with more flexibility. The reforms are consistent with the Government’s broader workplace reform agenda.

The bill now before us will give force to the Higher Education Workplace Relations Requirements which will be guidelines under the Higher Education Support Act 2003.

The new requirements will provide universities and staff with choice. The requirements do not prescribe particular outcomes. Choice is about providing scope for individuals to negotiate pay and conditions which suit their particular needs and circumstances rather than being locked into the "one-size-fits-all" approach that has prevailed in the sector to date.

Individual choice in agreement making means that employees are able to choose the type of workplace agreement that suits them best. Australian Workplace Agreements (AWAs) allow greater flexibility than certified agreements to provide bonuses and other rewards for high performance. They assist employers to offer incentives to attract and retain the best employees. However, there is no requirement for an individual staff member to accept the offer of an AWA.

As with collective agreements, AWAs are subject to a no disadvantage test. No one can be coerced into accepting an AWA. Staff have the option to be covered by a certified agreement if there is one in place and staff may appoint someone, including the union, to represent them in AWA negotiations.

The requirements will encourage universities to develop a culture of direct communication with their staff. They will promote freedom of choice of representation. It is the right of all employees to choose to belong or not belong to a union, without discrimination for their choice.

The requirements will enhance workplace flexibility which will assist institutions to respond to changing requirements and challenges and develop a diverse and adaptable workforce. The reforms will assist institutions to encourage individual and organisation performance, including rewarding high performing individuals, efficiently managing underperformance and strengthening management and leadership capability.

The requirements will have no impact on academic freedom and universities will still be able to make their own decisions about the appointment of staff and other academic activities.

Universities will need to comply with these requirements in their workplace agreements, policies and practices, as well as with the National Governance Protocols, in order to be eligible for the increase in assistance funding under the Commonwealth Grant Scheme (5 per cent in 2006 and 7.5 per cent in later years) under section 33-15 of the Higher Education Support Act 2003.

The requirements will apply to all workplace agreements made and approved or certified after 29 April 2005.

By 30 November 2005, all universities will need to meet the requirements in their workplace policies and practices, except where compliance with the requirements would be directly inconsistent with the Higher Education Provider’s obligations under its existing certified agreement as at 29 April 2005.

Universities will need to meet the requirements in their certified agreement(s) either this year or next depending on the nominal expiry date of their existing certified agreement(s) as at 29 April 2005.

All universities will be required to comply with the workplace reforms and National Governance Protocols every year after 2007 in order to maintain the 7.5 per cent increase in assistance funding under the Commonwealth Grant Scheme.
Implementation of these reforms will assist to ensure that universities can be more competitive nationally and internationally. They are necessary if long-term sustainability and quality of Australian higher education is to be assured.

I commend the bill to the Senate.

NATIONAL HEALTH AMENDMENT (IMMUNISATION PROGRAM) BILL 2005

The Government is committed to ensuring that Australians can continue to access free vaccines to protect the population against vaccine preventable diseases through the National Immunisation Program (NIP).

Our immunisation system is world class. Immunisation coverage rates for 12 month old children have been above 90 per cent for the last five consecutive years. The proof of the success of the program can be measured by the large declines in rates of vaccine preventable diseases and, in the case of polio and smallpox, eradication of the diseases from Australia.

This Government is proud of its record of achievement in funding vaccines. Australian Government expenditure on vaccines has increased 22-fold from $13 million in 1996 to $288 million in 2004-05.

The Australian Government provides funds to State and Territory Governments to purchase vaccines under the NIP. The States and Territories then provide the vaccines free of charge to providers so that the target population can be immunised against vaccine preventable diseases.

In the 2005-06 Budget, the Australian Government announced an expansion of the role of the Pharmaceutical Benefits Advisory Committee (PBAC) to include evaluating the cost-effectiveness of new vaccines for funding under the NIP. The increasing numbers of new vaccines and expensive technologies have made examination of the cost-effectiveness of vaccines more critical. The PBAC has a long track record in examining the cost-effectiveness of pharmaceuticals and in advising Government in a transparent and rigorous way.

The PBAC, a statutory body established under the National Health Act 1953, provides advice to Government on drugs that should be listed on the Pharmaceutical Benefits Scheme (PBS). In making a recommendation for a drug to be listed on the PBS, the PBAC is required by law to consider the cost-effectiveness of the drug compared to existing alternative therapies. The PBAC has developed a reputation as a world leader in the rigorous application of evidence-based assessment in developing funding recommendations.

The PBAC process is being copied by other countries around the world. It is only reasonable that we apply it to Government expenditure on vaccines here in Australia. The PBAC process rewards truly innovative medicines that demonstrably improve the health of our people. It ensures that medicines that provide the same health outcomes are priced the same.

The bill will allow the functions of the PBAC to be expanded to include providing the Minister for Health and Ageing with advice about vaccines to be funded under the NIP. The PBAC will also continue to have the authority to recommend to the Government subsidisation of vaccines under the PBS.

The amendments in this bill will come into effect in early 2006. These amendments will enable the Australian Government, working on behalf of the public, to receive high quality advice through a strong emphasis on cost-effectiveness considerations via an established, transparent, and rigorous evidence-based process.

The PBAC process will allow Government consideration of vaccine funding in a more timely and controlled manner. The new advisory arrangements will clarify for industry and the community the process for recommending vaccines for Australian Government funding.

A strong NIP is important not only for Government but for all Australians. As new and more complex vaccines are developed, steps must be taken to ensure that the immunisation program is as efficient and effective as possible. We need to put into place advisory arrangements that assure the cost-effectiveness of the vaccines provided under the NIP.

The bill reaffirms the Government’s commitment to the NIP. The bill will strengthen the cost-effectiveness evaluation of vaccines and stream-
line the consideration of proposals to fund vaccines under the immunisation program.

In the 2005-06 Budget, the Government also announced administrative arrangements to improve vaccine pricing processes. In future, pricing for all vaccines recommended by the PBAC for funding under the NIP will be set by the Pharmaceutical Benefits Pricing Authority (PBPA). This change allows the PBPA to recommend appropriate prices for vaccines. The PBPA’s established discipline and methods for price determination will provide a mechanism through which prices for vaccines funded under the NIP can be independently assessed and reviewed.

Taking these sensible and bold steps demonstrates the Government’s determination to protect Australians against vaccine preventable diseases in a responsible and efficient way, for the benefit of both current and future generations. The Government will ensure that our national resources, including our expert advisory committees, are used in a way that provides maximum benefit to Australians.

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

Ordered that the bills be listed on the Notice Paper as separate orders of the day.

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

First Reading

Bill received from the House of Representatives.

Senator ABETZ (Tasmania—Special Minister of State) (5.27 pm)—I move:

That this bill be now read a first time.

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

Leave granted.

The speech read as follows—

This bill amends various laws to implement a range of changes and improvements to Australia’s taxation and superannuation system.

Firstly, Schedule 1 introduces reforms to the company loss recoupment rules. A company can deduct losses incurred in earlier income years if it satisfies the continuity of ownership test or the same business test. Listed public companies and their wholly-owned subsidiaries can use a modified continuity of ownership test to determine whether they have the same owners.

These amendments extend the range of companies that are eligible to use the modified continuity of ownership test to include all widely held companies and eligible subsidiaries. The amendments will make it easier and more certain for these companies to apply the modified continuity of ownership test to determine whether they have the same owners.

The changes to the continuity of ownership test will reduce the need for large companies to rely on the same business test to be able to claim deductions for prior year losses. Large companies with diverse businesses have difficulty in satisfying the same business test. Therefore, the amendments will remove the same business test for companies (including consolidated groups) whose total income is more than $100 million.

Schedule 2 replaces the existing foreign dividend account provisions. The changes provide tax relief for conduit foreign income, which generally is foreign income received by a foreign resident through an Australian corporate tax entity. These rules will allow Australian companies that receive foreign income on which no Australian tax is payable, to pay dividends to foreign shareholders that are also free of Australian withholding tax.
This measure will provide foreign investors who structure their foreign investments through Australian entities, with more neutral Australian tax outcomes when compared to foreign investors who hold their foreign investments more directly. This will further enhance the ability of Australian entities with foreign investments to compete for foreign capital. It will also improve the attractiveness of Australia as a location for regional holding companies.

These amendments represent the sixth instalment of the Government’s reform of Australia’s international tax arrangements.

Schedule 3 denies deductions for expenditure incurred in the furtherance of, or directly in relation to, activities where the taxpayer has been convicted of an offence that is punishable by imprisonment for at least 12 months.

Deductions will be denied for all expenditure where the activities are wholly illegal, such as drug dealing or people smuggling. On the other hand, there will be cases where a taxpayer is conducting a lawful business but is convicted of an illegal activity while carrying on that business. In these cases only the expenditure that is incurred directly or in the furtherance of the illegal activities will be denied. Expenditure that is incurred in undertaking the underlying lawful activity and that would have been incurred regardless of the illegal activity, will continue to be deductible. This is because the expenditure cannot be said to further or be directly related to the illegal activity. The expenditure is too remote to the illegal activity.

Schedule 4 will include copyright in a film, in the general effective life depreciation of the uniform capital allowances provisions.

Under effective life depreciation, taxpayers will have a choice of using the Commissioner of Taxation’s safe harbour effective life determination or, self-assess the effective life of their copyright in a film. They will also be able to choose between the diminishing value method and the prime cost method when depreciating their asset.

These amendments will apply to a copyright in a film acquired on or after 1 July 2004.

Schedule 5 provides tax relief, in certain circumstances, for employees who participate in employee share schemes. When an employee is issued new shares or rights as the result of a corporate restructure or 100 per cent takeover, they will now be able to treat their new shares or rights as a continuation of their old shares or rights. This ensures that a taxing point does not arise for employee share scheme participants in the event of a corporate restructure. It also ensures continuity of treatment for capital gains tax purposes. In this manner, the amendments further support the development of employee share schemes and the alignment of employer and employee interests.

Schedule 6 provides relief for employers who may potentially have to make a double payment of superannuation contributions.

Currently, employers who make a late contribution to a superannuation fund may be required to pay this amount again, as part of the superannuation guarantee charge payable to the Australian Taxation Office. This charge includes the full amount of any shortfall, even though a contribution relating to the relevant period had subsequently been paid into an employee’s superannuation fund or retirement savings account by the employer.

These amendments will allow late employer superannuation contributions, which have been made for an employee to a superannuation provider within a month of the superannuation guarantee due date, to be used to offset the portion of any superannuation guarantee charge that relates to that employee for the quarter. To ensure there continues to be a strong incentive for employers to make superannuation guarantee payments by the due date, late payments will not be tax deductible.

Employee entitlements will not be jeopardised, as employees will still receive their full superannuation shortfall plus interest to compensate them for the late payment.

These amendments will apply to late payments of contributions made on or after 1 January 2006.

Schedule 7 clarifies that mandatory employer contributions under the superannuation guarantee arrangements are payable on wages or salary paid in a quarter following the termination of an employment relationship.
This ensures employees do not lose their superannuation guarantee entitlements as a result of being underpaid during their employment.

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

I commend this bill.

Debate (on motion by Senator Abetz) adjourned.

INTELLIGENCE SERVICES LEGISLATION AMENDMENT BILL 2005

Returned from the House of Representatives

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

COMMITTEES

Migration Committee

Membership

Message received from the House of Representatives notifying the Senate of the appointment of Mrs Irwin to the Joint Standing Committee on Migration in place of Mr Burke.

Employment, Workplace Relations and Education References Committee

Reference

Senator WONG (South Australia) (5.28 pm)—I, and also on behalf of Senator Murray, move:

That the following matters be referred to the Employment, Workplace Relations and Education References Committee for inquiry and report by the first sitting day of 2006:

(a) the likely impact of the package of industrial relations changes, titled ‘WorkChoices—A New Workplace Relations System’, announced by the Government on 9 October 2005;

(b) the likely impact of any bills introduced by the Government to implement the package of industrial relations changes, titled ‘WorkChoices—A New Workplace Relations System’; and

(c) any other matters related to the implementation of the package of industrial relations changes, titled ‘WorkChoices—A New Workplace Relations System’.

In speaking to this motion, can I say first that it is very clear from the Prime Minister’s announcement on Sunday and from the subsequent question time questions and answers which have been given that the industrial relations changes which are proposed by this government are far reaching and wide ranging.

Obviously, from what we have seen in the document entitled WorkChoices—A New Workplace Relations System that has been put into the public arena, we on this side of the chamber have a view that these are extreme changes which will have the effect of stripping back the entitlements that are currently enjoyed by Australian workers and reducing the take-home pay of a great many Australian employees and their families. An example of that was provided in question time today when the minister failed to understand that the position of the government is in fact not that things such as penalty rates, shift allowances and overtime rates are retained but that an A W A can simply include a clause that says that those entitlements are removed without any compensation for that change.

We on this side of the chamber—and I believe we are joined in this by a number of the minor parties and certainly by Senator Murray, who as I indicated, is moving this motion jointly with me—are concerned that this government will not subject these extraordinarily wide-ranging changes to proper scrutiny. We know what has happened in this place since this government attained the majority in the Senate. We know that what we saw on the Telstra bill was an abuse of process. It was an outrage. It was a situation in
which a highly controversial bill was rammed through this place not because there was any real urgency in terms of the legislation but because the government was concerned about the vote of Senator Joyce. For that base political reason, a bill that a great many Australians would have like to have seen given more scrutiny was referred off to a quick and dirty committee. The committee was given a day to scrutinise this very controversial piece of legislation.

We do not want that to happen with these industrial relations changes, because the fact is that these changes will have far-reaching implications for working Australians and their families. Those working Australians deserve to have the legislation properly scrutinised. The people who put us here deserve to have their representatives properly scrutinise the legislation that will affect their daily wages, their weekly entitlements, their annual leave entitlements, their public holidays, their overtime rates, their hours of work and the list goes on and on. I doubt that there would be very many Australians who would not want this Senate to look closely at changes which will have implications for every working Australian.

The proposition from this side of the chamber, supported jointly by the Democrats and the Labor Party, is a very simple one. We want to ensure that laws which have wide-ranging financial implications for Australians and which could fundamentally alter the nature of working arrangements in this country are properly scrutinised before this chamber votes on them. It is a very simple proposition and, one would have thought, not an unreasonable proposition that people who are elected by Australians have the opportunity to properly understand what the implications are of a piece of legislation before we vote on it.

It is no good the government saying, ‘They will understand because we have put this 88-page booklet out.’ We heard a bit about that in question time. As was so abjectly demonstrated by Minister Abetz today in the chamber during question time, even government ministers do not understand what is being proposed by this government. Even government ministers get it wrong. We heard in question time today from Senator Weber that when she called the government hotline, which is supposed to be one of the avenues through which Australians can understand precisely what is going to happen to them, she was asked by the person she phoned what a collective agreement was. Is that the sort of information the Australians who put us here will get when they ask questions about their daily rates, their rates of pay and their conditions? They are being given information on a hotline by people who clearly do not have the full information.

If Minister Abetz could not provide accurate information in question time today and if the hotline cannot provide accurate information, surely that demonstrates very clearly why we need proper Senate scrutiny of the legislation and of the policies that are being proposed by this government before we vote on them. What have we heard so far on this front from this government? Have we heard the government saying: ‘We recognise that the changes that we are proposing are very wide-ranging. We recognise that these do have substantial implications for Australians and their families and we are willing to put these issues up for scrutiny. We are willing to ensure that the Australian public, the people who vote to put senators in this place to vote on this legislation, understand exactly what the effects and impacts of this legislation will be before the Senate votes on it’?

We had a glimmer of hope in that regard. Some time ago Minister Andrews indicated that he thought that a Senate inquiry would
be quite useful. Unfortunately, that little glimmer of hope was quashed within 24 hours. For a very brief and fleeting moment we thought there might actually be some proper scrutiny of the government’s industrial relations changes in this place. However, the Prime Minister indicated quite clearly less than 24 hours later that they had not made their mind up on this. We had Senator Brandis reportedly—and I acknowledge that it was reportedly—indicating to the party room a view that was essentially saying: ‘Why would we bother having a Senate inquiry? They are just free kicks for the opposition.’ If it is true that that was what was said, it really demonstrates the way in which this government is prepared to abuse Senate processes in order to push through its extreme changes.

What we are interested in—and the minister who has responsibility in this chamber for this policy area may not agree with this—is ensuring that laws that will change the lives of working Australians are properly scrutinised before they are voted on. What we want to avoid is the travesty that was the Telstra legislation, the travesty of laws that are going to affect so many millions of Australians coming into this place not being the subject of proper scrutiny, not being the subject of proper debate, not being the subject of proper consideration, not being the subject of a proper inquiry—a full inquiry—that enables the operation of the laws to be aired and questions to be asked and answered. All of those things are things that we want to occur before the legislation is voted on—a very simple proposition, one would have thought, not particularly controversial but clearly something this government wants to avoid.

What do we have from the government? I note that we have an amendment that has been circulated in the chamber. It certainly has not been raised with my office as shadow minister representing on this issue in this chamber nor as the mover of the motion. We now see that the government is seeking to amend this motion to require that the bills be referred to the legislation committee for inquiry and report by 22 November.

Senator Murray, maybe you had the courtesy of this being raised with you before you walked in here. I notice you are shaking your head. I certainly did not. Perhaps it is just another indication of the way the government want to approach this issue. You have the movers of the motion not even being told before we walk into this place about what the government want to do with the committee.

I will speak specifically to the amendment after the minister speaks to it, but I note two things in it proposed by the government which are cause for enormous concern and, I suggest, bell the cat for what sort of inquiry it wants. The first is that it has set a report back date by 22 November but has not indicated in any aspect of this amendment when the bills will be introduced into the parliament. So if we pass this amendment as the government wants us to, potentially we could have the bills a few days before a single-day inquiry like we had on Telstra and a report by 22 November 2005. Is that the sort of scrutiny this government thinks working Australians deserve? Is that the sort of scrutiny this government considers is appropriate in the circumstances?

Even worse, the second paragraph of the motion says that the inquiry shall not consider certain elements of the bill. It makes for an interesting list: secret ballots; suspension/termination of a bargaining period; pattern bargaining; cooling off periods; remedies for unprotected industrial action; removal of 166A of the Workplace Relations Act; strike pay; reform of unfair dismissal arrangements; right of entry; award simplification; freedom of association; amendments
to section 299 of the Workplace Relations Act; and civil penalties for officers of organisations regarding breaches. In other words, you want an inquiry where we cannot look at all of those things. Even if they are going to be amended in the legislation, you want an inquiry that cannot look at them. It is extraordinary.

From the government that brings us a single day of inquiry on Telstra, we have an amendment to a motion—not raised, as a matter of courtesy, with the opposition or the Democrats who are moving the motion—saying: ‘We want it back by 22 November but we’re not going to tell you when you actually get the bills. We want to carve out a whole and substantive area, potentially which may be amended in our legislation, that you can’t look into. We want to cover it up.’

Can I flag that the opposition is amenable to discussion with the government on time frame and on the terms of reference because our interest in this is to ensure that the processes of this chamber are respected and observed. Our interest is to ensure that these pieces of legislation—we do not know if it is one, two or more—that are going to affect so many millions of Australians are properly considered and inquired into by this chamber through a committee process before being voted on. I place that on the record, Minister Abetz, as the representative of the opposition in this chamber: we are prepared to have a discussion about the terms of reference and time frame.

Clearly, that is also an issue for Senator Murray as the cosponsor of this motion, but I would have thought that it is quite likely that there could be, on the previous record of Senator Murray’s approach to this issue, some discussion about those issues. But the government has not chosen to do that. It has chosen to circulate in the chamber an amendment but, most importantly, it has chosen to avoid any indication of how long a committee would have to inquire on these bills.

I, for one, would like to know: are we talking about one, two, three, four, five, six or 10 pieces of legislation; are we talking about an omnibus set of legislation; are we talking about a set of pieces of legislation introduced concurrently or in sequence; and how many aspects of the act will actually be required to be amended through this WorkChoices scheme? All of these issues are important, but most important is the detail of how it will operate, because it is about the lives and livelihoods of working Australians—millions of Australians.

Perhaps the government could explain to those who put them here why it is that they do not consider a full and proper inquiry by this chamber is appropriate. Perhaps the government could consider that. I think it might be difficult to explain it to our constituents. It might be difficult to explain to the voters of the various states and territories who have voted for all of us why it is that their working conditions and their livelihoods are not deserving of consideration through a Senate process and why it is that legislation which will fundamentally affect their livelihoods and their working conditions is not deserving of scrutiny.

What we do not want is yet another quick and dirty legislation committee inquiry on which the government has a majority, on which the government can shut down debate and discussion and on which the government can limit the questioning and consideration of these bills by senators from any of the parties. If the government were prepared to actually engage in some discussion with senators on this side of the chamber and the crossbenches, the government might find there is room for discussion. The government
might find that actually our concern is proper scrutiny. If the government puts up a proposition which ensures there is proper scrutiny, I think that would be worthy of serious consideration on this side of the chamber. But that is not the path this minister or this government has chosen to go down. Minister Abetz, who is in the chamber, chooses to move an amendment in the terms I have outlined. He does not have the courtesy to raise it with the movers of the motion. He does not have the courtesy to raise it with the opposition. Most importantly, he refuses to give any indication, unless he is about to, of when these bills will be presented and how long this committee will have to consider the legislation.

Today, the Senate is being asked by the opposition and by Senator Murray on behalf of the Democrats for nothing more than normal Senate process. That is all we are asking for. There is nothing outrageous. There is no conspiracy or left-wing theory to which Minister Abetz always wants to refer. There are none of those things. We are asking for something very simple: that complex, controversial legislation that has far-reaching implications for millions of Australians be properly scrutinised by this chamber through a Senate committee process before it is voted on. That was the norm of Senate practice until this government had the numbers and chose to abuse that process. If there was a controversial, complex bill, the norm would be for the Senate to hold a proper process of scrutiny as agreed in this chamber. If it was not a controversial, complex bill, that was generally as agreed in this chamber as well. Because the government now have a majority, they do not want to do that. We have seen that in the Telstra legislation and, more importantly, we have seen that in their recent history.

In less than a week, we have had two inquiries voted down by this government. There was a motion by Senator Fielding to look at the issue of penalty rates, overtime and various other issues, obviously associated with the industrial relations changes. The government voted that down, without giving any commitment about what they would agree to in terms of the process of scrutiny through a committee. Their approach has been, ‘We’ll keep voting things down, but we’re not actually going to tell you what we’re going to agree to.’ Then, of course, earlier this week, on Monday, we had a motion in regard to the Welfare to Work policy that was announced in the budget also voted down by this government in this chamber. Again, they did not indicate what they would agree to or what they would do. It was not legislation which was time sensitive, because July 2006 is the start-up date. What is the hurry? Is it another situation where you have to get it through quickly because a government senator might cross the floor and you do not want to commit yourself to any scrutiny?

Senator Abetz—Like you did last night.

Senator WONG—Minister Abetz, I do not think you are in any position to interject about people crossing the floor. The real issue is this: why is it that this government is so intent on ensuring that there is no proper Senate scrutiny of a piece of legislation which will affect the livelihoods and lives of millions of working Australians? That is the issue. We have not yet seen the government come into this chamber and respond to the repeated calls from senators from the opposition and from the crossbenches saying, ‘Tell us when this will come in or at least commit to a proper inquiry into this legislation.’ Has the government ever committed to that in this place? It has not. Instead, today we have this amendment moved by Senator Abetz which carves out so many areas which are potentially controversial and potentially could be in the bills, and sets a reporting date.
of 22 November, without any indication of when the Senate will actually get the bills.  

(Time expired)

Senator ABETZ (Tasmania—Special Minister of State) (5.49 pm)—I move the following amendment to the motion:

Omit all words after ”That”, substitute:

(1) Upon the introduction of the Workplace Relations Amendment (WorkChoices) Bill 2005 in the House of Representatives, the provisions of the bill be referred to the Employment, Workplace Relations and Education Legislation Committee for inquiry and report by 22 November 2005.

(2) The inquiry not consider those elements of the bill which reflect government bills previously referred to, examined and reported on by the committee; namely those elements which relate to secret ballots, suspension/termination of a bargaining period; pattern bargaining; cooling off periods; remedies for unprotected industrial action; removal of section 166A of the Workplace Relations Act 1996 (the WR Act); strike pay; reform of unfair dismissal arrangements; right of entry; award simplification; freedom of association; amendments to section 299 of the WR Act; and civil penalties for officers of organisations regarding breaches.

Can I apologise to the Senate that this amendment was not circulated in a more timely fashion. I believe that that criticism is understandable and I accept that. However, I do not apologise for moving the amendment. As honourable senators would know, this Senate chamber has now spent considerable hours on a conspired stunt by those opposite to bring forward a reference each and every day, wasting the time of the Senate.

Let there be no doubt how Labor senators would report after such an inquiry. They oppose our reforms, lock, stock and barrel. Mr Beazley has said as much. They would repeal our legislation. They would roll it back. They would strangle it. All sorts of extreme language was used by Mr Beazley. They have already made up their minds in relation to the provisions in the reforms we are proposing. For the opposition to suggest that they actually want an inquiry is a farce and flies in the face of what Mr Beazley has told the Australian people.

The fact is that the Australian Labor Party oppose whatever we are going to put forward in the legislation. It is simply a delaying tactic, an obfuscation tactic, by those opposite to try to frustrate the will of the Australian people, who, I remind members of this place, actually voted to deliver the Senate majority to the coalition. It did not happen by accident. It did not happen as a result of some military coup or whatever else. It happened as a result of the Australian people determining on 9 October last year that, after nine years of frustration by Labor and the minor parties, the government should be given a majority in the Senate.

Having said that, we are still willing to have an inquiry into the provisions of our legislation, but on the basis that we do not continue to traverse the same ground time and time again. There have now been countless inquiries in relation to aspects of employment and workplace relations reform. I do not know how many there have been on unfair dismissal. Those opposite know that. Why would we need another inquiry when we know before the first word of evidence is spoken that the Labor Party will oppose our recommendations in the legislation? If the Labor Party were to say, ‘We honestly come to this debate with an open mind and, if the evidence is such, we might actually support the legislation,’ then we as a government might be minded to say, ‘Fair enough; we might consider it.’ But the mover of the original motion has no intention of considering the legislation on its merits.
We were told how the Telstra inquiry was truncated to one day. Yes, it was, but the Australian people on four separate occasions voted for a government that announced as its policy the sale of Telstra and there have been numerous inquiries into the sale of Telstra. The Telstra inquiry to which Senator Wong referred was simply a brief inquiry to see if there was any new evidence and new information. We only needed a day to do that, but Labor wanted to rehash all the evidence that was already there and then, despite having all the evidence put before them, still oppose the legislation. This is exactly what they are going to do on this occasion. They did not come to this debate with an open mind. They are not considering whether or not to support the government’s reforms.

Something was made of the short notice of the amendment. I apologise to the chamber that the paperwork was not done in a timely fashion. Since we are having a break-out of courtesies, I wonder if the Labor Party told anybody on the government side last night that the speakers list on the Trade Practices Act was going to collapse from about six Labor speakers to nil. They did not, and I think it was because they knew what was going to happen and they were trying to ambush us. But of course when Labor do something like that deliberately, that is okay. We accidentally did not circulate something which we should have. I apologise for it and I trust that the Senate will accept that apology. I say to the Australian people and honourable senators: that is the big difference between us as a government and those that sit opposite.

Senator Wong—There goes any graciousness in your apology.

Senator ABETZ—I am glad to accept that Senator Wong agrees that there was a graciousness in my apology, and I thank her for that. There have been motions to refer matters to references committees since 1 July that have now amounted to literally hours on 6, 14 and 15 September; 5 October; 6 October on two occasions; and 10 October. For the spring sittings to date the total is about 40 hours. The weekly average seems to be about eight hours. We as a government determine on the basis of the worth each inquiry would have whether or not we are going to support that inquiry.

Senator Wong—You don’t agree to any of them.

Senator ABETZ—Senator Wong interjects saying, ‘You don’t agree to any of them.’ She very kindly saved me having to read the amendment to the Senate. She did that for me, and I thank her for that. We are more than happy for the provisions of the Workplace Relations Amendment (WorkChoices) Bill to be referred to the relevant legislation committee, where it belongs, not as a stunt to the references committee—where we have kindly allowed the Australian Labor Party to maintain a majority whilst they do not have a majority in the chamber, which goes to show that we are not abusing our numbers in this place. The normal Senate procedure is that legislation goes to legislation committees. But of course on this occasion, as they did with the goods and services tax, in cahoots with the Greens and the Democrats, they want to flick it off to the references committee because they want a particular outcome.

Senator Murray—What happened? Did you get your GST?

Senator ABETZ—Not the one that the Australian people voted for. You know, Senator Murray, that that is a fact. We did not get the GST that the Australian people voted for because the Democrats foisted amendments upon it which did not represent the government’s policy.

Honourable senators interjecting—
Senator ABETZ—I ask Senator Murray and others in this chamber: is it any wonder that the Australian people said on 9 October last year, ‘We are sick and tired of Labor and the minor parties frustrating the wishes of the Australian people’?

Senator Murray—Madam Acting Deputy President, I rise on a point of order. I could not hear because of all the interjections. Did the minister just say that the coalition are going to put GST on food? I am sure he said that—he said they are going to overturn the Democrat amendments.

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

Senator ABETZ—You can see how the Democrats are struggling when Senator Murray is reduced to that sort of behaviour. You can see that those on the other side are devoid of any genuine policy in relation to workplace relations reform. The Labor Party are opposed to it lock, stock and barrel. No matter what any inquiry might show or point to, they will oppose it. It is the same with the Greens. I am not 100 per cent sure what the Democrats may or may not do. As they say about the Democrats, you can never buy them; you can only hire them by the hour, or something like that. Senator Murray in his question today said words to the effect that the current workplace relations regime is perfectly good or very good.

Senator Murray—The federal one.

Senator ABETZ—Sorry; he said that the federal one is very good. I think that indicates that he thinks there has been enough reform in that area. We as a government do not believe that, so we say that there should be an inquiry into those things that have not been inquired into before. Let us have an investigation into that, but let us not rehash all that material that has been looked at, time and time again, by various Senate committees. We are concerned with getting workplace relations reform through for two very simple reasons. We want the benefits of flexibility, simplicity and fairness to flow through to Australian workers that are currently employed. We also want to make it easier for those that are still on the social scrap heap of unemployment to gain employment. While some people would celebrate a five per cent unemployment rate in this country, I do not. I think it is still five per cent too high.

We as a government need to continue to ensure that we dedicate ourselves to reducing unemployment so that every person that can work actually does work. Despite a relatively low figure, there are still far too many unemployed in this country. We want to achieve continued reduction in unemployment. That is what the Australian people expect us to achieve, that is why we are introducing the legislation and that is why we believe the inquiry should focus on those things that have not been inquired into before.

Senator MURRAY (Western Australia) (6.01 pm)—I wish to speak to the motion put by the minister to the substantive motion put by Senator Wong with the support of the Democrats. The minister argues that this is a matter which should go before the legislation committee. The difficulty with that argument, of course, is that we do not have any legislation.

The minister says that there is little point in conducting this inquiry, because he knows...
exactly where the Labor Party stands. He is probably right, although I note that the Labor Party’s reaction so far is to what has been announced, not to the legislation. There is no legislation before us. The other point is that it is an odd sort of logic to say there is no point in having an inquiry, because you know where the opposition stand, but still to want an inquiry. Within that, of course, is this rather unpleasant view of the world as just two-sided, which is often wrapped up in the word ‘bipartisan’. This is a parliament of eight parties and some Independents. The government itself is comprised of three parties, two of which are minor parties. The minor parties and the Independents deserve the opportunity to examine the legislation in depth, even if it might be presumed that some of the parties have already made up their minds completely.

There is also a failure to honestly and objectively recognise that it has quite often been the case that, even where parties are opposed to legislation, they have nevertheless sought to ameliorate, change, moderate or adjust provisions of the legislation, and that is part of the process of review. You might well end up voting against a bill but, if you can get the government of the day to accept some changes to it, that is a perfectly legitimate process. So that is another purpose that lies behind reviewing legislation.

One of the key propositions the government puts is that the inquiry not consider those elements of the bill which reflect government bills previously referred to, examined and reported on by the committee. The problem for the government is that those matters have not been previously examined by the committee. You might say, ‘How can you say such a thing?’ but the fact is that the legislation we understand is to be put before us has two very distinct component parts. One part proposes to turn from having six industrial relations systems to having just one. The second part is to radically change the current federal act. I stand to be corrected but, in my nearly 10 years in this portfolio and covering these areas, I do not recall the committee ever looking at a unitary system as a topic of reference—it obviously has been mentioned—and I have never seen these issues, such as secret ballots, suspension, termination of bargaining periods, pattern bargaining, cooling-off periods, remedies for unprotected industrial action and so on, reviewed with respect to how they apply in state systems, which are to be taken over, how they would affect state businesses, falling under state industrial law, and what those consequences will be.

It is utterly wrong of the government, firstly, to say, ‘We don’t need an inquiry,’ as if it is just two sides of a coin. I am very well aware that there are Liberal Party members and National Party members who want to dig into the detail of this program themselves. Secondly, it is utterly wrong of the government to consider that things previously examined in a federal context should not now be examined in a state context. That too is a major issue.

One purpose of Senator Wong’s motion is to flush the government out. We have all suspected for a long time that they really want to get this ugly, nasty business over and done with quickly, to get their way and to move on. This is according to the theory that in year 1 of government you do your bad things, in year 2 you settle them down and in year 3 you put out the bribes to get the voters back on side. Whether that crude theory is accurate or not, it is undeniable that the government would want this out of the way as soon as possible. Senator Wong’s motion flushes out that concept.

To the layman’s eye, a process for reporting by 22 November 2005 could, on the face of it, be seen to be reasonable. But is it rea-
reasonable? First of all, as far as I am aware this will be the first time in the Federation’s history that a federal government is going to forcibly take over state systems and their rights and powers with respect to these issues contrary to the wishes of those state governments. So we are going to have an action where one government is going to take over the areas of responsibility of a number of governments and those governments oppose it.

Because it is being done without the permission of the states, I am certain that the legislation will be far more complex and far more difficult to understand and manage than it would normally. I say this as somebody who has detailed personal experience of face-to-face negotiation on these issues. When we negotiated the 1996 federal Workplace Relations Act with the coalition, part of that negotiation was understanding how the Victorian reference was to go. When a state government decides to refer its powers to the federal government, it goes as smooth as butter because you have two cooperative governments who work to ensure that the statutory provisions are acceptable to both and are firmly bedded down in the legislative process of both parliaments.

In this case, you are likely to have a legislative contest. I can foresee—and I am quite certain the bright minds in government can foresee—that as the legislation hits the deck, so will simultaneous legislation in the state legislatures to frustrate, countermand and generally oppose provisions of the legislation before us. What will happen, therefore, is that the legislation that we will have to deal with is going to have all sorts of qualifications and an attempt to shore up all potential back doors, which we would not otherwise have to deal with if we were having a cooperative referral of the state powers to the federal power. Never, ever in the history of the Federation—over 100 years—has the Senate ever had to consider this issue. So it is going to be very complex.

The second part of it is that the government are going to take hold of the current federal act and not only extend it into all sorts of areas in which they have never extended it to before—such as in the issues of unincorporated businesses, the tax effects, the transitional arrangements, the complexity and the insecurities that will result from that—but put into place a completely new system. Anyone who tries to say, ‘This is a modest change,’ really does not know about the detail and the complexity that is before us. Having said all that about the practicalities, the technicalities, the complexities and the difficulties—and the Australian people expect those who are going to argue this case to understand all of those things—you have to bear in mind that those communities affected by it, including those who might support it, will want to know what aspects might affect them deleteriously or with difficulty.

So we return to the timing that is involved. The proposition is that this committee inquire and report by 22 November 2005. I am keeping my ears open and, as far as I can gather, the earliest date that we can expect to see this legislation—now being 12 October—would be 31 October. Assuming the legislation arrives on 31 October, there would be 22 days for the legislation to be sent out to all concerned parties, for the matters to be advertised, for submissions to come in, for the senators to read the legislation and explanatory memorandums and for their advisers to assess it, for hearings to be conducted and for a report to be written. It is just a disgrace as a process.

In one way, I welcome the fact that the government is going to behave like this, because it is not going to win any friends out in the community. The people who talk to each other around a barbecue, in the kitchen or in
a bar—ordinary, average Australian people who are the backbone of this country—will recognise this for what it is. It is a clayton’s inquiry which will be rushed through both the committee process and the parliament. It will not reflect well on you, the government. The very peak of your power, the very moment of your triumph, will be the beginning of the end, because the Australian people are not going put up with that sort of stuff, particularly if the consequences end up being dire.

The government are gambling that they are going to put this legislation through, it is all going to work very well and they are going to come out very well at the end of it. Say it does not—you will be right at the peak of your joy and triumph, throwing your hats in the air, and you will be signing your warrants and will lose your government at the next election. The Senate might save you from that if you spend a little more time looking at the details and deciding on the right way to go with respect to this.

So what would be a reasonable time, assuming the bills were to come in on 31 October? A reasonable time would be six weeks for advertising and for people writing submissions. I do not know what it is like for the folks who do not have the sorts of resources that the government has. It hard enough for me with my adviser. But if you wanted to make a contribution to this, just six weeks to examine and write a submission on a very complex bill—even for a state government—is a very short time. But anyway, let us assume that by 12 December, which is six weeks after 31 October, you have got your submissions in. You then have two weeks of hearings, from 12 to 23 December. It is a bit tough on senators, Hansard and staff, because they would miss their Christmas shopping and all the things that go on, but you could do that. So you arrive at 23 December. I do not think that anybody in their right mind is going to deny parliamentarians their annual holiday, so you are allowed a bit of time over Christmas and January.

By the first sitting week in February—the very first day that the Senate is back sitting—is the recommendation in Senator Wong’s motion for when the report will be available. In that short time, you will have the hearings held, you will have the consideration of the report by the committee, and the report will come out. That is a perfectly reasonable and very accommodating program. But of course the government will not go near it, because they want a three-week clayton’s inquiry for what is the most complex and challenging exercise any government in this country has ever conducted. It is the most complex and challenging because it is the one area where you are taking on all of the states contrary to the wishes of the states.

This was not the case for the new tax system. It does not matter what you say about how Labor felt about the new tax system. The fact is, with the new tax system the states had an agreement with the federal government. It was a cooperative exercise. This is an exercise where the coalition government thinks it is a scrap between them and Labor and also perhaps between them and unions. It is actually a scrap between the Liberal and National parties and the people of Australia, and between the Liberal and National government and the state governments. If you think, in all that, that the Senate should not examine this a little carefully and take time to consider it and hear the views of state governments and others, you have another think coming. If you take this too lightly and are too aggressive in what you propose—in a kind of testosterone driven ‘We’re going to get on top’ manner—just when you are on top will be the beginning of your downfall. Right when you are on top, that is when your downfall will begin.
I am coming to the end of my remarks, but I do want to again put on record the Democrats’ position with respect to the government’s proposals. There is no full-time political professional in this field in this country who is stronger than me in terms of a unitary system. Long before the government came around to that point of view, I have argued this case backward and forward all over Australia. The Democrats do believe strongly that a unitary system of IR is in the interests of the country from both an efficiency and a human rights point of view. With common standards Australians know what they can expect.

The great thing that is missing, if you are going to put up a unitary system, is a national workplace relations regulator. You cannot have a unitary system without a national regulator. In other fields of interest, we have the Reserve Bank, the ATO, ASIC, ACCC, Customs and APRA—all independent, objective, well-resourced authorities regulating the marketplace. Much of what is wrong with our industrial relations is that they are not properly policed and enforced. When people complain to me of thuggery by employers over employees or by unions over businesses, I find that, in most cases, the law already exists. It is just not enforced. We stand for a unitary system, but the government does not propose a national workplace relations regulator like we do.

On the other hand, we say that the federal act has been very effective—and there is nobody on the government side who can argue that it is not. You cannot go out and say, ‘We have got good GDP growth, we have got low disputation, we have got high real wages growth, we have a high level of productivity and we are the 10th most competitive country in the world,’ and then say, ‘By the way, the system is crook. It is broken. We have got such a terrible IR system.’ In the hidden message, in the low rumbling of the government’s propaganda is the idea that our IR system is really bad. What a nonsense. It cannot be bad in the economic and productivity circumstances we have. The Democrats argue that whilst modest change to the federal act is always welcome, always necessary, and always needed—and we often argue that against the self-interest of big business and big unions in their particular campaigns—the overall framework of the federal law operates very effectively.

Imagine what would happen if you put in a unitary system with the current federal IR system. You would immediately halve the number of awards in this country. We sometimes forget that, after the award rationalisation that occurred after 1996, the number of awards under the federal legislation dropped by two-thirds. The size of the awards remaining dropped by a third. Open-ended award matters were reduced to 20 allowable matters. It was a massive rationalisation. That would occur automatically if you took over the state system and ended the dual systems which operate in many workplaces. We say that, if you combine a unitary system with trashing the federal act, you are asking for social trouble and economic trouble—and you have not made your economic case. You have not made it, you will not make it and the economic negatives may in fact work against you. Your ambitions may not be realised at all.

Senator SIEWERT (Western Australia) (6.21 pm)—I rise today to support Senator Wong’s referral motion. The Greens believe an inquiry is absolutely essential to allow a full analysis of the implications of this legislation. We need to remember that it is not senators that present evidence to committees—it is the community. It is the people who would be affected by this legislation who would give evidence before an inquiry. This would provide them with a very much
needed opportunity to comment on legisla-
tion that will surely change their lives.

We have heard a lot of claims about this legislation from the government. Today we heard about unfair dismissal—that if we take away the unfair dismissal rules then employers will magically employ more people. Of course the government would say that. Employers may or may not employ more people, but they would be doing it with the capacity to sack the employees whenever they like. They will not have to apply appropriate conditions and awards. They will be able to pay the employees very low wages and sack them whenever they want. So, just because employers say they might employ a few more people, it is okay to get rid of our unfair dismissal rules.

We also keep hearing that awards and conditions will not be lost. The section that the minister read out today—section 4.4, which is shown on page 22 of the Work-Choices booklet, which I have downloaded from the web because, of course, the government would not provide me with it—lists the protected award conditions in a little box. They include public holidays, rest breaks et cetera. Then it says:

These award conditions can only be modified or removed by specific provisions in the new agreement.

Those rights are absolutely not protected. This legislation is going to impact very severely on those already disadvantaged in our community. It is about bashing unions. It is about getting rid of collective bargaining. It is okay for small business to collectively bargain through industry associations, but it is not okay for workers to collectively bargain.

And we keep hearing claims about productivity. This legislation is magically going to increase productivity. Let us have a quick look at these claims. The Prime Minister continues to assert that these radical changes are going to boost productivity. But I have not heard a clear argument about how they will do it. Let us look at what he said on Four Corners. In that rather good expose about the proposed IR changes. When asked about how they are going to boost productivity the Prime Minister said:

Because they will give a much greater focus on agreement-making at the workplace level. And experience all around the world tells us that if we allow individual employers and employees to work out the arrangements that best suit them, the businesses go better, they make more money and they pay their workers higher wages.

I would believe that I have little green fairies at the bottom of my garden if I were to believe that. It is simply not true that all of a sudden employers will make more money and start paying employees more. Why wouldn’t that money simply go into employers’ profits? They will take it home as take-home profits. When asked again about how the changes are going to boost productivity in output per working hour, the Prime Minister said:

Well, it must automatically. If you run your firm more efficiently, then productivity is lifted. And higher wages result because if you make higher profits and you want to maintain that higher efficiency, you’ll pay your workers more so they’ll contribute more.

But workers will be able to be unfairly dismissed at any time the employer wants. I do not believe the government can mount a coherent argument about productivity, so they continue on with rhetoric. I will go into that in a moment in a bit more detail.

I believe, despite the government’s arguments about increasing productivity, that this is really about getting rid of the no disadvantage test. If the government were serious about increasing productivity it would be increasing measures aimed at improving workplace skills, increasing productivity
efficiency and encouraging innovation and technology. That is how we would get real productivity gains. However, I can find nothing in the WorkChoices booklet about these things, and I have done a word search in it. There is nothing in it that addresses real productivity—about the way we could address the current skills crisis, about the continued slide in Australian research and development funding and about how individual workers could become more productive. Where the WorkChoices booklet refers to productivity, it merely asserts that being able to negotiate simple agreements will somehow magically boost productivity. It says:

The key to greater productivity in the workplace is an increased emphasis on direct bargaining between employers and employees. Agreements must be easier to make. A streamlined, simpler and less costly agreement making process will be introduced. There will be no time consuming and legalistic certification or approval process.

That is it. That is all we have been told about how we will get productivity increases. However, there are already provisions in current legislation for employers and employees to negotiate such agreements. If simple agreements alone were to boost productivity there would be no reason for these changes. Employers and employees can already negotiate simple agreements. There would be no reason to introduce this legislation if this were the real story. However, I do not believe it is the real story. We all know that, at the moment, agreements are underpinned by the no disadvantage test. Clearly, getting rid of the no disadvantage test is what the government wants to do. Of course, the no disadvantage test is about not cutting employees’ conditions and, specifically, underpinning that, about not giving them lower wages. The only way that the government can boost productivity through this process is to lower wages, thereby enabling the employment of more people to boost productivity, but paying them less. I put it to the Senate that that is one of the reasons why Minister Abetz the day before yesterday dodged and would not answer properly when the question was put to him: is it the government’s agenda to get rid of the no disadvantage test?

I would like to quote again from the Four Corners program on the IR reforms. Labour market economists were asked about the use of individual contracts to boost productivity. Professor Mark Wooden was not sure they would. He said:

There’s not a lot of evidence that individual contracts produce productivity.

Professor David Peetz said:

There’s no evidence for it at all. Over the long run productivity is determined by the rate of technical progress.

What the changes will do is they will lead to the loss of penalty rates, the loss of overtime. That isn’t the same thing as increasing productivity. What that does is increases profits. But it doesn’t mean that if you cut somebody’s penalty rates that for a waitress in a cafe, that she’s carrying more plates per hour out to the restaurant. It means that she’s just getting paid less for it. So people talk a lot about this being about increased productivity but it isn’t actually increasing productivity, it’s increasing profits.

Another area of the WorkChoices booklet talks about employer greenfields agreements. Greenfields agreements are agreements negotiated when a new business, project or undertaking is being established and does not yet have employees. In the past, a collective agreement would be negotiated between the new employer and a union to cover future employees. That makes sense in a situation where there are no existing employees. It can be used as an interim measure that provides a start-up period to get things up and running.
Employer greenfields agreements are something new—they do not involve negotiation with a union. In fact, it is not clear who they will be negotiated with at all. We tried ringing the WorkChoices hotline to ask, but they had no idea. It was not on the list of questions and answers they had been given at the telecentre. After waiting on hold while the nice young man searched his database and then talked to his superior, we were eventually referred to WageLine—who again put us on hold, searched their databanks, talked to their supervisors and could only refer us to the section of the existing Workplace Relations Act that covers the existing kind of greenfields agreements negotiated with a union. Contacting the Office of the Employee Advocate, which is the body such an agreement would ultimately be lodged with, merely saw us referred back to the WorkChoices hotline.

In a new enterprise, there obviously are not any workers yet employed to negotiate with, and you would think an agreement would have to be negotiated with someone. To us, the possibility of the employer simply drafting the agreement by themselves and then lodging it with the OEA is clearly ridiculous. These are just a very few of our concerns. We strongly support this referral and urge the Senate to support it.

Senator TROETH (Victoria) (6.31 pm)—As Chair of the Employment, Workplace Relations and Education Legislation Committee, I assure the Senate that the government is very comfortable for its workplace relations reform legislation to be referred to the legislation committee for inquiry. That is the basis of the government’s amendment. But the government is also committed to securing passage of the legislation this year. Therefore, and given that the legislation will reflect previous government bills which have been referred to, examined by and reported on by the committee, the committee’s inquiry need not consider such elements again.

In relation to those matters set out in the amended motion, they have been previously examined—at least once—by 14 separate Senate inquiries. Let us take a look at what some of those elements are. Secret ballots have been reported on by a Senate committee on three separate occasions. Suspending or terminating the bargaining period has been examined and reported on on three separate occasions. Pattern bargaining has similarly been examined and reported on on three separate occasions. Cooling-off periods have been examined and reported on on two separate occasions. Remedies for unprotected action have been examined and reported on on three separate occasions. Removal of section 166A has been examined and reported on twice. Strike pay has been examined and reported on once. Amendments to section 299, regarding offences in relation to the commission, have been examined once. Civil penalties for officers of the organisation re breaches have been examined once already.

A uniform unfair dismissal scheme has been examined and reported on twice. Exempting small business from unfair dismissal laws has been examined and reported on on no less than four separate occasions. Compensation for shock, humiliation, distress or analogous hurt has been examined and reported on once. Unmeritorious and speculative unfair dismissal claims have been examined and reported on twice. A six-month qualifying period exclusion has been examined and reported on three times. Late election to proceed to arbitration has been examined and reported on once. Operational requirements exclusion has been examined and reported on three times. Capacity and conduct of the employee consideration has been
examined and reported on once. Dismissing applications on the papers has been examined and reported on on four separate occasions. Calculation of compensation has been examined and reported on once. Right of entry has been examined and reported on twice. Freedom of association has been examined and reported on twice, and so has award simplification.

All of those have been examined and reported on during the last five to six years, costing the taxpayer enormous amounts of money and the Senate committee, as much as we love our duties, enormous amounts of time. There is no need for those matters to be examined once again as the Labor Party are proposing. On the other hand, the amended motion will allow the committee’s inquiry to focus on those elements of the legislation which have not previously been examined by the committee. The government’s proposed amendment to Senator Wong’s motion will provide the opportunity for the legislation to be properly considered without the committee having to duplicate matters canvassed in previous committee inquiries on workplace relations legislation and to do so in a timely fashion.

On 9 October 2005, the Prime Minister and the Minister for Employment and Workplace Relations released further details of our workplace relations changes. As has been very ably put out in the public arena by the Prime Minister and the Minister for Employment and Workplace Relations, as well as Senator Abetz in today’s Senate question time and, more recently, in his speech, we are moving towards one simpler national workplace relations system, WorkChoices. I remind Senator Murray, after his remarks, that there are now six separate systems and thousands of awards. We need to simplify this system, and that is what we intend to do with this legislation.

The reasons for the legislation have been well canvassed in other places, and I do not propose to go over those again. But, as chair of the legislation committee, I assure the Senate that the proper place to debate this legislation is in the legislation committee. That is what our amendment does. I commend the amendment to the Senate.

The ACTING DEPUTY PRESIDENT (Senator Watson)— Senator Wong, you have five minutes to sum up—

Senator WONG (South Australia) (6.36 pm)—I actually have 20 minutes but in the interests of—

The ACTING DEPUTY PRESIDENT—if you want to vote tonight.

Senator WONG—If the government wants to vote tonight. The government’s response today is just an arrogant stunt—a stunt designed to avoid proper scrutiny of these extreme industrial relations changes. This is arrogant power politics at its worst. That is what the Senate is becoming—a chamber for the exercise of arrogant power politics.

In the short time I have remaining, there are a number of things I want to respond to in terms of Senator Abetz’s and Senator Troeth’s comments. The first is this issue about proper scrutiny. Let us examine the time line that the government is indicating it will give this Senate legislation committee. I want to indicate what I flagged before—that the opposition was open to discussion on the issue of a legislation committee but we want to have a look at the terms of reference and the time line.

The government is proposing that the committee report by 22 November 2005. Unless Senator Troeth—or Minister Abetz, who has left the chamber—is indicating that these bills will be presented this week, the bills will not be before the Senate until 7 November at the earliest. That is the next
sitting week of the Senate. So the government is saying that, unless they put the legislation in this week, at worst we are looking at the period between 7 November, if they table it on that occasion, and 22 November for the committee to do its work—to advertise, call for submissions, arrange witnesses, hold hearings and write a report for the Senate.

So the government is talking about at best 21 days, if it tables this week, for all of those things to occur on these wide-ranging changes that will affect so many millions of Australians but possibly 12 days or less. That is what it is talking about. That is the sort of scrutiny you get under a government that is drunk with power and has the numbers in this chamber to ram this through. The government has, despite our request, not indicated when it will table this so we do not even know whether the amendment is going to mean the princely sum of 21 days to advertise, take submissions, have the inquiry and write the report or whether it is going to be in the single digits. We do not know that.

The second point is in response to Senator Troeth, who says that all these issues that we are now excluding from the inquiry have been dealt with. I make this point: there are many changes dealing with dismissal and other issues that you are going to bring in under this WorkChoices policy that have not been inquired into. When has the Senate inquired into your new unlawful termination regime, which is your great saving policy for the fact you are removing unfair dismissal? When has the Senate inquired into organisations with 100 employees being exempted? From my recollection, it was only 20. I do not think I can say it is misleading but, frankly, it is inaccurate to say that all these matters have been the subject of inquiry. We know the legislation will deal with a whole range of issues, maybe on these subject matters, which have not been the subject of inquiry.

I want to also comment on Minister Abetz’s saying: ‘We know what the Labor Party is going to do so there’s no point in us having the inquiry.’ The minister may be surprised to learn that those on this side of the chamber think that the public actually have a right to their senators scrutinising legislation. This is not an exercise in Labor senators, Senator Murray, Senator Siewert or anyone else on the committee feeling good about asking questions. There is actually a public policy process here, a democratic process, about the public being allowed to come along and say: ‘I want to know how this works,’ or, ‘I think this is how this is going to affect me and I don’t like it.’ There is actually a process for the public here, which seems to have escaped Senator Abetz. Senator Troeth says: ‘All these inquiries have taken up too much time. They are a bad thing.’ We disagree with her.

Senator Troeth—I did not say that.

Senator WONG—I apologise to Senator Troeth if I have misrepresented what she said but we do not think that these inquiries are a waste of time. We think they add to the improvement of legislation in this country, they add to the democratic process and they are an intrinsic part of the democratic process.

Senator Troeth—It is just that we do not need any more.

Senator WONG—If we want to talk about wasting money why don’t we talk about the open-ended commitment to advertising that Senator Abetz has authorised for these industrial relations changes, which he will not disclose to the Senate.

So let us be clear about what is occurring here. This is arrogant power politics at its worst. This is nothing more than an arrogant stunt that is designed to ensure that scrutiny of these extreme changes is avoided. That is
what this amendment means, that is what the
government is proposing and this is an
indication that Telstra is not a one-off. Your
quick and dirty inquiry into Telstra was not a
one-off. That is exactly what you want here.
What is at stake here are the livelihoods and
the working conditions of millions of work-
ing Australians. The Labor Party opposes the
amendment and supports the substantive mo-
tion.

The ACTING DEPUTY PRESIDENT
(Senator Watson)—The Senate has before it
a motion by Senator Wong in relation to a
reference of a matter to the Employment,
Workplace Relations and Education Refer-
ences Committee, to which the government
has moved an amendment. The Senate will
proceed to deal with the amendment first.

Question put:
That the amendment (Senator Abetz’s) be
agreed to.

The Senate divided. [6.47 pm]
(The President—Senator the Hon. Paul
Calvert)

Ayes………… 34
Noes………… 32
Majority…….. 2

AYES
Abetz, E. Adams, J.
Boswell, R.L.D. Brandis, G.H.
Calvert, P.H. Campbell, I.G.
Chapman, H.G.P. Colbeck, R.
Coonan, H.L. Eggleston, A. *
Ferguson, A.B. Fierravanti-Wells, C.
Fifield, M.P. Heffernan, W.
Johnston, D. Joyce, B.
Kemp, C.R. Lightfoot, P.R.
Macdonald, I. Macdonald, J.A.L.
Mason, B.J. McGauran, J.J.J.
Minchin, N.H. Nash, F.
Parry, S. Patterson, K.C.
Payne, M.A. Ronaldson, M.
Santoro, S. Scullion, N.G.
Troeth, J.M. Trood, R.
Vanstone, A.E. Watson, J.O.W.

NOES
Allison, L.F. Bartlett, A.J.J.
Bishop, T.M. Brown, B.J.
Brown, C.L. Campbell, G.
Conroy, S.M. Crossin, P.M.
Evans, C.V. Faulkner, J.P.
Fielding, S. Hogg, J.J.
Hurley, A. Hutchins, S.P.
Kirk, L. Ludwig, J.W.
Marshall, G. McEwen, A.
McLucas, J.E. Milne, C.
Moore, C. Murray, A.J.M.
Nettle, K. O’Brien, K.W.K.
Polley, H. Siewert, R.
 Stephens, U. Sterle, G.
Stott Despoja, N. Webber, R. *
Wong, P. Wortley, D.

PAIRS
Barnett, G. Lundy, K.A.
Ellison, C.M. Ray, R.F.
Ferris, J.M. Sherry, N.J.
Hill, R.M. Carr, K.J.
Humphries, G. Forshaw, M.G.

* denotes teller

Question agreed to.

The PRESIDENT—The question now is
that the motion, as amended, be agreed to.
Question agreed to.

DOCUMENTS

The ACTING DEPUTY PRESIDENT
(Senator Watson)—Order! It being after
6.50 pm, the Senate will proceed to the con-
sideration of government documents.

Australian Electoral Commission

Senator BARTLETT (Queensland) (6.53
pm)—I move:

That the Senate take note of the document.

In speaking to the Australian Electoral
Commission’s funding and disclosure report
on the 2004 election, I would like to take the
opportunity to note just how fundamental the
notion of transparency in the funding of pol-
itical parties and associated entities is to the
integrity of our democratic system. There are
a whole range of different underpinnings that
impact very significantly on the overall strength of our democracy and I think Australians are sometimes a little bit too blase about just how fragile democracy can be. It is a lot more than being able to put a piece of paper in a ballot box every three years or so; there are a whole lot of other aspects that also need to work to even provide a basic degree of integrity for an electoral system, let alone everything that happens in between elections.

One of the issues that we need to make sure is not degraded is the funding of political parties and associated entities. Senators and many members of the Australian public would be aware of the significant damage that has been done to the integrity of the United States political system because of the excessive role of money in their electoral system. When it gets to the situation where you simply cannot afford to run for office unless you are able to raise absurdly large amounts of money then, clearly, it significantly compromises the basic integrity of your democracy.

I have met a number of people from the US congress and various state congresses, as I am sure many, if not all, senators in this place have. Without fail, they will talk about how much time they have to spend on fundraising. It is not uncommon for members of the congress, or people wanting to run for office in the US, to say that they have to spend 50 per cent of their time on fundraising from the minute they get elected. That to me suggests a gross distortion of the nature of the work that elected officials have to do, let alone what it means to the inevitable compromises—even subconscious compromises—that you have to make when you rely on substantial donations from particular sectors or people.

In saying that, I am not trying to paint myself or the Democrats as holier than thou; we all have to rely on money to some extent to campaign and, certainly, I make no secret of the fact that I would like to have more money to spend on campaigning. Those of us who are not in the government do not have the luxury of stealing money directly from the taxpayer to pay for advertising their own party political policies, as this government does. That is a good thing, because I do not think the rest of us should be engaged in the wholesale theft that this government is committing in relation to the advertising campaigns for its party political policies.

But, as this report shows, there are significant amounts of money that are donated to political parties and through associated entities, and those are just the amounts that are disclosed. There are certainly legitimate questions about the role of associated entities in being able to, if you like, launder money from donations or in effect campaign for particular parties or candidates without having to go through some of the administrative requirements that political candidates have to go through, and I fully support examining those.

There is also, as we have seen just this week with the tabling of a committee report, a clear-cut desire on the part of this government to dramatically increase the amount of money that can be donated to a political party before it has to be declared. Of course, when you have political parties that are incorporated in a state or run on a state-by-state basis, then you can donate right up to $1 below that threshold in each of the different states and territories and basically multiply the maximum anonymous donation by seven or eight. They add up to very significant donations that can be hidden and create a significant threat to the integrity of our democracy.

The Democrats are proud of our record throughout the eighties and nineties of driv-
ing a significant increase in the amount of disclosure and transparency in political parties, political activities and their funding. We still have a long way to go, but we certainly do not want to be going backwards or we will be like the United States. There are a lot of good things we can learn from the US, but that is one aspect we do not want to learn. We do not want to go any further down that road. It is bad enough that the government can steal taxpayers’ money for its own campaigns; we certainly do not want a higher level for anonymous donations as well. (Time expired)

Question agreed to.

Australian Electoral Commission

Senator FAULKNER (New South Wales) (6.59 pm)—I move:

That the Senate take note of the document. This is the report of the Australian Electoral Commission for 2004-05. I want to briefly return to an issue that has been debated in this chamber over the past few days—that is, the very important issue of voluntary voting. I commend to the chamber a speech I made a little earlier in this sittings period on that very important matter. I want to add a number of other points to the earlier contribution I made. I think it is important for us to recognise that any change from a compulsory attendance ballot to a voluntary voting system would mean a very great change to the way political parties themselves would operate in this country. The concentration of political parties would be on mobilisation of electors on election day.

I have said before that I think the burden of compulsory voting is a very light burden indeed. In my view, it is perceived to be a light burden by a majority of voters. In fact, it was ex-senator Chris Puplick—a Liberal senator, of course—who described voting as ‘a minimum obligation of citizenship’. I want to say that I believe that, for our democracy to be robust and resilient, it does actually require all Australians to be involved to some degree—all Australians, not just those who are keen to influence the outcome in their own interest, not just the vested interests, not just the pressure groups and so on. The outcomes of elections in this country, as we know, affect all Australians. The acts of government affect all Australians. The interests of all Australians are much more likely to be taken into account if all Australians play their role in electing the members of parliament.

We have heard the argument that compulsory voting caters to the lowest common denominator by enabling elections to be decided by the least informed and the most apathetic. In my view, that argument is an elitist argument in the extreme. That argument was best encapsulated by the words of the Liberals’ long-time candidate and former member for Canning, Mrs Ricky Johnston. In 1992, Mrs Ricky Johnston was reported as saying:

A compulsory system meant the ‘dregs of society’ got a say whereas with voluntary voting only those who were interested actually cast a vote. How typical Mrs Johnston is of the Liberal Party. That says it all.

Senator Coonan—She employed Mrs Latham.

Senator FAULKNER—Mrs Johnston could have been Senator Abetz or Senator Minchin. I acknowledge your interjection, Senator Coonan. We still await your confirmation to the chamber as to whether you have resigned from Labor Lawyers.

Senator Coonan—Why on earth would I be a member?

Senator FAULKNER—We will be tabling the membership list soon, and on this side of the chamber we want to know, and all your colleagues want to know too. (Time expired)
Question agreed to.

Employment Advocate Report

Senator SIEWERT (Western Australia) (7.06 pm)—I move:

That the Senate take note of the document.

I had a quick look last night at the report of the Office of the Employment Advocate 2004-05 and was interested that, here again, we are seeing reference to how AWAs and individual agreements have improved productivity. But, when I looked through the document in the hope of finding out how they have increased productivity, there was nothing that supports the claim.

Senator Crossin—Another unsubstantiated claim!

Senator SIEWERT—Exactly. There is nothing that gives me any information about how AWAs are magically increasing productivity. On further reading, I found how the Office of the Employment Advocate is assisting employees to balance work and family responsibilities. Let me tell you how they say they are doing this: by using AWA ambassadors to highlight how they have helped their staff achieve this balance.

If you look at who the ambassadors are, they are basically PR people from industry telling us how they have improved relationships using AWAs. They have been providing information sheets on balancing work and family—and I am sure that is helping—and advising employees through seminars, telephone advice, publications and information on the web site about options for encouraging work and family balance when drafting AWAs. Introducing AWAs takes away employees’ conditions, takes away their rights, has untold influence on their family responsibilities and the way they interact with their families—yet we get a series of seminars and some information sheets. I hope the workers of Australia feel good about that.

It talks about promoting better work and management practice through AWAs and converting casuals to permanent employees. Just last week I informed the Senate of some of the information in research papers that shows very clearly that the number of temporary and casual employees has increased substantially in this country and the number of people in full-time employment has decreased. So they have obviously failed in trying to increase the number of casuals converting to permanent employees.

They also talk about trends in AWA outcomes and the number of times they need to get undertakings in relation to the no disadvantage test. It turns out that 11.7 per cent of the agreements require undertakings, so there are a number of AWAs already that are undermining it, and we need some assurances that they are not undermining the no disadvantage test. This government, through its WorkChoices program, will clearly be doing away with the no disadvantage test. You could say that is one area that in future the Office of the Employment Advocate will not have to look at because there will not be a no disadvantage test. The government is clearly aiming to take away the no disadvantage test because it wants to lower workers’ wages. It wants to take away their conditions and rights.

This document makes very interesting reading, and I suggest that everybody reads it to look at what the government have been up to over last 12 months and what we can expect in the future once—if, I should say—WorkChoices becomes a reality. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Consideration

The following government document tabled earlier today was considered:
Australian Broadcasting Authority—Online content co-regulatory scheme—Report for the period 1 January to 30 June 2005. Motion to take note of document moved by Senator Bartlett. Debate adjourned till Thursday at general business, Senator Bartlett in continuation.

The following orders of the day relating to government documents were considered:


Northern Territory Fisheries Joint Authority—Report for 2002-03. Motion to take note of document moved by Senator Siewert. Debate adjourned till Thursday at general business, Senator Siewert in continuation.


ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Marshall)—Order! It being 7.10 pm, I propose the question:

That the Senate do now adjourn.

Superannuation

Senator WATSON (Tasmania) (7.10 pm)—Tonight I rise to talk about the need for deductibility for taxation purposes where people make contributions to a regulated superannuation fund. In earlier times, in my capacity as chair of the Senate Select Committee on Superannuation I was deeply concerned that in the past most people have not taken seriously the need to save over a lifetime for their retirement. Generally, at approximately 50 years of age people begin to seriously consider the need for an adequate income in retirement. The purpose of my contribution tonight is to say they should be starting a lot earlier.

Retirement planning is particularly important and in undertaking that planning one should recognise that there are a number of inherent risks. You have to take into account risk factors such as longevity, inflation and investment returns as well as health. One disturbing study some time ago showed that many young executives under 27 tended to be ultraconservative in their investment choice allocations for savings with listed fund managers. This policy would be very prudent for those approaching retirement, but younger people should be encouraged to invest in more aggressive or growth type investments. Savings should be commenced early in one’s working life to enable the full benefit of compounding over a 30- to 40-year earning cycle. For most people the nine per cent employer contribution will not be
adequate, but it could be very useful as a top-up to the age pension.

While the level of employee contributions in Australia is rising, I believe that further initiatives are necessary. Australians respond well to initiatives, particularly where those initiatives change the attractiveness of the relationship between work and leisure. I commend the government on a great initiative—that is, where it initially provided $1 for $1 of investment in a superannuation fund. More recently, it increased that attractiveness for a return of $1.50 by the government where a person put at least $1 in a superannuation fund.

There were limits. It was limited to $1,000 per annum and there were income limits as well, but this co-contribution scheme was a great initiative—and I would like to commend the minister, Senator Coonan, who is in the chamber tonight, for that initiative. For young and low-income people, it has been so successful that a great number of industry superannuation funds have focused a great deal of their advertising on this particular issue to enable such people to take advantage of what I believe was a very generous budget measure. Research submitted to the IFSA conference several years ago in Queensland showed that a government co-contribution as low as 50c in the dollar—not $1.50—could really be quite attractive. In a tight budgetary situation, there is therefore room for some scaling back if the need so arises, so it does have a degree of flexibility.

Another interesting idea which followed on from the recent discussions about the new industrial relations legislation would be, rather than allowing people to cash in two weeks of their annual leave, they could be offered the choice of transferring that amount to a superannuation fund if they so wished.

Around the world, people are unfortunately becoming increasingly cynical of the ability of governments to ensure that in the future their retirees will have a secure retirement. In fact, many defined benefit government funds are now ailing, and this is leading to public protest and unrest, particularly in certain European countries such as France. While the majority of people clamour for more government support, most taxpayers are reluctant to take control of their own financial destiny.

In the United Kingdom, a radical overhaul of the pension system is required in order to avert a crisis which could see millions of pensioners living in poverty in years to come. However, according to the World Bank, Australia has a sound retirement framework, particularly with its three-pillar approach: age pension, concessional tax and compulsory employer support through the nine per cent superannuation scheme. In fact, when I was in England recently, I was asked to make a contribution to the Turner Commission on pensions, because that country has some major problems.

Some commentators believe the Australian system does suffer some impediments such as high taxation and inadequate support for a pension or income stream compared with the taking of lump sums. But the situation is changing gradually. Unlike most other countries, tax in Australia is levied at three points: on entry with a contributions tax, on earnings and on retirement. Together with a significant concession on capital gains, tax is also levied on exit. Most other countries tax at maybe up to two levels. Many believe that taxation reform in the superannuation industry needs to go further and that taxes applying to superannuation really should be reduced. The introduction of concepts such as the allocated pension was a good start, being a halfway house between a lump sum and an annuity. In Australia, we have higher reasonable benefit limits, which favour those taking annuities or pensions. The government will
legislate shortly to permit splitting of superannuation contributions on an annual basis from 1 July 2006. This measure will provide access to a non-working spouse’s tax free threshold and RBL that could not previously be utilised. That is another good measure.

Young people should be encouraged to seek total retirement solutions from one provider. The superannuation choice legislation provides the means to save from multiple fees and charges. There are also advantages in the single point of contact, together with a consolidated view of the level and adequacy of the funds set aside for retirement. People are increasingly becoming concerned about outliving their retirement savings. I believe education programs should focus on helping people take greater control of their financial futures. However, for those on middle to low incomes, the cost of obtaining financial advice is becoming prohibitively high because of the new FSR regime, which requires a complete status report when buying even a regular type of product. I believe this does need to be looked at. The widening of the definition of education advisor is also a necessary move for the future, particularly in relation to what I call regular products, so that the larger funds can be encouraged to help people adjust their investment strategies through life.

Moneys must be set aside not only for retirement expenditure but also I believe to provide a nest egg to cover some escalating health costs. Much of the recent advertising in Australia has focused on fees and charges and the impact that these will have on the final retirement package. An equally important but neglected area is the need for a fund to have consistently high returns, quality administration, good government reporting, governance compliance and state of the art technology capable of delivering timely communications and education. These are important. I think it is a tragedy that there has been so much focus just on one issue, albeit an important one.

Young people, especially those with family commitments, I believe must not apply all of their savings just to retirement. Part of their after-tax income should be diverted to disability income insurance as well as maintaining an adequate life insurance policy as a precaution in the event of severe accident or premature death.

Both Canada and the USA provide tax deductibility for payments to approved retirement funds. In the USA, the most popular vehicle is the 401K plan. Canada has similar arrangements. In Australia, I believe we should also be moving to allow for tax deductibility. (Time expired)

**Crocodile Safaris**

**Senator CROSSIN** (Northern Territory) (7.20 pm)—If there is one thing that gets the Territory going and also sustains the sales of the Northern Territory News, it is crocodiles. Tonight, I want to provide my contribution to the debate on the recent issue of crocodile safaris in the Northern Territory. These days that is clearly on the top of the agenda up north.

On Thursday, 6 October, the Minister for Environment and Heritage, Senator Ian Campbell, announced his decision to block moves in the Territory to start controlled trophy hunting of saltwater crocodiles. It is an outrageous decision. The decision comes despite an outcry from Territorians, the Northern Territory government and a voiced opposition from coalition parliamentarians. Everybody wants it up there, except Senator Campbell. This is a clear demonstration that the Liberal Party and the federal government have no interest in or an ability to stand up for Territorians. Furthermore, the minister’s actions clearly show how out of touch he is not only with his own federal parliamentary colleagues but also with Territorians. He has
only been the environment minister for a little over a year but has already become notorious in the Northern Territory for his lies and deception. His pre-election, absolute, categorical assurance that there would be no nuclear dump in the Territory has been discarded. But this foolish crocodile safari decision—

Senator Coonan—Mr Acting Deputy President, I rise on a point of order. I was walking down to the chamber, but I think I heard Senator Crossin accuse the minister of a lie, which is clearly not parliamentary. I would ask her to withdraw it.

The ACTING DEPUTY PRESIDENT (Senator Murray)—Senator Crossin, if you did refer to the minister in that way, you should withdraw.

Senator CROSSIN—Perhaps I should withdraw and reframe my words. But there is no doubt that before the last federal election Senator Ian Campbell gave an absolute, categorical assurance that there would be no nuclear dump in the Northern Territory, and on 15 July this year he said there would be a nuclear dump in the Northern Territory. I will leave you to come to your own conclusions about that.

This foolish crocodile safari decision should be reversed. I would like to turn the attention of the Senate to the background and the detail of the safari proposal. The hunting of saltwater crocodiles for commercial purposes started in 1945 and continued until 1971, when saltwater crocs were marked as a protected species due to significant population decline. Then in 1980, when the crocodile population had been recovered, the re-establishment of an export orientated crocodile industry occurred, with crocodile eggs being harvested from the wild to be hatched and the crocodiles grown for further breeding in captivity.

This industry, since its re-establishment in 1980, has always been closely regulated and managed to ensure that there is a sustainable population of crocodiles in the Territory. The sustainability of crocodile populations and, accordingly, the sustainability of the industry is evidenced by the continuing increase in the saltwater crocodile population and the fact that in order to manage saltwater crocodile populations up to 600 crocodiles are culled each year by rangers of the Northern Territory Conservation Commission.

The farming of crocodiles has economic benefits. Harvesting provides the opportunity for the sale of crocodile skins. Flesh and body parts can be used in the hospitality industry to make delightful dishes. This has led to real economic benefits for Territorians. The world market for crocodile skins is 650,000 per year, and approximately only two per cent, or 12,000 skins, per year are supplied by Australia.

The management plan, which has been rejected by the environment minister, Senator Campbell, proposed a total of just 25 crocodiles per year to be killed through crocodile safaris. I personally think that we should have put forward a plan to kill at least 100. I think 25 would just be a drop in the ocean. The proposal from the Northern Territory Conservation Commission, which I thought was moderate, was blocked by the minister. As I said, this was despite having the full support of the Martin government; of Indigenous communities, who saw it as an economic opportunity; of experts such as Dr Grahame Webb; and even of my coalition parliamentary colleagues Mr Tollner, Senator Scullion and, wait for it—a new ally comes onto the scene—Mr Warren Entsch.

Dr Grahame Webb, a locally and internationally respected expert on crocs, said in interview that the minister’s comments:
fly in the face of all the research and innovation and development that’s gone into our management programs.

After the environment minister shot down the safari proposal, his coalition colleague the member for Solomon, Mr Tollner, in his rambling way, on the radio accused the minister of being:

... a possible captive of, sort of, left wing, you know, extremist green type of people that live in Sydney and Melbourne and have no understanding for what life is like in the Territory.

Even Mr Tollner can recognise the arrogance of this decision. As Mr Tollner stated:

This decision is a shocker and it smacks of arrogance by suggesting that southerners know what’s best for the Territory.

I might add, as a side remark, a little quote from my colleague Senator Scullion on 10 October about Mr Tollner, with all due respect to Mr Tollner. Senator Scullion was talking about growing cassava in the Northern Territory. He was asked what a cassava looked like and he had this to say:

Cassava is used for ethanol in other parts of the world and it is quite a large, you can imagine, a huge potato, a bit like Dave Tollner’s head with a twist in it.

Mr Tollner’s own colleague said that last week. That aside, Mr Tollner went on to say on radio:

... ultimately, we tend to, you know, draw the short straw quite a bit in the Territory.

No doubt Territorians have drawn the short straw on this issue. But I would suggest it is because Mr Tollner has failed in his duty as a coalition MP from the Territory to stand up for Territorians once again.

He is not the only coalition member who has disagreed with the minister on this issue. Senator Scullion chimed in to the discussion during an interview on TopFM’s Territory Talk. Senator Scullion said:

When you have the Northern Territory Government, the Federal Representatives of the Northern Territory, the vast majority of Territorians saying, listen, we think this is a reasonable thing to do, then I think it’s quite reasonable that we should be listened to.

However, when asked if he will keep fighting for Territorians on the issue, he said, ‘I don’t know,’ and gave this reason for why he has sold out Territorians on the issue:

You know, he is the minister, and he has the final say on the matter, the decision’s been made.

I would suggest that this is not good enough. It is your duty, Senator Scullion, as a coalition member to stand up for Territory constituents, just as it is Warren Entsch’s duty to stand up for Queenslanders. Based on last week’s performance, perhaps we should extend the seat of Solomon across to North Queensland and have Mr Entsch represent us instead. The statements by my colleagues reflect the inability of the Liberal Party to persuade the environment minister, and the CLP’s failure is just another example of a ‘no result’ for the CLP in the Territory.

However, it was not just the CLP members who were taking pot shots at the environment minister. As I said, my hat goes off to parliamentary secretary Warren Entsch in this matter. I noticed from a picture of him in the paper that he has some fantastic crocodile boots. He fired off a broadside at the minister as well on 6 October through his press release titled “No’ to croc hunting a missed opportunity for the Territory’. Good on you, Mr Entsch. In the press release he said:

While I understand the reasons the Minister gave for his decision on this issue, I do not agree with him and I believe this is a missed opportunity for the development of a new high yield niche tourism market in the Northern Territory.

Mr Entsch continues his salvo aimed at the minister by saying:

... Minister Campbell’s decision appeared to be based on emotion rather than fact, and demon-
strates a lack of understanding about the basic physiology and habits of crocodiles.

So what is the problem the minister has with the proposal? Crocodile experts give it the thumbs up, federal parliamentarians give it the thumbs up and the Northern Territory government gives it the thumbs up. So what is the problem? In an interview on the Today show, the minister revealed the real story. He said that the big problem is the humane shooting of crocodiles. Let me remind the minister that the proposal only allows for 25 to be hunted. It is not like every man with a shotgun is going to pour into the Territory and shoot thousands of crocs. The limitation on the number of crocodiles to be shot and the fees charged will ensure that only experienced hunters with the best equipment will take part in the safaris.

The philosophical opposition from the minister is completely unacceptable when the Northern Territory government has gone to great lengths to ensure that this proposal is environmentally sustainable. As Dr Grahame Webb points out, ‘You’d have to be a mental midget not to see that this is just a philosophical opposition.’ So I continue to support the Territory’s proposal on croc safari hunting, and it is disgraceful that this minister has not listened to Territorians. (Time expired)

Indigenous Affairs: Native Title

Senator BARTLETT (Queensland) (7.31 pm)—I would like to speak further on issues I spoke about in this chamber in the last couple of weeks about Indigenous Australians. Last week the minister, Senator Vanstone, announced outside of this chamber via a media conference some details of proposed changes to the Aboriginal Land Rights (Northern Territory) Act 1976 to purportedly allow whole-of-community leases on Aboriginal land, initially in the Northern Territory, which is the territory Senator Crossin was just speaking expansively on.

As I started to outline last week, my central concern and the Democrats’ central concern is not even just with what these specific proposals may entail, and of course the full details and any draft legislation have yet to be released; it is the fact that they have been put out basically as a cut and dried final proposal without proper consultation or involvement of Aboriginal and Torres Strait Islander people, and particularly in this case the Aboriginal communities in the Territory that will be the first affected. That means that, even where there may be a case for some intrinsic merits in some of the changes, the refusal to properly involve and give the relevant communities a reasonable degree of involvement in the finalisation of the proposals is going to make them far less likely to succeed.

It is appropriate to detail some of the responses from Aboriginal groups following the minister’s announcement. It has to be said again that there is no ministerial statement in this chamber. There has been no proper elaboration in this chamber of what the minister is proposing. That in itself sends a signal to me that, from the government’s point of view, there is not the level of seriousness that there should be about genuinely involving and showing the respect that is deserved to parliament and Indigenous Australians. It should be pointed out, first and foremost, that part of the proposal is that a body will be set up to assist in trying to develop agreements around specific leases on Aboriginal land, but the setting up of those arrangements will be paid for by Aboriginal people out of the Aboriginal Benefits Account. I have spoken a few times in this chamber about the Aboriginal Benefits Account on the tabling of the various annual reports to that. That is Aboriginal money that has come through from the entitlements under the Northern Territory land rights act. Even the simple act of setting up the admini-
stration to put in place these proposals will be paid for by Aboriginal people themselves even though, clearly, the whole rationale stated for this measure is the lack of equity and economic prosperity of Aboriginal communities. This measure is meant to help to address that problem, yet Aboriginal people are meant to pay for the administration to set it all up.

Certainly the Central Land Council has criticised the proposal. It says it is a waste to introduce a whole new land tenure system merely because successive Northern Territory governments have refused to acknowledge or utilise the Aboriginal land rights act. Clearly, there is some intent to potentially bypass the land councils. I know there are criticisms of the Northern Territory land councils and I am not going to enter into a debate about those. Aboriginal people should be resolving those issues, not having them imposed upon them by central governments in Canberra—or Darwin, for that matter.

I draw attention to the response from the Aboriginal and Torres Strait Islander Social Justice Commissioner, Tom Calma, who welcomed initiatives to assist Indigenous Australians on communal lands to own their own home where it is so desired. He did express concerns about the possible significant impact on land held by traditional owners. He emphasised that this must not replace government responsibilities in these communities and that it must be clearly stated that governments shall not withhold basic infrastructure provision to communities who do not agree with the leasing arrangements that the government is trying to push. In the Native Title Report 2004, the commissioner addressed this issue and put forward some innovative options for economic development that build on existing Indigenous rights to land. It would be very helpful if the government were to show more consideration for those sorts of proposals that have come through from the position and role that is specifically there under legislation to develop proposals from an Indigenous perspective.

In my own state of Queensland, this new proposal is being promoted by some Liberal Party members as a revolution in rights to allow an enterprise culture to develop. The insinuation behind some of these comments is that the problem is the fault of the Aboriginal people because they do not have an enterprise culture and that we are going to give them an enterprise culture. The problem, as put forward in the Northern Territory News editorial after this was announced, is that if this latest proposal fails to deliver the sorts of benefits that the government is suggesting it will—as it may well—then Indigenous people will be the ones who will be blamed. The Northern Territory News editorial very much insinuated that, if it does not work, that will just be unfortunate proof that Aboriginal people do not have the innovation and initiative. That in itself is another danger of this proposal being set up as a brand-new sparkly idea from white man’s government in Canberra, which is proposed as a solution to providing economic prosperity for Indigenous people and that, if it does not work, somehow or other it will be the Indigenous people’s fault again.

The Northern Land Council has also been very critical of the proposal, and I also point to the comments of the Centre for Aboriginal and Economic Policy Research. As they said, the devil is in the detail. We need to look much more closely as these things get fleshed out by government, but it is crucial to build safeguards into the proposal. We need to recognise that it simply is not feasible to imagine that land or housing in remote communities can be creating wealth and equity for Aboriginal people in those areas in the same way that they do for those of us
who live in the capital cities or even in cities such as Alice Springs.

A link does need to be made with another issue that I have spoken on recently, and that is the issue of stolen wages. As I outlined in a recent speech to the chamber, in my own state of Queensland there is quite enormous evidence of the massive amount of money that Aboriginal and Torres Strait Islander people were legally entitled to be paid but which was stolen by the state government. Commonwealth moneys such as child endowment and maternity allowance payments were systematically diverted. The government sold Aboriginal labour cheaply and failed to secure even discount amounts on that. It was frequently warned that the mechanism used to distribute even the limited amounts it did to Indigenous people was riddled with fraud. It established gross underpayments on reserves, despite warnings they were insufficient for even basic sustenance of families.

There were regular warnings of fraud in distribution of savings through the systems that were put in place. The government, despite these regular warnings, did not address the issue. The government seized bank interest, imposed a levy on savings and, in a whole range of ways—even with the underpayment of wages to Aboriginal people prior to 1975—made sure that much of that money never reached the hands of the people legally entitled to it. This is outlined in detail by Dr Ros Kidd in a range of areas, not least in her 1997 book *The Way We Civilise: Aboriginal Affairs—The Untold Story*. She has estimated that just in Queensland the government’s debt to its wards of the time exceeds half a billion dollars.

I put those two things together because we have a federal government that is trying to suggest that somehow or other it is some problem with the nature of land rights and land title that is keeping Aboriginal people impoverished. The simple fact is that that impoverishment, including the theft of hundreds of millions of dollars, has meant that Aboriginal people cannot afford to buy homes. They were pushed off their land in the first place into reserves. If they had had the money, they would have bought land back where they came from. There was nothing they would rather have done. But they were systematically, deliberately and knowingly kept in poverty.

To then blame them for not having the enterprise culture to have home ownership is simply adding insult to injury. We need much more direct acknowledgement of the real history of Aboriginal people, not just in Queensland but throughout Australia, and we need much more respect from this government in working with Indigenous communities hand in hand, rather than handing down yet another bright spark solution from on high which is almost doomed to failure before it starts. *(Time expired)*

**Poverty**

**Senator MILNE** (Tasmania) (7.41 pm)—I rise tonight to note that Anti-Poverty Week will be held from 16 October to 22 October 2005. I also wish to express my great disappointment that the Greens and the Democrats were unfortunately not able to get the support of the government, the Labor Party or Family First for a motion which came before the Senate today which called on the government to increase the current payment level of Newstart and Austudy allowances to the level of age pensions—which is just above the half median income poverty line—and called on the government to develop a national poverty strategy that includes better job opportunities for poor people and better government research into national poverty.

What sort of an indictment is it when neither of the major parties is prepared to sup-
port increasing those payments for Newstart and Austudy to a level which is just above the half median income poverty line, and why would anyone vote against a proposal to develop a national poverty strategy? We have to recognise that, whilst the Australian economy may apparently be booming, there is a huge disparity between the rich and the poor—the gap in this country is huge.

Tonight I want to speak in particular about Tasmania and, specifically, the electorate of Braddon, which has been seriously let down by almost a decade of the Howard government and by the Tasmanian Labor government. Braddon has been ignored. It has the highest poverty rate of the 150 House of Representatives seats: 15.1 per cent of the electorate of Braddon live below the poverty line. That is an extraordinary figure, and it is something which I think all members of the Senate and the House of Representatives should get their heads around. In Braddon, we have the ninth lowest median family income of the 150 House of Representatives seats, an average of $688 a week. Braddon has the ninth highest proportion of families with incomes of less than $500 per week of the 150 House of Representatives seats, and the average taxable income in 2001-02—-which is the most recent figure we can get—at $33,014 was only 84 per cent of the national average of $39,254.

Braddon has a high rate of welfare dependency. In September 2004, 30 per cent of the electorate’s population was on the age pension, the disability pension, Newstart allowance, youth allowance or the parenting payment. That is particularly concerning, given the government’s moves in relation to Newstart allowance, people with disabilities and single parents et cetera.

ACOSS expects that over four years from 1 July 2006, the following numbers of people will be moved off their pension payments and onto the Newstart allowance: 580 people with disabilities—who are assessed as able to work 15 hours a week—and 277 single parents. That is a total of 857 residents, or 1.2 per cent of the Braddon population, who will be directly affected. If you were to add children and dependants, you would get a really accurate picture of the impact of the welfare changes. That would bring the total to about 1,500. That is just appalling. Two per cent of the population of the electorate of Braddon—the poorest electorate in the country on any statistics—will be affected adversely by the government’s changes, and the onus is on the member for Braddon, Mark Baker, to do something about it. Over the last decade, the Howard government has ignored the electorate. Braddon has had a minimal share of any of the programs that have been brought in. For example, out of the Regional Partnerships agreement funding, Braddon got a total of $72,600 out of $500 million—and yet it is the poorest electorate in the country.

One of the major problems for Braddon is public transport. Unfortunately, people find it very hard to get work and to travel to work. The north-west has a higher rate of unemployment than other Tasmanian regions, and we know that public transport and child-care services on the coast are nowhere near sufficient to cater for the needs of such disadvantaged job seekers. People will find this amazing, but ACOSS are constantly dealing with cases where people who live in Ulverstone have to stay overnight in Devonport, which is only 15 to 20 minutes away by car, because there are no buses running back to Ulverstone when they finish work. This is a completely unacceptable situation for single parents and it gives some insight into the likely impacts of the welfare changes.

The irony is that Braddon is one of the most beautiful places in the country. It has got the cleanest air in the world, the largest tract of temperate rainforest in the country,
magnificent coastlines and the Tasmanian Wilderness World Heritage Area as its backdrop. Unfortunately, it is an electorate which has concentrated on primary industries, so it has been adversely affected by globalisation and by the failure of industry to upgrade, which has caused many of them to leave. It suffered from regional dislocation when the Public Service withdrew from the regions. All of those things have adversely affected Braddon.

What I believe is needed is a major injection of finance into the region of Braddon. I am calling on the government, and, in particular, the member for Braddon, Mark Baker. The one thing that could be done for Braddon which would make a huge impact would be to invest in a light rail service to run from Launceston through to Burnie or Wynyard. That would allow people to move up and down the electorate to access the TAFE colleges. We need a major investment in the university in the region as well, but first and foremost we need accessible public transport. The Greens in Tasmania tried desperately in the mid 1990s to get the government to do something about the public transport issue. We went to see a Swiss company, Sulzer, who advised that it would be feasible to construct a light rail system from Burnie to Launceston through the electorate, and yet the government was not interested.

Given these statistics, we have to provide public housing for Braddon, we have to provide public transport for Braddon and we have to invest in a tertiary economy in the university in Braddon. But first and foremost, let us support the affordable housing strategy. Let us give them public dental care. It is terrible to think that 66 per cent of the people in Braddon have not visited a dentist in the last year. What an indictment that is. I would urge members of parliament to visit one of the most beautiful places on earth, the north-west Tasmania electorate of Braddon, and recognise that a lot can be done to improve the quality of life of people there.

In this Anti-Poverty Week, let us stop pork-barrelling in marginal electorates on the basis of political outcomes and let us try to lift the statistics in Braddon and invest in that electorate so that it can improve basic statistics: affordable public transport, affordable housing and investment in the tertiary economy. That is what Braddon desperately needs.

Senate adjourned at 7.50 pm

DOCUMENTS

Tabling

The following government documents were tabled:

Australian Broadcasting Authority—Online content co-regulatory scheme—Report for the period 1 January to 30 June 2005.
Australian Postal Corporation (Australia Post)—Report for 2004-05.
2004-05.
Department of Industry, Tourism and Resources—Report for 2004-05.
Film Australia Limited—Report for 2004-05.
National Industrial Chemicals Notification and Assessment Scheme (NICNAS)—
Special Broadcasting Service Corporation (SBS)—Report for 2004-05.

Tabling
The following documents were tabled by the Clerk:

*Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number*

Corporations Act—ASIC Class Orders—
[CO 05/770] [F2005L03044]*.
[CO 05/850] [F2005L03059]*.

Customs Act—
CEO Instruments of Approval Nos—
105 of 2005 [F2005L03070]*.
106 of 2005 [F2005L03071]*.
107 of 2005 [F2005L03072]*.
108 of 2005 [F2005L03073]*.
Select Legislative Instrument 2005 No. 230—Customs Amendment Regulations 2005 (No. 6) [F2005L03042]*.

Tariff Concession Orders—
0508784 [F2005L03058]*.
0508786 [F2005L03060]*.
0509096 [F2005L03061]*.
0509430 [F2005L03062]*.
0509578 [F2005L03063]*.
0509611 [F2005L03064]*.
0509806 [F2005L03066]*.

Environment Protection and Biodiversity Conservation Act—Amendment of list of specimens taken to be suitable for live im-
Financial Management and Accountability Act—

- Financial Management and Accountability Net Appropriation Agreement (Office of Film and Literature Classification) Variation [F2005L03025]*.
- Net Appropriation Agreements for—
  - Department of Human Services [F2005L03030]*.
  - Office of Film and Literature Classification [F2005L03024]*.

National Health Act—Determinations—

- HIB 14/2005 [F2005L03055]*.

Norfolk Island Act—Select Legislative Instrument 2005 No. 226—Norfolk Island (Supreme Court Sittings) Amendment Regulations 2005 (No. 1) [F2005L03041]*.


Trade Practices Act—Select Legislative Instruments 2005 Nos—


* Explanatory statement tabled with legislative instrument.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Attorney-General: Overseas Travel

(Question No. 717)

Senator Chris Evans asked the Minister representing the Attorney-General, upon notice, on 4 May 2005:

For each financial year since 2000-01 to 2004-05 to date:

(1) (a) What overseas travel was undertaken by the Minister; (b) what was the purpose of the Minister’s visit; (c) when did the Minister depart Australia; (d) who travelled with the Minister; and (e) when did the Minister return to Australia.

(2) (a) Who did the Minister meet during the visit; and (b) what were the times and dates of each meeting.

(3) (a) On how many of these trips was the Minister accompanied by a business delegation; and (b) can details be provided of any delegation accompanying the Minister.

(4) Who met the cost of travel and other expenses associated with the trip.

(5) What total travel and associated expenses, if any, were met by the department in relation to: (a) the Minister; (b) the Minister’s family; (c) the Minister’s staff; and (d) departmental and/or agency staff.

(6) What were the costs per expenditure item for: (a) the Minister; (b) the Minister’s family; and (c) the Minister’s staff, including but not necessarily limited to: (i) fares, (ii) allowances, (iii) accommodation, (iv) hospitality, (v) insurance, and (vi) other costs.

(7) What were the costs per expenditure item for each departmental and/or agency officer, including but not necessarily limited to: (a) fares; (b) allowances; (c) accommodation; (d) hospitality; (e) insurance; and (f) other costs.

(8) (a) What was the total cost of air charters used by the Minister or his/her office or department; and (b) how many occasions did the Minister or his/her office or department and/or agency charter aircraft, and in each case, what was the name of the charter company that provided the service and the respective costs.

Senator Ellison—The Attorney-General has provided the following answer to the honourable senator’s question:

(1) The Special Minister of State will be responding to this part on behalf of all Ministers. The Minister’s response will detail the cost of travel that has been met by the Department of Finance.

(2) This information sought is not readily available and cannot be compiled without a significant diversion of resources. I am not prepared to authorise such a diversion of resources.

(3) This information sought is not readily available and cannot be compiled without a significant diversion of resources. I am not prepared to authorise such a diversion of resources.

(4) The Special Minister of State will be responding to this part on behalf of all Ministers. The Minister’s response will detail the cost of travel that has been met by the Department of Finance.

(5) (a) 2000-01 nil

2001-02 nil

2002-03 $233.28

2003-04 $11,290.79
2004-05 $388.97
(b) Nil for all dates
(c) 2000-01 $264.00
  2001-02 $408.00
  2002-03 $408.00
  2003-04 $772.50
  2004-05 $213.00

This expenditure relates to passports, the hire of satellite phones, and interpreter services which, in accordance with the Department of Finance and Administration guidelines on overseas travel, are the responsibility of the portfolio.

(6) The Special Minister of State will be responding to this part on behalf of all Ministers.
(7) The Special Minister of State will be responding to this part on behalf of all Ministers.
(8) The Special Minister of State will be responding to this part on behalf of all Ministers. The Minis-
ters response will detail the cost of travel which has been met by the Department of Finance. Costs associated with charter flights engaged by this department and its agencies are detailed in the re-
sponses provided to Questions on Notice numbers 685 and 695.

Minister for Local Government, Territories and Roads: Overseas Travel
(Question No. 737)

**Senator Chris Evans** asked the Minister representing the Minister for Local Government, Territories and Roads, upon notice, on 4 May 2005:

For each financial year since 2000-01 to 2004-05 to date:

1. (a) What overseas travel was undertaken by the Minister; (b) what was the purpose of the Minis-
ter’s visit; (c) when did the Minister depart Australia; (d) who travelled with the Minister; and (e) when did the Minister return to Australia.

2. (a) Who did the Minister meet during the visit; and (b) what were the times and dates of each meet-
ing.

3. (a) On how many of these trips was the Minister accompanied by a business delegation; and (b) can details be provided of any delegation accompanying the Minister.

4. Who met the cost of travel and other expenses associated with the trip.

5. What total travel and associated expenses, if any, were met by the department in relation to: (a) the Minister; (b) the Minister’s family; (c) the Minister’s staff; and (d) departmental and/or agency staff.

6. What were the costs per expenditure item for: (a) the Minister; (b) the Minister’s family; and (c) the Minister’s staff, including but not necessarily limited to: (i) fares, (ii) allowances, (iii) accom-
modating, (iv) hospitalities, (v) insurance, and (vi) other costs.

7. What were the costs per expenditure item for each departmental and/or agency officer, including but not necessarily limited to: (a) fares; (b) allowances; (c) accommodation; (d) hospitalities; (e) ins-
urance; and (f) other costs.

8. (a) What was the total cost of air charters used by the Minister or his/her office or department; and (b) on how many occasions did the Minister or his/her office or department and/or agency charter aircraft, and in each case, what was the name of the charter company that provided the service and the respective costs.
Senator Ian Campbell—The Minister for Local Government, Territories and Roads has provided the following answer to the honourable senator’s question:

(1) The Special Minister of State will be providing an answer to this part of the honourable Senator’s question on behalf of all Ministers.

(2) The records for travel undertaken before 2004-05 are not readily available. To compile a detailed response to this part of the question would require a significant diversion of resources which I am not prepared to authorise. However, I can provide the requested information for my attendance at the 4th APEC Transportation meeting from 27 to 29 July 2004 in Bali, Indonesia: (a) and (b) In addition to informal discussions with Ministers and senior officials from the host nation (Indonesia) and other APEC economies, I undertook bilateral transport discussions with the United States Secretary of Transportation, Mr Norman Mineta on 27 July 2004.

(3) On the above mentioned trip, Mr David Williams OAM, Chair of the Australian Logistics Council, accompanied the Australian delegation and gave a presentation to the APEC Transportation Ministers.

(4) The Special Minister of State will be providing an answer to this part of the honourable Senator’s question on behalf of all Ministers.

(5) No overseas travel related expenses for myself, my family or my staff were met by the Department of Transport and Regional Services.

(6) The Special Minister of State will be providing an answer to this part of the honourable Senator’s question on behalf of all Ministers.

(7) In relation to the trip stated above, I was accompanied by two Departmental officers. The related costs are: (a) $6,020.65; (b) Nil; (c) $1,791.32; (d) $405.84; (e) Nil; and (f) $282.81.

(8) The Special Minister of State will be providing an answer to this part of the honourable Senator’s question on behalf of all Ministers.

Minister for Communications, Information Technology and the Arts

(Question No. 883)

Senator Chris Evans asked the Minister for Communications, Information Technology and the Arts, 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 Coonan—The answer to the honourable senator’s question is as follows:

The Special Minister of State is responding on behalf of all Ministers in relation to part (a) and (b).

(c) No privately or commercially sponsored travel has been undertaken by my personal staff since my appointment as Minister for Communications, Information Technology and the Arts.

(d) From the records available, the following privately sponsored travel was undertaken:

2000-01: Officer from the National Portrait Gallery received a travel grant, offered by the Gordon Darling Foundation to promote professional development in the visual arts, for $11,050 to travel to London, Edinburgh, Stockholm, Copenhagen and Berlin. Travel was undertaken from 21/3/01 – 12/4/01.

2001-02: Officer from the National Portrait Gallery received a travel grant, offered by the Gordon Darling Foundation to promote professional development in the visual arts, for $12,000 to travel to

Minister for the Arts and Sport
(Question No. 887)

Senator Chris Evans asked the Minister for the Arts and Sport, 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 Kemp—The answer to the honourable senator’s question is as follows:
The Special Minister of State is responding on behalf of all Ministers in relation to part (a) and (b).
(c) No privately or commercially sponsored travel has been undertaken by my personal staff since my appointment as Minister for the Arts and Sport.
(d) Please refer to the response to part (d) of Senate Question on Notice 883.

Parliamentary Departments: Overseas Travel
(Question No. 966 supplementary)

Senator Carr asked the President, upon notice, on 16 June 2005:
With reference to the Department of the Senate and the Department of Parliamentary Services (and its predecessor departments):
(1) Can details be provided on the same basis as asked for in question on notice no. 1577 of 24 June 2003 concerning overseas travel by: (a) the secretary and each senior executive service (SES) officer or SES-equivalent officer for the period 1 June 2003 to 31 May 2005, and in each case, where a spouse or partner accompanied the officer, the costs paid out of departmental funds for the spouse or partner; and (b) officers below the SES level, including departmental costs of any accompanying spouse or partner.
(2) Can the President request the Speaker to provide answers to the above questions in respect of the Department of the House of Representatives.

The President—The answer to the honourable senator’s question is as follows:
In relation to the Department of the Senate and the Department of Parliamentary Services has been previously lodged (see Senate Hansard 23 June 2005, p 281).
The answer in relation to the Department of the House of Representatives has been provided by the Speaker as follows:
The Department of the House of Representatives has supplied the following information in the form of a table answer to the questions. It should be noted that the Clerk and all staff mentioned have entitlements to spouse-accompanied travel, under certain circumstances:
<table>
<thead>
<tr>
<th>Persons travelling</th>
<th>Dates of travel</th>
<th>Purpose of travel</th>
<th>Time overseas</th>
<th>Total cost of travel and cost for spouse</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clerk &amp; spouse (see note A)</td>
<td>27 June to 5 July 2003</td>
<td>34th Conference of Presiding Officers and Clerks, Tonga</td>
<td>8 days</td>
<td>Cost of travel for Clerk $7,202, Cost of travel for spouse $5,407</td>
</tr>
<tr>
<td>Clerk</td>
<td>23 September to 5 October 2003</td>
<td>ASGP Meeting – as President, chaired Executive and associated meetings (see note B)</td>
<td>12 days</td>
<td>Cost of travel for Clerk $10,322</td>
</tr>
<tr>
<td>Clerk</td>
<td>8-12 January 2004</td>
<td>17th Commonwealth Speakers and Presiding Officers Conference, Ottawa</td>
<td>4 days</td>
<td>Cost of travel for Clerk $15,023</td>
</tr>
<tr>
<td>Clerk</td>
<td>14–22 April 2004</td>
<td>ASGP Meeting – as President, chaired Executive and associated meetings</td>
<td>9 days</td>
<td>Cost of travel for Clerk $20,854</td>
</tr>
<tr>
<td>Clerk</td>
<td>7-14 July 2004</td>
<td>Representing IPU at Pacific Political Culture, Representation &amp; Election Systems Forum, Vanuatu</td>
<td>7 days</td>
<td>Cost of travel for Clerk $3,122 (see note C)</td>
</tr>
<tr>
<td>Clerk</td>
<td>19-24 July 2004</td>
<td>CPA Pacific Staff Seminar, Suva</td>
<td>5 days</td>
<td>Cost of travel for Clerk $8,928</td>
</tr>
<tr>
<td>Clerk &amp; spouse</td>
<td>27 September to 8 October 2004</td>
<td>ASGP Meeting – as President, chaired Executive and associated meetings &amp; visit to Westminster CPA HQ</td>
<td>12 days</td>
<td>Cost of travel for Clerk $24,137, Cost of travel for spouse $10,270</td>
</tr>
<tr>
<td>Clerk</td>
<td>24-26 January 2005</td>
<td>ANZACATT Conference, Wellington</td>
<td>2 days</td>
<td>Cost of travel for Clerk $3,464</td>
</tr>
<tr>
<td>SES Band 1 (A) &amp; spouse</td>
<td>30 September to 12 October 2003</td>
<td>49th CPA Conference, Bangladesh/bilateral visit to Sri Lanka</td>
<td>12 days</td>
<td>Cost of travel for SES staff member $8,897</td>
</tr>
<tr>
<td>SES Band 1 (A) &amp; spouse</td>
<td>26-28 January 2005</td>
<td>ANZACATT Conference, Wellington</td>
<td>2 days</td>
<td>Cost of travel for SES staff member $2,034, Cost of travel for spouse $1,244</td>
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<tr>
<td>SES Band 1 (B) &amp; spouse</td>
<td>26-28 January 2005</td>
<td>ANZACATT Conference</td>
<td>2 days</td>
<td>Cost of travel for SES staff member $1,738, Cost of travel for spouse $684</td>
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<tr>
<td>Non-SES staff member (A)</td>
<td>28 June to 5 July 2003</td>
<td>34th Conference of Presiding Officers and Clerks, Tonga</td>
<td>8 days</td>
<td>Cost of travel for non-SES staff member $3,186</td>
</tr>
<tr>
<td>Non-SES staff member (A)</td>
<td>30 September to 12 October 2003</td>
<td>49th CPA Conference in Bangladesh</td>
<td>12 days</td>
<td>Cost of travel for non-SES staff member $12,112</td>
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<tr>
<td>Non-SES staff member (A)</td>
<td>4-6 April 2004</td>
<td>Visit to Wellington to hand over CPA Regional Secretary responsibilities</td>
<td>2 days</td>
<td>Cost of travel for non-SES staff member $2,662</td>
</tr>
<tr>
<td>Non-SES staff member (A)</td>
<td>28 August to 19 September 2004</td>
<td>50th CPA Conference in Ottawa/bilateral visit to the USA</td>
<td>22 days</td>
<td>Cost of travel for non-SES staff member $15,637</td>
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<tr>
<td>Non-SES staff member (B)</td>
<td>7-14 August 2003</td>
<td>Sergent-at-Arms' Conference, Ottawa</td>
<td>6 days</td>
<td>Cost of travel for non-SES staff member $11,849</td>
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<tr>
<td>Non-SES staff member (C)</td>
<td>31 August to 4 September 2003</td>
<td>Delegation to the 4th General Assembly of Asian Parliaments for Peace, Manila</td>
<td>4 days</td>
<td>Cost of travel for non-SES staff member $6,365</td>
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<tr>
<td>Non-SES staff member (D)</td>
<td>3-6 September 2003</td>
<td>Bilateral delegation visit to East Timor and A IPO Jakarta</td>
<td>3 days</td>
<td>Cost of travel for non-SES staff member $2,471</td>
</tr>
<tr>
<td>Persons travelling</td>
<td>Dates of travel</td>
<td>Purpose of travel</td>
<td>Time overseas</td>
<td>Total cost of travel and cost for spouse</td>
</tr>
<tr>
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</tr>
<tr>
<td>Non-SES staff member (E)</td>
<td>23-25 September to 5 October 2003</td>
<td>10th Assembly of the IPU, Geneva</td>
<td>12 days</td>
<td>Cost of travel for non-SES staff member $9,753</td>
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<tr>
<td>Non-SES staff member (E)</td>
<td>12-15 January 2004</td>
<td>Delegation to the 12th Asia Pacific Parliamentary Forum, China</td>
<td>3 days</td>
<td>Cost of travel for non-SES staff member $6,960</td>
</tr>
<tr>
<td>Non-SES staff member (E)</td>
<td>26-28 January 2005</td>
<td>ANZACATT Conference, Wellington</td>
<td>2 days</td>
<td>Cost of travel for non-SES staff member $2,850</td>
</tr>
<tr>
<td>Non-SES staff member (F)</td>
<td>2-12 September 2003</td>
<td>15th Australian and Pacific Regional CPA Seminar, Samoa and NT</td>
<td>10 days</td>
<td>Cost of travel for non-SES staff member $4,093</td>
</tr>
<tr>
<td>Non-SES staff member (G)</td>
<td>8-21 November 2003</td>
<td>Delegation to Syria, Israel and Lebanon</td>
<td>13 days</td>
<td>Cost of travel for non-SES staff member $11,235</td>
</tr>
<tr>
<td>Non-SES staff member (G)</td>
<td>6-8 April 2005</td>
<td>CPA workshop, Solomon Islands</td>
<td>2 days</td>
<td>Cost of travel for non-SES staff member $2,327</td>
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<tr>
<td>Non-SES staff member (H)</td>
<td>11-23 November 2003</td>
<td>Delegation to New Caledonia and Vanuatu</td>
<td>12 days</td>
<td>Cost of travel for non-SES staff member $4,095</td>
</tr>
<tr>
<td>Non-SES staff member (I)</td>
<td>23-28 February 2004</td>
<td>Delegation to Indonesia (Foreign Affairs Sub-committee)</td>
<td>5 days</td>
<td>Cost of travel for non-SES staff member $6,444</td>
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<tr>
<td>Non-SES staff member (J)</td>
<td>30 March to 9 April 2004</td>
<td>Delegation to Indonesia to observe elections</td>
<td>10 days</td>
<td>Cost of travel for non-SES staff member $4,699</td>
</tr>
<tr>
<td>Non-SES staff member (J)</td>
<td>29 June to 9 July 2004</td>
<td>Delegation to Indonesia to observe elections</td>
<td>10 days</td>
<td>Cost of travel for non-SES staff member $3,186</td>
</tr>
<tr>
<td>Non-SES staff member (K)</td>
<td>11-22 April 2004</td>
<td>Delegation to Bahrain, Iran and the UAE</td>
<td>11 days</td>
<td>Cost of travel for non-SES staff member $12,376</td>
</tr>
<tr>
<td>Non-SES staff member (L)</td>
<td>30 April to 19 May 2004</td>
<td>Parliamentary Officers’ Study Program, Ottawa</td>
<td>19 days</td>
<td>Cost of travel for non-SES staff member $12,752</td>
</tr>
<tr>
<td>Non-SES staff member (M)</td>
<td>2-6 May 2004</td>
<td>Official exchange to New Zealand by Standing Committee on Legal &amp; Constitutional Affairs</td>
<td>4 days</td>
<td>Cost of travel for non-SES staff member $2,273</td>
</tr>
<tr>
<td>Non-SES staff member (N)</td>
<td>23 June to 4 July 2004</td>
<td>Benchmarking visit to various USA employers and attendance at SHRM Conference</td>
<td>10 days</td>
<td>Cost of travel for non-SES staff member $17,598</td>
</tr>
<tr>
<td>Non-SES staff member (O) &amp; spouse</td>
<td>11 July to 3 August 2004</td>
<td>Commonwealth Sergeant-at-Arms’ Conference and visit to Welsh Assembly</td>
<td>21 days</td>
<td>Cost of travel for non-SES staff member $13,721</td>
</tr>
<tr>
<td>Non-SES staff member (O)</td>
<td>22 September to 3 October 2004</td>
<td>ASGP Meeting, Geneva</td>
<td>11 days</td>
<td>Cost of travel for non-SES staff member $12,190</td>
</tr>
<tr>
<td>Non-SES staff member (O)</td>
<td>26-28 January 2005</td>
<td>ANZACATT Conference, Wellington</td>
<td>2 days</td>
<td>Cost of travel for non-SES staff member $2,839</td>
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<tr>
<td>Non-SES staff member (O)</td>
<td>2-8 April 2005</td>
<td>ASGP Meeting, Manila</td>
<td>6 days</td>
<td>Cost of travel for non-SES staff member $4,477</td>
</tr>
<tr>
<td>Non-SES staff member (O)</td>
<td>28 August to 19 September 2004</td>
<td>50th CPA Conference, Canada/bilateral delegation to the USA</td>
<td>22 days</td>
<td>Cost of travel for non-SES staff member $25,105</td>
</tr>
<tr>
<td>Non-SES staff member (Q) &amp; spouse</td>
<td>28 September to 12 December 2004</td>
<td>Secondment to ASGP, Geneva</td>
<td>75 days</td>
<td>Cost of travel for non-SES staff member $46,734</td>
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<tr>
<td>Non-SES staff member (R)</td>
<td>30 September to 8 October 2004</td>
<td>Oversight Conference for Intelligence Agencies, Washington</td>
<td>8 days</td>
<td>Cost of travel for non-SES staff member $11,087</td>
</tr>
<tr>
<td>Non-SES staff member (S)</td>
<td>26 October to 23 December 2004</td>
<td>Delegation to Papua New Guinea Parliament</td>
<td>58 days</td>
<td>Cost of travel for non-SES staff member $13,926</td>
</tr>
</tbody>
</table>

QUESTIONS ON NOTICE
**QUESTIONS ON NOTICE**

<table>
<thead>
<tr>
<th>Persons travelling</th>
<th>Dates of travel</th>
<th>Purpose of travel</th>
<th>Time overseas</th>
<th>Total cost of travel and cost for spouse</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-SES staff member (S)</td>
<td>9 January to 8 April 2005</td>
<td>Secondment to Papua New Guinea</td>
<td>89 days</td>
<td>Cost of travel for non-SES staff member $15,970</td>
</tr>
<tr>
<td>Non-SES staff member (T)</td>
<td>18 January to 26 March 2005</td>
<td>APPF Conference, Vietnam and secondment to ASGP Secretariat, Geneva</td>
<td>67 days</td>
<td>Cost of travel for non-SES staff member $28,777</td>
</tr>
<tr>
<td>Non-SES staff member (U)</td>
<td>26-28 January 2005</td>
<td>ANZACATT Conference, Wellington</td>
<td>2 days</td>
<td>Cost of travel for non-SES staff member $2,788</td>
</tr>
<tr>
<td>Non-SES staff member (V)</td>
<td>7-20 April 2005</td>
<td>Delegation to China and Mongolia</td>
<td>13 days</td>
<td>Cost of travel for non-SES staff member $9,495</td>
</tr>
<tr>
<td>Non-SES staff member (W)</td>
<td>23-31 May 2005</td>
<td>CPA Study Group on the Administration of the Parliament of Tanzania</td>
<td>8 days</td>
<td>Cost of travel for non-SES staff member $11,087</td>
</tr>
</tbody>
</table>

Notes:
A. The determination covering the Clerk’s salary and conditions of service includes a provision for spouse official travel if the Speaker considers there is benefit to the Commonwealth.
B. Capacity exists for the Clerk’s travel costs as President of ASGP to be offset by ASGP funding.
C. CPA HQ sponsorship was available, but not claimed (New Zealand acted in a similar manner).
D. The Clerk’s visits to Vietnam to July and December 2004 were sponsored by international agencies and are not included.

**Imports: Genetically Modified Crops**

*(Question No. 1083)*

Senator Stott Despoja asked the Minister representing the Minister for Health and Ageing, upon notice, on 15 August 2005:

1. In the Food Standards Australia New Zealand (FSANZ) fact sheet on Bt-10 published on 21 April 2005, there is reference to Syngenta producing ‘several hundred tonnes’ of Bt-10. Can the Minister explain why this figure differs so dramatically from Syngenta’s own published figure of over 150 000 tons.

2. The fact sheet on Bt-10 indicates that the amounts of Bt-10 that might have come into Australia are ‘extremely small’. Apart from the claim by Syngenta on the total amount of Bt-10 corn produced (Syngenta has estimated around 150 000 tons): (a) what documents or data have formed the basis for this conclusion; (b) has FSANZ confirmed this figure; if so, what data forms the basis for that confirmation; (c) what amounts of Bt-10 have possibly come into Australia; (d) what is the basis for the estimate; if no estimate has been made, why has no work been done to ascertain the amounts that have or may have entered Australia; (e) what foods are most likely to have been imported into Australia containing Bt-10; and (f) in how many different products.

3. What steps have been taken to ascertain whether any Bt-10 has been imported into Australia during the 4 years in which it was illegally produced and distributed.

4. Can a description be provided on how the safety assessment undertaken by FSANZ for Bt-10 differs from the normal food safety assessment processes and why.

5. Under what provisions of the Food Standards Australia New Zealand Act 1991 or Code did FSANZ: (a) review Bt-10; and (b) determine that no testing of imports or food products was required.

6. Given that the Act provides for urgent assessment of a food under Division 5, following a declaration of ‘urgency’ under section 24 in that division, has FSANZ made any declaration of urgency.
(7) Is it the case that allowing a product to possibly remain on supermarket shelves and to continue to be imported into the country while an assessment is being undertaken, circumvents established processes.

(8) Given that the fact sheet claims that FSANZ has no health or safety concerns regarding Bt-10, has Syngenta ‘demonstrated’ the safety of Bt-10, which would appear to be a higher standard.

(9) Was all the data received from Syngenta produced according to good laboratory practice; if not, why not.

(10) The critique Dr Jack Heinemann has produced, located at http://www.nzige.canterbury.ac.nz/, of two Syngenta documents released by FSANZ, Western Blot Analysis of Cry1Ab and PAT Proteins Expressed in Field Corn – Report No. SSB-112-05 – a Western blot analyses of leaf extracts of Event Bt-11 and Event Bt-10-derived corn plants … Sequencing of the Bt-10 insert and comparison with the previously reported Bt-11 sequence, Report No. SSB – 104-05, makes a number of findings apparently at odds with conclusions of FSANZ. Has FSANZ read that critique; if so, how does FSANZ respond to the critique’s conclusions regarding Bt-10 and Bt-11.

(11) Does FSANZ have a comprehensive dossier of quality assured raw experimental data for Bt-10; if not, why not.

(12) Given that the FSANZ website located at http://www.foodstandards.gov.au/mediareleasespublications/factsheets/factsheets2002/ faqsgmfoods6august1632.cfm indicates that FSANZ undertakes comparative analysis of the ‘molecular, toxicological and nutritional and compositional properties of the food to the non-GM form’, was such an analysis done for Bt-10 corn.

(13) Can a list be provided of the documents upon which FSANZ relied for its safety assessment.

(14) Given that the FSANZ safety assessment of Bt-10 was based on documents received from Syngenta, did FSANZ receive safety studies carried out on Bt-10 from Syngenta; if so, did this include: (a) human feeding studies; (b) animal feeding studies; if so, were any of the animal feeding studies long-term (at least several months); and (c) did this study include: (i) any feeding studies using the whole corn, (ii) any studies of allergenicity, (iii) generational feeding studies, and (iv) cancer studies.

(15) Did FSANZ receive: (a) molecular characterisation of Bt-10 from Syngenta; (b) a genetic profile of Bt-10; and (c) a complete and certified history of the planting and shipments of Bt-10.

(16) Did FSANZ require or seek any independent verification of the data provided by Syngenta; if so, can details be provided on how verification was provided.

(17) Given that the FSANZ fact sheet on Bt-10 indicates that Bt-11, which has been approved for human consumption in Australia, and Bt-10, produce identical novel proteins, what data forms the basis for that conclusion.

(18) Do identical proteins in different genetic structures and inserted in different locations in a plant cell express themselves identically.

(19) Is it the case that Northrop King (later taken over by Syngenta) applied for unregulated status of Bt-11 in 1995 and that in the appendix to that ‘petition’, a comparison of Bt-10 and Bt-11 showed that Bt-11 produced about 7 times more toxin protein than Bt-10; if so: (a) is FSANZ familiar with this report; and (b) does FSANZ agree that this would strongly indicate significant protein differences between the two constructs. (NOTE: reference - Pilancinski W and Williams D. Petition for Determination of Non-regulated Status for: Insect protection corn expressing the Cry1Ab gene from Bacillus thuringiensis var. kurstaki 1995.)

(20) What steps has FSANZ taken to ensure that no future imports contain Bt-10; if no steps have been taken, can FSANZ: (a) guarantee that no Bt-10 corn is being produced in the United States of America (US); and (b) that Bt-10 seed is not widely distributed in corn producing areas in the US.
QUESTIONS ON NOTICE

(21) (a) Is it the case that in its assessment of Bt-11, FSANZ indicates that the most likely source of Bt-11 coming into Australia would be in processed corn foods such as syrups, flours, oils, chips etc; and (b) is this also the most likely source of Bt-10 arriving in Australia.

(22) Has the department tested or commissioned, or requested testing of, any of these foods to determine if Bt-10 is present; if not, why not; if so, can details be provided on: (a) the number of tests; (b) what foods were tested; and (c) the results.

(23) Is it the case that the European Union has imposed a certification requirement on corn imports that are most likely to contain Bt-10 because the import of Bt-10 is unlawful; if so, as Bt-10 is also unlawful in Australia and it is possible that Bt-10 is being imported into Australia, why has FSANZ not imposed a similar requirement on corn imports most likely to contain Bt-10 (i.e. processed foods).

(24) Given that the FSANZ fact sheet notes that FSANZ was not informed of the Bt-10 mistake until some 4 months after the US Government was notified, has any explanation been sought from Syngenta or the US Government to explain the failure to immediately notify countries that may or do import Bt-11 products.

(25) How many Genetically Engineered (GE) foods or crops are: (a) being produced or trialled in the US that are not approved for use in Australia; and (b) have the potential to enter the world food chain.

(26) How many of these crops do not have validated detection tests.

(27) Given that it is well established that the US does not have segregation or coexistence systems to separate GE and non-GE crops and foods, does not have stringent testing requirements to prevent contamination and that the US system is not preventing unknown and untested GE organisms from entering the food chain, what steps are being taken in Australia to deal with these potential unwanted imports.

Senator Patterson—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) Bt-10 corn was found in five Bt corn breeding lines in the USA, three of which were used between 2001 and 2004 primarily for pre-commercial development. The seeds produced are estimated to have been planted over about 15,000 hectares in the USA during the four-year period. This equates to 0.01% of the annual total US corn acreage (annual US corn planting is 32 million hectares). Maize crops such as Bt-10 corn are used primarily as animal feed. About 18% of the total US corn crop is exported to other countries, therefore it is possible that of the 150,000 tons estimated by Syngenta that was grown for animal feed, a small amount may have been exported to Australia most likely as animal feed. The FSANZ Fact Sheet referred to the small amount of Bt-10 corn that may have been possibly exported as animal feed from the USA co-mingled with Bt-11 corn, not what may have been grown. FSANZ will examine the Fact Sheet and make this point clear.

(2) (a) Advice from Syngenta and the US Foreign Agricultural Service that the corn was mainly used for animal feed. (b) The Australian Food and Grocery Council (AFGC) has confirmed that, to its knowledge, no GM corn has been imported as a raw ingredient for use in food. In addition, data provided by Syngenta and from the US Foreign Agricultural Service indicate that small amounts of corn are exported to Australia, mostly as animal feed, but it is unknown if any of this contained Bt-10 corn. (c) This is unknown, but for the reasons stated above it is considered to be very low. (d) No estimate has been made and no additional resources have been assigned to this issue because of the minimal risk to public health, the statement from Syngenta that the problem was resolved in 2004 and the difficulties of tracing products in the marketplace. (e) This is not known. Maize products such as Bt-10 are predominantly used for animal feed. (f) This is unknown, but AFGC
Members have indicated that to their knowledge no GM corn has been imported as a raw ingredient for use in food.

(3) Several bodies, including the AFGC, Food and Beverage Importers Association, Syngenta Australia Pty Ltd and the US Embassy were contacted. No further action was considered necessary by FSANZ because as stated above, there were minimal health implications and industry has stated that there were low production volumes of Bt-10 corn.

(4) The safety assessment undertaken by FSANZ for Bt-10 did not differ from the normal food safety assessment processes applied to GM foods. However, it was not undertaken as part of an application or proposal process as no variation to the Australia New Zealand Food Standards Code was at issue.

(5) (a) This food is not currently permitted and so a ‘review’ of an existing food standard was not required. FSANZ utilised its incidental functions under section 7(1) of the Food Standards Australia New Zealand Act 1991.

(b) FSANZ obtained information from a number of sources, including the US Foreign Agricultural Service at the US Embassy in Canberra, the US Department of Agriculture (USDA) and US Food and Drug Administration (USFDA), and Syngenta which indicated that the problem was rectified in 2004. Furthermore, the implications for public health were low and on this basis only random (5%) testing could be justified. This rate would have been unlikely to detect non-compliance, if any non-complying products were being imported. For these reasons, FSANZ determined not to advise the Australian Quarantine and Inspection Service (AQIS) to institute testing. FSANZ advice to AQIS only relates to the Imported Food Program. This does not prevent state and territory regulatory agencies from investigating imported foods in the marketplace.

Australia receives only a small fraction of US corn and the overwhelming proportion of this is used as animal feed. Processed corn products used by Australian food manufacturers include high fructose (sugar) syrup, which does not contain protein or DNA from corn. Due to the availability of safety information on Bt-10 in combination with the extremely low possibility of its presence in food products in Australia, FSANZ considered that concerns relating to public health and safety were not warranted.

(6) No. Section 24 relates to applications and proposals to vary the Australia New Zealand Food Standards Code being declared to be urgent where FSANZ considers it appropriate to do so to protect public health and safety. This was not a matter where a variation to the Australia New Zealand Food Standards Code was at issue. Therefore section 24 is not relevant to these circumstances.

(7) No. It is an established process in relation to non-compliance investigations to assess the public health implications of an issue before taking action. This ensures that any actions are commensurate with the public health implications. In any case, FSANZ has no legislative powers to take any action in relation to products on supermarket shelves. These legislative powers rest with state and territory food enforcement agencies.

(8) The data supplied by Syngenta support the safety of Bt-10 corn and led FSANZ to the conclusion that there are no health and safety concerns with this corn.

(9) All studies were conducted in accordance with acceptable scientific practices and all data and related records were maintained as required by good laboratory practice guidelines. The supplied data therefore met the requirements of the FSANZ guidelines for the safety assessment of GM foods.

(10) FSANZ has examined the critique produced by Dr Jack Heinemann and does not agree with its conclusions. FSANZ is preparing a full report of its safety assessment of food from Bt-10 corn, which will be published on the FSANZ website.
(11) FSANZ has sufficient scientific data to demonstrate the nature of the genetic modification in Bt-10 corn and to compare it to the approved Bt-11 variety. FSANZ has not requested a comprehensive dossier of raw experimental data on Bt-10 from Syngenta.

(12) Yes.

(13) In evaluating the safety of foods derived from Bt-10 corn, FSANZ used scientific data submitted for Application A386 (received 30 April 1999) supporting the safety of food derived from insect protected corn line Bt-11 including:


In addition, Syngenta provided FSANZ with the following technical documents on Bt-10:


(14) Yes, FSANZ received safety studies on Bt-10 from Syngenta including molecular characterisation studies, DNA sequence of the inserted genes in Bt-10 corn, and compositional studies on Bt-10 grain. These data provide information on the integrity of the genetic modification and the nature of novel proteins expressed in Bt-10 corn. (a) FSANZ did not receive human feeding studies. Such studies are not conducted on new conventional crop varieties, nor are they considered necessary in the assessment of new GM crop varieties. (b) and (c) (i) and (iii) FSANZ did not receive animal feeding studies, including generational studies, on whole Bt-10 corn. FSANZ will accept feeding studies in animals if provided, but they are not considered necessary for the safety assessment of foods derived from GM plants because of the limited usefulness of the information that such studies generally provide. FSANZ has previously assessed the closely related GM corn, known as Bt-11, which is approved for human food use in Australia. Animal feeding studies were not required to establish that Bt-11 corn is safe for human consumption. (c) (ii) The potential toxicity and allergenicity of the two new proteins in Bt-10 corn (CrylAb and PAT) have been well studied. A number of acute toxicity studies in animals (rats, mice and rabbits), assessed in 1999 as a component of the Bt-11 application, showed that neither of these proteins is toxic in mammals. The results of one chronic toxicity study conducted with a tomato carrying the same Bt gene as in the corn were also known.

Other studies showed that the two proteins are present in corn grain in extremely low amounts, are easily digested, and do not share any chemical similarities with known allergens. These characteristics indicate that the proteins are not potentially allergenic in humans. (c) (iv) FSANZ did not seek cancer studies as they are not applicable to whole foods and are not required for the assessment of foods derived from GM crops.

(15) (a) Yes, FSANZ received molecular characterisation data on Bt-10 corn from Syngenta, which described the nature of the genetic modification and allowed direct comparison of structure and function with Bt-11 corn. A pre-market safety assessment has already been completed on Bt-11 corn and it is fully approved for human food use. (b) It is not clear what is meant by the term ‘genetic profile’. If the question relates to a description of the novel genes introduced into Bt-10 corn, then the answer is ‘yes’. The molecular characterisation data received by FSANZ provides a detailed description of the genes, their regulatory elements and their orientation in the plant. Both Bt-10 and Bt-11(fully approved) were developed at the same time using the same genetic construct. Complete DNA sequence analysis of the two corns clearly demonstrated that they are very similar.
They differ in the presence of the marker gene, a bacterial gene needed only for the laboratory stages of development, but not required in the plant; Bt-10 corn was found to contain the bacterial marker gene whereas it is absent in Bt-11. However, the same bacterial marker gene is commonly used in the development of GM plants, has been previously assessed for safety by FSANZ, and is present in other approved GM crop varieties. As growing of Bt-10 corn in the US was accidental, a certified history of its plantings is not available. However, Syngenta estimates that the maximum affected area (some 15,000 hectares) on which Bt-10 could have been inadvertently planted represents 0.01% of the corn planted in the US during the four-year period. Syngenta further advised FSANZ that only 18% of the total corn harvested in the US is exported to the rest of the world, mainly to Europe and Japan.

Australia receives only a small fraction of US corn and the overwhelming proportion of this is used as animal feed. Processed corn products used by Australian food manufacturers include high fructose (sugar) syrup, which does not contain protein or DNA from corn. Due to the availability of safety information on Bt-10 in combination with the extremely low possibility of its presence in food products in Australia, FSANZ considered that concerns relating to public health and safety were not warranted.

Independent verification of the data provided to FSANZ by Syngenta was not required. FSANZ was already in possession of a comprehensive package of scientific data for Bt-11 corn, which included some data applicable to the assessment of Bt-10. The package of data on Bt-11 corn was accompanied by a statutory declaration as to its integrity and completeness. Separate company studies contained statements relating to the retention of laboratory records and analysed data, and were signed and dated either by the respective laboratory manager or study director and a company scientist. Such statements fulfil the quality assurance requirements of the FSANZ safety assessment guidelines.

The scientific data used to characterise the genetic modification in Bt-10 and the approved Bt-11 line include a description of the transforming plasmid carrying the two genes of interest, the method used in the transformation, the results of Southern blot analyses to determine the number of new genes inserted into the corn plants, PCR analysis, and Western blots to determine expression of novel proteins. In addition, full nucleotide sequence of the introduced ‘segment of DNA in the two corn varieties confirms that the Bt and PAT proteins present in Bt-10 and Bt-11 are virtually identical.

From the accidental cultivation of Bt-10 in place of the approved Bt-11 variety, it is clear from phenotypic analysis, that the two varieties of corn are indistinguishable. The presence in Bt-10, but not in Bt-11, of the bacterial marker gene was confirmed by Southern blot analysis using a specific molecular probe.

The level of expression of a transgene, even when under the control of the same regulatory elements, when inserted in different parts of the plant genome would not be expected to be identical due to the effects of different genomic locations. However, where it can be shown that an intact copy of a novel gene is being expressed in the plant, the corresponding protein produced from the gene would be expected to be the same in terms of its chemical structure, physical properties and immunoreactivity.

It is also known that patterns of gene expression (and therefore levels of detectable protein) in plants can vary significantly with the tissue (eg. higher protein levels in leaves compared to seeds), and with developmental age of the plant (eg. lower protein expression in older or senescing plants). These differences are also partly due to the variable operation of the promoter elements in different plant tissues, even with those promoters that generally give rise to constitutive gene expression.

No. In Australia, there is no ‘unregulated status’ for GM foods. The Standard came into force on 14 May 1999. FSANZ received an application seeking approval for Bt-11 corn on 30 April 1999.
which was eventually approved by the Australia New Zealand Food Standards Council (ANZFSC) in 2001. At this time, Bt-11 had received authorisations (either for cultivation, food and/or feed use) in the United States (USDA, USFDA, US Environmental Protection Agency (USEPA), 1996), Canada (1996), Japan (1996), European Union (1998), United Kingdom (1997), Switzerland (1998) and the Netherlands (1998). (a) FSANZ is not familiar with this report. (b) No. The construct used to produce Bt-11 is identical to the construct used to produce Bt-10. Chromosome mapping data show that the DNA inserted in Bt-10 is at a different chromosomal location to the DNA inserted in Bt-11. It is well known that chromosomal location can influence the expression of inserted genes. As well, different plant tissues and plants at different stages of development exhibit differing protein expression levels, even when the construct is exactly the same and the genes are inserted in the same chromosomal location. The fact that differences in insect toxin expression levels between Bt-10 and Bt-11 have been observed does not mean the two expressed proteins are different. Genotypic and phenotypic analyses confirm that the Bt toxin expressed in both varieties is the same protein.

(20) (a) Australia receives only a small fraction of US corn and the overwhelming proportion of this is used as animal feed. Processed corn products used by Australian food manufacturers include high fructose (sugar) syrup, which does not contain protein or DNA from corn.

FSANZ obtained information from a number of sources, including the US Foreign Agricultural Service at the US Embassy in Canberra, the US Department of Agriculture (USDA) and US Food and Drug Administration (USFDA), and Syngenta which indicated that the problem was rectified in 2004. Therefore, future imports of maize for animal feed or food products into Australia should not contain Bt-10 maize.

If individuals or organisations have specific information indicating that Bt-10 corn or its products are currently being sold on the domestic market then they should report this to AQIS and/or state and territory enforcement agencies that can then take the action they consider appropriate. FSANZ cannot make guarantees about actions that may or may not be occurring in other sovereign countries. (b) FSANZ cannot make guarantees about actions that may or may not be occurring in other sovereign countries. However, information on agricultural practices in the US may be available from USDA, USEPA and USFDA in relation to any use of Bt-10 corn.

(21) (a) Maize crops such as Bt-11 are used predominantly for animal feed. Some GM maize may enter the food supply as corn flour, corn oil and high fructose corn syrup. (b) There is no information indicating that Bt-10 corn or its products has entered Australia.

(22) FSANZ does not undertake testing as this is the responsibility of other agencies, such as AQIS for imported foods and the state and territory and New Zealand enforcement agencies. FSANZ is unaware of any testing that has been undertaken for Bt-10 corn in Australia and considers that it would be unnecessary.

(23) FSANZ has been informed that the problem in relation to Bt-10 corn has been addressed and it is not aware of any Bt-10 corn or its products being imported. FSANZ considers that it is unnecessary to impose a certification scheme on importers as the risk to public health is very low and FSANZ has been advised that the problem has been rectified (making a certification requirement redundant).

(24) FSANZ has contacted Syngenta requesting that events such as occurred with Bt-10 be reported as soon as possible after they occur.

(25) (a) and (b) According to the USFDA website, there are over sixty GM food approvals in USA. Information on these can be obtained from the USFDA web site. FSANZ cannot comment on the number of field trials for GM crops or the potential for GM foods to enter the world food chain. Information on GM crop trials in the USA is not available to FSANZ, but may be available from USDA, USEPA or USFDA.
(26) This information is not available to FSANZ.

(27) FSANZ cannot comment on the processes in place in the US with respect to segregation or coexistence systems to separate GE and non-GE crops and foods, nor testing requirements to prevent contamination, but such information may be available from the USDA, USEPA or USFDA. Under the Imported Food Program, imported foods are subject to a random (5%) labelling and visual inspection. However, there are no prescribed analytical tests or inspection specific to GM ingredients or foods because of the low risk to public health and safety associated with these ingredients and foods. This does not prevent state and territory enforcement agencies from instituting their own testing or inspection to determine compliance with domestic food legislation. FSANZ has ensured that the authorities in the states and territories are aware of this issue and FSANZ’s position.

Canberra Airport
(Question No. 1129)

Senator O’Brien asked the Minister representing the Minister for Local Government, Territories and Roads, upon notice, on 30 August 2005:

With reference to an article in The Canberra Times of 3 August 2005 headlined, ‘Discount shopping at airport’:

(1) (a) What representations have been made to the Minister regarding the development of 9,000 square metres of retail space at Canberra Airport; (b) on what date were they made; and (c) in what form and by whom.

(2) (a) What representations has the Minister made on behalf of the proponents of the development; (b) on what date were they made; and (c) in what form and to whom.

(3) (a) Can the Minister confirm that preliminary approval has been provided by the National Capital Authority to the proponent for this project; (b) when was this approval sought, in what form and by whom; (c) when was this approval given, in what form and by whom; (d) when did the Minister become aware approval had been granted; and (e) can a copy be provided of the approval; if not, why not.

Senator Ian Campbell—The Minister for Local Government, Territories and Roads has provided the following answer to the honourable senator’s question:

(1) (a) (b) and (c) No representations have been made to the Minister regarding the proposed development of 14,900 square metres of retail space at Canberra International Airport.

(2) (a) (b) & (c) The Minister has made no representations on behalf of the proponents of the development.

(3) (a) Yes, Works Approval has been provided by the National Capital Authority. (b) This Approval was sought on 24 March and 1 April 2005 through written applications by Canberra International Airport. (c) Written Approval was granted on 6 July 2005. (d) My office was notified of the Works Approval on 20 July 2005. (e) Copies of the National Capital Authority Works Approval are available.

Imports: Rabbits
(Question No. 1162)

Senator Bob Brown asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 7 September 2005:

(1) (a) Has the department received any complaints from Dr Warwick Grave regarding the performance of the Australian Quarantine Inspection Service when Angora City (Rabbits) Pty Ltd imported angora rabbits into Australia; and (b) is there any on-going investigation of these complaints.
(2) Have there been any changes to the procedures of AQIS in response to the problems that were raised by Dr Grave.

(3) Given that Dr Grave has written to the Leader of The Nationals (Mr Vaile), requesting that there be a royal commission into the performance of AQIS, will such a commission be established.

(4) (a) Does AQIS screen rabbits for epizootic rabbit enterocolitis (ERE); and (b) is ERE screened for by quarantine authorities in other countries.

Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) (a) Yes, the Department has received complaints from Dr Warwick Grave regarding the performance of the Australian Quarantine and Inspection Service (AQIS) when Angora City (Rabbits) Pty Ltd imported angora rabbits into Australia. (b) There are no ongoing investigations into Dr Grave’s complaints. In 2003 the Executive Director of AQIS examined Dr Grave’s claims regarding the performance of AQIS when Angora City (Rabbits) Pty Ltd imported angora rabbits into Australia and concluded that the importation had been properly managed by AQIS in accordance with the legal requirements and applicable policies at the time. Additionally, AQIS commissioned an independent review into the import of a consignment of rabbits from the USA in 1998 based on concerns raised by Dr Grave. This review was finalised in November 2003 and concluded that the importation was not illegal.

(2) No, AQIS has not made changes to procedures in response to alleged issues that were raised by Dr Grave.

(3) The Government rejects any call for a royal commission into the performance of AQIS as being completely without foundation.

(4) (a) There is no serological screening test available for epizootic rabbit enterocolitis (ERE). The disease risk is managed through pre export and post arrival controls. Specific pathogen free sentinel rabbits (specially raised disease free rabbits) are caged alongside the export rabbits and used to monitor health during on-farm preparation and pre-export quarantine. (b) AQIS is not aware of quarantine authorities in other countries screening for ERE. Import conditions and requirements vary between countries and are subject to change from time to time.

Foreign Ships
(Question No. 1167)

Senator O’Brien asked the Minister for Justice and Customs, upon notice, on 9 September 2005:

With reference to the need for foreign ships to notify Australian authorities of crew identities before arrival:

(1) (a) How many foreign ships have arrived in Australia per year since 2000; and (b) how many of these ships, for each year since 2000, have traded on the Australian coast under a single or continuing voyage permit after they have completed the international leg of their voyage.

(2) (a) Which Government agencies must be notified of crew lists for foreign ships before these ships arrive in Australia; (b) what level of information must be provided (e.g. name only, passport details, information that would constitute 100 points of identification); (c) does the Government have any ability to check that the names and documentation provided in relation to crew member identities is legitimate; (d) what other information must be provided at the same time (e.g. cargo manifests; and (e) how far in advance of arrival must this information be provided.
(3) (a) Can a breakdown be provided, for each year since 2000, of the number of foreign ships that have met the pre-reporting requirements for foreign crews; and (b) what sanctions apply if a foreign ship does not meet the pre-reporting requirements for its crew.

Senator Ellison—The answer to the honourable senator’s question is as follows:

(1) (a) The following table depicts the number of ‘first port arrival’ commercial foreign vessels that arrived in Australia during calendar years 2000 to 9 September 2005:

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>Movements</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>10,251</td>
</tr>
<tr>
<td>2001</td>
<td>9,959</td>
</tr>
<tr>
<td>2002</td>
<td>10,209</td>
</tr>
<tr>
<td>2003</td>
<td>10,442</td>
</tr>
<tr>
<td>2004</td>
<td>10,992</td>
</tr>
<tr>
<td>2005</td>
<td>7,911</td>
</tr>
</tbody>
</table>

(b) The Department of Transport and Regional Services has responsibility for the issue of Single Voyage Permits and Continuing Voyage Permits and will provide a response to this question.

(2) (a) Crew pre-arrival information in relation to all vessels other than international passenger cruise ships must be provided to the Australian Customs Service (Customs). International passenger cruise ships must report to the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA). Details in relation to these vessels will be provided by DIMIA.

(b) Crew details required to be provided prior to the vessel’s arrival in Australia are: family name, given name, date of birth, sex, passport number and country of issue, country of birth, identity document number and country of issue and crew rating.

(c) Every crew list is entered into a Customs system that checks against whole of government alert lists of known persons of concern. Customs risk assesses each vessel in advance of arrival in Australia to determine the extent of any intervention considered necessary on its arrival. One of the factors that would contribute towards a decision to board a particular vessel would be whether any crewmember is travelling on a document that has not been physically verified by Customs on a previous voyage.

During the financial year ending 30 June 2005, Customs boarded 76 per cent of all first port arriving commercial vessels. All crew on vessels deemed to be high risk are subjected to a face-to-passport check in order to verify their identity. All crew members on other vessels boarded who have not had a particular travel document physically verified are ‘face-to-document’ checked.

(d) A cargo report must be lodged with Customs. Other information collected at the same time is that required under the Maritime Transport and Offshore Facilities Security Act 2003. The Department of Transport and Regional Services will provide details of these requirements. Additional safety and levy information is collected by Customs for the Australian Maritime Safety Authority.

(e) Currently, ships intending to arrive in an Australian port must lodge the Crew List and the Impending Arrival Report no later than 48 hours in advance of arrival. If the voyage is less than 48 hours, the report must be lodged no later than 24 hours in advance of arrival. With effect from 12 October 2005, vessels will be required to report their impending arrival no later than 96 hours in advance of arrival. There are cascading provisions to account for voyages that may be shorter than the prescribed 96 hours.

(3) (a) Statistics have not been recorded against this criterion until 2004-05. In the financial year ending 30 June 2005, less than one per cent of first port arriving commercial vessels failed to re-
Port within 48 hours. Of the remaining vessels some would have been entitled to the alternate 24 hour reporting time frame.

(b) Penalty provisions for failure to comply with mandatory reporting requirements are contained in sections 64 and 64ACD of the Customs Act 1901 as follows:

Section 64:

(12) An operator of a ship or aircraft who intentionally contravenes this section commits an offence punishable, on conviction, by a penalty not exceeding 120 penalty units.

(13) An operator of a ship or aircraft who contravenes this section commits an offence punishable, on conviction, by a penalty not exceeding 60 penalty units.

(14) An offence against subsection (13) is an offence of strict liability.

Section 64ACD:

(1) An operator of a ship or aircraft who intentionally contravenes section 64ACA or 64ACB commits an offence punishable, on conviction, by a penalty not exceeding 120 penalty units.

(2) An operator of a ship or aircraft who contravenes section 64ACA or 64ACB commits an offence punishable, on conviction, by a penalty not exceeding 60 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.