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Her Excellency Ms Quentin Bryce, Companion of the Order of Australia

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Deputy President and Chair of Committees—Senator Hon. Alan Baird Ferguson

Leader of the Government in the Senate—Senator Hon. Christopher Vaughan Evans
Deputy Leader of the Government in the Senate—Senator Hon. Stephen Michael Conroy
Leader of the Opposition in the Senate—Senator Hon. Nicholas Hugh Minchin
Deputy Leader of the Opposition in the Senate—Senator Hon. Eric Abetz
Manager of Government Business in the Senate—Senator Hon. Joseph William Ludwig
Manager of Opposition Business in the Senate—Senator Stephen Shane Parry

Senate Party Leaders and Whips

Leader of the Australian Labor Party—Senator Hon. Christopher Vaughan Evans
Deputy Leader of the Australian Labor Party—Senator Hon. Stephen Michael Conroy
Leader of the Liberal Party of Australia—Senator Hon. Nicholas Hugh Minchin
Deputy Leader of the Liberal Party of Australia—Senator Hon. Eric Abetz
Leader of the Nationals—Senator Barnaby Thomas Gerard Joyce
Deputy Leader of the Nationals—Senator Fiona Nash
Leader of the Australian Greens—Senator Robert James Brown
Deputy Leader of the Australian Greens—Senator Christine Anne Milne
Leader of the Family First Party—Senator Steve Fielding
Chief Government Whip—Senator Kerry Williams Kelso O’Brien
Deputy Government Whips—Senators Donald Edward Farrell and Anne McEwen
Chief Opposition Whip—Senator Stephen Shane Parry
Deputy Opposition Whips—Senators Judith Anne Adams and David Christopher Bushby
The Nationals Whip—Senator John Reginald Williams
Australian Greens Whip—Senator Rachel Mary Siewert
Family First Party Whip—Senator Steve Fielding

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(1) Chosen by the Parliament of South Australia to fill a casual vacancy vice Amanda Eloise Vanstone, resigned.
(2) Chosen by the Parliament of Western Australia to fill a casual vacancy vice Ian Campbell, resigned.
(3) Chosen by the Parliament of Western Australia to fill a casual vacancy vice Christopher Martin Ellison, resigned.
(4) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.

PARTY ABBREVIATIONS
AG—Australian Greens; ALP—Australian Labor Party; CLP—Country Liberal 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—A Thompson
RUDD MINISTRY

Prime Minister
Deputy Prime Minister, Minister for Education, Minister for Employment and Workplace Relations and Minister for Social Inclusion
Treasurer
Minister for Immigration and Citizenship and Leader of the Government in the Senate
Minister for Defence and Vice President of the Executive Council
Minister for Trade
Minister for Foreign Affairs and Deputy Leader of the House
Minister for Health and Ageing
Minister for Families, Housing, Community Services and Indigenous Affairs
Minister for Finance and Deregulation
Minister for Infrastructure, Transport, Regional Development and Local Government and Leader of the House
Minister for Broadband, Communications and the Digital Economy and Deputy Leader of the Government in the Senate
Minister for Innovation, Industry, Science and Research
Minister for Climate Change and Water
Minister for the Environment, Heritage and the Arts Attorney-General
Cabinet Secretary, Special Minister of State and Manager of Government Business in the Senate
Minister for Agriculture, Fisheries and Forestry
Minister for Resources and Energy and Minister for Tourism
Minister for Financial Services, Superannuation and Corporate Law and Minister for Human Services

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<td>Parliamentary Secretary for Defence Support and Parliamentary Secretary for Water</td>
<td>Hon. Dr Mike Kelly AM, MP</td>
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<td>Parliamentary Secretary for Western and Northern Australia Services and Parliamentary Secretary for Victorian Bushfire Reconstruction</td>
<td>Hon. Gary Gray AO, MP</td>
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<td>Parliamentary Secretary for Disabilities and Children’s Services and Parliamentary Secretary for Victorian Bushfire Reconstruction</td>
<td>Hon. Bill Shorten MP</td>
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<td>Parliamentary Secretary for International Development Assistance</td>
<td>Hon. Bob McMullan MP</td>
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<td>Parliamentary Secretary for Pacific Island Affairs</td>
<td>Hon. Duncan Kerr SC, MP</td>
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<td>Parliamentary Secretary to the Prime Minister and Parliamentary Secretary for Trade</td>
<td>Hon. Anthony Byrne MP</td>
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<td>Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion</td>
<td>Senator Hon. Ursula Stephens</td>
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<td>Parliamentary Secretary for Multicultural Affairs and Settlement Services</td>
<td>Hon. Laurie Ferguson MP</td>
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<td>Parliamentary Secretary for Employment</td>
<td>Hon. Jason Clare MP</td>
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<td>Parliamentary Secretary for Health</td>
<td>Hon. Mark Butler MP</td>
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<td>Parliamentary Secretary for Industry and Innovation</td>
<td>Hon. Richard Marles MP</td>
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SHADOW MINISTRY

Leader of the Opposition
The Hon. Malcolm Turnbull MP

Shadow Minister for Foreign Affairs and Deputy Leader of the Opposition
The Hon. Julie Bishop MP

Shadow Minister for Trade, Transport, Regional Development and Local Government and Leader of The Nationals
The Hon. Warren Truss MP

Shadow Minister for Broadband, Communications and the Digital Economy and Leader of the Opposition in the Senate
Senator the Hon. Nick Minchin

Shadow Minister for Innovation, Industry, Science and Research and Deputy Leader of the Opposition in the Senate
Senator the Hon. Eric Abetz

Shadow Treasurer
The Hon. Joe Hockey MP

Shadow Minister for Education, Apprenticeships and Training and Manager of Opposition Business in the House
The Hon. Christopher Pyne MP

Shadow Minister for Infrastructure and COAG and Shadow Minister Assisting the Leader on Emissions Trading Design
The Hon. Andrew Robb AO, MP

Shadow Minister for Finance, Competition Policy and Deregulation
Senator the Hon. Helen Coonan

Shadow Minister for Human Services and Deputy Leader of The Nationals
Senator the Hon. Nigel Scullion

Shadow Minister for Energy and Resources
The Hon. Ian Macfarlane MP

Shadow Minister for Families, Housing, Community Services and Indigenous Affairs
The Hon. Tony Abbott MP

Shadow Special Minister of State and Shadow Cabinet Secretary
Senator the Hon. Michael Ronaldson

Shadow Minister for Climate Change, Environment and Water
The Hon. Greg Hunt MP

Shadow Minister for Health and Ageing
The Hon. Peter Dutton MP

Shadow Minister for Defence
Senator the Hon. David Johnston

Shadow Attorney-General
Senator the Hon. George Brandis SC

Shadow Minister for Agriculture, Fisheries and Forestry
The Hon. John Cobb MP

Shadow Minister for Employment and Workplace Relations
Mr Michael Keenan MP

Shadow Minister for Immigration and Citizenship
The Hon. Dr Sharman Stone

Shadow Minister for Small Business, Independent Contractors, Tourism and the Arts
Mr Steven Ciobo

[The above constitute the shadow cabinet]
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<th>Position</th>
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<tr>
<td>Shadow Minister for Financial Services, Superannuation and Corporate Law</td>
<td>The Hon. Chris Pearce MP</td>
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<td>Shadow Assistant Treasurer</td>
<td>The Hon. Tony Smith MP</td>
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<td>Shadow Minister for Sustainable Development and Cities</td>
<td>The Hon. Bruce Billson MP</td>
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<td>Shadow Minister for Competition Policy and Consumer Affairs and Deputy Manager of Opposition Business in the House</td>
<td>Mr Luke Hartsuyker MP</td>
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<td>Shadow Minister for Housing and Local Government</td>
<td>Mr Scott Morrison</td>
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<td>Shadow Minister for Ageing</td>
<td>Mrs Margaret May MP</td>
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<td>Shadow Minister for Defence Science and Personnel and Assisting Shadow Minister for Defence</td>
<td>The Hon. Bob Baldwin MP</td>
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<td>Shadow Minister for Veterans’ Affairs</td>
<td>Mrs Louise Markus MP</td>
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<td>Shadow Minister for Early Childhood Education, Childcare, Status of Women and Youth</td>
<td>Mrs Sophie Mirabella MP</td>
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<td>Shadow Minister for Justice and Customs</td>
<td>The Hon. Sussan Ley MP</td>
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<td>Shadow Minister for Employment Participation, Training and Sport</td>
<td>Dr Andrew Southcott MP</td>
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<td>Shadow Parliamentary Secretary for Northern Australia</td>
<td>Senator the Hon. Ian Macdonald</td>
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<td>Shadow Parliamentary Secretary for Roads and Transport</td>
<td>Mr Don Randall MP</td>
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<td>Shadow Parliamentary Secretary for Regional Development</td>
<td>Mr John Forrest MP</td>
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<td>Shadow Parliamentary Secretary for International Development Assistance and Shadow Parliamentary Secretary for Indigenous Affairs</td>
<td>Senator Marise Payne</td>
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<td>Mr Barry Haase MP</td>
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<td>Shadow Parliamentary Secretary for Disabilities, Carers and the Voluntary Sector</td>
<td>Senator Mitch Fifield</td>
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<td>Shadow Parliamentary Secretary for Water Resources and Conservation</td>
<td>Mr Mark Coulton MP</td>
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<td>Shadow Parliamentary Secretary for Health Administration</td>
<td>Senator Mathias Cormann</td>
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<td>Shadow Parliamentary Secretary for Defence</td>
<td>The Hon. Peter Lindsay MP</td>
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<td>Shadow Parliamentary Secretary for Education</td>
<td>Senator the Hon. Brett Mason</td>
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<td>Shadow Parliamentary Secretary for Justice and Public Security</td>
<td>Mr Jason Wood MP</td>
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<td>Shadow Parliamentary Secretary for Agriculture, Fisheries and Forestry</td>
<td>Senator the Hon. Richard Colbeck</td>
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<td>Shadow Parliamentary Secretary for Immigration and Citizenship and Shadow Parliamentary Secretary Assisting the Leader in the Senate</td>
<td>Senator Concetta Fierravanti-Wells</td>
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Wednesday, 7 December 2005

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

CENSUS INFORMATION LEGISLATION AMENDMENT BILL 2005

First Reading

Bill received from the House of Representatives.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.31 am)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.31 am)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

This bill builds on the experience from the 2001 Census of Population and Housing where over 50 per cent of Australians elected to have their name-identified census information retained by the National Archives of Australia. Given the support shown by the community for this option to continue into the future, this bill will ensure that such information, from households which provide explicit consent on their census form, will be kept by the National Archives of Australia.

This bill applies not only to the next Census, due to be held on 8 August 2006, but to all future censuses, providing future generations with the option to have their name-identified information retained. After each census, the information will be held for a closed period of 99 years and will then be made available for genealogical and other research. This will be a valuable activity for future generations, in that it will provide a more comprehensive picture of the people we were and the society we were in at the time of each Census.

All name-identified information from censuses before 2001 has been destroyed, as has the information for people who did not provide their consent in 2001. The retention of such information in future censuses was recommended by the Standing Committee on Legal and Constitutional Affairs in its report, "Saving Our Census and Preserving Our History". The Australian Government accepted the Committee’s view that saving name-identified census information ‘for future research, with appropriate safeguards, will make a valuable contribution to preserving Australia’s history for future generations’.

Australia has a justifiably strong reputation for the quality of its census information, which provides the statistical foundation for decision making by the public and private sectors. This reputation has been achieved through the excellent work of the Australian Bureau of Statistics and the trust that Australians have, that the information they provide will be protected. The Australian Government believes that nothing should be done that would put at risk the public’s cooperation in compiling the Census, or the quality of census information. For this reason, and in keeping with privacy principles, the bill requires the consent of households in order for the name-identified information to be retained. Households that do not consent to the retention of their information can be assured that their census information will be destroyed as soon as statistical processing is completed.

Mr Speaker, this bill ensures that in the closed access period, the retained name-identified information is completely protected whilst held by the ABS during the processing period and thereafter by the National Archives of Australia. The information will not be available for any purpose within the 99-year closed access period, including use by a court or tribunal. The bill amends the Census and Statistics Act 1905 to make it explicit that this protection includes protection from disclosure under compulsion to any Commonwealth
agency. The public can accordingly be confident this picture of Australia will, in a very real sense, be preserved in a time capsule, available after 99 years has expired, as a legacy for our descendants into the future.

The bill also contains a number of consequential amendments arising from the Legislative Instruments Act 2003 and also harmonises the criminal offence provisions in the Census and Statistics Act 1905 with those in the Criminal Code Act 1995.

I commend the bill.

Debate (on motion by Senator Ellison) adjourned.

TAX LAWS AMENDMENT (IMPROVEMENTS TO SELF ASSESSMENT) BILL (No. 2) 2005

First Reading

Bill received from the House of Representatives.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.32 am)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.32 am)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

This bill represents the major milestone in the implementation of the Government’s Review of Aspects of Income Tax Self Assessment. On 16 December 2004, the Treasurer announced the Government’s response to the Report on Aspects of Income Tax Self Assessment and released the report to the public. The Treasurer announced that the Government would adopt all 30 legislative recommendations made in the report.

Accordingly, the Tax Laws Amendment (Improvements to Self Assessment) Act (No. 1) 2005 amended existing law to implement the recommendations about penalties and shortfall interest charge.

This bill continues the process of reform of self assessment by implementing the remaining legislative recommendations about Tax Office advice and periods for reviewing assessments. The measures contained in the bill will move the balance of fairness markedly in favour of taxpayers in two important ways.

First, this bill will improve certainty through providing a better framework for the provision of Tax Office advice and introducing ways to make that advice more timely accessible and binding in a wide range of cases.

Secondly, it ensures that the time during which taxpayers experience uncertainty about whether they have correctly self assessed their income tax liability more accurately reflects their risk profile and the revenue consequence of an error in their assessment.

In particular, the bill amends existing provisions to:

• improve the arrangements for a taxpayer to find out the Commissioner’s view about how the taxation laws apply, so that the risks of uncertainty when they are self assessing are reduced, and

• improve certainty by reducing the periods allowed for the Tax Office to increase a taxpayer’s liability in a wide range of situations. The result will be that about 8 million individuals and over 745000 very small businesses will have a shorter period of review.

The measures contained in this bill will significantly improve taxpayers’ experience of the self assessment aspects of the tax system. These measures represent another major step in this Government’s ongoing commitment to improving the Australian taxation system.

These amendments apply to rulings and ATO advice from 1 January 2006 or Royal Assent, whichever is the later. The amendments to the
amended assessment rules apply to the 2004-05 and later income years.

Full details of the measures in these bills are contained in the explanatory memorandum.

I commend this bill to the Senate.

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

DEFENCE LEGISLATION AMENDMENT BILL (No. 2) 2005

Returned from the House of Representatives

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

HIGHER EDUCATION LEGISLATION AMENDMENT (2005 BUDGET MEASURES) BILL 2005

Consideration of House of Representatives Message

Message received from the House of Representatives returning the Higher Education Legislation Amendment (2005 Budget Measures) Bill 2005, informing the Senate that the House has disagreed to amendments Nos 1 and 2 made by the Senate but has made amendments in place of the amendments, agreed to amendment No. 3 made by the Senate and has made a further amendment, and requesting the reconsideration of the bill in respect of the amendments disagreed to and the concurrence of the Senate in the amendments made by the House.

Ordered that consideration of message No. 258 in Committee of the Whole be made an order of the day for the next day of sitting.

FISHERIES LEGISLATION AMENDMENT (COOPERATIVE FISHERIES ARRANGEMENTS AND OTHER MATTERS) BILL 2005

JURISDICTION OF COURTS (FAMILY LAW) BILL 2005

JURISDICTION OF THE FEDERAL MAGISTRATES COURT LEGISLATION AMENDMENT BILL 2005

First Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.33 am)—I, and also at the request of the Minister for Fisheries, Forestry and Conservation, Senator Ian Macdonald, move:

That the following bills be introduced: a bill for an act to amend the Fisheries Management Act 1991, and for related purposes; a bill for an act to amend the Family Law Act 1975, and for related purposes; and a bill for an act to amend the law relating to the jurisdiction of the Federal Magistrates Court, and for related purposes.

Question agreed to.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.34 am)—I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.34 am)—I table the explanatory memoranda relating to the bills and 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—

FISHERIES LEGISLATION AMENDMENT (COOPERATIVE FISHERIES ARRANGEMENTS AND OTHER MATTERS) BILL 2005

The Fisheries Legislation Amendment (Cooperative Fisheries Arrangements and Other Matters) Bill 2005 (the bill) reflects the Australian Government’s ongoing commitment to the long-term sustainable use and development of Australia’s fisheries resources.

The amendments to the Fisheries Management Act 1991 (FMA) and the Fisheries Administration Act 1991 (FAA) (the Fisheries Acts) seek to ensure that fisheries resources and the marine environment are managed in an efficient and ecologically sustainable manner. The bill will provide more certainty for key stakeholders regarding the Commonwealth’s fisheries management objectives. It will also allow cooperative fisheries management arrangements between Australian jurisdictions to operate with more flexibility and efficiency.

This bill contains amendments to the FMA and the FAA to clarify the meaning of two important objectives underpinning Commonwealth fisheries decision-making.

Firstly, the Australian Government intends to amend the Fisheries Acts to clarify the meaning of the existing ‘economic efficiency’ objective. The wording of the existing economic efficiency objective will be changed from “maximising economic efficiency in the exploitation of fisheries resources” to “maximising the net economic returns to the Australian community from the management of Australian fisheries”.

The new wording restates the existing objective in more simple terms that are easier for people to understand.

The underlying meaning of the economic efficiency objective will not change. That is, AFMA will still be obliged to manage the effort and catch of a fishery to maximise the difference, at a fishery level, between total revenue and total costs, taking into account the impact of current catches on future stock levels.

Beyond clarifying this issue, the Government does not expect the amendments to the fisheries management objectives to have any impact on how the Commonwealth fisheries are managed.

It is important to note that the change to the wording of the objective should not be interpreted as a change to the Australian Government’s policy position on resource rent taxes. The Government’s position on this issue has not changed.

In addition to clarifying the meaning of the economic efficiency objective, the bill amends the Fisheries Acts to insert principles of ecologically sustainable development (ESD), consistent with those in the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).

This fulfils a commitment made in Outcome 3 of the 2003 Commonwealth Fisheries Policy Review. The Review recognised that, while the Fisheries Acts require AFMA to ensure the Commonwealth fisheries are managed in a way that is consistent with the principles of ESD, the legislation currently provides no guidance on how this objective should be interpreted.

Including the principles of ESD in the Fisheries Acts provides AFMA with additional guidance on how its decision must attempt to balance the ‘triple bottom line’ of economic, environmental and social outcomes. Having the principles consistent with those in the EPBC Act will provide a consistent framework for decisions across the Government that affect the marine environment. It will also provide AFMA with guidance on how its decisions relating to the management of Commonwealth fisheries must attempt to balance the “triple bottom line” of economic, environmental and social outcomes for fisheries.

Fisheries are Australia’s fifth largest food producing industry—worth more than $2.2 billion to our economy every year and are critical to the well-being of a number of Australia’s coastal communities. It is important that our fisheries are well managed to ensure they remain productive and sustainable. This is best accomplished when a fishery is managed consistently throughout its constituent species range. If we can achieve this goal, Mr Speaker, then our fisheries, and accordingly the commercial fishing industry, will be given a solid base on which to grow and prosper.
To achieve this goal, the bill also contains administrative amendments to improve the operation and efficiency of the Offshore Constitutional Settlement (OCS) fisheries arrangements and facilitate cooperative fisheries management between State, Northern Territory (NT) and Australian Governments.

The Offshore Constitutional Settlement itself is the jurisdictional arrangement between the Commonwealth and States/Northern Territory (NT) which sets out responsibilities for all of the following: offshore fisheries, mining, shipping and navigation and crimes at sea. The OCS provides for State/NT laws to apply inside three nautical miles and for Commonwealth laws to apply from three to 200 nautical miles.

The FMA and reciprocal State/NT legislation provide the legal and administrative basis for the Commonwealth and States/NT to make an arrangement for a fishery that overrides the existing jurisdictional lines set out by the OCS. The intention of these OCS fisheries arrangements is to provide for the holistic management of fisheries—recognising that fisheries do not align with boundaries drawn on maps. Already, more than 50 active fisheries arrangements have been agreed between the Commonwealth, the States and the NT. The FMA refers to these as “arrangements” but the term “OCS” is used colloquially.

The 2003 Commonwealth Fisheries Policy Review identified inadequacies with the current OCS fisheries arrangements. The Review highlighted that there is a general lack of consistency and effective cooperation on the management of some fish stocks straddling Commonwealth, State and the NT jurisdictions.

The amendments to the FMA and FAA address the concerns raised in the Review and will allow the Commonwealth, States and NT to align their jurisdictions with natural fisheries boundaries—ensuring that the holistic and rational management of fisheries is possible. The bill contains amendments that enable the Government to adapt the OCS fisheries arrangements to reflect improved understanding of fish stocks and their dynamics, contemporary management issues and provide flexibility for cooperative agreements between the State/NT and Australian Governments.

Specifically, the bill seeks to address the concerns raised in the Review by allowing Governments to amend OCS fisheries arrangements. The bill will provide a broad, express power in the FMA for the government to amend existing and future OCS fisheries arrangements. This addresses the primary deficiency in the current legislation, Mr Speaker. At present, if we wish to correct any errors, clarify ambiguities or vary jurisdiction in an OCS fisheries arrangement, the original instrument must be terminated and an entirely new agreement created. This process impacts management plans, permits and other instruments which are established under an OCS fisheries arrangement. It is also inefficient, being time and resource intensive.

The ability to change OCS fisheries arrangements is critical if we are to ensure that fisheries arrangements are able to be kept current, accurate and accord with developments in fisheries management.

This bill also provides a broad, express power in the FMA to change existing and future OCS fisheries arrangements. The bill amends the FMA to give the powers to create and terminate OCS fisheries arrangements, which currently rest with the Governor-General and State/Northern Territory Governors, to Commonwealth and State/Northern Territory Ministers. Approval through the Governor-General and State/Northern Territory Governors is considered to be a formality and creates an additional administrative step.

Aside from the administrative amendments to OCS fisheries arrangements, the bill introduces a new and innovative option for the management of fisheries resources by all the Commonwealth and State/NT Governments. At present, the FMA limits the legal jurisdiction of cooperative fisheries arrangements which involve the Commonwealth and more than one State to being managed under Commonwealth law. In practice, this model is restrictive as there will be multi-jurisdictional arrangements where it is most appropriate, and desired by all parties, to apply State laws.

The bill addresses this limitation by allowing regional fisheries arrangements. Regional fisheries arrangements will be similar to existing Joint Authority arrangements in that they will allow the Commonwealth and one or more States to enter
into a single OCS arrangement for a fishery. However, regional management can be distinguished from Joint Authority management in two important ways. Firstly, State laws could be applied under an arrangement involving the Commonwealth and more than one State. Secondly, regional management would allow more than one law to be applied in a fishery under a single OCS. This will work in practice by defining the areas to which each law would apply, with these areas most likely flanking each other but not overlapping. This option provides for greater flexibility for cooperative fisheries management arrangements and the ability to rationalise existing OCS fisheries arrangements.

Australia’s fishing industry will benefit from the amendments to OCS fisheries arrangements as they will provide for better and more flexible management of Australia’s important fisheries resources.

In summary, the bill strengthens the Government’s ability to ensure that Australia’s fisheries and marine resources are managed in an ecologically sustainable and efficient manner. The bill will also instil more flexibility and efficiency into the cooperative fisheries management arrangements between the Commonwealth, State and NT governments by improving the operation of the OCS fisheries arrangements.

JURISDICTION OF COURTS (FAMILY LAW)
BILL 2005

This bill will increase the jurisdiction of the Magistrates Court of Western Australia so that it can deal with the same matters in relation to family law and child support, and have the same appeal structure, as the Federal Magistrates Court. This bill provides for more efficient arrangements for the Western Australian community in relation to family law and child support disputes. The bill will allow the Magistrates Court of Western Australia constituted by a Family Law Magistrate of Western Australia to deal with a broader range of family law and child support matters. This means that Western Australians will now have a quicker, cheaper and simpler option in relation to litigation in family law and child support matters, similar to that provided by the Federal Magistrates Court for litigants in such matters in the rest of Australia.

The reforms will also free up valuable resources in the Family Court of Western Australia, allowing that court to hear more complex matters, in the same way as the Federal Magistrates Court, in its equivalent jurisdiction, allows the Family Court of Australia to concentrate on more complex and longer family law and child support matters.

These amendments originate from a review completed in early 2003 of the workload and resources of the Family Court of Western Australia, carried out by the Commonwealth Attorney-General’s Department, in consultation with the Western Australian Department of Justice and the Family Court of Western Australia.

The Review found that the limited jurisdiction of the Perth magistrates in relation to family law and child support matters meant that the Family Court of Western Australia judges were hearing matters that would be more suitable for magistrate determination. This is an inefficient use of valuable judicial resources.

In the rest of Australia, many of these matters would be dealt with by the Federal Magistrates Court. However, the Federal Magistrates Court does not exercise family law and child support jurisdiction in Western Australia.

Western Australia is in a unique position in relation to its family courts, as it is the only state to have a state Family Court, the Family Court of Western Australia, which exercises the jurisdiction that outside Western Australia is exercised by the Family Court of Australia. In Perth, the only court of summary jurisdiction that exercises family law and child support jurisdiction is the Magistrates Court of Western Australia constituted by a Family Law Magistrate of Western Australia.

In order to ensure the more efficient handling of family law matters in Western Australia and optimise the use of judicial resources, the Review recommended that the Family Law Act 1975, the Child Support (Assessment) Act 1989 and the Child Support (Registration and Collection) Act 1988, be amended to give the Perth Court of Petty Sessions the same jurisdiction and appeal structure as the Federal Magistrates Court. The Perth
Court of Petty Sessions has now been amalgamated into the Magistrates Court of Western Australia.

These amendments complement efforts by the Western Australian Government to reform its lower courts, including the establishment of the Magistrates Court of Western Australia, which commenced on 2 May 2005.

A ‘Family Law Magistrate of Western Australia’ will be defined as a person who holds office concurrently as a magistrate under the Magistrates Court Act 2004 of Western Australia and as the Principal Registrar, or as a Registrar, of the Family Court of Western Australia. This reflects the judicial structure of the courts in Western Australia, where specialist family law magistrates/registrars hold appointments as Magistrates of the Magistrates Court of Western Australia and as Registrars of the Family Court of Western Australia.

In relation to appeals, the Review recommended that appeals should from the Perth Court of Petty Sessions, like appeals from Federal Magistrates in family law matters, go directly to the Appeal Division of the Family Court of Australia. Prior to these amendments, appeals could be brought from the Perth magistrates to the Family Court of Western Australia and from there to the Family Court. This effectively provided an extra layer of appeal in contrast to the situation elsewhere in Australia.

Under Commonwealth family law and child support legislation, appeals from decisions of federal magistrates are heard by the Full Court of the Family Court, unless the Chief Judge exercises a discretion to allow appeals to be heard by a single judge. If heard by a single judge this is an exercise of the appellate jurisdiction of the court and it is not possible to appeal from such a decision to the Full Court. Any further appeal will be to the High Court, by leave.

Appeals in these matters from the decisions of Perth Family Law Magistrates will now go straight to the Family Court of Australia, in the same way as appeals from decisions of Federal Magistrates. This acknowledges that Perth magistrates are specialists in family law matters and so there should be a more restricted right of appeal from their decisions.

In the same way as the Federal Magistrates Court is able to ease the workload of the Family Court and the Federal Court, it is anticipated that the extended jurisdiction for the Magistrates Court of Western Australia constituted by a Family Law Magistrate will help to ease the workload of the Family Court of Western Australia, allowing that court to concentrate on more difficult and time-consuming matters.

By matching the jurisdiction with that of the Federal Magistrates Court in these matters, the intention of the bill is to provide Western Australians with enhanced access to the justice system according to their needs and within their means.

The reforms will reinforce the Government’s intention of aligning court resources and jurisdiction as efficiently as possible and place Western Australia in the same position as the rest of Australia in relation to these matters.

I commend this bill.
the Federal Magistrates Court does not otherwise have jurisdiction. This bill implements those recommendations.

There are many matters that come before Commonwealth courts that are less complex and do not need to be dealt with by superior court judges. The Government continues to consider proposals for new jurisdiction that may be appropriate for the Federal Magistrates Court. This bill implements a number of such proposals in addition to those recommended by the Review.

The Review’s recommendation that the Government consider additional trade practices jurisdiction for the Federal Magistrates Court followed the release in August 2001 of a consultation paper issued jointly by the Attorney-General’s Department and the Treasury. The consultation paper included proposals that the Federal Magistrates Court be given additional jurisdiction under the Trade Practices Act.

In March 2004, the Senate Economic References Committee report on The Effectiveness of the Trade Practices Act 1974 in Protecting Small Business also recommended that the jurisdiction of the Federal Magistrate’s Court under the Trade Practices Act be extended. The Committee believed that the Court would provide a more accessible forum for small business to take action against companies that engage in unconscionable conduct and parties in breach of prescribed industry codes. In June 2004, the Government accepted the recommendation that the Federal Magistrates Court’s jurisdiction should be extended to enable it to consider proceedings relating to Parts IVA and IVB of the Trade Practices Act.

The Court currently has some jurisdiction in relation to consumer protection matters under the Trade Practices Act. This bill contains an amendment to extend the Court’s consumer protection jurisdiction to pyramid selling claims and claims involving manufacturers and importers of goods. It also confers new jurisdiction in relation to claims about defective goods, unconscionable conduct and contraventions of prescribed industry codes.

The proposed amendments also increase the monetary limit on awards of damages by the Federal Magistrates Court under the Trade Practices Act from $200,000 to $750,000. This will make available to more litigants a simpler and more accessible forum for instituting proceedings.

The Family Court and the Federal Court may already transfer proceedings to the Federal Magistrates Court. However, a proceeding can only be transferred if the Federal Magistrates Court already has jurisdiction in relation to the matter that is the subject of the proceeding being transferred. The bill allows for the transfer of matters in which the Federal Magistrates Court does not otherwise have jurisdiction. This amendment implements the recommendation of the FMC Review which I referred to earlier. The Federal and Family Courts must continue to have regard to the existing factors they take into account when transferring a proceeding. Those factors include the interests of the administration of justice and the resources of the Federal Magistrates Court. The Government expects few matters to be transferred under this new provision. However, the transfer of appropriate matters will ensure that matters are heard in the most appropriate court.

The amendments to the Admiralty Act would confer jurisdiction on the Federal Magistrates Court in relation to all in personam actions under the Act (these are actions enforceable against the defendant personally), and confer jurisdiction in in rem actions (actions enforceable against a ship, freight or cargo) remitted from the Federal Court or a State Supreme Court. The conferral of this jurisdiction will give litigants a simpler and more accessible forum for redress in admiralty matters. The jurisdiction is also appropriate for the Federal Magistrates Court as State and Territory lower level courts already possess this jurisdiction.

The Child Support (Registration and Collection) Act allows for an aggrieved person to appeal to the Federal Court against the making of a departure prohibition order. This is an order that essentially prevents a person from departing Australia where they have an outstanding child support liability and certain other conditions are satisfied. The bill confers the same jurisdiction on the Federal Magistrates Court as is currently possessed by the Federal Court. As the Child Support (Registration and Collection) Act already confers jurisdiction on the Federal Magistrates Court in other matters, the proposed amendments merely extend that jurisdiction to include the ability to
hear appeals against departure prohibition orders. There are no operational or policy reasons why the Court’s jurisdiction should not be so extended, as these appeals do not generally raise any complex factual or legal issues.

The Federal Magistrates Court was established because of the need for a lower level Commonwealth court which could handle less complex federal matters more efficiently and effectively. As was the case when the Federal Magistrates Court was first established, the Government is keen to ensure that all Australians and all Australian businesses are provided with suitable access to the justice system according to their needs and within their means. This bill contributes to achieving the goal of a more accessible and flexible civil justice system.

I commend this bill.

Ordered that further consideration of the second reading 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.

BUSINESS
Rearrangement

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

That government business notice of motion no. 4, the Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2005, be postponed till a later hour.

Question agreed to.

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

Debate resumed from 12 October, on motion by Senator Abetz:

That this bill be now read a second time.

Senator SHERRY (Tasmania) (9.35 am)—The Senate is dealing with the Tax Laws Amendment (Loss Recoupment Rules and Other Measures) Bill 2005. This bill is what is known as an omnibus tax bill. It seeks to deal with a number of outstanding tax issues, some of them of great complexity. There are a number of important changes in the bill that will improve the taxation regime—in particular in relation to the depreciation of copyright in the film sector.

Schedule 1 relates to loss recoupment rules for companies. Companies, as distinct from individual taxpayers, can generally claim a tax deduction for losses outside the income year in which they are incurred, and they are effectively carried forward. This is particularly important for sectors where there is a significant lead time between the start-up of commercial operations and the earning of the profits that subsequently flow. Venture capital in innovation sectors is an example, as is mining and minerals exploration. In the case of these ventures, the loss recoupment regime is a factor that is considered before entering into the final investment. If there is a question as to whether the losses will be recouped, initial investment may not occur.

In order to obtain these losses a number of tests need to be satisfied. For the purposes of this bill, the tests under review are what are known as the substantial continuity of ownership test—I will refer to it as COT—and the same business test, or SBT. The COT now means that a company holds 50 per cent of the voting power, half the dividends or capital gains. The SBT now requires that the company carries on basically the same business before and after the loss. Only one of these tests needs to be met. Under current arrangements, the COT has become very difficult to calculate due to the difficulty of tracing ownership with many interposed entities in place, such as holding companies, trusts, foreign entities and superannuation funds. The test is continuous, so theoretically it should be monitored all the time. The government is right to identify that the compli-
The Senate Economics Legislation Committee considered this particular issue. It included the Labor Party, and I acknowledge the active support of Senator Murray from the Democrats on this matter. The committee unanimously—I stress the word ‘unanimously’—recommended that the $100 million cap for the same business test be excluded. Later committee amendments, and there are a considerable number of them, all go to this one issue of the removal of the $100 million cap, which has been designed by the Assistant Treasurer, Mr Brough. I did say unanimous because there were two government members of this committee. I always refer to Senator Watson as the esteemed Senator Watson because there is no doubt about his technical knowledge in these types of matters. I would not refer to Senator Brandis that way. He is certainly very knowledgeable but not so much esteemed—ambitious, perhaps. Certainly, two leading government backbenchers, Senator Brandis and Senator Watson, agreed with both the Labor Party and the Democrats’ Senator Murray, another esteemed senator on the occasion of this bill. The unanimous recommendation came from a very well-qualified committee. I have to say I was not at the hearings.

Senator Webber—George Campbell was.

Senator SHERRY—Senator George Campbell was, that is right, representing the Labor Party. There was a unanimous recommendation from the Senate committee to remove this $100 million threshold which is of major importance, particularly to the venture capital and mining industries. I draw that to the attention of the chamber and I hope that that will be reflected in the vote on the Labor amendments that we will get to shortly.
Coming back to Minister Brough who devised this $100 million cap, I hope that the Treasurer has his eye on the ball on this occasion and will overrule Minister Brough on this issue and listen to industry concerns on the bill. If the Treasurer has his eye on the ball on this particular tax measure, it will be very welcome if he overrules Minister Brough. We know that he is somewhat distracted at the moment because of the Gerard affair, but this is an important issue and he should get in there and overrule the Assistant Treasurer, Minister Brough, on this occasion.

Conduit foreign income is currently only non-portfolio, directly owned and operated investments by nonresidents investing in offshore activities through Australian companies avoiding dividend withholding tax, which is normally set at 30 per cent but can be lowered due to double tax treaties or activities in tax-sheltered countries. This bill extends this exemption from dividend withholding to portfolio investments where the nonresident is just a shareholder in the Australian company undertaking the foreign activity. The change removes this non-neutral treatment and will encourage Australian firms as a base for such investment, particularly in offshore banking and offshore petroleum investments. It has been called for by the Board of Taxation. The bill will allow the commissioner to specify an effective life in an independent way following normal treatment of more tangible assets. The bill will extend this exemption from dividend withholding to portfolio investments where the nonresident is just a shareholder in the Australian company undertaking the foreign activity. The change removes this non-neutral treatment and will encourage Australian firms as a base for such investment, particularly in offshore banking and offshore petroleum investments. It has been called for by the Board of Taxation. The bill and will allow the commissioner to specify an effective life in an independent way following normal treatment of more tangible assets. It can be argued that this copyright is a more tangible asset and the effective economic life of these assets is less than 25 years. This means a significant bringing forward of deductible capital expenditure for those projects that do not enjoy immediate deductibility. This measure will clearly assist the sector and has tax policy merit.

Schedule 5 addresses relief for employee share scheme participants in the event of a corporate restructure. A capital gains tax event can occur when there is a corporate restructure. This means that capital losses might need to be realised, with a negative impact on employees in share ownership schemes, or tax might be payable which would otherwise be deferred. This measure supports the regime and encourages employee share ownership.

Schedule 6 allows the offset of a late payment of SG contributions against an employer’s superannuation guarantee charge. Current rules can lead to a double payment. Late payment of an SG contribution incurs a penalty tax, ensuring the actual benefit is passed on to the employee. That is appropri-
ate and is retained under the bill, but it is not clear that this absolves the employer of the original obligation. This measure removes this uncertainty.

Schedule 7 deals with applying superannuation guarantee obligations to the back payment of wages. This measure also clarifies superannuation guarantee issues by ensuring that SG payments must be made for back pay in the event of termination of employment. In my capacity as shadow minister responsible for superannuation, I obviously welcome these particular changes.

I might say that there are still some significant difficulties in the collection of superannuation. Of the complaints that I receive in my office from constituents, not just from Tasmania but referred to me by other members and senators, the payment of SG is an ongoing problem in a small number of employers, but important nonetheless to the individuals who miss out. I think the average liability to employees tops just over $100 million a year, with about 10,000 employees not being paid their money in any one year, so that is significant to those employees.

One other problem is that when employees complain to the tax office and want to find out what is happening with their superannuation guarantee payments, the secrecy provision precludes the tax office from actually informing the complainant of what action has been taken. A scheme of arrangement may have been entered into with the employer to collect the back superannuation. This leads to a great deal of frustration and anger from some complainants because they simply cannot find out what is actually going on. I have raised this issue with the former tax commissioner, Mr Carmody, and he agreed with my suggestion that the removal of the secrecy provision in this area would at least help to inform the complainant who should be receiving their money. The employee could then at least find out what is happening in terms of any sort of scheme of arrangement.

The other defect in this area that I would highlight is that unpaid superannuation where an employer goes into receivership—and bear in mind that this is a statutory obligation—is not covered by the government employee entitlement protection scheme. Other statutory entitlements are. Unpaid superannuation in the event of the bankruptcy of an employer is not covered under the government employee entitlement protection scheme, and this is a concern to Labor. It is a statutory entitlement. Often the outstanding statutory superannuation contributions exceed the other statutory entitlements that are paid by GEERS. So this is another hole. But we are pleased that the two measures here will improve the situation for employees with respect to superannuation.

As I indicated, we have a significant number of amendments in committee, which we are co-sponsoring with Senator Murray, on behalf of the Democrats. They all go to the issue of the $100 million threshold. I put out a challenge publicly—we are on the broadcast—to Senator Brandis and Senator Watson in particular, who were members of the committee. Those two senators unanimously agreed with the Labor senators and, in this case, Senator Murray from the Democrats that the $100 million threshold should be removed. Labor’s amendments in committee will go to that one issue. We are not moving a second reading amendment but we are moving specific amendments to this effect in the committee stage.

In respect of the Senate committee’s examination of this legislation—whilst I was not at the hearings, I have glanced at the report—I think that all of the senators at the hearings did a fine job in drawing out the
particular issues and concerns around the $100 million threshold. It is a matter of significant concern to some sectors of business—for example, the mining industry.

Certainly on this occasion the Labor Party believe that there is strong merit in the submissions of business on this issue. We are just a little perturbed, perplexed and indeed concerned at the antibusiness approach of the Liberal government minister, Minister Brough, the Assistant Treasurer, on this occasion. We are quite puzzled at that, to be honest. We think that the amendments we will come to are reasonable in the circumstances. We do not agree with business on everything, as we do not agree with our friends and colleagues in the trade union movement on everything, but on this occasion the merits of the issue require an amendment to be passed to alleviate the threat that is hanging over some businesses and the concern that they have. Labor are determined to press our amendments and ensure in respect of the merits of this issue a pro-business, investment friendly outcome, which would be to the benefit of not just the individual businesses affected but also investment and the overall strength of the economy.

As I said, I hope that Senator Brandis and Senator Watson make a contribution on this legislation. Certainly Senator Watson’s technical knowledge is well known in this area. We do not always agree, but he is a very knowledgeable senator. I notice that they are not here. In fact, there is no-one on the government benches at the moment.

Senator Webber—They’ve all disappeared.

Senator SHERRY—They have all disappeared. I just hope they are not here for the vote, if that is their attitude. It is another example of the arrogance of this government that there is no-one on the government benches whatsoever. Now there is one. Senator Ferguson is just crossing to the government back benches.

Senator Ferguson—I have been doing some whip’s work.

Senator SHERRY—He is whipping. I do not know what he is whipping when there is no-one on the government side to whip. It is another example of the arrogance and contempt that this Liberal government shows for the Senate. Time and again this week we have had the government coming in—

Senator Ferguson—You must have run out of things to say.

Senator SHERRY—We have to highlight this ongoing arrogance of the government and the contempt they have for the processes of the Australian parliament. They have the numbers in the Senate. When it suits them they are in here to vote. As I said, the government benches were absolutely empty earlier on in my contribution in this debate. I have never seen that before. It is certainly not a reflection on what I have to say. The government benches are empty, but the government do come in here for a guillotine motion. We have seen that a couple of times this week. This is their arrogance. They are determined to push legislation through without due consideration. They are here for the guillotine votes to force through legislation. They will guillotine anything, including an antibusiness measure, which will be a consequence of the bill that we are considering.

Senator Ferguson—You’ve got a free rein!

Senator SHERRY—I will take your interjection, but you should go and talk to Senator Brandis and Senator Watson, who agree with the Labor Party on this particular issue, which we will be debating in the committee stage. I would urge the Senate to support the amendments that go to the removal of the $100 million threshold.
Senator MURRAY (Western Australia) (9.55 am)—I think the shadow minister was right to commence by noting the importance of the unanimous report on this bill and, in doing so, to give credit to the chair. He rightly, in my view, described Senator Watson as esteemed. Members of the chamber know that he is now the father of the Senate, having served so long, so consistently and so well. It is also a reflection, I might suggest, of his sometimes underestimated political skills. He is much more of a wily politician than people give him credit for when they first see him. It also was a worthy remark because Senator Watson does indeed know his oats in this field of law. I would suggest that in superannuation matters he and Senator Sherry between them share pre-eminence.

In passing, the shadow minister was kind enough to refer to me, at least for this moment, as ‘esteemed’. In fact I might have misheard him. He might have meant: ‘He is steamed,’ because steamed I have been over these last few sitting days at the gags and guillotines that have prevented the full exploration of the amendments that were before the Senate with respect to the three bills dealing with Work Choices, terror and Welfare to Work. I know the importance of second reading debate speeches to people, because they enable them to express opinions, and often strong opinions, that they have, but I think it is in the exploration of amendments to bills that the really thorny issues are often fleshed out. I do not think it is to the credit of the government to have exercised the guillotine and the gag on those bills. I for one would have been prepared to sit for longer if it meant that those bills could have been properly examined.

I will turn to the Tax Laws Amendment (Loss Recoupment Rules and Other Measures) Bill 2005. I am fond in these tax matters of referring to the length of bills. This is another 114 pages to add to the tax act, but I should recognise that the Treasurer has announced that a large swag of the tax act which is redundant will now be repealed. I look forward to that day because, whilst it is just housekeeping, we all know a clean house is often a better house. The bill is a conglomeration of amendments, contained in seven schedules, addressing a number of disparate omnibus topics ranging from changes to the loss recoupment rules for companies through to the depreciation treatment of copyright in film production.

Attention to this bill, at least for our part, has focused on the first two schedules covering the loss recoupment rules and conduit foreign income. Schedule 1 of this bill can only be described as a pragmatic, if a little uninspired, attempt by the government to make palatable to the business community its current policy quandary on loss recoupment rules for companies. It is easy to get lost in the technical nature of the rules and regulations that define the loss recoupment legislation, so I will try to contextualise a little the problem and the current and proposed remedies.

From as early as 1944, I understand, loss recoupment rules have been imposed on companies seeking to claim various kinds of tax losses and deductions. The first such rule was the continuity of ownership test, introduced as far back as 1944, I am told, and later supplemented with the same business test in 1965. Both tests have been subsequently amended and both have continued to fail in many respects in addressing the true nature of the problem and have resulted in administrative complexities of their own. The problem that these tests were designed to address was a legitimate one, and that was the potential for illegitimate loss trafficking in corporate mergers and acquisitions.

In essence, loss trafficking refers to one corporation purchasing another corporation...
purely because of attractive taxation benefits resulting from accrued losses. This is considered detrimental from a national productivity and efficiency standpoint and is also divergent from accepted economic and business norms. The purpose of business is to provide a good or service at a profit, and the pursuit of tax losses as an attraction in their own right is obviously a kind of diverted business activity.

With reference to the continuity of ownership test, the Institute of Chartered Accountants in Australia have stated that in its current form it is:

... almost impossible for widely held companies to satisfy the existing COT rules.

COT is the continuity of ownership test and ‘widely held’ is a classification of companies with 50 or more shareholders. They have also said:

... the proposed changes merely restore the operation of the COT to widely held companies in the manner that various governments always intended and the way it operated prior to the 1997 revision of these rules under the Tax Laws Improvement Project ...

Implicit in that, of course, is a criticism of the 1997 Tax Laws Improvements Project, which was supported by my party, amongst others—a sign that even when you are supporting things you still can end up with difficulties as a result. These sentiments that I have quoted are echoed by Ernst and Young, the Minerals Council of Australia and the Corporate Tax Association of Australia. The two latter groups, the Minerals Council of Australia and the Corporate Tax Association of Australia, have stated:

The existing COT rules in practice have been quite unworkable, which has created enormous compliance costs and uncertainty for large listed corporate groups ...

As a result, corporations have almost exclusively relied on the same business test compliance for access to loss recoupment benefits.

The proposed changes to the COT, as its acronym is, will make tracing of ownership a much simpler task and they are in fact welcomed by the corporate sector. However, in simplifying the COT the government has unnecessarily complicated access to the same business test by introducing this upper income threshold of $100 million, which itself is difficult to determine, because if you start to try to trace your way through entities and trusts and the way in which corporate entities are structured it can be a difficult test to satisfy. If it is a difficult test to satisfy it will result in litigation. If it results in litigation you will get uncertainty and unnecessary costs. Thus, in terms of actually ameliorating the level of overall complexity in loss recoupment legislation, the government is merely shuffling the complexity from one test to another.

The Minerals Council of Australia and the Corporate Tax Association of Australia have inferred that the reasoning behind this complexity shuffle is an attempt by the government to ensure that its changes are revenue neutral. That may be so, but I suspect that what I warned would happen at the time of the extensive series of loss consolidation bills has happened. As complex as they were, the Democrats strongly supported those loss consolidation measures because their intention was a positive policy one—to free up companies from the artificial constraints resulting from the need to structure themselves so that their accumulated losses were protected as an asset. That meant that the market was less free in terms of the ability of corporate organisations to restructure, to realise losses and to engage in takeovers, mergers and acquisitions. I did warn that the effect of freeing up the realisation of losses would see considerably greater effects on revenue than the government were forecasting.
I think the problem is that the government have a sense of what is coming but they have not advised the parliament what that sense is. You cannot expect us to operate with respect to a policy proposal if you do not tell us what the dangers are. We would therefore need to examine this in terms of a policy integrity measure, and, as has been said, quite clearly the committee found that the policy measure was an unattractive one. So this cap is an arbitrary and artificial method for addressing a revenue danger, but it is done without quantifying what that danger is. Yet this is challenged by both the organisations I mentioned earlier who state that removing same business test eligibility for large corporations is likely to ‘have a significantly positive impact on revenue over time’.

Loss recoupment provisions play a vital role in supporting and stimulating innovation and development in corporate Australia. They contribute to a market-responsive and fluid mergers, acquisitions and takeovers environment. Imagine a typical junior mining exploration company. Such companies are typically capital intensive, entrepreneurial and risk taking, but they require heavy investment up front and they experience high start-up costs. Those expenses are not met with an accompanying income stream and the effect is heavy losses in the early years of those ventures. Sometimes, of course, the ventures themselves fail.

This cash burn phase cannot be avoided in the quest for new and unproven resource finds, and considering the importance of Australia’s resource sector you would imagine that every effort is made to support this vital task. Knowing that it would be difficult to exit such a project in the future without the ability to market the tax deductibility of losses would contribute to a continued weakness in exploration spending in Australia, and particularly in my state of Western Australia. There is little incentive for financiers to prop up explorers knowing that buyers are usually operators with income in excess of $100 million a year and operators who therefore cannot access legitimate start-up losses in a number of circumstances.

From the Democrats’ perspective, limiting the same business test to companies with incomes of less than $100 million will have the effect of substantially limiting the outcomes this bill could achieve if the same business test were uncapped. Removing the cap will add a cost to the government revenue, but the changes to our tax losses regime need to be carried through and washed through the system so that the distorting overhang of artificially constrained and unrealised losses is finally normalised. That was behind the policy intent of the government with the tax consolidation losses measures.

Does the potential upside of stimulating market activity, innovation and development offset an unknown additional cost? Quantitatively, this cannot be easily assessed, certainly not by me, although I am sure Treasury could have a reasonable crack at it. But what I do know is that innovation and removing structural impediments is the source of new and better means of productive and corporate activity, and that is the spring from which real and lasting economic growth can well forth.

Turning back to the findings of the Senate Economics Legislation Committee inquiry into the provisions of the bill in question, which focused on the proposed $100 million income cap to the same business test, the committee found that there are not reasonable grounds to limit access to the same business test to companies with incomes exceeding $100 million and recommended that the bill be amended to this end. This forms the substance of the amendments that the Democrats and Labor jointly propose for this
I put on record our appreciation for the Labor Party’s sense of policy integrity here. They are as aware as we are that there is the potential for an additional revenue cost, but the policy benefits of the unanimous proposal of the committee are understood by both of our parties. So we—and I can use the word ‘we’ in this case—urge the government to vote for this much needed amendment and to support the findings of the committee. In so doing, it will better satisfy the original intention behind the loss recoupment provisions. It will help to secure Australia’s innovative and productive future and finally put to rest a poorly designed remedy that has troubled corporate Australia for at least 60 years. However, given my understanding of the world, I doubt that it will cure all ills.

Schedule 2 to this bill provides tax relief for conduit foreign income. Conduit foreign income is generally foreign income received by a foreign resident via an Australian corporate tax entity. This measure ensures those amounts are not taxed in Australia when distributed by the Australian corporate tax entity to its foreign owners. Generally, the measure only applies to foreign income that is ordinarily sheltered from Australian tax when it is received by the Australian corporate tax entity. This reform is consistent with the government’s policy on increasing the attractiveness of Australia as a location for business and investment and improves the consistency of treatment between direct and indirect investments.

The idea behind schedule 2 is to allow for a consistent treatment and uninterrupted flow of funds for dividends to foreign owners to ensure that the flow of foreign income from foreign entities to foreign owners will not attract taxation when flowing through the Australian company. It is a tax ethical proposition, in other words. I note that all submissions received by the Senate Economics Legislation Committee that inquired into the provisions of this bill welcomed and supported the introduction of the proposals contained in this schedule.

Schedule 3 introduces denial of deductions for illegal activities. It amends the Income Tax Assessment Act 1997 to deny deductions for losses and outgoings to the extent that they are incurred in the furtherance of, or directly in relation to, activities in respect of which the taxpayer has been convicted of an indictable offence. That strikes me as a great idea. Similarly, the capital gains tax provisions will be amended so that losses and outgoings incurred in relation to illegal activities in respect of which the taxpayer was convicted of an indictable offence do not form part of the cost base or reduced cost base for capital gains purposes. This will ensure that no capital loss or reduced capital gain can arise from such expenditure. This amendment closes a loophole that has previously allowed for deductions to be made against illegally derived income. I congratulate the government on introducing it.

It is required that the individual be convicted of the offence, which is only fair, and only income expenses derived from illegal activity apply to the nondeductability clause. This is a commonsense approach and, if I may say so, should have been introduced long ago, but it is a good integrity measure. I note that this measure stems from the findings from the full Federal Court decision in Commissioner of Taxation v La Rosa, where La Rosa, a convicted drug dealer, was able to successfully claim tax deductions related to his illegal business activity as a drug dealer. That this situation was able to arise in the first place almost beggared public belief, and the government is to be congratulated in addressing the issue in this way.

Schedule 4 to this bill amends the Income Tax Assessment Act 1997 to include copyright in a film in the general effective life
depreciation of the uniform capital allowances provisions in the income tax law. These provisions apply to films that fail to qualify as Australian films and that receive beneficial tax treatment and seek to adjust the effective write-off period. Copyright is currently listed in the general category of deductions allowing for a 25-year write-off period. This amendment suggests two options. Firstly, the commissioner may make a determination for the length of the effective life. Alternatively, a producer may wish to choose between the commissioner’s determination or a self-determination for the effective life of the copyright. The government’s preference is the second option as this allows for greater flexibility in determining the economic life of the asset.

Schedule 5 provides relief for employee share scheme participants in the event of a corporate restructure. This bill amends the Income Tax Assessment Act 1936 to allow employee share scheme participants who acquire shares in a scheme for the acquisition of shares by employees who are assessed under section 26AAC of the ITAA 1936 to treat the new shares or rights they are issued because of a corporate restructure as a continuation of their old shares or rights. These amendments ensure that the new shares or rights issued to employee share scheme participants in the event of a corporate restructure are treated as a continuation of the old shares or rights they previously held—it is a fairness measure. This is a sensible approach to a complicated issue, which would currently tax the restructured holdings as new equity capital gains and thus liable to higher taxation in the event of sale. Tax concessions created by this bill counteract the effect of increased capital gains tax.

Schedule 6 to this bill amends the Superannuation Guarantee (Administration) Act 1992 to allow the offsetting of a late payment of contributions against an employer’s superannuation guarantee charge. A new offsetting rule is created so employers that make a late contribution to a complying super fund after the due date but before the 28th day of the second late month are able to reduce the penalties associated with late payment. Currently no offsetting rule applies and employers are liable for the entire superannuation guarantee charge, even though the late contribution has been subsequently paid. The new rules provide greater flexibility for employers but maintain the integrity of the system as the amounts paid and used in the offset cannot be used as a tax deduction to ensure that employers making payments on time are not disadvantaged.

Schedule 7 of this bill seeks to apply superannuation guarantees to back payments of wages. It amends the Superannuation Guarantee (Administration) Act 1992 to clarify 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 amendment closes a loophole that potentially excluded former employees from benefiting from due protection under that act because the former employee may not fit the definition of the employee-employer relationship. This enforces the obligation of employers to pay the superannuation that applies to back wages.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (10.15 am)—I will now sum up on behalf of the government the debate on the Tax Laws Amendment (Loss Recoupment Rules and Other Measures) Bill 2005. To begin with, I thank senators who have taken part in the debate for their contributions. The introduction of the consolidation regime highlighted longstanding issues for large companies with applying the loss recoupment rules. This has been addressed by the first measure of this bill. The amend-
ments improve the loss recruitment rules for companies by, among other things, introducing a new modified continuity of ownership test. Through those amendments the range of companies that are eligible to use the modified continuity of ownership test will be extended to include all widely held companies and eligible subsidiaries. The amendments make it easier and more certain for those companies to apply the modified continuity of ownership test by relaxing the rules for tracing ownership under the test and by specifying the times at which these companies will need to test for continuity of ownership.

This schedule will also remove the same business test for companies whose income is more than $100 million in the year of recoupment. The Minister for Revenue and Assistant Treasurer stated in his media release on 14 September this year that the government would continue to consult with stakeholders to find a workable solution to concerns they raised about applying the continuity of ownership test to companies that have issued more than one class of share.

The second measure in this bill will provide tax relief for foreign income received by a foreign resident through an Australian corporate tax entity. This measure replaces the existing foreign dividend account provisions. 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 is an important measure which will make Australia a more attractive base for multinationals looking to establish regional headquarters. It is also of benefit to Australian based multinationals in that it enhances their ability and capacity to compete for foreign capital.

The third measure in the bill denies deductions for losses and outgoings to the extent that they are incurred in the furtherance of or directly in relation to activities in respect of which a taxpayer has been convicted of an offence punishable by imprisonment for at least 12 months. This was just alluded to by Senator Murray. In situations where a taxpayer is conducting a lawful business but is convicted of an illegal activity whilst carrying on that business, only the expenditure that is incurred in relation to the illegal activity 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, of course, continue to be deductible.

The fourth measure of the bill provides that copyright in a film will be included in the general effective life depreciation of the uniform capital allowance provisions. Under effective life depreciation, taxpayers will have a choice of either using the Commissioner of Taxation’s ‘safe harbour’ effective life determination or self-assessing the effective life of their copyright in a film. Taxpayers will also be able to choose between the diminishing value method and the prime cost method when depreciating their asset. This amendment will apply to a copyright in a film acquired on or after 1 July 2004.

The fifth measure provides tax relief in certain circumstances for employees who participate in employee share schemes. The result of these amendments is that, when an employee is issued with new shares or rights as a result of a corporate restructure or a 100 per cent takeover, they will be able to treat their new shares or rights as a continuation of their old shares or rights. These amendments ensure that a taxing point does not arise for employee share scheme participants in the event of a corporate restructure. Furthermore, the amendments make sure that there is continuity of treatment for capital gains tax purposes. This measure was originally due to take effect from royal assent. However, following the introduction of the
bill into the House of Representatives, the
government was made aware of taxpayers
who would be unable to benefit from these
changes if the date of effect remained the
date of royal assent. Accordingly, the gov-
ernment has amended the date of effect to 1
July 2004. This will enable more taxpayers
to benefit from the changes and also align
the start date of other changes to the em-
ployee share scheme provisions relating to
corporate restructures. In this manner the
amendments further support the development
of employee share schemes and the align-
ment of employer and employee interests.

Lastly, measures 6 and 7 of this bill
change the law to enhance the operation of
the superannuation guarantee arrangements.
Measure 6 reduces the disproportionate pen-
alty on employers who make late superannu-
ation contributions in an attempt to honour
their superannuation guarantee obligations to
employees. The amendment will allow late
employer superannuation contributions to be
offset against the superannuation guarantee
charge where they have been made within a
month of the superannuation guarantee due
date. This provides relief for employers who
would otherwise effectively be making a
double payment of superannuation contribu-
tions. This measure improves the financial
situation for those employers while maintain-
ing the integrity of the superannuation guar-
antee compliance requirements.

Measure 7 clarifies that mandatory em-
ployer contributions under the superannua-
tion guarantee arrangements are payable on
wages or salary paid in a quarter following
the termination of an employment relation-
ship. This removes any doubt about whether
the superannuation guarantee law imposes an
obligation on employers for former employ-
ees and ensures employees do not lose their
superannuation guarantee entitlements as a
result of being underpaid during their em-
ployment. These changes demonstrate the
government’s ongoing commitment to im-
proving Australia’s superannuation system
and easing burdens on employers. I join with
earlier speakers in saying that these measures
will be welcomed. They are measured and
appropriate. For the reasons I have outlined,
I commend the bill to the Senate.

Question agreed to.
Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator Murray (Western Australia)
(10.23 am)—Even if I had nothing to say, at
this time of the year at this time in the morn-
ing I would stand anyway, because the sun
shines on me.

The Chairman—The sun is always
shining on you, Senator Murray!

Senator Murray—Shine on me! I do
have something to say, and I am sure Senator
Sherry will speak on this also. I, and also on
behalf of Senator Sherry, move Democrats
and opposition amendment (1) on sheet
4780:

(1) Page 2, after line (11), add:

4 Ammendment of Assessments
Section 170 of the Income Tax Assessment
Act 1936 does not prevent the amendment
of an assessment made before the commen-
cement of this section for the purposes of
giving effect to Schedule 1 of this Act.

This amendment inserts a clause into the bill
which would not prevent the amendment of
an assessment made before the commence-
ment of this section for the purposes of giv-
ing effect to schedule 1 of this act. This is
effectively a fairness measure. It allows for
continuity. It has been recommended to us by
tax professionals and we think it is a worthy,
if somewhat modest, amendment.

Senator Sherry (Tasmania) (10.24
am)—As I have indicated, the Labor Party
and the Democrats are joint sponsors of this
amendment and of the others that we will be moving. We will both be supporting them. The Labor Party believe that this is a sensible amendment. We have listened to business. We have consulted. We believe it is reasonable, with regard to this amendment, that the approach as outlined by Senator Murray be supported.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (10.25 am)—I should indicate on behalf the government the basis for our opposition to the amendment. I will be extremely brief. So far as the government is concerned, the amendment, on the basis that has been outlined, is inconsistent with the principle of shorter review periods. That is the basis for the government not supporting the amendment.

Question negatived.

The CHAIRMAN—Who is doing the next amendment? Senator Sherry? Peace may well have broken out but—

Senator SHERRY (Tasmania) (10.25 am)—It has broken out between the Democrats and the Labor opposition on this particular bill, as I said earlier by way of an interjection. We will never forget the GST, though, but let us move on. The $100 million threshold has been, as I outlined in my speech on the second reading, a matter of considerable concern. Senator Murray and I have outlined in detail our concerns on this matter during the debate on the second reading.

I do not know whether or not it is a coincidence, but I referred to Senator Watson at the time. He was not in the chamber when I gave my speech on the second reading. I drew the chamber’s attention to the findings of the Senate legislative committee on this $100 million threshold issue. Senator Watson and Senator Brandis, who were both on that committee, have substantial technical knowledge and it was a unanimous recommendation. I am glad Senator Watson is here now, because the amendments we are dealing with—and there are a lot of them—all go to this issue of removing the $100 million threshold. And so we look forward to Senator Watson, and Senator Brandis as well, coming over to this side to vote with us when we divide on the amendments to the bill. I thought Senator Watson and Senator Brandis made a fine contribution to the committee hearings. I was not there, Senator Watson, but that unanimous recommendation from you, a person well known for your technical knowledge in this area, was certainly welcome.

I do not want to comment at length, having explained the rationale for this in my speech on the second reading. I have two brief questions that might require follow-up. Could the minister explain where the $100 million comes from? What policy rationale is there for the $100 million? Is it a figure that was taken out of the air? Was there some analysis undertaken to rationally come to that $100 million figure?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (10.28 am)—While I take some advice as to the genesis, origin or indeed rationale for the $100 million figure, I should perhaps make some more general comments in relation to it. I am sorry I missed your speech on the second reading, Senator Sherry, if these points have been well articulated. On behalf of the government, the same business test is a difficult and uncertain test for large and diverse businesses to apply—this is in relation to your amendments—and all activities of the company must be examined, as you would appreciate. As the size of a company increases, the test becomes more difficult to apply. The scope of the test that we will ultimately be looking at in these amendments is deliber-
ately narrow, and a company fails the test if it derives assessable income from a new kind of business or a new kind of transaction during the same business test period. The difficulties have increased as a result of the introduction of the consolidation regime, as the test is applied on a group-wide basis.

The same business test has been criticised for discouraging innovation and flexibility, as it deters companies from changing the activities of newly acquired companies if they want to recoup the company’s losses. So it certainly has been a difficult issue arising out of the consolidation regime, and we think it needs to be dealt with in the way that we have proposed. My advice is that the $100 million has been struck as being consistent with the Australian Taxation Office benchmark for large business. My information is that it was not just plucked out of thin air and that that is not only the reason for it—but it obviously has some resonance with the benchmark.

Senator MURRAY (Western Australia) (10.30 am)—by leave—I, and also on behalf of Senator Sherry, move Democrat and opposition amendments (2), (3), (6), (7), (9), (10), (13), (20) to (23), (25), (29), (31) and (34) on sheet 4780 together:

(2) Schedule 1, item 12, page 8 (lines 1 and 2), omit “(Companies whose total income for the income year is more than $100 million cannot satisfy the same business test for that year.)”

(3) Schedule 1, item 14, page 8 (lines 11 to 13), omit note 2.

(6) Schedule 1, item 26, page 10 (after line 4), omit:

Was the total income of the company for the income year over 100 million?

(7) Schedule 1, item 28, page 11 (lines 11 to 13), omit note 3.

(9) Schedule 1, item 35, page 12 (lines 15 to 17), omit note 3.

(10) Schedule 1, item 36, page 12 (lines 30 and 31), omit “(Companies whose total income for the income year is more than $100 million cannot satisfy the same business test for that year.)”.

(13) Schedule 1, item 52, page 15 (lines 29 to 31), omit “(Companies whose total income for the income year is more than $100 million cannot satisfy the same business test for the second continuity period.)”.

(20) Schedule 1, item 76, page 22 (line 1) to page 23 (line 12) omit sections 165-212A, 165-212B and 165-212C.

(21) Schedule 1, item 79, page 28 (lines 25 to 27) omit note 2 to subsection 166-5 (5).

(22) Schedule 1, item 79, page 31 (lines 1 to 3) omit note 2 to subsection 166-20 (4).

(23) Schedule 1, item 79, page 33 (lines 21 to 23) omit note 2 to subsection 166-40 (5).

(25) Schedule 1, item 90, page 61 (lines 29 to 31) omit note 2.

(29) Schedule 1, item 113, page 65 (lines 17 to 19), omit note 2.

(31) Schedule 1, item 119, page 66 (lines 13 to 15), omit the note.

(34) Schedule 1, item 138, page 69 (line 32) to page 70 (line 2), omit the note.

I say to the minister, through the chair, that I expressed my strong support for these amendments in some detail in my speech on the second reading. Unless you need further detail from me, I will restrict my remarks to those I have already made.

Senator SHERRY (Tasmania) (10.31 am)—I have a question following on from the minister’s explanation about the $100 million. Why should large business be excluded?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (10.31 am)—I have checked with my advisers to make sure that I had not overlooked the point. I thought I had in fact addressed the reason in the more general comments that I made a few mo-
ments ago—namely, that it is a very difficult thing for large businesses because all the activities of a company have to be examined and, once the size of a company increases, it is a very difficult test to apply. That is why the scope of the test has been drawn so narrowly—deliberately so, and not only for administrative purposes. In order to apply this test appropriately and make it a fair test, the impact on large business was taken into account.

Senator SHERRY (Tasmania) (10.32 am)—The central point is—and Senator Coonan might care to turn around and seek some advice from Senator Watson on this issue, because he identified this matter at the Senate committee hearing as well—why should large business be excluded? It should be a neutral application of a benefit to all business; it should not exclude large business. I have made the point and the committee have made the point. As we know, at this time of year business is pressing in terms of the pressure on the chamber. We have been unable to shift the government from what I think is an irrational policy approach and an antibusiness approach in terms of investment, particularly in the sectors that we have indicated. We have done our best. We have had a good go on the committee and I think we have had a good go here to try and convince the government of the merit of this approach, but we have not been successful.

I think the case has been well outlined and articulated both here and in the committee report, and not just by, as I said, Labor and Senator Murray from the Democrats but also by the two government representatives—Senator Brandis and Senator Watson. But in this case Minister Brough, the Assistant Treasurer, has seen fit, for whatever reason, to ignore the reasonable request of business on this occasion and the reasonable observations and conclusions of not a majority but a unanimous recommendation of the Senate committee. Labor are very disappointed by the government’s approach. We believe these amendments to remove the $100 million threshold are appropriate in the circumstances.

Question put:
That the amendments (Senator Murray’s) be agreed to.

The committee divided. [10.38 am]
(The Chairman—Senator JJ Hogg)

Ayes......... 33

Noes......... 35

Majority....... 2

AYES

Allison, L.F. Bartlett, A.J.J. Brown, T.M. Brown, B.J.
Campbell, G. Carr, K.J. Conroy, S.M.
Crossin, P.M. Evans, C.V. Faulkner, J.P. Fielding, S.
Forshaw, M.G. Hogg, I.J. Hurley, A. Kirk, L. *
Polley, H. Sherry, N.J. Siewert, R. Stephens, U.
Sterle, G. Stott Despoja, N. Webber, R.
Wortley, D. Wong, P.

NOES

Abetz, E. Adams, J. Barnett, G. Boswell, R.L.D.
Brandis, G.H. Calvert, P.H. Chapman, H.G.P. Colbeck, R.
Coonan, H.L. Eggleston, A. Ellison, C.M. Ferguson, A.B.
Fierravanti-Wells, C. Fifield, M.P. Heffernan, W. Hill, R.M.
Johnston, D. Joyce, B. Lightfoot, P.R. Macdonald, I.
Nash, F. Parry, S. Patterson, K.C. Payne, M.A.
Ronaldson, M. Santoro, S.
Question negatived.

The CHAIRMAN—The question is that items (19) to (21), (24), (33), (40), (43) to (45), (55), (60) to (62), (65), (67), (74), (75), (81), (99), (106) to (108), (110), (115), (120) to (135), (137), (140), (164) and (172) stand as printed.

Question agreed to.

Senator MURRAY (Western Australia) (10.43 am)—I, and also on behalf of Senator Sherry, move Democrat and opposition amendment (14) on sheet 4780:

(14) Schedule 1, item 79, page 55 (line 26) omit paragraph 166-272 (1)(b), substitute:

(b) a *widely held company mentioned in section 166-240;

This amendment is moved in conjunction with the Labor Party. Amendment (14) on sheet 4780:

(14) Schedule 1, item 79, page 55 (line 26) omit paragraph 166-272 (1)(b), substitute:

(b) a *widely held company mentioned in section 166-240;

This amendment is moved in conjunction with the Labor Party. Amendment (14) is a technical, clarifying amendment suggested to us by tax authorities and specialists. I do not think it needs more motivation than that.

Senator SHERRY (Tasmania) (10.43 am)—Very briefly, the Labor Party is supporting this amendment and moving it with the Democrats. It is a technical matter but it is a technical matter taken on advice. We believe it is appropriate to ensure maximum clarification of the legislation. Whilst we have considerable respect for Treasury and the tax office and very great respect for their expertise, we believe, given the advice we have received, that this is an appropriate technical amendment which should be supported. I certainly do not want to see us in a position where we deal with another tax law amendment bill—where we have the government bringing back more amendments to this particular measures bill at some time in the future. On this occasion, it is a technical amendment but one that we have been advised is necessary and should be supported.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (10.45 am)—The government agrees that this needs to be corrected but my information is that the amendment proposes to correct a cross-reference to section 166 to 235 so that it becomes section 166 to 240. I am advised that this change has already been made by a Clerk’s amendment.

Senator SHERRY (Tasmania) (10.45 am)—To clarify that last response—and I do not want to take up the time unduly—the minister has explained that this has been clarified by a previous amendment. Could she indicate where that is, if her advisers are able to tell her?

The CHAIRMAN—Minister, it is the Clerk in another place, not this Clerk. I think that is where some of the confusion might be.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (10.46 am)—I understand that. My information—and I do not know whether this will be sufficient for Senator Sherry—is that it is done before the final print, and obviously it is done in the other place.

Senator MURRAY (Western Australia) (10.46 am)—Minister, you agree with the intent of this. If in fact it has not been properly clarified, in my view, the House should amend it. It would be a quick turnaround in the Senate. We would not hold up or debate the message and it would just go straight back. If for some reason your advice is not as
accurate as it might be, I would suggest that that is the remedy.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (10.47 am)—Thank you, Senator Murray. I am content with that course. It would seem that, if my information is correct—and I have no reason to doubt it—it would make this amendment redundant. The course that you suggest is acceptable.

Senator SHERRY (Tasmania) (10.47 am)—Is the minister indicating that an amendment has already been moved, or will it be moved in the House?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (10.47 am)—What I am trying to convey to the Senate is that my advice is that it has already been done, so it does not necessitate another amendment.

Question negatived.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (10.49 am)—I move government amendment (1) on sheet PA 321:

(1) Schedule 5, item 20, page 105 (lines 29 and 30), omit “the day on which this Schedule commences”, substitute “1 July 2004”.

Senator SHERRY (Tasmania) (10.49 am)—The Labor Party will be supporting this amendment. I take the minister’s advice that the previous issue was amended in the House. The government is obviously taking the opportunity to correct the particular problems relating to employee share schemes and that is appropriate, so the Labor Party will be supporting it.

Senator MURRAY (Western Australia) (10.49 am)—The Democrats take the view that this is beneficial retrospectivity and we support it.

Question agreed to.

Bill, as amended, agreed to.

Bill reported with amendment; report adopted.

Third Reading

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (10.50 am)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

DEFENCE LEGISLATION AMENDMENT (AID TO CIVILIAN AUTHORITIES) BILL 2005

First Reading

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (10.51 am)—At the request of the Minister for Defence, Senator Hill, I move:

That the following bill be introduced: a Bill for an Act to amend the Defence Act 1903, and for related purposes.

Question agreed to.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (10.51 am)—I present the bill and move:

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

Question agreed to.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (10.51 am)—I table the explanatory memorandum relating to the bill and move:

That this bill be now read a second time.
I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The speech read as follows—

This Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2005 amends Part IIIAAA of the Defence Act 1903. These amendments will enhance the ADF’s ability to contribute to operations in support of domestic security and provide appropriate powers and protections for ADF personnel during call-out.

The current legislative basis for ADF operations in support of domestic security does not reflect the evolving threat environment nor does it reflect recent initiatives such as the March 2005 establishment of the Joint Offshore Protection Command. The current legislation does not appropriately reflect the potential range of tasks faced by both Permanent and Reserve forces in periods of heightened alert.

The amended Bill does not constitute a change to the fundamental principles underlying Part IIIAAA. I would like to emphasise that while the current threat environment is likely to remain dynamic, the use of the ADF in domestic security operations remains one of last resort. Equally, the primacy of the State and Territory authorities and retention of the military chain of command are central to this bill.

The amendments give effect to Government initiatives to improve the responsiveness of the ADF to domestic security incidents in the current threat environment. The amendments to the Defence Act 1903 have been drawn from recommendations made by Mr Tony Blunn, MAJGEN John Baker and Mr John Johnson in their Statutory Review of Part IIIAAA, conducted as required no more than three years after the introduction of the original legislation.

The bill will amend current call-out provisions for the ADF in domestic security operations, replacing parts of the legislation which are rigid and complex and inhibit the flexibility and speed with which the ADF could respond should Australia face a terrorist incident in limited or no notice circumstances. Further, the amendments address the lack of statutory legal authority to use reasonable and necessary force in ADF operations involving aviation and maritime security and the protection of designated critical infrastructure. The amendments to Part IIIAAA will clarify accountabilities, facilitate the effective use of ADF capabilities and ensure that there are adequate legal protections for ADF personnel when conducting domestic security operations.

In broad terms, the purpose of the amendments is to permit the utilisation of the ADF to protect States and Territories against domestic violence and to protect Commonwealth interests where State and Territory jurisdictions do not apply.

Turning now to the specific amendments, I will outline the nine key changes of the bill.

The first relates to the use of Reserve forces in domestic security operations. Restrictions on the use of the Reserves have been excised to ensure that any ADF elements can be employed effectively in operations in support of domestic security. This will enhance operational flexibility and ensure that appropriate ADF capabilities are authorised to take action under Part IIIAAA if required. Personnel from the Reserve Forces are increasingly integrated into day to day duties of the ADF. In some cases Reserve Forces might be better positioned to respond quickly.

Moreover, the Government has established specialist Reserve capabilities in recent years to conduct operations in support of domestic security. The expectation is that these capabilities would be required immediately in such a scenario.

Second is the identification of ADF personnel. An ADF member conducting division 2 and division 3 activities should not be required to wear surname identification. This has been addressed as it reduces operational flexibility and ensures that these capabilities would be required immediately in such a scenario.

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warning of operations. This amendment will not alter the notification arrangements between the ADF and the civil authorities and all other notification requirements will proceed as normal.

Fourth, Part IIIAAA is currently based on resolving siege or hostage situations, where the location of a threat is well known and where there is sufficient warning time to establish the requirement for call-out. This is reflected in the requirement for Division 2 to apply to a ‘subject premises’ under the act. While ‘subject premises’ can be defined as a means or transport or other thing, it was unclear whether this would apply to an ADF response to mobile incidents.

As such, the amendment redefines ‘subject premises’ within the broader descriptor of ‘subject incidents’, focusing on assigning the powers of Part IIIAAA to an incident or event, or series of events rather than a narrowly-focussed ‘subject premises’. Similarly, the Part has been amended to include a reference to ‘resolve subject incidents’, preserving the current responsibilities of the ADF under Division 2 but removing the ambiguity surrounding its specific application and allowing the ADF to operate in a mobile environment.

This ensures that the powers conferred to the ADF under Part IIIAAA can be accorded the ADF in the course of dealing with a mobile terrorist incident and a range of potential threats.

Fifth, Part IIIAAA has been amended to allow for expedited call-out arrangements to deal with rapidly developing threats such as a hijacked or rogue aircraft or fast-moving vessel. The requirement is to ensure that there are flexible and responsive mechanisms in place that will enable call-out of the ADF in the event of such a sudden and extraordinary emergency.

The expedited call-out arrangements will enable the Prime Minister to make an order, that the Governor-General is usually empowered to make, in the event that a sudden and extraordinary emergency makes it impractical for a call-out order to be made under existing sections of the Part. In the event the Prime Minister cannot be contacted, call-out can be authorised by the two other authorising Ministers. Should either of the remaining authorising Ministers be non-contactable, an authorising Minister in consultation with the Deputy Prime Minister, the Minister for Foreign Affairs or the Treasurer can authorise call-out.

Further, call-out orders need not be made in writing. That is, a verbal order from the Prime Minister, or from the two authorising Ministers, to the CDF can initiate call-out. In the event such an order is not made in writing, the Prime Minister and the two other authorising Ministers must each make a written record of the order, sign the record and ensure the signing of the record is witnessed.

The sixth amendment provides the ADF with the ability to protect designated critical infrastructure. In the event of a credible terrorist threat or heightened alert, mass transit systems, mass gatherings such as the Melbourne Commonwealth Games or designated critical infrastructure may require protection. The terrorist attacks in New York, Madrid and London have shown that these types of infrastructure are high priority targets for terrorists and that the ADF may be required to protect infrastructure that the Government designates as critical. To undertake this task the ADF may be required to use reasonable and necessary force in specific authorised circumstances.

This measure acknowledges the increasingly close interrelationships between infrastructure, critical services and facilities; and that the destruction or disabling of a system or structure is likely to have significant flow-on effects that may result in loss of life. For example, the potential loss of power to a hospital, the disruption of communications or the interruption of vital utilities.

The Prime Minister, the Attorney-General and the Minister for Defence will be the authorising Ministers for the protection of infrastructure. The authorising Ministers must be satisfied that an attack on infrastructure will result in the loss of life before directing the CDF to utilise the ADF to protect infrastructure.

The potential use of force by the ADF in such circumstances would be informed by a process that identifies the importance of the infrastructure, on its own and within a system, and whether disruption to its operation would endanger the life of a person. That process would be underpinned by a reasonable belief that there is a threat to spe-
pecific infrastructure and the disruption of that infrastructure would result in potential loss of life.

The seventh amendment concerns the use of the ADF in a domestic security operation which has the potential to result in damage to property, serious injury or death. In circumstances where Part IIIA is enacted, the ADF will be employed either as a direct result of a call-out, requested by States or Territories, or by Commonwealth-initiated call-out, particularly in the maritime and air environment. It is also possible that domestic security operations will be cross-jurisdictional.

As the ADF is a Commonwealth entity operating under Commonwealth law and the Defence Act, it is appropriate that any prosecutions arising from a domestic security operation should also be considered by the Commonwealth Director of Public Prosecutions.

The Commonwealth Director of Public Prosecutions would be required to consider the context of a domestic security operation, including relevant Rules of Engagement and the military chain of command. Let me emphasise that there is no intention to seek protection for any ADF member who complies with a manifestly illegal order or undertake an unreasonable or unlawful act. The use of the Commonwealth Director of Public Prosecutions will ensure consistency and to the maximum extent possible, a uniform set of criminal laws that can be applied to ADF personnel acting under Part IIIA.

Now I turn to the final changes to Part IIIA and introduce two new divisions within the Defence Act. These divisions reflect the requirement for a greater level of authority for the ADF in specific and limited circumstances, in this case, in the air and maritime environments.

Currently there are no provisions within Part IIIA to enable the ADF to conduct operations against air threats. At present these operations would be authorised under the Government’s Executive Power. As the ADF is the only agency equipped to conduct aviation operations there is a requirement to ensure a consistent legislative approach for both land-based and air-based activities.

In the event of an aviation security incident, the ADF has the only capability of resolving such a threat. However there is no statutory authority under current Part IIIA provisions for the ADF to resolve an airborne aviation threat.

The new aviation division within the Defence Act will enable ‘call out’ of ADF capabilities to respond to threats to Commonwealth interests in the air environment. This division contains a specific authority for ADF members to use force against an aircraft in flight or on the ground, provided that those members are authorised by their orders to use such force, that those orders are issued pursuant to a Ministerial authorisation and are not manifestly unlawful.

The second new division created under the amendments to Part IIIA is the offshore division. As with the air environment, there are no provisions within Part IIIA to enable the ADF to conduct offshore maritime counter-terrorism activities outside of a State or Territory jurisdiction. ADF personnel do not receive the same powers and protections afforded when conducting land-based hostage recovery operations. Again, as the ADF is likely to be the only agency able to conduct offshore counter-terrorism operations, there is a requirement to ensure a consistent legislative approach for both land-based and offshore activities, similar to the aviation division.

The current Part IIIA is focused on protection of the States from domestic violence, and the protection of Commonwealth interests from domestic violence, within Australia. In this context the current provisions mean that the term ‘within Australia’ does not extend beyond the territorial sea baselines, and therefore the current Part IIIA does not extend to the offshore environment between the end of the territorial sea and the edge of Australia’s maritime responsibilities. The current Part IIIA is also ‘land-centric’ in its application. The new division within Part IIIA will enable ‘call out’ of ADF capabilities to respond to threats to Commonwealth interests, in the offshore areas.

In all instances, the new air and offshore divisions will ensure that Ministers will have due regard to Australia’s obligations under international law.

In summary, this bill will facilitate the employment of the ADF by the Government in preventing, deterring or responding to a wide range of potential threats to Australia’s domestic security.
The bill is a response to evolving threats to Australian security and will provide appropriate powers and protections for the ADF operating under Part IIIAAA in land, air and offshore environments. The fundamental principles of Defence Force Aid to the Civil Authority remain the underlying framework of the bill. The provisions outlined are robust and flexible and will provide an effective basis for the employment of the ADF in support of domestic security operations now and into the future. I commend this bill to the Parliament.

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

COMMONWEALTH RADIOACTIVE WASTE MANAGEMENT BILL 2005
COMMONWEALTH RADIOACTIVE WASTE MANAGEMENT (RELATED AMENDMENTS) BILL 2005
Second Reading
Debate resumed from 7 November, on motion by Senator Colbeck:
That these bills be now read a second time.

Senator CROSSIN (Northern Territory) (10.52 am)—The Commonwealth Radioactive Waste Management Bill 2005 characterises the absolute abuse of power that has quickly become routine since the coalition won control of the Senate and it highlights the arrogance of a government that has been around for nine long years. The management of this country’s radioactive waste remains a highly contentious issue. We accept the need for a facility to manage the radioactive waste produced by the Lucas Heights reactor and from other sources, yet the ineptitude and incompetence of this government in attempting to store Commonwealth radioactive waste in South Australia, and now the Northern Territory, show a lack of leadership and a preference for political expediency.

In July 2004—only last year—the Prime Minister abandoned the attempt to impose a national low-level waste dump in South Australia, in the face of opposition from the South Australian government and the community. Then, in the lead-up to the 2004 election, the member for Solomon, Mr Toller, let the cat out of the bag by suggesting that the Northern Territory might host the dump. On Territory radio on 13 July last year, he said:
... what I’ve always advocated ... Nuclear waste should be stored in the safest possible location. Now if that location was to be in the Northern Territory we would have a responsibility ... to allow the storage for it ...

Solomon was the most marginal seat at the 2004 election, so the Howard government swiftly went into damage control. In the search for a national waste dump, on ABC radio in the Territory just two days later, the Prime Minister said:
... the rights of the Territory will be no less respected than the rights of Australians in other parts of the country. We’re not going to treat the Territory in a disrespectful fashion ...

This bill is before the Senate because the Territory is not a state. The Prime Minister has gone back on his word to people in the Territory. The whole purpose of the bill is to exploit the Northern Territory because it has fewer rights than a state. Even those rights are about to be trampled by a federal government in a way never seen before in the history of this parliament. Page 5 of the submission of the Northern Territory government to the Senate inquiry says:
The provisions ... set aside specific existing laws made by the democratically elected Legislative Assembly of the self-governing Northern Territory ...

It goes on to say:
• a serious erosion of the democratic rights of Territorians, and are contrary to the concept of self-government
• are contrary to the principles of good governance.

It is mischievous at best to suggest that, because Territorians voted against Shane Stone’s ‘mean and tricky’ statehood model, we should give the green light for the federal government to impose this dump on the Northern Territory. In the lead-up to the last federal election, even Senator Ian Campbell, the Minister for the Environment and Heritage, was called on to protect the election prospects of Mr Tollner. Speaking to ABC radio in the Northern Territory on 30 August 2004, he said:

... what we have said quite clearly and unequivocally many months ago is that the Commonwealth is not pursuing any options anywhere on the mainland ... It’s going to be an Australian offshore island. Northern Territorians can take that as an absolute categorical assurance.

It is interesting that the member for Solomon prominently displayed Senator Ian Campbell’s interview on his home page for months after. Strangely, it is not on there now, though. Mr Tollner’s inconsistency on this matter has been breathtaking. On ABC radio on 29 September, he said:

I am not going to sit around and watch a nuclear waste dump be put in the NT.

On 1 October on the radio, he said:

I won’t see the federal government overturn any Territory legislation to situate a national waste repository here ...

On the same day, he said:

There’s never been any plans to locate a national nuclear waste repository in the Northern Territory.

Even until June this year, just prior to the Northern Territory election on 18 June, Senator Scullion was falling over himself to assure Territorians that the government was not going to dump its radioactive waste in the Northern Territory. A week before the election, on 9 June on ABC radio, he said:

There’s not going to be a nuclear waste dump in the Northern Territory.

On the same day, on the radio, he said:

The people of the Northern Territory doesn’t want anybody else’s nuclear waste in the Northern Territory, I represent them and so, ‘not on my watch’.

Territorians have been categorically lied to through the introduction of the bill and are quite rightly outraged by Senator Scullion’s ‘radioactive dump on the road to Damascus’ conversion to supporting the bill. On 15 July this year, less than a month after the Northern Territory election—with no consultation, no scientific study and no explanation for the lies—Dr Nelson announced the three possible sites in the Northern Territory for this waste, with a stunt: sitting on a barrel of low-level waste with gloves, a coat, the works.

The low-level waste repository is a permanent facility likely to house waste needing protection for 100 to 300 years. The intermediate waste stored at the site will need management for thousands of years. This material will be hazardous and dangerous if not stored correctly. But let us be very clear about the implications of this decision. The Territory will also receive Australia’s most toxic long-lived intermediate-level waste: the reprocessed fuel rods from France and Scotland needing management for thousands of years. This intermediate waste, although smaller in volume, will account for 99 per cent of the radioactivity of the waste going to the national dump.

In making this announcement, Dr Nelson further insults Territorians by asking, ‘Why can’t people in the middle of nowhere host the dump?’ People who live at Harts Range, one of the three proposed sites, do not believe it is in the middle of nowhere; it is their home. This government have the view ‘out of sight, out of mind, so let us dump it in the outback’. This bill is designed to frustrate any opposition to the dump. It is heavy-
handed and an undemocratic imposition of Commonwealth power. The Chief Minister of the Northern Territory, during the Senate’s public hearing into the bill, pointed out:

It is the adoption of a process that has been described as ‘decide, announce, defend’. It is about backroom decisions being made without consultation and without discussion. It is about the imposition of the nation’s radioactive waste on Territorians without their or their representatives’ involvement in any shape or form.

The sites nominated in this dump site bill were short listed from suggestions by—the Department of Defence. Officers from DEST in the Senate hearings admitted that criteria were applied such as proximity to infrastructure, proximity to population centres where you might get some infrastructure support for the facilities, Defence’s plans for the future of the site, and the likely growth constraints on sites. Far from choosing the best sites in Australia, these sites selected have one startling fact in common—they are surplus defence land in the Territory, and that is all.

The National Stores Project was set up by the Commonwealth in 2001 to find a place to store intermediate waste until a better permanent solution was found for it. The two Central Australian sites proposed for the dump in this bill did not even make it to the list, and the Katherine site was marked as less suitable and subject to flooding. The Katherine site is in the middle of Val and Barry Utley’s cattle property. The Little Roper River runs through it on one side and the King River on the other. As Val Utley said at the Senate hearings:

How could anyone choose this place for such a facility? This is a drainage system for an immense area. ... the water sources are sometimes very close to the surface and these areas are like giant sponges, even in the late dry season.

Sink holes suddenly appear in the wet season. ... This country is too unstable for such plans, for such a risk, which will be there forever.

In a trip to Katherine less than two weeks ago, I was taken to one of these sinkholes which is just less than five kilometres from the proposed site, and it is the size of this Senate chamber. Numerous fully grown trees have disappeared into its pit, and the locals are baffled about why this site has even seen the light of day when it comes to storing radioactive waste.

There is some suggestion that this bill should be passed because it has support from a wide range of groups. I find that to be an interesting and misleading statement. The only organisation that has publicly expressed total support for this has been the Northern Territory Minerals Council, and that should come as no surprise. In fact, I have found the complete opposite to be the case. From personal emails or submissions to the Senate inquiry, I will give a snapshot of remarks that have been received. The Katherine Horticultural Association said:

- This facility will be a negative mark against Katherine products.

Ms Renee Lees said:

- Alice Springs has absolutely nothing to gain from a radioactive waste dump and everything to lose.

Gecko Canoeing, a tourist venture in Katherine, said:

- NT—Nuclear Territory rather than Nature Territory.

Judith Burke, from Katherine, said:

- I am disillusioned and disheartened with the present government and the release of the ... bill.

Bill Daw, from Katherine, said:

- There is a fine line between strong leadership and arrogance, and it would seem that this line is about to be crossed on this issue by a mile.

Even the traditional owners of the two sites in Central Australia are opposed to the dump
and have said they are concerned about safety and the future security of a nuclear waste dump, the waste being transported on the roads that they use every day, the negative impact on businesses like Alcoota Aboriginal Corporation’s cattle company, the impact on their traditional country and the ability to hunt and get bush tucker. Lindsay Bookie runs a tourist business further east along the Plenty Highway and said that a waste dump would impact heavily on him. He said:

I have talked to the tourists who come to my camp and they say they wouldn’t come anymore because it would spoil the area. I am really worried about all those trucks along that road too. There are so many accidents along there—it wouldn’t be at all safe.

Steven McCormack, who lives close to the Mount Everard site, just 30 kilometres north of Alice Springs, said that a nuclear waste dump would be devastating for him and his family. He said:

This land is not empty—people live right nearby. We hunt and collect bush tucker here and I am the custodian of a sacred site within the boundaries of the defence land. We don’t want this poison here.

The bush tucker issue is particularly concerning for traditional owners, as is the health of species that are part of their environment. The CEO of ARPANSA, when issuing the OPAL reactor construction licence, noted this view of the International Commission on Radiological Protection:

The commission believes that the standard of environmental control needed to protect man to the degree currently thought desirable will ensure that other species are not put at risk. Occasionally, individual members of non-human species might be harmed, but not to the extent of endangering whole species.

Given these views from ARPANSA, it makes you wonder how Senator Scullion could come to this conclusion about the dump on ABC Radio on 8 November:

People are still peddling to a fairly naïve community, complete evil misinformation to make people so afraid ...

That is not an accusation that I would make of Dr John Loy from ARPANSA. He continued:

Anybody that suggests that this is at all dangerous to anything—it is entirely wrong.

The risks of radiation are powerfully expressed in the United Nations Environment Program’s position statement on nuclear risks:

Radiation, by its very nature, is harmful to life. At low doses it can set off only partially understood chains of events which lead to cancer or genetic damage. So, no level of exposure to radiation can be described as safe.

It is particularly concerning that the views of traditional landowners who have title to much of the Northern Territory have been disregarded in this process. The Central Land Council was particularly strong in its rejection of the dump proposal and this bill. It is clear from the submissions of both the Central and Northern land councils that the traditional owners they represent want to retain a right to veto specific sites on environmental or sacred site grounds. The CLC regards the amended provisions of the bill allowing for a land council to propose a site as unworkable. However, the CLC submission also notes:

Until an area is nominated not even the Commonwealth will know what needs to be done for the purpose of selecting a site, in relation to that specific area. It may not even know what needs to be done until some time after it accepts a nomination. Yet the traditional landowners are required to know all of that before they make a nomination.

The Northern Land Council has won some concessions from the Commonwealth in this bill and further amendments will be before us today. But if you examine the evidence
that the NLC gave before the Senate committee, you will see that more amendments are needed, especially in relation to the protection of sacred sites. The NLC detailed their problems with the bill both in their submission to the Senate inquiry and in the evidence they gave to the committee. They said:

The Northern Land Council also considers that the Northern Territory Aboriginal Sacred Sites Act, which is administered by a body that is independent of the Northern Territory government, should continue to apply, particularly regarding sites which may be nominated by a land council or the Chief Minister.

In the Senate committee’s hearings I asked the Northern Land Council:

So the bill, as it stands now, still does not satisfy the council’s decision of October, does it?

Mr Norman Fry, the CEO, said:

No. That is why in relation to non-Aboriginal land, and also to the Northern Territory Aboriginal Sacred Sites Act, we say that if this were to be included in the amendment bill then it would be positively appreciated by all and sundry. So we agree with what you are saying.

I then said:

If this bill goes before the Senate in its current form, it would not comply with your council decision of October. Is that correct?

His response was:

That is correct.

The views of the Northern Land Council have been incorrectly reflected. To say that support for this bill is warranted because it has the support of the Northern Land Council is not accurate and, furthermore, the views of the Central Land Council have been ignored.

The second bill in the package, the Commonwealth Radioactive Waste Management (Related Amendments) Bill 2005, exempts the Commonwealth Radioactive Waste Management Act 2005 from the Administrative Decisions (Judicial Review) Act. What does that mean? That means that, once the minister can exercise absolute discretion to declare a site as the future site for the nuclear dump, no-one has any redress if they believe the decision to be unfair.

It is also most unfortunate that the plight of cancer patients has been used as an emotive excuse for pushing this draconian legislation on the dump. Again, in a media release on 13 October, Senator Scullion said:

A decision on the final site for the waste management facility must be made by April and a Territory Government legal challenge would take us well beyond that time.

He went on to say:

If a decision is not made within a matter of months Australia will no longer be allowed to produce radioactive isotopes used in hospitals throughout the country.

This is patent nonsense. Medical isotopes will continue to be produced in Australia and imported as needed. Senator Scullion’s scaremongering, in claiming a need for a decision by April on a site for the radioactive waste dump, was exposed in a Senate estimates hearing in November. I asked Dr Ron Cameron from ANSTO about any April deadline for the dump decision affecting production of medical isotopes. He said the only relevance of April next year was the projected date for the licensing of the new reactor. However, ANSTO’s current reactor at Lucas Heights, which produces medical isotopes, is capable of operating for years to come. It has the option to extend its operating licence, which lasts until December 2006.

In conclusion, this bill overrides the rights of Territorians simply because we are not a state. There has been no science in the selection process for the sites nominated in this legislation. There has been no consultation with the Northern Territory government, the communities of Alice Springs or Katherine, and certainly not with the Northern Land
Council, the Central Land Council or the traditional owners who will be affected by this decision. If this bill is passed then you may as well rip up the Northern Territory Self Government Act because it makes it irrelevant. This legislation will ensure that any laws created by the Northern Territory government will be overturned by this federal government at any time for politically expediency.

To quote Senator Scullion, who at least got one thing right during this whole abysmal saga, ‘Territorians don’t like having this sort of stuff shoved down our throat because we’re not a state.’ He is damned right. That is the view of people in the Territory. When the euthanasia debate was before this chamber some years ago, a former senator for the Territory, whom I proudly replaced in this chamber, despite not personally supporting the euthanasia debate and not personally supporting the issue of euthanasia, set aside his personal beliefs and stood up for the Territory. He took a stand to protect the legislation that was created by the Northern Territory government. He wanted to ensure at the time that the legitimate rights of Territorians to create their own laws was protected.

Senator Scullion, I urge you today to take 10 steps across this chamber and to stand up for the Territory. This legislation is seriously and deeply flawed. The best interests of the Northern Territory and the Australian community would be better served if this government commenced a rigorous site selection process that is inclusive of the affected communities. This government has not made a compelling case for the urgency or the heavy-handedness of this legislation. These bills are a display of arrogance on the Commonwealth government’s part and they must be scrapped in favour of proper consultative, scientific and inclusive processes for a national nuclear waste facility in this country.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (11.12 am)—I also rise to speak on the Commonwealth Radioactive Waste Management Bill 2005 and the Commonwealth Radioactive Waste Management (Related Amendments) Bill 2005. Radioactive waste is a serious problem that requires responsible and prudent management, but this legislation forces the Northern Territory to accept the nuclear waste generated elsewhere and is symptomatic of the failure of governments, state and federal, to work together to find an acceptable solution. No state government has offered to host this repository; indeed, most have specifically prohibited nuclear waste from entering their state. The federal government has had to abandon one proposed national repository site after the next. The search for politically and environmentally acceptable storage solutions for nuclear waste remains a major international problem and a key preoccupation for the nuclear industry and its regulators.

One reason for this might be the mixed messages put out by governments. On the one hand they say that storage methods are safe and there is nothing to be afraid of, and on the other hand they say that storage must be as far away from people and cities as possible. So the people of the Northern Territory rightly ask, ‘Why not put it in your backyard instead of mine, if it is so harmless?’ Perhaps they know better. Perhaps they understand that, according to the United Nations Environment Program, by its very nature radiation is harmful to life. At low doses it can set off only partially understood chains of events which lead to cancer or genetic damage. At high doses it can kill cells, damage organs and cause rapid death. Radiation doses have to reach a certain level to produce acute injury but to cause cancer or genetic damage, in theory at least, just the smallest dose can be sufficient. So no level of exposure to radiation can be described as safe.
It should be stressed that the federal government is looking for a site to store not only low-level waste but also the highest level radioactive waste produced in Australia. Fifty cubic metres of highly radioactive pre-processed waste from over 1,000 existing and future spent fuel rods from Lucas Heights reactor will return to Australia over the next 40 years. This waste is a Commonwealth responsibility, as are the huge quantities of low-level waste from Lucas Heights, including hundreds of tonnes of non-compatible radioactive material from the decommissioned old reactor; 2,000 litres of radioactive contaminated charcoal; 5,000 drums of assorted radioactive waste; 800 drums of thorium, beryllium and uranium; and 2,000 cubic metres of contaminated soil currently stored at Woomera.

It will also accommodate reprocessed spent fuel rods that contain plutonium—a dangerous, long-lived radioactive substance that is difficult to store safely. There are 20 drums of solidified radioactive sludge and 130 drums a year of compactable lower level solid waste—all of it a Commonwealth responsibility and all of it from Lucas Heights. The Lucas Heights reactor will continue to be responsible for the vast majority of radioactive waste generated in this country. While the Commonwealth bleats about the states not doing the right thing by offering up a suitable site, it is worth noting that the New South Wales government considers that Lucas Heights should continue to act as a waste facility rather than transporting waste across that state and others. That was the conclusion of its inquiry into the transportation and storage of nuclear waste early last year.

The inquiry also challenged the need for the new reactor and asked the federal government to look for alternative technologies and sources for radioisotope provision for medical use. The questions that have not been satisfactorily asked or answered are why we need a single national repository for all waste and why low-level waste cannot be stored by each state in one or more above-ground repositories built to the standards required to reduce or eliminate the risk of exposure, and we monitor the effectiveness of that protection.

The Medical Association for the Prevention of War note that long-term security of radioactive waste is essential, but this does not necessarily imply centralised remote geological disposal. They argue, and the Democrats agree:

Centralised remote geological disposal is a political strategy, not a health imperative.

The Democrats argue that it is imperative to manage Australia’s radioactive waste in a responsible, scientifically robust and transparent manner. The proposal that is set out in this bill does not meet this criterion. We have serious concerns about the lack of consultation with and impact on the democratic rights of Territorians and the will of the Northern Territory parliament.

We have concerns about: overriding the rights and interests of local communities and local government authorities along proposed transport routes across Australia; the disregard for the rights and interests of the traditional owners of the proposed dump site areas; the lack of comparative and quantified community risk analysis of continued on-site storage versus risks in the transport of waste to a centralised facility; lack of quantified analysis of the claimed reduction in a number of Commonwealth waste storage sites if the proposed Northern Territory dump facility were to go ahead; lack of comparative costings for enhancing on-site storage facilities for Commonwealth organisations generating radioactive wastes versus the Northern Territory nuclear dump plan, with the continuation of on-site storage facilities for existing users in any case; lack of studies of
siting and design for the above-ground option and of comparative analysis of above-ground burial options; and the long-term strategy to reduce and minimise waste generation.

I want to stress that there is no urgency for this legislation. The CEO of the Australian Radiation Protection and Nuclear Safety Agency has confirmed that there is no urgency. In his 2002 decision on the application to construct the replacement research reactor at Lucas Heights, Mr Loy stated:

Should it come about that the national approach to a waste repository not proceed, it will be necessary for the Commonwealth to devise an approach to final disposal of LLW from Lucas Heights, including LLW generated by operation of the RRR. In the meantime, this waste will have to be continued to be handled properly on the Lucas Heights site. I am satisfied, on the basis of my assessment of the present waste management plan, including the licence and conditions applying to the waste operations on site, that it can be.

This view was recently confirmed at the hearing into the bill, when Dr Loy told the committee:

The material is safely managed at Lucas Heights.

In relation to the low-level waste, if the intention is for there to be a repository—that is, for the waste to be disposed of—while it is conceivable that you could put forward Lucas Heights as a site for a repository, it is likely that there are better sites in Australia for a repository for low-level waste; that is, dealing with it by disposal. Lucas Heights certainly can continue to store its low-level waste for a period of time—no question. On the intermediate-level waste, I guess that the issue is one of judgment. It can be stored on the Lucas Heights site. There is no technical reason why it could not be stored on that site for a period of 50 years or whatever. The issue is that, if you are creating a repository co-location of a store, it might seem convenient, useful and appropriate.

Hardly compelling words.

While a repository is theoretically possible, I think there would be better sites; therefore, the argument would be to move it from Lucas Heights to a better site.

Senator Crossin then asked Dr Loy about whether there had not been a determination to have a repository as yet. She said:

... at the end of the day the government decides not to have a repository, it could be possible to amend the ANSTO Act to allow all of the waste to be stored at Lucas Heights?

Dr Loy replied:

Yes.

Further, low-level waste can continue to be safely stored at their respective sites.

The Democrats’ greatest concern is that Canberra’s push for radioactive dumps and stores is not an attempt to genuinely address a growing environmental issue but a move to facilitate an industry expansion that would result in the creation of even more radioactive waste. Our fear has been further fuelled by calls from Minister Brendan Nelson to spend $1 million on research to create a nuclear power industry in Australia. The Democrats believe that the facts are very clear and that a nuclear power industry in Australia would be dangerous and costly and would contribute to greenhouse emissions. We believe that this government should be working on a long-term strategy to minimise waste generation in Australia.

We are also concerned that the government is arguing that expansion of Australian nuclear production is necessary for medical purposes, when this is clearly not true. In a press release, Northern Territory Liberal MP David Tollner and Senator Nigel Scullion argued:

A delay would severely limit the availability of life-saving radiopharmaceuticals used in the treatment of cardiovascular disease and early intervention against cancer, particularly breast cancer.
This statement shows ignorance of medical procedures, and it is also misleading. Medical experts argue that the future direction of nuclear medicine lies with cyclotron produced products already being produced in Australia and with accelerators. They argue that Australia can have a secure supply of medical isotopes for cancer treatment, medical research and other applications without another nuclear reactor at Lucas Heights. Australia imports this material on a regular basis when the Lucas Heights reactor is shut down for maintenance. The Medical Association for Prevention of War was scathing of Mr Tollner’s and Senator Scullion’s claims and said:

The “medical necessity” claim is worse than fallacious: it is deliberately misleading. It is a particularly contemptible manipulation of the emotions of the sick and the dying. In the real world of patient care, therapeutic isotopes make only a small contribution to the overall management.

So, given that there is no urgency for a waste dump, proper consultation and exploration of appropriate sites should, we say, be undertaken.

The International Atomic Energy Agency has said that recent experience suggests that broad public acceptance will enhance the likelihood of project approval, that an inclusive approach to public involvement should be adopted from the beginning of the planning process and that providing open access to accurate and understandable information about the development program was critical for trust and acceptance. We have seen the opposite in this process. The government has shown no such courtesy, let alone good sense. The inquiry into the bill heard evidence that the Northern Territory Chief Minister heard about the government’s decision because it was in a press release from the minister. Similarly, Alice Springs Town Council first heard of the proposal on local radio. Property owners adjacent to one of the sites found out about it through a friend.

The pastoral industry have expressed concern that dumping radioactive waste could damage community perceptions of the quality of Northern Territory beef. Similarly, the Northern Territory Agricultural Association argued:

The placement of the facility in close proximity to the region’s Tindal, Oolooloo and Jinduckin aquifer system is fraught with danger.

This system supports the Northern Territory’s premier agricultural and horticultural production sites that generate crop commodities worth in excess of $80 million a year.

The government has shown total disregard for the views of traditional landowners in this process. Traditional landowners of the two proposed dump sites in Central Australia have made an absolute statement of opposition to the dump plan and have vowed to actively resist this proposal. They say:

We do not want your nuclear waste dumped on our country.

You and others in Canberra might think that our country is an empty place, that no people live here. We are telling you that there are communities and outstations close to the proposed sites—this is our home and unlike you we cannot move to another place.

… … … …

Our country is alive—there are sacred sites and our law and ceremonies are strong.

We don’t believe that this poisonous waste can be kept safely for thousands of years. You will be gone but our grandchildren will be left to worry.

… … … …

We will not let you turn our country into a waste land.

Despite the Northern Land Council supporting the government’s plans, the committee received a submission from the Dja'pu clan, one of the largest of the 13 Yolgnu clans in north-east Arnhem Land, arguing that not
only had they not been consulted by the government but they had not been consulted by the Northern Land Council. They argued that the NLC cannot speak on this issue on their behalf. In their submission that group said that their people, the clan leaders, not the communities, had not been consulted on this issue by anyone—not the Australian government, not the Territory government, not the Northern Land Council. The clan representative said:

As the senior traditional owner of the Djapu Clan, I say I do not want such a facility anywhere that might affect our land, rivers or sea country. We are very concerned about the safety and environmental impacts of such a facility and the transport of waste. We are also concerned about how the security and surveillance that must accompany such a facility may impact on our lives and region.

The government’s lack of interest in consultation with, and in concerns expressed by, local communities was clearly enunciated by the Minister for Education, Science and Training, Brendan Nelson, when he said on ABC TV:

... why on earth can’t people in the middle of nowhere have low level and intermediate level waste?

One submitter to the inquiry into the bills said in response to the lack of consultation:

There is a fine line between strong leadership and arrogance, and it would seem that this line is about to be crossed on this issue by a mile.

The lack of consultation has been exacerbated by concerns that the nominated sites were selected without any independent expert advice and could potentially have significant environmental consequences. The 92 site selection criteria included factors such as the need to have low rainfall, a site free from flooding, away from ground water that is potable or suitable for agriculture that can be contaminated and away from known tectonic, seismic or volcanic activity. It is clear from evidence that these criteria have not been taken into account, as the sites nominated by the government are prone to flooding and one site is over a major aquifer.

I note that there is a view in the environment sector that burial is increasingly regarded as an inappropriate, out of sight, out of mind, cheap and nasty management option. There is also a view that waste management and storage should be done on site or close to the sites to minimise transportation issues. Dr Loy told the committee inquiry into the bill:

... there is a lot of transport of radioactive material that goes on in Australia and in the world through all sorts of areas. The issues of the containers that are used for transport have been long studied and are well understood. Provided the rules of the code of practice on transport are followed, I believe it can be undertaken safely.

Yet, according to the ACF web site, the federal government’s own figures show that there is a 23 per cent probability of one of the trucks that pass your door having an accident—not good odds when you think about how difficult it is to control or clean up a radioactive spill. Accidents can and do happen on the road, whether it is a collision, a spill, a dangerous fire, a successful terrorist attack, a tyre blow-out or a sleepy driver. The New South Wales parliamentary inquiry found that there was widespread local government and community concern and opposition to the proposed transport of Lucas Heights reactor waste across New South Wales.

The Democrats recognise that radioactive waste is a reality and a serious issue. We are not against a centralised facility and acknowledge that a centralised facility could increase security, efficiency and safety. However, we believe that this needs to be achieved in a responsible, scientifically robust and transparent manner. These bills provide the Commonwealth government with
unprecedented power to not only overturn Territory laws specifically established to prevent this scenario but also remove any procedural fairness in the site selection process. We think this is arrogant and yet another display of an undemocratic government drunk on power.

The Democrats support the strategy advocated by the Medical Association for Prevention of War, the ACF and Friends of the Earth. First, the government must minimise waste generation. This can be achieved by terminating the nuclear reactor program at Lucas Heights. Australia’s world-class nuclear medicine capability can be sustained by a combination of importation and local isotope generation, increased research and development of non-nuclear technologies for the production of medical isotopes and safer imaging technologies, MRI, advanced CT, ultrasound and positron emission tomography.

Second, the government should minimise the risk of transportation. Waste management is preferably done on site in a retrievable and secure fashion. Third, the government should focus on establishing a secure, monitored, above-ground storage repository which responsibly addresses the need to maximise long-term safety and does not preclude any improved storage option which becomes available in the future. Fourth, the government should gain community acceptance of the management system based on the principles promoted by the International Atomic Energy Agency. This does not simply mean consultation; the community must give informed consent to the facility.

I will conclude with a quote from the ACF that argues:

Playing politics with the source of a permanent pollution is unacceptable and no politician has a mandate to waste.

The Democrats will not be supporting this legislation.

Senator TROETH (Victoria) (11.31 am)—The Commonwealth government sees a real necessity for the Commonwealth Radioactive Waste Management Bill 2005 and the Commonwealth Radioactive Waste Management (Related Amendments) Bill 2005 to be passed. Radioactive waste is currently stored in a large number of locations around the country. Commonwealth nuclear waste, as distinct from state government and other waste, is stored at 30 different locations. While those present locations are undoubtedly safe, the storage of waste in this way has long been recognised by state and Commonwealth governments as suboptimal and certainly not world’s best practice. As a result, federal governments of both persuasions have been endeavouring for many years to find a suitable site for radioactive waste management.

This decision has been taken partly in absolute frustration at the level of determination by state governments to block any site that has previously been chosen by the Commonwealth government as a suitable waste site. I refer to efforts from 1992 onwards, even though this process began in 1979. Shortly before 15 November 2000, eight regions were identified as likely to contain suitable sites for a repository. There were, even then, very good criteria established for the choice of those sites. As a result of that announcement of eight regions, the South Australian parliament passed a bill prohibiting the establishment of a storage facility in South Australia. In 2001 the Commonwealth government announced that a site near Woomera was to be the site for a repository for low-level and intermediate-level radioactive waste.

It is important to recognise that all the radioactive waste in Australia is intermediate-
or low-level waste. Compared with overseas countries, we hold and produce very little radioactive waste. For instance, at present we hold around 500 cubic metres, equivalent to about eight large shipping containers, of long-lived, intermediate-level radioactive waste. Every year we produce a low amount of low- and intermediate-level, short-lived waste which is also low by international standards—less than the volume of one shipping container. The amounts we are talking about are quite small.

To continue on the issue of the choice of a site: following controversy about the Woomera site which was announced in 2001 the Commonwealth announced that another site on a pastoral property in South Australia would be the location of the repository, which was to take low-level waste only. The South Australian government sought to preempt this decision by declaring the site a national park. Although we were successful in acquiring the land, action in the Federal Court followed, culminating in a ruling in 2004 setting aside the compulsory acquisition of the land.

On 14 July 2005 the government announced it was abandoning that repository project and issued the media release announcing the decision to examine the three sites in the Northern Territory. This had previously been noted by the Northern Territory government, which passed a bill in 2004 for the Northern Territory Nuclear Waste Transport, Storage and Disposal (Prohibition) Act 2004 with the specific intention of preventing the Commonwealth from establishing a radioactive waste management facility in the Northern Territory. The Department of Education, Science and Training explained to the Senate committee at the hearing that the reasons for these bills and the necessity to include several provisions in these bills was that the states and territories had made it very clear they would do everything possible to frustrate the Commonwealth’s intentions. Specifically, the Northern Territory government had made it clear it would do everything possible to halt or frustrate the Commonwealth’s actions.

We need a Commonwealth waste repository. The waste that we have and that we produce in this country must be stored safely—not in 30 locations around the country. In addition to that, Australia has contracts to receive reprocessed nuclear waste back from overseas countries in the year 2011. It is imperative that we have a site ready and safely built to take that reprocessed waste.

Needless to say, the scrutiny of the processes to establish the waste repository will take a long time. In fact, we were informed by Dr Loy from the Australian Radiation Protection and Nuclear Safety Agency that one process in the scrutiny will take up to two years. So we must start now. Senator Allison quoted Dr Loy as saying in 2002 that there was no urgency about a site. I point out to Senator Allison that that is now nearly four years ago, and time has moved on. If we have that deadline of 2011 we must move now. This is why the Commonwealth government have decided to put through this legislation, and I can certainly understand their frustration.

Many of the submissions that the Senate committee received and much of the public comment on this has been about the level of safety and the way in which this will be managed. We could only assume from many of the submissions that we received and much of the comment that has been made that there is a good deal of fear and scaremongering on this issue. Dr Loy, who surely would be regarded as one of Australia’s most eminent scientists, said:

In making a decision as to whether to issue any such facility licence, the CEO—
the chief executive officer—

of ARPANSA is required to take into account, amongst other things: international best practice in relation to radiation protection and nuclear safety; whether the proposed conduct can be carried out without undue risk to the health and safety of people and to the environment; whether the applicant has shown that there is a net benefit from the conduct; whether the applicant has shown that the radiation doses arising are as low as is reasonably achievable ... whether the applicant has shown a capacity to comply with the licence ...

And so on. In the same comment he also said that the acceptable doses that would be allowed for members of the public or workers at the facility would be very low. I am quoting here from his Hansard record, where he said:

So you are looking to see that, during the operation of the repository, the public and the workers receive no more radiation dose from the operations of the repository than they would from any other facility that uses radioactive material. There are well-known dose limits and dose constraints, as they are called in the trade, set down in the international literature to ensure that only very small doses can be received by the public and the workers in the operation of a repository.

Obviously when the CEO was looking at a licence for a repository the applicant would need to demonstrate that the arrangements in a repository make sure that, in the long term—and I am quoting again from his statement—'the risks arising from accidental exposure are very small'.

Certainly we have recognised in the other place in the debate on this subject that, if these three sites are not suitable, the amendments we have introduced enable the Chief Minister of the Northern Territory and the land council to nominate other sites which they may think are suitable. I would like to congratulate two colleagues from the Liberal-National Party—Senator Scullion and Mr Tollner—on the far-sighted and objective way in which they have looked at this question. They know that Australia as a nation needs a radioactive waste management repository. They have taken a very courageous decision, but they have also been very far-sighted and very objective about it. I congratulate them on their attitude.

I note with interest that Senator Siewert will be making some remarks on this subject later in the debate. It was very interesting that the Australian Greens did not appear at the hearing. They did not hear the remarks of the stakeholders which contributed to the debate on this topic. You would think that if they were going to make a contribution to the debate then the least they could have done was to appear at the Senate committee hearing on this. I believe that this legislation is important in the national interest. I believe that it should be passed. I am satisfied that the safeguards which will be put in place guarantee that this will be a suitable process to be carried out.

Senator STEPHENS (New South Wales)

(11.42 am)—I say at the outset that Labor will be opposing the Commonwealth Radioactive Waste Management Bill 2005 and the Commonwealth Radioactive Waste Management (Related Amendments) Bill 2005—and how ironic it is that the person who has had so much to say on the public record about these bills and the proposal to locate the radioactive waste repository in the Northern Territory and who represents the Territory is not even in the chamber to engage in the debate. These bills are heavy-handed, extreme and unnecessary. Labor oppose this draconian approach because we respect the right of the community, including Indigenous communities, to be consulted about the radioactive waste that will be dumped on their lands and trucked through their highways and byways.
These bills will have three major impacts. First, they allow the government to impose a waste dump on one of three sites in the Northern Territory—Defence department properties at Mount Everard, Harts Range and Fishers Ridge. Second, they give the government total power to site, construct and operate the Commonwealth radioactive waste dump at one of the three sites in the Northern Territory. And, in order to achieve this, these bills allow the government to override all existing and future state and territory law or regulation that prohibits or interferes with the selection of one of these proposed sites or with the establishment of a waste dump and the transportation of waste across the highways and byways of Australia.

The legislation overrides many federal legal protections, including the Environment Protection and Biodiversity Conservation Act 1999, the Aboriginal and Torres Strait Islander Heritage Protection Act 1984, the Native Title Act 1993 and the Lands Acquisition Act 1989. Notwithstanding any state or territory legislation, the bills give the Howard government the power to do anything necessary for, or incidental to, establishing or operating a Commonwealth waste dump at the chosen site and transporting radioactive waste to it. And, finally, they enable the government to acquire or extinguish all interests in the chosen site.

The third impact is that these bills destroy any recourse to procedural fairness provisions for anyone wishing to challenge the minister’s decision to put a waste dump in the Northern Territory. The Commonwealth Radioactive Waste Management (Related Amendments) Bill 2005 puts the nail in the coffin of accountability by making the Administrative Decisions (Judicial Review) Act 1977 inapplicable to the Commonwealth Radioactive Waste Management Bill 2005 once it becomes law. This last extraordinary step means that no-one will be able to hold the government to account for its actions in selecting a site for the waste dump. What if the government trips up yet again? They have already admitted that they put a tax evader on the board of the Reserve Bank. Under these bills, there is absolutely no recourse available to ordinary Australians. No access to the courts is possible.

The most extreme impact of these bills is that they silence local communities. They are an oppressive government campaign to impose a waste dump on the Northern Territory. But the silence is deafening, judging by the 231 submissions received by the one-day farcical Senate inquiry that the government deigned to hold. The government has done its best to sabotage Labor’s and the wider community’s attempts to ensure genuine consultation and debate on these heavy-handed bills. Not only do the bills shut down consultation and dissent but this government’s behaviour with the Senate inquiry has been nothing short of disgraceful.

Labor senators wanted to hold a proper Senate inquiry into the bills to allow Northern Territorians and the broader community to have their say on the nuclear waste dump. But the government senators declared that they were not in the mood to travel to the Northern Territory. Never mind that the government broke its promise not to site a waste dump in the Northern Territory, and never mind that these bills override every single Northern Territory law that gets in the way of the dump—the government has made up its mind. It does not feel like being accountable for its actions and it is certainly not in the mood to brook discussion.

The broken promise on the nuclear waste dump is breathtaking in itself. On 30 September 2004, just before the last federal election, the Minister for the Environment and
Heritage ruled out the Northern Territory for a dump site. He said:
The Commonwealth is not pursuing any options anywhere on the mainland, so we can be quite categorical about that, because the Northern Territory is on the mainland.

Next we had the Minister for Education, Science and Training supporting this claim on 24 January 2005 when he stated that the Commonwealth would prioritise an offshore site for the waste dump. He said:

So the Australian Government will be looking at an offshore facility, that is our clear preference. We are determined that it will be an offshore facility, but we are also concurrently looking at a 'remote' area, a long way away facility, to store intermediate and low level waste should the offshore site not be available.

The member for Solomon was happy to rule out the Northern Territory as a host for the Commonwealth waste dump as late as 7 June this year. He said:

There’s not going to be a national nuclear waste dump in the Northern Territory ... That was the commitment undertaken in the lead up to the federal election and I haven’t heard anything apart from that view expressed since that election.

The government were happy to promise the world and say whatever it took then, when they were contesting the election. But, after the election, this government were more than happy to sell out the people of the Northern Territory.

Despite the government’s attempts to silence the community and sabotage the Senate inquiry, we saw a flood of submissions from people concerned about the environment, tourism, agriculture and Indigenous heritage. The strength of feeling about the government riding roughshod over the Northern Territory was such that even that token committee had to recognise the huge number of submissions that, as the report said, ‘protested strongly at the Commonwealth’s decision to include in the bills provisions that override existing and future Territory laws’. The government senators went further and rebuked the Department of Education, Science and Training for failing to gain widespread community support. Their group, they said, ‘calls on DEST to be more proactive in adequately informing community groups about the proposal’.

This subversion of the Senate’s democratic processes and effective law-making reflects the Commonwealth’s intentions in this bill. As the Chief Minister of the Northern Territory, the Hon. Clare Martin MLA, said at the hearing:

Had the hearing been conducted in the Territory, either in Darwin or in the regional centres closest to the proposed sites of Katherine and Alice Springs, I can assure the committee there would be significantly more Territorians in the room today.

These bills are the abandonment of a transparent, open and inclusive process of rigorous scientific assessment. As the Chief Minister continued:

It is the adoption of a process that has been described as ‘decide, announce, defend’. It is about backroom decisions being made without consultation and without discussion. It is about the imposition of the nation’s radioactive waste on Territorians without their or their representatives’ involvement in any shape or form.

Although the Chief Minister is right about the lack of involvement of Territorians or their representatives, it seems that the Territory’s coalition representatives did not want to be involved. Where was Senator Nigel Scullion in the Senate inquiry? Senator Nigel Scullion was missing in action while his coalition colleagues rode roughshod over the wishes of the Northern Territory.

**Senator Scullion interjecting—**

**Senator STEPHENS**—I am very pleased to see that he has now joined us in the chamber. He refused to serve on the Senate committee considering bills that affect his con-
constituents directly. He then did nothing when coalition members refused to travel to the Northern Territory for a committee hearing. Stopping this legislation is Senator Scullion’s last chance to stand up for Territorians before they are trampled by this extreme and arrogant Howard government. If the senator decided to represent the real interests and wishes of his constituents for once, he would find plenty of company on his side. On the side of communities’ rights to have a say in matters that affect them are the Labor Party; the people of the Northern Territory; the Northern Territory government and many state governments; Indigenous land councils and prominent Indigenous leaders like the senior Djapu clan leader in the Northern Territory; and environment groups.

The Central Land Council opposed the waste dump in the Northern Territory, but the government is even willing to trample over Indigenous heritage to establish a waste dump in this country. The Central Land Council, the traditional owners of two of the three possible sites, inform us that they are strongly opposed to the Commonwealth radioactive waste management facility being located at either site or on any part of their country. They go on to say that their primary concern is the need to keep their country safe and healthy for present and future generations so that they are able to continue to use their country for hunting and getting bush tucker.

Perhaps most surprising of our allies in this debate is the cross-party Senate Committee for the Scrutiny of Bills. The Senate Committee for the Scrutiny of Bills has expressed serious concerns that the Commonwealth Radioactive Waste Management Bill 2005 overrides all state and territory legislation that gets in the way of the nuclear waste dump. The committee said:

The Committee draws Senators’ attention to the provisions, as they may be considered to trespass unduly on personal rights and liberties, in breach of the principle 1(a)(i) of the Committee’s terms of reference.

Principle 1(a)(i) asks the committee to examine all bills before the parliament and report to the Senate whether such bills ‘trespass unduly on personal rights and liberties’. The Committee for the Scrutiny of Bills is also concerned that the bill removes people’s rights, because it gives the minister total power over selecting a site for the waste dump. The committee has demanded that the Minister for Education, Science and Training justify:

... the inclusion of this absolute ministerial discretion and for the abrogation of procedural fairness. This is extreme and excessive legislation and cannot be justified by a democratic government. This report of the Committee for the Scrutiny of Bills is a further blow to the legitimacy of the waste dump legislation, and the government should drop these extraordinary bills immediately.

The government should dump the dump bills, not only because they are an extraordinary power grab for any democracy but because the government’s proposed sites were picked for political reasons. The Department of Education, Science and Training made an incredible admission over the proposed sites. They admitted that they had sought no independent expert advice whatsoever to aid site selection. The department has said:

No, we did not have a panel of external advisers. There was nothing like the store committee, for instance.

No geologist, no environmental scientist, no nuclear scientist and no health expert—just officials from the department and the minister for education.

The minister has politicised every single project and grant that he has touched; from flagpoles to research grants, everything has the minister’s grubby, partisan hands on it.
How then can we have any faith in the integrity of this minister? How can we believe that there is any objective scientific basis for the suitability of these particular sites apart from the minister’s own firm belief that he can trample all over the Northern Territory?

There is certainly enough suggestion of the unsuitability of these three sites. The original site selection criteria, established after the search for a site recommenced in 1992, included: low rainfall, freedom from flooding, good surface drainage, stable geomorphology, a generally stable hydrogeological setting and a water table at least five metres below the buried waste. They also recommended geology and hydrogeology amenable to modelling ground water and radionuclide movements; that it be away from known or anticipated tectonic, seismic or volcanic activity that could destabilise disposal structures or affect the containment of the waste; and that no ground water that is potable or suitable for agriculture can be contaminated. As well, they recommended low population density with little prospect for increase or development, and geochemical and geotechnical properties that inhibit radionuclide migration and facilitate repository operations.

Environmental considerations were paramount to site selection but were nonexistent in the three sites proposed by the minister. The Fishers Ridge site is particularly worrying, as it is in the highest rainfall zone in the Northern Territory and is over a major aquifer, the Tindal aquifer. This aquifer is important in providing water for several local horticultural developments. Flooding and wildfire are also serious issues in Katherine. As the Chief Minister said:

The location of a radioactive waste facility at Fishers Ridge raises concerns for the town’s water supply, the environment and tourism. These issues should immediately have removed Fishers Ridge from contemplation on even the most cursory scientific analysis.

Ground water and flooding are also major concerns in the Harts Range site near Alice Springs and, as the Chief Minister pointed out, the underground water beneath this area can make the sediment highly permeable. She said:

Looking at the second site, Harts Range, the underground water beneath this area has sediments that are likely to be highly permeable. There is significant ground water in the area which feeds into surrounding creeks. The site is between two very active waterways, the Ongeva and the Anamara creeks, and a rare megaflood has the potential to damage any radioactive storage facility. Again, a scientific analysis would probably have removed Harts Range from consideration at a very early stage.

I point out that these are the kinds of concerns which the local residents would have raised at DEST’s so-called consultations in the Northern Territory, and that should have set off warning signs for the department and the minister.

It is unacceptable for the department to front up to the Senate committee, shrug their shoulders and say, ‘She’ll be right,’ when they have used no independent scientific expertise whatsoever. The minister is asking us to trust him while he leads a blindfolded Australian public into one of the many giant sinkholes in the Katherine area. Senator Crossin described that sinkhole, which she visited a few weeks ago. The government’s case for rushing this legislation through this year, and for overriding community dissent and any territory, state or federal laws that get in the way, is a house of cards. Labor accepts the need for a national waste dump, but we will not ride roughshod over the wishes of Territorians or any other local communities that will have radioactive waste transported along their streets and highways. Labor believes that we must bring the com-
Community with us on a waste dump—something the government seems to have not understood in its nine long years of trampling over the Australian community.

Community consent and consultation are not avant-garde concepts. The National Energy Agency of the Organisation for Economic Cooperation and Development insists:

In order to build confidence in the process of establishing a waste dump it is important that it can be explained and, even more important, that it can be understood as being open, transparent, fair and broadly participatory.

To achieve openness and transparency there must be appropriate procedures in which stakeholders and the public can participate and validate claims of trust, legitimacy and authenticity ... Actions and decisions must be justified.

In its radioactive waste management status and trends update, the International Atomic Energy Agency advises:

It is now widely believed that an important element in establishing public confidence in a particular waste management strategy is the perceived trust and credibility of the implementing organization and of the regulatory authority. Establishing trust can be enhanced when an inclusive approach to public involvement is adopted from the beginning of the planning process to help ensure that all those who wish to take part in the process have an opportunity to express their views and have access to information on how public comments have been considered and addressed.

Those words—trust, credibility and inclusiveness—might as well be in Swahili for this government. It has absolutely no idea of what these words mean or why they might be important in the process of selecting a site for a nuclear waste dump. This government cannot engender trust when it shuts out the public’s ability to question and to know. It cannot have any credibility left as it overrides the major environmental and Indigenous heritage legislation. It cannot be inclusive if it peddles untruths about the waste dump and refuses to hear the concerns of Territorians. For all of these reasons, Labor will oppose these bills, and I will now move an amendment standing in my name on behalf of the opposition. I move:

At the end of the motion, add:

“but the Senate condemns the Government for:

(a) its extreme, arrogant and unnecessary approach to the nuclear waste dump;

(b) misleading Australians about the necessity of the bill despite believing that the Government already has the power under existing laws to site and establish a waste dump;

(c) breaking its promise not to locate a waste dump in the Northern Territory;

(d) overriding many federal legal protections including the Environment Protection and Biodiversity Conservation Act 1999, the Aboriginal and Torres Strait Islander Heritage Protection Act 1984, the Native Title Act 1993, and the Lands Acquisition Act 1989;

(e) destroying existing or possible rights of indigenous people to the proposed waste dump sites in the Northern Territory;

(f) trampling over Northern Territorians and other communities by overriding any existing or future State or Territory law or regulation that prohibits or interferes with the selection of Commonwealth land as a site, the establishment of a waste dump, and the transportation of waste across the highways and by-ways of Australia;

(g) refusing to hear the concerns of Northern Territorians and imposing nuclear waste on local communities without consultation or building trust and inclusiveness;
(h) misleading Australians by falsely claiming that unless the waste dump site is selected urgently, medical isotope production will cease;

(j) destroying any recourse to procedural fairness provisions for anyone wishing to challenge the Minister’s decision to put a waste dump in the Northern Territory; and

(k) disregarding the International Atomic Energy Commission’s recommendations on good social practices like consultation and transparency in relation to nuclear waste”.

Senator SCULLION (Northern Territory)

(12.01 pm)—‘Dinna bwino,’ Mr Acting Deputy President Barnett—that is ‘good morning’ in Swahili! Whilst I am very pleased to speak to the Commonwealth Radioactive Waste Management Bill 2005 and the Commonwealth Radioactive Waste Management (Related Amendments) Bill 2005, I have to reflect my disappointment about the degradation of the currency in this debate since it started in 1992. The last six months of this debate have been an absolute disgrace. It is a disgrace because those on the other side have decided to change the currency. It should be a currency of this place not only to debate and pass legislation but also to inform Australians. It has gone from informed, factual, scientifically assessed and validated information for people to consume, to misinformation, untruths, complete lies and scaremongering. That is what the debate has come to on that side. I am very proud that we on this side have continued to be reasoned and clear and use scientific facts in regard to the debate on this matter—and it is not a new debate; it is not something that has never been done before.

The process that we are following in establishing a radioactive management facility has in fact been done in many countries around the world, where it is not even notable because this is simply a responsibility that those nations have taken on seriously. Ironically, the process started here in 1992 when Simon Crean, the member for Hotham—very responsibly at that time, I have to say—noted that you have to recognise the need to deal with an existing and potentially ongoing inventory of radioactive waste. That was what the Labor Party said in 1992. Labor are the people who throw around lines like ‘trust, credibility and inclusiveness’. They started the process and said: ‘There’s the process. Let’s move into the future. We’re going to have a scientific based process to establish exactly where this facility is going to go.’ It was a very long process, it was expensive and it was all very inclusive. In fact, it was inclusive to the extent that every state and territory agreed that that would be the process—every state and territory, which represented every person who lived in that state and territory—which obviously includes, for your benefit, Senator Stephens, every Australian. So one would have thought that your process was inclusive.

It is extremely disappointing to hear that, after that process has been gone through—and it was a reasonable process; good on you, member for Hotham: it was reasonable stuff, and the Howard government supported it and then implemented it—it now gets shafted by those on the other side of this place and by Mike Rann and the South Australian branch of the Labor Party. So I take umbrage at your use of words like ‘trust’ and ‘credibility’. Do not come to this place with that sort of garbage unless you have something to back it up. This was a process—a responsible process—started by your side of government, but suddenly you want to politicise it because it is not handy to support the government at the moment. So it is just another rant in this place that has absolutely no basis in science or any argument at all. You should be supporting this legislation, and so
should Clare Martin, the Chief Minister of the Northern Territory.

Some time ago, when you started talking about this process, saying that it has to be based on the best science, a lot of pundits around the place started commenting on it. I note that recently one of our rocket scientists on the other side, the member for Lingiari, said, ‘Why don’t we just leave it at Lucas Heights?’ I know those on the other side are a bit ashamed about their history in almost every aspect of politics, but I would very much commend them to look at the processes in 1995, when your government moved the entire repository to Woomera. I have some facts for the member for Lingiari. He said, ‘Why don’t we leave it at Lucas Heights?’ I am sorry, Mr Snowdon, we cannot because it is on the other side of the world. It is not at Lucas Heights. It is at Dounreay in Scotland and COGEMA in France. Just a cursory look at the facts of this matter would make Mr Snowdon informed, and then he could enter the debate as an informed individual instead of as someone who is just thrashing around the place trying to frighten people and skew the facts to show that somehow Labor have done the right thing when it is patently obvious to anybody who understands any history about this matter that that is not the fact.

A number of issues have been brought up today in this debate. One of them is about the timing. People have said: ‘What’s the rush? We can hang around forever. It’s okay. We’ll consult some more.’ In fact, some people have said: ‘I know what we’ll do. Let’s have some more science. That’s what we’ll do. We’ll have a rigorous process that looks at the science of this process.’ We have just had one of those. Unfortunately, you have to have some trust, credibility and inclusiveness in that—they were the words you used. After the Labor Party sit down this time, will they breach their word in 12 years time? Who would know? But I can tell you that this is a process that, because of history, this side of government do not have a lot of faith in.

In August 2000, the CEO of ARPANSA, Dr John Loy, stated:

With regard to the intermediate-level waste store, there would need to be substantial and evident progress, such as the features of the design settled, citing criteria established and a strategy and timeline in place for sites ... that it was moving forward clear paths to its future establishment and I would be satisfied that a store will exist.

That is the single reason that the Commonwealth Radioactive Waste Management Bill 2005 has been introduced. It has been introduced because the Northern Territory government have sought to put in place delays. They have sought to put in place impediments to this happening. And they have sought to put in place delays to ensure that it confuses government. While they are doing that, they have had very little thought for Australians, because they also know that by April the same Dr Loy and his organisation will make an assessment. Around April they will ask, ‘About how far have we got to go?’ It is going to take about six years to go through the whole process—a very short time to build a facility. Those six years are almost committed to because this is a very rigorous, scientific process.

Again, this government bases such decisions on facts and science—very rigorous. We have to convince the Minister for the Environment and Heritage—although we do not actually have to convince a person; we have to convince one of the largest omnibus bills ever brought into this place, the Environmental Protection and Biodiversity Conservation Act 1999. Those on the other side who have an interest in these things, and I know some do, will understand that the rigour of that act, as supported effectively by them, is not easy to get around. Then we have to convince ARPANSA that all the
safety processes in terms of storage are met. We then have to go on to say that the Australian Safeguards and Non-Proliferation Office has been satisfied. That is going to take much time. If ARPANSA and Dr Loy are not convinced by April next year then it is unlikely that he is going to say that we have met our international obligations.

After having used radiopharmaceuticals for 48 years, we have the capacity in this country to make a decision in Australia’s interest and say, ‘We are going to do this,’ and that is what is happening here today. We have said we are introducing this bill to remove any doubt about the Commonwealth’s capacity to deliver something in the national interest. We need a single, purpose-built facility, and of course we look to science and good scientists. In September this year, Professor Snow Barlow, who was the President of the Federation of Australia Scientific and Technological Societies, said:

Dispersed storage of radioactive waste is not a viable long-term strategy and is potentially hazardous, inefficient and impossible to completely secure.

Good science? There are no problems about that. He is somebody of absolutely reliable reputation who continues to write papers in the area. We know we can trust this man. We know that we are doing the right thing, based not on rhetoric but on science.

Another issue is the reliability of supply. I have to say that there are some people with declared agendas—the Greens, effectively. I do not want to pre-empt what the Greens will say, but I know, by simply reading their web site, that they are not particularly keen on uranium after it is out of the ground. I can understand that and I respect that. The Democrats are of a similar ilk. Certainly, Senator Allison is, and I respect that, because that is her agenda. But there are those on the other side who say, ‘It is okay; we can mine and use uranium,’ but who all the same will not accept good science. If you look at the movement of these radiopharmaceuticals internationally you see some call: ‘It is okay; we will import it. Don’t worry; we do not need Lucas Heights. We can import it. There is no concern at all. We will make a fundamental part of our health system reliant on another country. It is okay; nothing will happen.’ But, again, we have to rely on some science. In September this year the Director General of the International Atomic Energy Agency, Mohamed ElBaradei, told the IAEA general conference:

The Secretariat has continued to meet with commercial carriers, regulatory authorities and modal organisations of the United Nations to determine how to address the increasing denial of shipments of medical radioactive materials.

There is a bit of a surprise—we could be importing from another country and suddenly find out that the transportation people say, ‘We do not really want to carry this material.’ What better scientific evidence is there that we need a reactor here, we need to continue to have the benefits of radiopharmaceuticals for our health system and we need to ensure that the processes to meet our international obligations are met? That is why it is essential to support the Commonwealth Radioactive Waste Management Bill.

The government needed to act and they have acted. They proposed three sites in the Northern Territory. They did not act by going to the Northern Territory because they thought they were the best places. Some in DEST and the minister will probably assert that there was a good scientific basis for it but I have always said that that is just rubbish. The level of amenity in the three places selected is (a) they are Commonwealth land and (b) they were not being used. That is all the choice they had. The choice was taken from them by the Labor Party. Mike Rann said, ‘I am breaching the agreement; it is not
going in section 40a in Woomera,’ which is where the very best scientific process in Australia said it should go. He breached his word and so the Commonwealth had no choice. Territorians, believe me, none of us are putting us in this situation. The South Australian branch of the Labor Party did. And when I pleaded with the chief minister as recently as last night to pick up the phone and ring her mate she declined and she did not indicate whether she had done that previously. I had to write to Mr Rann last week and I am still waiting for a reply. But I think it is absolutely outrageous hypocrisy.

Senator Forshaw—What did that South Australian leader of the opposition say?

Senator SCULLION—Let me tell you about absolute hypocrisy. She does not want to ring him to say, ‘Will you put the site where it should go?’ but she is happy to say, ‘G’day, Mike, old mate—what about I do a deal taking your yellowcake through Alice Springs, Tennant Creek, Katherine and Darwin? That is okay.’ You should be careful about the interjections from the other side because you have no moral high road left on this issue. During the phone call would it not have been easier to say, ‘Mike, if you want to bring your yellowcake through the centre of this country, what about consulting with the Central Land Council?’ They were in my office the other day saying, ‘Nigel, we do not want this.’ I said, ‘But Clare is bringing yellowcake through your country,’ and they said, ‘We did not know that.’ Consultation, truth, transparency—they have to rub both ways.

The Labor Party have completely misrepresented the situation and have outrageously exaggerated the claims. Lyn Allison mentioned turning the land into a wasteland. I have spoken to Aboriginal people who are really upset. They have said: ‘All the wallabies are going to die, Nigel. It is going to poison our water.’ I am suspicious about who has provided those lies to those people. No one on the other side has said, ‘No, that is not the case.’ I do not hear that. Yet they know in their hearts and they should know in their minds that that is wrong. It is particularly wrong to provide that sort of misinformation to naive communities that do not have the opportunities and sometimes the education to understand exactly what is going on with this issue.

They have a responsibility to ensure that the Northern Territory are well represented and informed, rather than spreading the absolutely outrageous claims we have had, including from Minister Vaskalis. He said that we are going to ruin the clean green image of the Northern Territory. Only the activities, the misinformation and the grubby lies spread by a number of people in the Northern Territory are going to impact on the clean green image of the Northern Territory. If you had a reasonable debate you would know that there would be no threat to any of those things.

I know that they are aware that French champagne and camembert are produced adjacent to some of the largest low-level and intermediate repositories in the world. Do I like champagne? I prefer Australian sparkling wine, but champagne is sold throughout the world. I do not mind a bit of camembert—though I prefer my Tasmanian cheeses—but I think that it is a pretty spurious claim to make. Again, it is scaremongering. Let’s frighten the people—an age-old ploy.

I did listen to the concerns of Territorians, as I said I would. I listened very carefully. I fronted a number of information sessions and opportunities to interact and I carefully guided and looked at what the concerns of Territorians were. The Country Liberal Party, David Tollner and I decided to reflect those
concerns in a series of amendments in the other place. Those amendments that are now contained in this bill deal with ensuring that we have a prohibition on high-level waste and on international waste. We have indemnified the Northern Territory against any costs and damages associated with this process. We have ensured that it is legislated that the Northern Territory repository—currently in the basement of the hospital, but we do not want to talk about that too much—is stored for free in this new facility. We have another person put on the Radiation Health and Safety Advisory Council, a better level of amenity for Territorians with the Territory government.

Most importantly, instead of saying that they are the three sites, we have expanded the sites by ensuring that there are extensions to schedule 1 that allow the Northern Territory government, the Central Land Council and the Northern Land Council to be able to provide a nomination should they choose. I have had many pastoralists and landowners ringing me, saying: ‘Why did you have to make the Northern Territory government do this? Why couldn’t we have nominated ourselves? We think that we have got a great level of amenity.’ I said that I did not want to disempower the Territory government in this matter. Governments of that nature are responsible for land. It is up to them and it will be up to Clare Martin to deal with those issues. The Central Land Council have made their views clear, particularly the traditional owners from Mount Everard and Harts Range, and I have spoken to them at length. They have made it very clear that they are not happy with it going there and I respect those wishes. For those reasons we now have an opportunity to spread that right out.

The behaviour of the Northern Land Council in this matter shows integrity and leadership and it deals with the national interest. I commend John Daly and the secretariat, particularly Norm Fry and Ron Levy, on their work in this matter. It is very difficult to provide an entire council, go away to Bynoe Harbour with no-one else there, and then provide advice from independent scientists and from ANSTO and to go and ask any questions they liked. They did that and unanimously decided that they wanted to do something. Their press release said:

The Full Council of the Northern Land Council has called for an amendment to the Commonwealth Radioactive Waste Management Bill 2005 so that a Land Council can nominate an alternative site in the Northern Territory for a waste facility provided that the traditional owners agree and sacred sites and environmental issues continue to be protected under current legislation.

They went on to say:

The storage of radioactive waste from medical treatment is clearly a matter of national importance.

Leadership! It is great to see that. They are tremendous Australians—good on you, John Daly. The press release made a couple of comments about the Chief Minister. It said:

The Chief Minister knows full well that a waste facility may be safely built in some parts of the Northern Territory—but carefully says nothing about this issue.

She is silent on those things. Is it a balanced debate? Is it a balanced discussion? No. So when we are talking about those iconic processes of truth and integrity, Senator Stephens, I think your side in the Northern Territory leaves a lot lacking. John Daly went on to say:

The Chief Minister also knows full well that 400,000 Australians receive radioactive medical treatment every year, and the small amount of waste generated should be stored safely in a secure national repository—not in hospital basements or shipping containers in over 100 different locations in Australia.

He continued:

This dismal performance—
referring to the Chief Minister—
can only damage the position of traditional own-
er in remote locations who may welcome devel-
opment and seek outcomes which benefit all Aus-
tralians.

This government would have preferred to act
in cooperation with the states and territories. 
You cannot go to sleep in the Common-
wealth; it has to be a state or territory. Life
saving benefits go to those people in the
states and territories. We are not getting the
cooperation of the states and territories be-
cause they are Labor states and territories. 
This is an act of bastardry against the Austra-
lian people. I am proud to be part of a gov-
ernment that will not shy away from our re-
sponsibilities and I commend the bills to the
Senate.

Senator SIEWERT (Western Australia)
(12.21 pm)—Before I commence my com-
ments I would like to address the rather
cheap shot that Senator Troeth had at the
Greens for not attending hearings of the Em-
ployment, Workplace Relations and Educa-
tion Legislation Committee. It is outrageous
and a hide when they called so many com-
mittee meetings that week. I was in another
committee hearing, welfare to work, so could
not attend two places at once, as much as I
would have liked to. I also missed out on
going to the native title committee hearings
and the environment committee meetings on
salinity—issues very dear to my heart. I
think that it is outrageous that the govern-
ment takes this cheap shot.

They called the one-day committee hear-
ing on a day that the other member of the
Greens, Senator Milne, who would have at-
tended, could not make. It is outrageous that
they level cheap shots at the Greens for not
being able to attend committee meetings,
when they call the meeting for one day, not
really intending for the committee hearing to
have any genuine outcomes. I am extremely
concerned that the government, after putting
the Senate through those dreadful two weeks,
would deign to take such a cheap shot.

I believe that at any normal time the Com-
monwealth Radioactive Waste Management
Bill 2005 would be one of the more offensive
pieces of legislation in this chamber for a
while—probably by a clear margin. How-
ever, given the extraordinary fortnight we
have just had, I suppose it is just one of a
crowd of pieces of appalling legislation. We
have before us now a bill that purports to
manage the most dangerous waste material
produced by any Australian industry. 
Whether we like it or not and whatever we
choose to do with it, this waste will still be
dangerous to our children's descendants in
thousands of years.

While there are a few people in the com-

munity who are so blase about this material
that they suggest it can be treated like any
other waste, the Australian government has
gone to great lengths to assure us that it rec-
ognises the intrinsic hazards involved. The
government believes that this waste is so
dangerous that it needs to be evacuated from
Sydney and placed as far from human habita-
tion as possible. Extensive site selection
studies for a dump site were undertaken in
1992 and have been continuing in some form
ever since. These studies produced a shortlist
of eight sites in July 1994. The maps from
this period feature a bold heading that says:
No areas were considered within the Murray-
Darling Basin or the Great Artesian Basin be-
cause of their important water and agricultural
resources.

According to the Commonwealth govern-
ment, this waste is so dangerous that it
should not reside in such areas. In all of the
studies undertaken until last year, when it
was clear that the government was intent on
dumping this stuff in South Australia, the
final resting place for the nation's high-level
waste was to be not in some outback, isolated shed, but in a deep geological repository hundreds of metres or more below the surface. Whatever the Greens think of the safety of this plan, it is a measure of the government’s apparent respect for the hazardous nature of this waste that the plan has always been to dump it as far from human beings as possible, deep underground, in an area where inevitable contamination will not ruin resources of importance to future populations. The question of whose backyard it ends up in and how it gets there are problems I will turn to in a moment.

Contrast this with the approach embodied in the bill which the government has placed before the Senate. In essence, the bill is a ‘get out of jail free’ card for the Howard government. It bypasses the Environment Protection and Biodiversity Conservation Act for the entire site selection process, kicking in after the site has been selected and allowing government officials and contractors to do whatever they like without regard to Australia’s most significant piece of environmental legislation. This strikes at Aboriginal and Torres Strait Islander heritage protection, extinguishes native title, pushes aside the unique protections of the Aboriginal Land Rights (Northern Territory) Act and dismisses any entitlements to procedural fairness in relation to the minister’s declarations. The government has rammed this through with minimal scrutiny—it gave a Senate committee, as I articulated earlier, one whole day to examine the consequences—and picked on a politically vulnerable territory without the rights of a state and with only a handful of coalition MPs, who have comprehensively hung it out to dry.

It is hard to imagine a more ruthless approach to dealing with this waste or a sharper contrast with what we might fondly imagine to be best practice. When the government was forcing the stuff on South Australia, at least there was some pretence of scientific vigour. Geological surveys were done, communities were told what to expect and sites were narrowed down according to a complex, multicriteria model. All of those are things of the past. The Howard approach in 2005 is to simply choose a handful of convenient sites on Commonwealth land in the Territory and pass a piece of legislation putting any form of due process permanently out of reach.

This has moved beyond science and of course is now into the realm of pure politics. If the science minister had taken the time, he could have sat down with traditional owners from Central Australia who visited Parliament House in early November. He would have heard that there are 5,000 people living in close proximity to the two proposed sites in Alice Springs. He would have discovered that the sites in the catchment area are every bit as important to the local residents as the Great Artesian Basin and the Murray-Darling Basin. He would have been reminded that there is nowhere truly out of sight and out of mind where this material can be dumped and forgotten. Anywhere in Australia is someone’s backyard. To target from Canberra someone else’s land and so easily extinguish their rights is reprehensible—particularly when this is done by senators opposite who call themselves champions of private property rights. The concept of terra nullius, which was rejected by the High Court in 1992, is clearly still alive and well in this country.

In discussions with government, the Northern Land Council took a different approach to that of the Central Land Council and suggested that Indigenous communities wanted the right to nominate a site, rather than having one forced on them. With this came the demand for the right of veto—something you would think a government that spends a lot of time talking about private
property rights and private rights would support—but the land council got done over. They have been given the right to nominate a site but no-one has the right to reject one.

While we are told that this is all about responsible management of existing waste, in reality we are just clearing the decks so that more of the stuff can be produced. The government and ANSTO are determined to proceed with their plan for a new reactor that will generate another 1,600 spent fuel rods, which will, according to ANSTO documents, result in a 12-fold increase in annual production of intermediate-level fluids and a four-fold increase in the annual production of all other waste categories. I remind senators that the facility producing this waste is subject to contention by the very people whom the government uses to justify its very existence. A 2004 report by health professionals under the banner of the Medical Association for Prevention of War concluded:

The new nuclear reactor at Lucas Heights in Sydney is not required for medical purposes

Like most other comparable countries, Australia can have world-leading nuclear medicine care without a reactor by importing reactor-produced isotopes and producing many other isotopes here in cyclotrons.

This morning, a statement by 18 prominent medical professionals was released, in part noting:

As doctors we are professionally and personally committed to preventing disease and promoting health, today and into the future. We have become increasingly alarmed at proposals for expansion of the nuclear industry in Australia.

These are professionals the government is relying on to justify the existence of the reactor that is the source of this waste. They do not want it. Talk within government circles about a commercial nuclear power industry in Australia is equally worrying. There are no prizes for guessing where the waste from Australian nuclear power stations will end up if they are ever built. We do not need the research reactor that is producing this material. We need to take a good hard look at the waste that already exists and deal with that.

The Greens are frequently accused of opposing but not proposing, so here are a couple of propositions that go to the heart of this matter. I recognise that this government has inherited a headache dating back to February 1954 which has been poorly dealt with by successive governments for over half a century. I propose that we phase out the production of this waste, the first stage of which is to cancel any further expenditure on a replacement reactor in Sydney. I propose to move an amendment which clearly outlaws the import of nuclear waste from overseas. We have been told that this dump is intended for Commonwealth waste only, and this should be made clear in the government’s bill. Territorians are rightly concerned that, on the heels of thousands of tonnes of Canberra’s nuclear waste, thousands of tonnes of radioactive waste from other parts of the world will follow. I urge the government to clarify its intentions in this regard and support this amendment.

I propose that, by way of the most basic due process, Indigenous people should be given the power to oppose a waste dump site as well as to propose one. I also propose that we pay attention to experts around the world who suggest that moving this waste may in fact be the most dangerous strategy in some cases, and that moving it while it is exempt from the laws which have been specifically put in place to protect people and the environment is a recipe for disaster.

This document comprising 144 pages and titled Let the facts speak articulates over 50 years worth of accidents in the nuclear industry. No matter what the process for choosing a site is, the transport of waste still represents
a formidable obstacle to safe management, and this document articulates hundreds of accidents involving transport of nuclear waste. We are talking about shipments of reprocessed nuclear fuel passing through Darwin harbour for trucking to Central Australia along public highways, and several shipments per year from Sutherland Shire by road, halfway across the continent, through many communities along the way. It will be the largest movement of hazardous waste in Australian history, and it is wholly unnecessary.

The way in which this legislation is drafted to override state and territory laws gives rise to huge concerns that corners will be cut. I will move amendments during the committee stage to address this transport factor and ensure that the relevant state and territory legislation is not overridden. In an Australian context, this means rationalising nuclear waste management in this country so that states move to safeguard the waste in secure storage, while the considerable expertise present here and overseas is turned to the question of dealing safely with the more hazardous material that has been piling up at Lucas Heights for half a century.

High- and intermediate-level nuclear waste, which looks so intractable to 21st century eyes, may yield to promising technologies such as transmutation or synroc—potential solutions in which Australian researchers have played no small part. But this could take decades, and the waste needs to be safeguarded rigorously in the meantime. The very existence of these promising lines of research make it obvious that the very last thing we should be doing with this waste is trucking it to a remote location and tipping it into a hole in the ground.

In pushing so aggressively for a dump of this kind, the government forecloses options that may bear fruit in the future. The Australian Greens recognise that this waste exists and that there are no easy solutions before us. We are prepared to work with those that are ready to look at alternative approaches to this issue with a clear sense of long-term responsibility. There is no reason why nuclear waste management needs to assume the kind of hostility to environmental protection, land rights and public health for which it is notorious. But the government’s current approach is unacceptable to us. For this reason, we do not support the legislation.

**Senator TROOD (Queensland) (12.33 pm)**—It is a great pleasure to participate in this debate on the Commonwealth Radioactive Waste Management Bill 2005 and the Commonwealth Radioactive Waste Management (Related Amendments) Bill 2005. This is another example of the Howard government proceeding with matters on the nation’s agenda which are of considerable importance. This matter is certainly of that character. It is a matter that goes back a very long way. It is a matter that has been unresolved for a very long period of time, and it needs resolution.

The early stages of consultation between the Commonwealth, the states and the territories on this matter go back at least to the 1970s, when there was a process in place which was designed to resolve the problem of where Australia’s low- and medium-level waste would be stored. That process proceeded essentially on a bipartisan basis for a long period of time. By the time we got to about 1992, there was a paper which provided a set of criteria as to the requirements for a storage facility. It was a paper which was agreed amongst the Commonwealth, the states and territories. Various regions were identified in the context of this paper, and eventually a site in South Australia was identified as the most desirable site.
One could go through the full detail of this matter, but I do not think it serves any particular purpose, other than to say that by the time we got to 2004-05, when we had a site identified, the South Australian government, like all the other state governments, had decided that it was going to do everything in its power to prevent the establishment of this site in South Australia. Of course, this represents a problem. It represents a syndrome which is all too redolent around the country at the moment. It is a shameful syndrome because it reflects the fact that no state was prepared to take responsibility to cooperate with the Commonwealth to provide a facility in which to store this low- and medium-level waste. It is a ‘not in my backyard’ syndrome. No state or territory was prepared to take leadership on the issue and say, ‘This is a national responsibility. We all need to contribute to it; we all need to take some responsibility for the problem.’

So we found ourselves, at the end of 2004-05, with no facility. We also had at that time a statement by the Northern Territory government that, if any attempt was made to try and site material in the Northern Territory, it would be opposed by the Northern Territory government. So the outlines of this debate were clear from the very beginning: the Northern Territory government was opposed to it.

What was the Commonwealth to do in those circumstances? The opportunities for consultation with the Northern Territory government were very clearly foreclosed. There was no likelihood that the Northern Territory government was going to be rational, sensible, accommodating or in any way cooperative with the Commonwealth on this matter. So the Commonwealth did what it was essentially forced to do by the position taken up by the Northern Territory government. It said that the facility would be established in the Northern Territory.

There has been a charge made in this debate that the Commonwealth has acted in a very heavy-handed way and shown contempt for the processes of the Northern Territory government, has overridden the legislative rights of the Northern Territory government, has essentially ignored all of the processes and will create a situation where all of the checks and balances which would normally be created and used to site a facility of this kind will be overridden. Of course, nothing of the kind was ever intended.

Once this decision had been announced by the Commonwealth, the Northern Territory government decided not only that it was going to oppose the decision but also that it would delay, prevent, obstruct and do every single thing in its power to preclude the siting of this facility on its territory. Not only did it make a rhetorical claim about this but it also produced a document headed, What you need to know about Canberra’s proposed nuclear dump. This document purported to provide Territorians with information about the dump. It is a document which—if one is being generous—at the very least contains a series of half-truths and misrepresentations about the nature of this dump. It asserts that Australia’s highest grade nuclear waste is to be stored in the facility. That was never the intention. It makes accusations about the fact that nuclear waste poses a serious danger to humans and the environment for many thousands of years. It may be toxic in certain senses but, of course, we all know that it can be stored safely. That was always the intention. It makes representations about a range of terminal and debilitating medical conditions that have been directly linked to exposure to nuclear waste. There was no evidence provided for that proposition and, indeed, in all the evidence that we received in the committee—on which I was privileged to sit—there was little of that kind as well. This document purported to inform Territorians
about the new dump; what it did was whip up a great deal of sentiment against the siting of the facility in the Northern Territory.

When giving evidence before the committee, the Chief Minister of the Northern Territory sought to make the point that it was no business of hers, and no business of her government, to provide the case for the dump. I have sympathy for that proposition, but I do think that the Northern Territory government has the responsibility to provide balanced information and, at the very least, not to represent the case as it was inclined to do in this particular document. It set out as best it could to prey on the fears that people have about nuclear facilities. Of course, those fears are widespread in the community. There are a large number of anxieties about nuclear waste, so a responsible government would have, perhaps, said: ‘This matter needs to be resolved; we ought to show some leadership and try to encourage people to recognise that there are some dangers, certainly, but that they can be overcome.’ That was never the position of the Northern Territory government.

What is more distressing is the hypocrisy of the Northern Territory government’s position about this particular matter, because the Northern Territory government, when it came to the committee, asserted the proposition that the politics be taken out of the issue and the focus be on the science. But evidence from the Northern Territory at the committee was that the Northern Territory government had not taken one step and had made absolutely no effort to try to inform itself of the science. Not only did it take no steps to try to inform itself of the science but it also made no attempt to try and inform Territorians of the science. The hypocrisy of this position was absolutely astounding. The Chief Minister was exhorting the committee to concentrate on the science at precisely the same time that she was determined to ignore the science and to play the politics of this matter. It was a disgraceful performance and I am not surprised that there are people in the Territory who are distressed about it.

Once this bill has passed, as I trust it will be during the course of the day, then we have to move on to the future. We have to confront the reality that a site has to be found for this waste. We heard evidence in relation to three sites. My sense is that the Fishers Ridge site will probably prove to be unsuitable, but an exhaustive process of investigation will take place to determine whether or not any of the three sites will be suitable. There is an opportunity here for the Northern Territory government to redeem itself and to take a constructive view in relation to this matter, because the bill offers the Territory government an opportunity to nominate a site. I sincerely hope that the Northern Territory government avails itself of that opportunity. Having been unconstructive all along, I hope that it will take the opportunity to be cooperative in relation to this particular issue.

Before we get too troubled about the implications of the siting process, I would encourage Territorians to pay attention to the evidence and, in particular, to the evidence of Dr Loy, the chief executive officer of ARPANSA, to the inquiry. He made it very clear in his evidence that the process of authorising the site was a rigorous and exhaustive one and that there would be a great deal of investigation done in relation to buildings, ecology, transportation, the geology of the site, the storage relationship and the matter of Aboriginal land rights. All of these things would be taken into account when the investigation process was under way and the authorisation process was taking place. This will be a rigorous process, and I would encourage Territorians to pay attention to that. I have confidence that that process will deliver a site which will be safe to
those people who happen to live nearby.

(Time expired)

Senator JOHNSTON (Western Australia) (12.45 pm)—I seek leave to incorporate the speeches of Senators Nash and Boswell.

Leave granted.

Senator NASH (New South Wales) (12.45 pm)—The incorporated speech read as follows—


Since the days of the Hawke Labor Government successive Australian governments have sought to put in place responsible arrangements for the management of this nation’s low and intermediate radioactive wastes.

Despite best efforts they have been defeated by the NIMBY (Not in my back yard) attitudes of State and Territory Governments. The very same State and Territory Governments who agree that there is a need for radioactive waste management facilities in Australia—as long as they are “not in their backyard”.

The myopic views of these State and Territory Governments forced this Government—a Government that was willing to work with the States and Territories—to consider other options for the management of low and intermediate level radioactive waste produced by Australian Government agencies.

There would be few in this place that would not be aware that three Department of Defence sites owned by the Commonwealth in the Northern Territory were identified by this Government for further consideration as prospective waste sites.

• a site called Fishers Ridge, about 43 kilometres southeast of Katherine.

• another site near Harts Range, 100 kilometres directly northeast of Alice Springs, and

• a third site at Mt Everard, about 27 kilometres directly northwest of Alice Springs.

It is clearly evident that the radioactive waste management facility site will go somewhere in the Northern Territory—despite the NIMBY scare campaign that was mounted by the Martin Territory Labor Government. A campaign that was discredited during the last senate estimates process as a campaign that was not only misleading, but just plain wrong.

Senators may recall that officials from the Department of Education Science and Training told the Employment Workplace Relations and Education Estimates committee—a committee which included Senator Crossin, that the NT Government’s publication “What you need to know about Canberra’s Proposed Nuclear Waste Dump” which was promoted on the NT Government’s website, was incorrect and misleading.

DEST officials said statements in the flyer, which claimed the nuclear waste to be stored at the facility “poses a serious danger to humans and the environment for many thousands of years”, were completely untrue.

The same officials told the committee that communities residing near a radioactive waste management facility were in no way at risk of “a range of terminal and debilitating medical conditions” as implied in the NT Government publication.

Now my good friend from the Northern Territory’s Country Liberal Party and coalition colleague, Senator Scullion and his CLP colleague in the other place, the member for Solomon did the right thing, because they recognised that the radioactive waste management facility was destined for the Northern Territory.

They worked within the Howard-Vaile government to secure the best outcome for Territorians. They were successful in having the legislation amended to give Land Councils and the NT Labor government greater involvement in nominating a suitable site.

This means that this Government’s radioactive waste management facility could well go to a site, other than a Defence site, where somebody actually wants it, rather than to a site where somebody doesn’t want it.

Senator Scullion and the Member for Solomon did the right thing!

Unlike the Martin Territory Labor Government, Senator Scullion and the member for Solomon
knew they couldn’t walk away just because the Territory Labor Government said they should.

Senator Scullion and the Member for Solomon knew the Territory was going to get a radioactive waste management facility—it was a fact—so they went about to make sure that the Territory was going to get the best, the safest, the cleanest and the greenest low and intermediate radioactive waste management facility in the entire world.

Without a suitable radioactive waste management facility in this country no Australian could reasonably expect to receive the benefits of nuclear-sourced radioisotopes. Why, because where would we dispose of them?

On average throughout life, every single one of us—not just in this place, but right across the nation, will benefit from a medical procedure to either diagnose or treat a cancer or other disease using a radio-pharmaceutical sourced from Australia’s only nuclear reactor at some time or other.

Every year around 400,000 Australians undergo medical procedures that use the isotopes produced by Australia’s only nuclear reactor, saving lives every day.

There are also a host of applications of radioactive materials that we rely upon in areas as diverse as sterilisation of bandages, syringes and women’s hygiene products, minerals exploration and processing, ensuring the safety of oil and gas pipelines and the accurate filling of bottles and cans containing food and beverages.

If we are to ensure that these medical and industrial procedures and products are available in the future, we must as a nation provide the facilities needed to manage the small quantity of radioactive waste that arise in their production and use.

Government senators recognise that passage of the bill is essential if Australians are to continue to realise the benefits of the wide range of uses of radioactive materials in our daily lives.

Let us not forget that successful passage of this Bill is also necessary for the Commonwealth to fulfil its responsibilities under international conventions for the safe and secure management of radioactive waste.

These include our obligations under the Joint Convention for the Safety of Spent Fuel Management and the Safety of Radioactive Waste Management.

I remind the Senate that Australia is obliged to take back its radioactive waste currently stored in Scotland and France.

Now those opposite say the Bill is unduly coercive and unjust in overriding the Northern Territory Nuclear Waste Transport, Storage and Disposal (Prohibition) Act 2004. This is simply not the case.

Labor does not come from a position of strength on the issue to site, construct and operate a facility for the safe and secure management of Australian government agencies radioactive waste

Labor failed to construct suitable radioactive waste management facilities during its 13 years in office.

Labor may well have tried to start the process back in 1992 but let us not forget one important thing! They failed. They failed because the then existing Commonwealth legislation proved to be inadequate in the face of the opportunism and parochialism of the South Australian Labor Premier, Premier Rann.

As events in the Federal Court in 2004 demonstrated, the Australian Government did not have the power to complete the then Labor Government’s siting process.

And let us not forget the Northern Territory Nuclear Waste Transport, Storage and Disposal (Prohibition) Act 2004. This Bill was nothing more than a political stunt by the Martin Government, knowing there was existing Commonwealth legislation that could authorise operation of a Commonwealth radioactive waste management facility in the Northern Territory.

The Northern Territory Government is in no position to criticise the Commonwealth in responsibly managing its radioactive wastes given its own failure to control radioactive waste in the Territory.

The Martin Territory Labor Government does not even have a clear understanding of where all of its radioactive waste is actually held in the Northern Territory—apart from material which is inappropriately stored under stairwells in the base-
ment within the Royal Darwin Hospital, and some out at Mount Todd.

It is also important to acknowledge the hypocrisy of the Martin Territory Labor Government and its double standard on the transport of yellowcake from South Australia and the transport of radioactive waste to a Commonwealth facility in the Territory.

Yellowcake from Olympic Dam is currently safely transported by rail to Darwin and shipped from the port of Darwin with the full participation of the Northern Territory Government authorities. Yet this substance is more radioactive than any of the low level radioactive waste held by the Commonwealth which comprises 90% by volume of the entire inventory.

For the past 50 years Australia has operated a small, but significant, research reactor, soon to be replaced by the new research reactor, the Open Pool Australian Lightwater (OPAL) reactor.

As a nation we must deal with an existing inventory of radioactive waste, about 4,000 cubic metres, and the small quantities that will arise from the continued need to produce radioisotopes for use in medicine, industry and research.

It makes no sense to run public scare campaigns that completely blow out of proportion the risks and hazards associated with this low level and intermediate level radioactive waste. The sort of waste we are talking about is all solid waste—it is not a liquid that can spill or leak, it cannot explode, and it is not readily combustible.

Australia does not produce high level radioactive waste and existing Commonwealth law as well as a long standing policy prohibits its importation.

Now the Opposition inaccurately refers to this highly managed, highly regulated facility as a “dump”.

This Facility will not be like a municipal tip where material is dumped off the back of a truck into a pile and then buried into the earth. It will be placed there carefully and precisely with the contents recorded and monitored.

The material will either be stored above ground in a purpose built building where the containers can be monitored and checked at any time or, if a burial option is available, low level waste will be disposed of by burial—in a very precise manner that allows for monitoring and recovery of buried material if that is ever necessary.

The Howard-Vaile Government is taking it’s responsibilities for radioactive waste management seriously. This Government has a plan! Those opposite and their state and territory Labor cronies with the NIMBY attitudes have nothing—nicht—nothing!

Only this government can give confidence to the Australian people that they will continue to realise the benefits of the wide range of uses of radioactive materials in our daily lives. Because only this government is doing something about putting in place a low to medium level radioactive waste management facility.

Senator BOSWELL (Queensland—Leader of The Nationals in the Senate) (12.45 pm)—The incorporated speech read as follows—

The Senate is debating the Commonwealth Radioactive Waste Management Bill 2005, which clarifies the Commonwealth’s role in the siting of a waste dump facility in the Northern Territory.

The reason this bill is before the Senate is because of the actions of two Labor leaders, Premier Mike Rann in South Australia and Clare Martin, of the Northern Territory.

Both have failed to insist that the original plan for the best site proceed.

Scientific investigations found that Woomera in South Australia was the most suitable site for the storage of low and medium level radioactive waste.

Had the South Australian Premier lived up to his obligations and recognised science as the only appropriate judge when you’re talking about radioactive waste, the Northern Territory would not be having this radioactive waste facility and we wouldn’t be debating this bill.

Had the Northern Territory Chief Minister, Clare Martin, stood up to her South Australian Labor colleague and insisted he act on the science, we would not be debating these bills.

Had Clare Martin withheld permission for South Australian yellowcake to travel by rail throughout the Territory, she could have put heat on the South
Australian government to revisit the issue of the waste facility site.

Instead, Clare Martin caved in to the wrong people and is now left to flounder helplessly as the waste dump goes into the Northern Territory following her colleague’s cowardly cop-out over Woomera.

Rather than take on a fellow Labor Premier, Clare Martin actually rewarded Mike Rann by allowing his yellowcake onto the rail transport network of the Territory.

The Coalition government’s position is that we are committed to safe and responsible storage of radioactive waste. We strongly believe that a single, dedicated facility is preferable to storing waste at a number of locations around Australia.

The South Australian government’s actions are directly responsible for the search for an alternate radioactive waste site in the Northern Territory—and for this bill currently under consideration by the Senate.

My CLP colleague, Senator Scullion, has been attacked for pointing out these and other facts relating to the radioactive waste facility.

Let me point out that Senator Scullion always puts the Territory first—always.

He is an articulate and powerful advocate for the Territory’s interests. He is opposed to a waste dump in the NT—like this government—but once South Australia turned its back on its responsibilities by ruling out Woomera, the only alternative was to look in the Territory for an appropriate site.

Seeing that Labor had scuttled the best site, Senator Scullion went in to fight to make this Commonwealth legislation provide the safest, cleanest, greenest waste facility in the world because it was going to be sited in the Northern Territory.

He never walked away from looking after the Territory’s interests. How easy it would have been to do a Clare Martin and rant from the sidelines, once she had sold Territorians out to Mike Rann.

Martin sold out by not taking on Rann and by allowing, hypocritically, the transport of yellowcake through the Territory.

The South Australian Labor government ended more than a decade of bi-partisan support to establishment a national waste facility.

The federal government had no choice but to consider other options for Commonwealth waste.

To commission the new Lucas Heights research reactor, there must be substantial progress made in the establishment of a waste facility for Commonwealth waste. Without substantial action, a licence will not be granted to operate the new reactor.

There are also time restrictions. Under an international agreement, Australia has to take back recycled spent fuel rods from the UK by 2012. The rigorous process that has to be undertaken to establish the waste facility will take until 2011.

Once the South Australian Labor government said ‘No!’ to the best site at Woomera, it effectively pushed the radioactive waste facility onto Territorians.

But Senator Scullion did not walk away from the mess left by the Labor State and Territory governments. He acted to get amendments to this bill to make it the best possible situation for the Territory. These amendments include the unique ability of the Territory to store its waste in the Commonwealth facility.

Senator Scullion brokered an arrangement for Territory waste to be stored at the Commonwealth site at no charge, forever.

Together with his Lower House CLP colleague David Tollner, Senator Scullion amended the legislation to give Land Councils and the NT Labor government greater involvement in nominating a suitable site. The Northern Land Council gave us their full support for these amendments. The site decision will incorporate the best scientific criteria.

Given that this situation was forced on Senator Scullion, with time running out, he did the only honourable thing—he worked within the Coalition government to secure the best outcome for Territorians.

He couldn’t walk away because the waste dump issue went belly up. Senator Scullion is no quitter. The Territory was going to get a waste dump, it was a fact, so he was going to make sure the Ter-
ritory got the best, the safest, the cleanest and the greenest facility in the entire world.

The scientists responsible for the waste facility were asked detailed questions in Senate Estimates hearings in Canberra in November. They refuted many of the false and misleading claims made by the NT Labor government and their Federal colleagues.

The facts are that this facility will not hurt the surrounding flora or fauna, it will not be dangerous for millions of years.

It will not damage our tourism industry and it will not hurt our exports.

The facts are that the Territory has stockpiles of low and intermediate radioactive waste that needs safer storage than in the basement of hospitals or the Kakadu and Katherine regions.

The fact is that the Chief Minister recently approved the rail transportation of radioactive yellowcake from South Australia through the Alice, Tennant Creek, Katherine and on to Darwin, without any qualms.

Let’s not forget that all Australians, Territorians included, benefit in many ways from the work done at Lucas Heights.

Our society relies on the radioisotopes, radiopharmaceuticals, elements for smoke detectors and environmental measuring equipment that are produced there. Territorians benefit from this work and research.

We also produce and export uranium. Much of the Commonwealth waste around the country was produced originally here in the Northern Territory.

As a Senator for the NT, Senator Scullion takes his responsibility for representing Territorians in Canberra very, very seriously. He has worked very hard to make sure that the facility will be state-of-the-art, completely safe and that the transportation of waste to the facility will not pose any health issues.

Histrionics aside, the Federal Labor Party has given no assurance that they would not force this waste facility on the NT should they ever be elected.

What use is a Chief Minister who can’t stop her South Australian colleagues from foisting a dump on Territorians, and then can’t even get her federal ALP colleagues to rule out a dump? (meanwhile happily giving the green light to yellowcake on the Northern territory’s main rail routes!)

This Bill would never have been necessary had the Labor Premier of South Australia done the right thing and ticked off on the best scientific site, at Woomera.

Debate interrupted.

**MATTERS OF PUBLIC INTEREST**

**The ACTING DEPUTY PRESIDENT**

(Senator Watson)—Order! It being 12.45 pm, I call on matters of public interest.

**HIV-AIDS**

**Dementia**

**Senator PAYNE** (New South Wales) (12.45 pm)—I rise to speak today on a number of key health issues, not just national but global, that will require some very serious undertakings from the international community to deal with and manage into the future and maximise outcomes for those facing these separate and individual challenges. The first health issue to wish I refer is the HIV-AIDS pandemic—most particularly its impact in the Asia-Pacific region and also its impact on women. In fact, last Thursday was World AIDS Day, which is an international day of recognition that has taken place annually on 1 December since 1988. Some members and senators may have chosen to mark their noting of that day by wearing a red ribbon, which is of course a recognised and compelling symbol.

In late November, the Joint United Nations Program on HIV/AIDS and the World Health Organisation reported that the worldwide number of people suffering from HIV has now exceeded 40 million. Indeed, the number is estimated at 40.3 million in total. Further, their figures indicate that 2.6 million adults and 600,000 children have died from HIV-AIDS in the last 12 months. That same report indicates that there will be an esti-
mated five million infections globally this year.

Interestingly, that combined report also indicates that there has been some decrease in adult HIV infection rates in some countries and that changes in behaviour to prevent infection—which include increased use of condoms, delaying the first sexual experience and having fewer sexual partners—have played a key part in the declines. It is very much the case that a multifaceted approach to dealing with the challenge in a range of countries brings about that result. Overall, though, the indicators remain disturbing: that trends in HIV transmission are still increasing and that we will need far greater prevention efforts to slow the epidemic.

The *AIDS epidemic update 2005* has noted recent developments in the Caribbean region. In fact, it has expressed some cause for guarded optimism in that regard. It notes HIV prevalence declines marked amongst pregnant women, for example, and an expansion of voluntary HIV testing and counselling. In some ways, that is a very important aspect of this report to note. Also, according to the report, the steepest increases in HIV infections have occurred in Eastern Europe and in Central Asia—a 25 per cent increase in infections, to 1.6 million—and for us in East Asia. Sub-Saharan Africa continues to be the most affected area globally. Sixty-four per cent of new infections still occur there—that is, over three million people.

Just for a moment, on the question of the Asia-Pacific region, of the 40 million-plus people in the world who live with HIV/AIDS, 8.2 million live in Asia and in the Pacific—and in some of the most challenged and difficult nations in the world, in development terms. In 2004, the new infections in Asia totalled 1.2 million. So, unless we can turn the tide on HIV/AIDS, as AusAID said last week in recognition of World AIDS Day, it is estimated that by 2010 an additional 12 million people in the Asia-Pacific region will be infected with HIV.

It is important to place on the record the contribution of the Australian government, in this region particularly, and the commitment that we have made through AusAID, matching concern with action and resources, culminating in a $600 million commitment over 10 years to 2010 to battle against HIV, most particularly in this region. I meet regularly with representatives of organisations such as the Global Fund to Fight AIDS, Tuberculosis and Malaria, and representatives of UNAIDS, and visit Australian programs in the region particularly, whenever I have the opportunity. These interventions are very important; they are a very important aspect of Australia’s overseas development assistance.

I turn to Australia—and it would be remiss of me not to make some comments in that regard. The National Centre in HIV Epidemiology and Clinical Research released some figures in their 2005 annual surveillance report of HIV-AIDS in Australia which are also disturbing. In fact, the main finding of the report is that the actual number of fresh HIV diagnoses has been gradually increasing in Australia over the past five years. In some areas those increases are more significant than in others. So we need to ensure that raising awareness of the dangers of HIV remains a government priority if we are to effectively combat this growing threat to public health. I congratulate the MACASHH, chaired by Dr Michael Wooldridge, and its subcommittees on HIV and other areas, on the work they are doing in that regard. In fact, the Minister for Health and Ageing, Tony Abbott, launched the fifth National HIV-AIDS Strategy for 2005-08 in June this year. It is about partnership between government, researchers, effective communities, service providers, their support organisations
and a raft of other individuals and groups who work in this particularly challenging area.

The national strategy undertakes to maintain Australia’s commitment to reduce transmission and to minimise the impact of HIV-AIDS infection on the community. They are very important markers in the sand for Australia to draw. I had some small part to play in the review of the previous strategy, and I was very grateful for the invitation to do that. I think that as we move forward it is important to be vigilant about the key aspects of HIV-AIDS in Australia and, more broadly, those that the strategy marks.

In this parliament some years ago there was established, by then minister Neal Blewett, a parliamentary liaison group on HIV-AIDS, in the eighties, when the epidemic was hitting with great force and a clearly nonpartisan and partnership based response was necessary. It is a very important instrument for, in the parliament, maintaining a nonpartisan and whole-of-government approach to the issues which surround HIV. It enables members of parliament who are interested to be kept up to date with issues that impact on their local communities—and that is a broad range of issues.

The parliamentary liaison group, as it is currently constituted, has a very diverse range of members. I am particularly pleased that Tony Abbott, the Minister for Health and Ageing, invited me to take up the role of chair of the parliamentary liaison group on HIV-AIDS. I thank him very much for that appointment and for what I regard as a very significant responsibility. I think the group has an important role in the parliament. I hope that as well as focusing on matters in Australia and working with MACASHH and its subcommittees and other key organisations we can also bring a focus on Asia-Pacific regional issues. I know that the foreign minister, Alexander Downer, has displayed a long-term and particular commitment in this area and is very committed to the work that Australia does in that regard.

I want to give one example of one new piece of information about infection rates in our region which really shows why we have to be as concerned as we are. In Thailand recently the Thai Ministry of Public Health and the US Centres for Disease Control and Prevention collaboration follow-up study, which is a consequence of previous investigations they made, found a seroprevalence rate of 28 per cent amongst the MSM population in Bangkok. That is an extraordinary rate. It indicates an annual HIV incidence rate of about five to six per cent. I know there are very serious concerns held here about what that means more broadly and most particularly in Thailand. There is a role for Australia to play in assisting in addressing those issues in our region. This would be a very good place to do that.

I also wish to make some comments in relation to a recent event held in Parliament House which was entitled National Consumer Summit on Dementia, to move on to a different but nevertheless important area of public health. This was held in Parliament House on 5 and 6 October this year. For reasons that many of my colleagues will be aware of, I was unable to support or participate in the summit. I congratulate Alzheimer’s Australia on bringing the summit together in the parliament. I co-chair Parliamentary Friends of Dementia with Sharon Grierson, the member for Newcastle, and we have found, since we established that group some few years ago now, an increasing interest amongst our colleagues in how to assist their constituents, both those who are facing the challenge of dealing with dementia personally and, even more importantly in some ways, their carers, the people who will have to bear the load of caring for people who are
suffering from dementia in ever-increasing numbers.

It is important to note that last year, during the federal election campaign and afterwards, dementia was declared a national health priority. That was an aim that Alzheimer’s Australia and other groups in the area had been pursuing for some time. It gives a very important badge to this particular condition and to the importance of dealing with it.

The consumer summit was attended by the Minister for Ageing, the Hon. Julie Bishop, and others of our parliamentary colleagues, including shadow ministers. I was assisted by Senator Judith Troeth on that occasion, when I was unable to attend. The consumer summit meant that people with dementia and their carers were able to come right into this building, which is perhaps not, in its private areas, regarded as the most accessible building—I know we do very well in the public areas—into the Main Committee room, for example, to sit in that magnificent environment and talk about the issues which impact so significantly on their daily lives. They came from all states and territories. There were 50 consumers in all, and they wanted to talk about their priorities for research and service delivery. They presented a communique at the conclusion of that summit. Both Sharon Grierson and I have distributed that communique to all of our colleagues.

Most importantly, the communique identified a number of priorities and a seven-point action plan for change. I want to enumerate those points this afternoon so that they are on the record here in the chamber and so that we understand some of the challenges that individuals dealing with dementia, in particular, face. The first action point is to improve the assessment and diagnosis of dementia. Clearly, that is aimed at interaction with the medical profession and management of the condition. The second point is to improve the responsiveness of acute care so that it better meets the needs of people with dementia. The third point is to ensure easy access to quality community care services. The fourth is to provide more flexible responses to supported accommodation in the home and also in residential care facilities. The fifth is to increase the recognition and understanding of the financial cost and legal implications of dementia. Action point 6 is to promote and ensure greater public awareness and understanding of dementia and risk reduction. Action point 7 is to increase investment in dementia research.

Those action points are spelt out in greater detail in the summit communique. The one I really want to come to in my remarks today is the promotion of greater public awareness and understanding of dementia and risk reduction. There are some parallels with how we deal with those people in our community who suffer from mental health difficulties. I think that step 1, overwhelmingly, whether we are talking about young people or older people, is about understanding, and removing stigma. It is about realising that these conditions are an illness, like any other. It is not necessarily physically obvious at the time, but when you are the person who is dealing with the challenges that dementia brings to your life it is as profound as any other illness you can possibly imagine.

What the consumers who attended the summit said in relation to this action point was: ‘We want our community to better understand dementia. We need to increase public and community awareness about dementia, not only for those diagnosed with dementia but also for those who will be diagnosed with dementia in the future. We must break down the stereotypes about dementia that result in discrimination and isolation of individuals within the community.’
Those last remarks about discrimination and isolation are very telling. You can be discriminated against anywhere. You can feel isolated in a big city or in a country town. We have a very important role to play in this chamber in assisting to remove those levels of discrimination and stigmatisation and in ensuring that people are well looked after.

Department of Immigration and Multicultural and Indigenous Affairs

Senator KIRK (South Australia) (1.00 pm)—I rise to speak this afternoon on a matter of public interest. Senator Vanstone must surely be counting down the days until her Christmas holidays begin, as we all are. This year has not been a good one for Minister Vanstone. As I said yesterday, I imagine that at the end of the year she will look back and regard this year as her annus horribilis.

The Department of Immigration and Multicultural and Indigenous Affairs has this year been involved in scandal after scandal. If former US President Ronald Regan was the teflon president then surely by now Senator Vanstone must be the teflon minister. We have seen her on the back foot all year, trying to defend the indefensible. Just a couple of these examples include the incarceration of Australian citizen Cornelia Rau and the deportation of Australian citizen Vivian Solon.

Given the Rau and Alvarez cases, we have to question, as both the Comrie and the Palmer reports have, whether or not DIMIA would be able to recognise an Australian if it fell over one having a pie and a cold beer at the football. Given DIMIA’s poor record and its lack of consistency and transparency, its chronic stuff-ups and cover-ups, we have to question just how many other mistakes have been made. This is a matter that is being inquired into by the Senate Legal and Constitutional References Committee. We are conducting a broad-ranging inquiry into the Migration Act. This matter will be reported upon early in the new year.

Today, I wish to focus on a case that has come to the public’s attention in the last few weeks. It is the case of Mr Robert Jovicic. I want to speak about the circumstances of Mr Jovicic. He was born in France to Yugoslav parents, and he came here when he was two years of age. He lived here for 36 of his 38 years, before being deported by former Minister for Immigration and Multicultural and Indigenous Affairs Mr Ruddock to Serbia on character grounds. Mr Jovicic is a heroin addict—nobody doubts that—and he is a serial criminal with over 150 convictions, mostly small-time burglaries to fund his drug habit.

This man came to public attention on the Lateline program quite recently, on 23 November 2005. Those of us who saw the program saw him shivering on the steps of the Australian embassy in Belgrade. He was deported in June of last year and now, after 18 months in Serbia, he is homeless and destitute and left with little choice but to camp outside the Australian embassy and beg to be sent back here to Australia, a place that he calls home. What makes this case so tragic is that Mr Jovicic is not recognised by Serbia as a citizen. He is stateless. He has little connection to Serbia. He cannot speak Serbian, he was not born in Serbia and he had never visited there prior to being deported to that country.

It was reported recently in the Australian newspaper, on 25 November 2005, that a Serbian official was quoted as saying that in Serbia people are expected to work and not bludge:

We don’t give welfare rights to young and healthy people.

That may well be so. And whether or not you agree with that sentiment, the problem here is that, because Mr Jovicic is not a Serbian
citizen, he has no right to work in Serbia. How can he possibly go out and get a job? He cannot get a job because he is not a Serbian citizen. So how on earth is he expected to support himself? Perhaps with petty theft. Perhaps he will have to go back to what he was doing in Australia—not something to be encouraged.

Last week Senator Vanstone announced that DIMIA was reconsidering Mr Jovicic’s case. So, again, we saw Minister Vanstone’s knee-jerk reaction to bad publicity, just like we saw in the cases of Cornelia Rau and Vivian Alvarez Solon. DIMIA made the decision to deport him and the decision to do so was made by Minister Ruddock. Now, with the European winter setting in, and with media coverage of Mr Jovicic’s circumstances, the government is in damage control.

There is no question, for those who saw the program and the footage of Mr Jovicic, that he is a very sick man. He has psychological and physical health issues.

Senator McGauran interjecting—

Senator KIRK—He is not a Serbian citizen, Senator McGauran. The last thing this government wants is pictures of him freezing on the steps of the Australian embassy. This case, like those of Cornelia Rau and Vivian Alvarez, is yet another mess created by former immigration minister Mr Ruddock, who should have been most concerned to read the Canberra Times editorial on 26 November 2005, which described him as:

... surely the most illiberal and shameful minister for immigration Australia has ever known.

While I am on the subject of the deportation of long-term Australian residents, it is worth examining another long-term resident this government wishes to deport. I refer to Stefan Nystrom, who is 31 years of age. He has convictions for offences including armed robbery and rape—very serious criminal offences. In the case of Nystrom v Minister for Immigration and Multicultural and Indigenous Affairs, a majority of the Federal Court declared that the minister used ‘the barest of technicalities to remove a non-citizen’. Mr Nystrom has lived in Australia all of his life bar the first 27 days, which were spent in Sweden. He has no significant ties to Sweden. He has never travelled there, nor can he speak Swedish. Whilst he was living in Australia, Mr Nystrom was a lawful non-citizen under the Migration Act. He held either a transitional permanent visa, an absorbed persons visa or both simultaneously. However, on 12 August 2004, the minister for immigration made a decision under section 501 of the Migration Act to cancel Mr Nystrom’s visa. No-one disputed that he failed the character test in section 501 due to his criminal offences. What was in dispute was the way the minister attempted to have him deported. Whereas the minister insisted he held a transitional permanent visa, Mr Nystrom argued that he held an absorbed person’s visa and that failure to identify the correct visa resulted in a jurisdictional error on the part of the minister. The Federal Court was highly critical of the minister’s actions, describing them as ‘yet another disturbing application of section 501 of the Migration Act’.

By a majority of two to one, the court found Mr Nystrom held an absorbed person’s visa, which cancelled the minister’s decision. Justices Moore and Gyles found that Nystrom was only an alien by the barest of threads. They also observed that the minister’s decision ‘presumes that Australia can export its problems elsewhere’. While Justice Emmett disagreed with the majority’s decision, he shared their concerns over the deportation of a man who was Australian by any common measure. As I understand it, there is an appeal to the High Court afoot in relation to this decision.

Whilst we here in the Labor opposition accept that it is sometimes appropriate to
deport criminals to another country, in our view, the case of Mr Jovicic, like the case of Mr Nystrom, is entirely different from a situation where adult immigrants commit offences here upon entering into this country. In the cases of Mr Jovicic and Mr Nystrom, we are talking about individuals who have spent the majority if not all of their lives here in this country. We can argue whether or not we wish for Mr Jovicic to return to this country, but the fact is he grew up here, he went to school here, he is unmistakably Australian and, therefore, he is our responsibility.

Senator Vanstone must acknowledge that DIMIA made a mistake and she must bring Mr Jovicic back. The minister must also acknowledge that her department has been wrong in the past in deporting individuals back to countries of their origin, including the Bakhtiyari family. She must apologise and return them to this country. The cases of Jovicic, Rau, Alvarez and others are just the tip of the iceberg. DIMIA is a disaster. Senator Vanstone must step down and the government must set up a royal commission into the Department of Immigration and Multicultural and Indigenous Affairs.

National Security: Terrorism

Senator BOB BROWN (Tasmania) (1.11 pm)—I raise the issue of the word ‘the’ as compared to the word ‘a’ in the Criminal Code. Mr Acting Deputy President, you will recall that, on 2 November, the Prime Minister announced that there was a serious threat to Australian security and recalled the Senate. We sat in an emergency session to change the word ‘the’ to ‘a’ in the Criminal Code to ensure that a prosecution against any potential terrorist would be made that much more watertight. There was great speculation at the time. Consequently, there were a number of raids in Sydney and Melbourne and certain citizens are under arrest and have been charged as a result. At a Senate inquiry into the antiterror laws, it was revealed that the Director of Public Prosecutions had asked a senior officer of the Attorney-General’s Department, Mr Geoff McDonald, to change the word ‘the’ to ‘a’ on 30 March this year. That is many months before the Prime Minister actually moved on the matter. The transcript of that evidence reveals that the matter was considered but, to quote Mr McDonald:

I recommended we get Sheller—that is, the Sheller review—to look at it because I was concerned that if we started amending the terrorism offences, the terrorist act stuff, we would be seen as pre-empting the Sheller review. That was my main concern. At the time, the DPP were content with that. I will not talk about what they probably would have preferred, but they always prefer that things be done quickly.

I interpolate here to say that that indicates that the DPP was putting pressure on to have the change made quickly back on 30 March this year.

Mr McDonald went on to say:

It did not have the same priority at that time as it did later. By the time the London attack occurred, we got drafting priority—we have to compete for drafting priority for legislation.

The London attack was in July. The legislation was brought before this parliament in November, so one would think it was a very low priority despite the London attack.

What we have here is a corroboration of press speculation at the time that the request to change the word ‘the’ to ‘a’ was made to the government many months before by the DPP and the government did not act on that request. Consequent to the London bombings the matter became patently more urgent in the minds of the bureaucrats, but the government still did not act. There were a number of opportunities to amend the Criminal
Code in the intervening months by adding an amendment to legislation going through this parliament, but those opportunities were not taken up. For example, the Criminal Code was amended by the Criminal Code Amendment (Trafficking in Persons Offences) Bill 2005 on 6 July this year and there was a further amendment on 3 November—at about the time of the Prime Minister’s public intervention—and there were other opportunities before that. The point here is that the change from ‘the’ to ‘a’ could have been made with zero concern and publicity. I would remind the Senate that the Greens supported the change from ‘the’ to ‘a’ because it was a means of making a prosecution more potent.

What is drawn into clear focus here is the failure of the government. The Prime Minister, when he announced this urgent recall of the Senate, did not say that the matter had been put to his government earlier. He must have been aware of it months before he took this urgent step with front-page publicity right across the country and headlines of ‘Terror threat to Australia’ and so on on the Wednesday and Thursday of that fateful week at the start of November. But not only that: in consequent press coverage it became clear that the police authorities who were involved in actions to arrest persons in Sydney and Melbourne were livid that the publicity generated by the Prime Minister’s announcement and the recall of the Senate had tipped off the very people being watched and who consequently were arrested. The Sydney Morning Herald on Wednesday, 9 November—the following week—said:

... senior police sources said the raids could have proceeded anyway under existing laws, and would most certainly have done so.

By last week—
That is, the week in which the Prime Minister made his announcement—
the suspects would have known that they were likely targets and would have had plenty of time to destroy evidence.

The Sydney Morning Herald ran another story about a neighbour who said she had seen guns being taken from a block of flats in Lakemba three hours before the police raids. We also read in that paper the following quote from one source:

“It was going to happen anyway. We already had the powers and we believed the threat was becoming imminent so we had to act on it regardless.”

The Age, under the headline ‘How the PM “tipped off” the suspects and left the law livid’, said:

Police working on Operation Pandanus, the investigation into a radical Islamic splinter group active in Sydney and Melbourne, immediately identified a “flurry of activity” involving the suspects. That is, after the Prime Minister’s announcement. The article continued:

They held meetings where they quickly concluded that they were the group identified by Mr Howard, telling each other to be ready for imminent raids and to immediately increase counter-surveillance tactics. The police assigned to conduct the raids were livid that they had lost the element of surprise, substantially increasing the risks involved.

“We don’t usually flag secret raids by press release,” one told The Age.

What concerns me here is that there has been no proper analysis of this matter in light of the increasing information that the Howard government seriously compromised police operations and intelligence operations by the political action taken in that first week in November.

We now know that that action was consequent upon the failure of the government—particularly the Attorney-General but also the Prime Minister, who must have known—to act following requests from the DPP going back to March this year that a change in the
law was necessary if there was to be a more confident prosecution of people who were potentially plotting terrorism in Australia. The Prime Minister has said that he is briefed on a daily basis and so would have known last year that people were being watched in Australia by intelligence organisations with very real concern that those people may be involved in planning terrorist action.

This is a very serious matter. The Howard government manifestly failed to treat this serious threat to Australian security with the commonsense and gravity that it deserved. Instead, this threat was ignored for months and then, with great political flourish—which tipped off the terrorists—the Senate was recalled to make a change. There are two comments to be made there. Firstly, that action was made necessary only because of the failure of the Attorney-General to respond to the DPP in March this year—many months before. Secondly, the reports—in the media at least—indicate that the police would have preferred that that action was not taken at the eleventh hour because it served to tip off the would-be terrorists. I have to also point to a report in the Sydney Daily Telegraph, which says that one suspect may have escaped altogether and may have been involved in burning a vehicle in which very important evidence was contained. That happened some days after the Prime Minister’s statement but before the police raids took place.

These are extremely serious matters. This is a government which has had at the forefront of its activities in recent years defending the security of Australians from would-be terrorists. But what has unfolded here is culpable mismanagement of this affair by the Prime Minister and the Attorney-General.

The facts speak for themselves. These matters require an independent investigation—an arms-length investigation with judicial powers. It is needed to fully establish how the would-be or alleged terrorists could have been tipped off, not by some news leak or by some failure of the intelligence agencies or the police but by the Prime Minister himself.

He tipped them off through a high-profile political action which was not only unnecessary, but which—if you could argue for it, and I do not—was caused by the ineptness, at least, of the Attorney-General in not responding much earlier and in a much lower-profile way to the request from the DPP to change one word in the law. As Senator Murray from the Democrats said at the time, it was the first time in history that the Senate had been recalled to change one word.

Much more serious than the recall of the Senate is that that action—by a government which I think has politicised fear and the concern we must all have as legislators for defending Australians from the threat of terrorism—has politicised such efforts to the point where they are counterproductive.

I want to add that the report on Mr Scott Parkin released yesterday by the Inspector-General of Intelligence and Security is a whitewash. What it—

Senator McGauran—Guilty!

Senator BOB BROWN—‘Guilty’ says Senator McGauran, representing the government. Well, that is the problem. There is no evidence in that report which says anything that would incriminate Mr Parkin. In fact, it says that there is another, secret, report—which members of parliament cannot see—which holds the evidence. In no way does it respond to Mr Parkin’s own asseveration that he has never—not ever—advocated violence.

What the report does do is countermand a story which was run in the Australian newspaper that, according to ‘well-placed
sources’, Mr Parkin was advocating putting marbles under police horses’ hooves. He did nothing of the sort, and this report from the inspector-general says that he did nothing of the sort. Here we have a calumny against a peace campaigner—proven, now, as a calumny—on the front page of a newspaper. That must echo, for those of us concerned about the rights of anybody in this country, the McCarthy era of the 1950s in the United States. This is a very serious matter. We have not heard the last of it. It, too, needs further investigation with a judicial, arm’s-length inquiry.

Avian Influenza

Senator MASON (Queensland) (1.26 pm)—The Labor Party has frequently criticised the Howard government for neglecting its northern neighbours to refocus on its great and powerful friends. The Labor Party contrasts the government’s approach with what they regard as a ‘golden era’ of Asian engagement under the Keating government. Yet to make such assertions is to fundamentally misrepresent the substantive efforts of the Howard government to engage the region since coming into office, and to misunderstand the changing dynamics of the current international order.

The engagement approaches of the Keating government took place in a fundamentally different and far more predictable international system. No longer are we in a system where the only threats envisioned occur at the state level, between states, and in which we are given significant warning time to address such threats. No longer is the threat merely that there might be sources of interstate instability down the track. Terrorism and pandemics have seen to that.

Foreign policy today is conducted in a far more insidious environment. The dominant threats of terrorism and disease arise with minimal warning time and, of course, transcend national borders. The government’s engagement policy must therefore be both reactive and proactive. The situation is no longer conducive to the Fortress Australia approach that guided the Keating government’s policy and allowed diplomacy to work timidly and cautiously over time. Disease does not wait for diplomacy.

The basis of Asian engagement has always been to enhance Australia’s security—that is why we engage—and the Liberal Party remains wedded to this purpose. Accordingly, Asian engagement is not just about cooperative diplomacy. It is conditional on reciprocated behaviour. While we seek to forge a strong and durable partnership with our Asian neighbours, we must also speak frankly when the political will to reciprocate is absent. I believe the threat of an avian flu pandemic represents a case in point.

Avian influenza, or bird flu, as it is commonly known, represents one of the most significant threats currently facing the Asia-Pacific. The virus is passed through migratory birds to domestic ducks or chickens, and it has demonstrated a capacity to evolve at an alarming rate. By late 2002 the disease widened its host range from waterfowl to pigs, to tigers and now to domestic cats. More recently, it has demonstrated transmissibility to humans. Since late 2003 the H5N1 avian flu virus has killed 68 people. Although cases of human-to-human transmission are not yet confirmed, we have begun to witness the clustering effect of the virus killing a group of associated people. This suggests we are somewhere between the second and third precursory stages to a world pandemic.

The World Health Organisation’s Regional Director for the Western Pacific, Shigeru Omi, said, ‘We are closer now to a pandemic than at any time in recent years.’ A Commonwealth government report has estimated that 2.6 million Australians might require
medical attention due to the virus and that it could lead to up to 13,000 deaths. Economists have predicted that avian flu, which primarily targets young adults, could significantly affect the Australian workforce and lead to a massive recession. Avian flu has now spread to almost all Asian countries and as far as eastern Europe. More recently, avian flu viruses have been traced to migratory birds in China whose migration route terminates in Australia. Intense urbanisation within most Asian countries, along with backyard farms and open-air markets, only further exacerbates the threat.

This threat does not stop at Australia’s shores. It demands that now, more than ever, we remain actively engaged with our regional partners. But the type of engagement that is needed is fundamentally different in nature to that used by the Keating government. The Keating government sought to use confidence building and multilateralism to forge nascent relationships with our South-East Asian neighbours. They believed that, in doing so, it was best to engage on ASEAN’s terms and followed the norms of the ‘ASEAN way’, which are based on noninterference and consensus building. However, they ignored and skated over the roots of many of the key transnational threats that we face today.

The avian flu pandemic means that Australia can no longer afford to wait. If we continue to adhere to such robust interpretations of noninterference and incrementalist consensus building, we are likely to undermine our own security. Engagement is not for engagement’s sake alone; it is fundamentally about protecting Australia’s security interests. While Australia’s key security interests during the early 1990s were tapping into the regional market and forging a role for Australia as an important player in the region, they are now fundamentally to protect its citizenry against transnational threats. The Keating and ASEAN way will not cut it anymore.

Engagement involves cooperative diplomacy but it is contingent on reciprocation. It is designed to promote mutual consideration in foreign policy. While I am not proposing that we disengage from Asia, our approach should not be cooperative at any cost, and this needs to be clearly communicated with frankness. At no time has this been more salient than now, as we face an avian flu crisis on our doorstep.

In recent months, the Howard government has been extensively criticised for its failure to handle the bird flu threat by Labor foreign affairs spokesman, Kevin Rudd. I would like to thank Mr Rudd for continuing to highlight this very important issue. I think it is appropriate at this point, however, to detail those aspects of the government’s cooperative regional diplomacy on this issue thus far. In early November, Australia hosted a high-level APEC regional pandemic preparedness forum in Brisbane to conduct a regional stocktake of the strategies that various countries have in place to combat avian flu. In October 2005 Australia provided a $10 million assistance program to Indonesia, as well as helping to establish a community education program on avian flu and providing 50,000 anti-viral Tamiflu vaccinations, among various other measures to combat the virus in Indonesia. This was followed by an aid package to Vietnam.

Mr Rudd fundamentally misstates the key difficulty of this program of assistance. The difficulty lies not in what the Howard government has been doing through its cooperative diplomacy but rather in how—and, indeed if—these assistance measures are effectively translated on the ground in those South-East Asian countries. While the South-East Asian countries’ capacity to deal with this threat is a serious issue, even more seri-
ous is whether there is sufficient political will to implement the necessary policies directed towards countering the next pandemic. That is the critical point.

Indeed, a key difficulty is the political interests that inhibit these governments from more aggressively and transparently pursuing policies to counter this threat. In many cases, authoritarian governments remain concerned that to admit to outbreaks in their countries might erode their political authority. While scientists believe that avian flu first emerged in China in 1997, and while it was known by Chinese officials that the virus was rampant in Chinese provinces by 2001, it was not until 2004 that they actually admitted that there was a bird flu outbreak. Meanwhile, new democracies remain concerned and responsive to key political lobbies—many of which are supported by the poultry industry or poultry-exporting firms.

In Thailand, for instance, the Charoen Pokphand Group remains one of the key supporters of the Thaksin government. The day after the Thaksin government recognised a bird flu outbreak, Charoen Pokphand Group stock plummeted 12½ per cent and the Thai stock exchange index dropped drastically. Prime Minister Thaksin subsequently initiated a series of massive public campaigns encouraging Thais to continue to eat chicken so as not to undermine Thailand’s key export industries. Similarly, in Indonesia, owners of major poultry farms lobbied the government to conduct secret containment efforts so as not to undermine sales of chickens and eggs. According to Tri Satya Naipospos, former Indonesian national director of animal health, chickens were known to be dying from avian flu in Indonesia as early as the middle of 2003 but this was kept secret due to the lobbying efforts of the Indonesian poultry industry.

The dependency of many of these countries’ economies on primary industries and various economic and production structures also potentially inhibits an adequate response to bird flu outbreaks. Indeed, Thailand is the fourth largest poultry producer in the world, with over 90 per cent of that produce exported. In 2003 the monthly average of Thai chicken exports stood at 31,000 tonnes a month, but by 2005 this figure had shrunk to only 77 tonnes. So, while the Thai economy diversified to place greater emphasis on cooked chicken and other primary produce exports, the Thai government remained wary of more fully exposing the extent of the pandemic threat in Thailand due to its potential economic ramifications for the country’s citizens and farmers. Likewise, the Indonesian President noted:

... we don’t want to publicise too much about bird flu because of the effect on our farms. Prices have dropped very drastically.

Moreover, the vast majority of chicken producers in South-East Asia are backyard farmers unwilling to compromise their livelihood without any adequate compensation. Some farmers have turned to black market vaccines to avert culling their birds, but many of these vaccines contain viruses that have not been properly inactivated.

Thus, while not diminishing the importance of continuing to enhance the capacity of South-East Asian states to address the avian flu problem, a fundamental question that needs to be asked is how to address the issue of political will. This is a political issue, not an aid issue with a quick-fix solution. This involves credibly communicating to the South-East Asian governments, through private dialogue, the need for and, indeed, the expectation of reciprocal behaviour in return for Australian aid. For too long we have been too wary of treading on toes, yet the Bali accord on regional economic integration and closer intra-ASEAN coopera-
tion on terrorism suggests that this non-interference norm is starting to weaken.

It is consequently time for Australia to jump on the bandwagon of the opportunity that this change provides. It might also do so by enlisting other key regional partners to help us in these efforts to encourage much greater transparency. The Philippines, which has also advocated a flexible interpretation of the ASEAN norm, has successfully and transparently addressed the avian flu pandemic domestically and is developing an increasingly close security partnership with Australia, might be one such partner. To respond to our critics by adopting a Keatingesque strategy that is mired in anachronism and diffidence is simply not an option.

**Consideration of Legislation**

**Questions on Notice**

**Senator FORSHA W**

(1.41 pm)—We have just heard an interesting speech from Senator Mason. As always, he intertwines his speeches with some attack on previous Labor governments or the policy positions of the Labor Party as he sees them. I look forward to the day when Senator Mason comes into this chamber and discloses the history of lies of the former Menzies and Holt governments when they led us into that disastrous conflict in Vietnam. I could name dozens of other areas that I am sure Senator Mason, with his detailed expertise in foreign affairs, could illuminate for us. He might tell us, for instance, because I am sure he probably knows, where those weapons of mass destruction really are in Iraq.

Today I also want to speak on the topic of the arrogance of government, but I actually want to talk about the arrogance of this government. In the last couple of weeks we have seen the use of the guillotine and the use of the gag to just ram through this place complex, detailed, lengthy legislation that will have substantial effects on the Australian community well into the future.

We saw, for instance, the Telstra bill rammed through this place, once they finally got Senator Joyce into the cart. And what was their approach to scrutiny of that bill? They allowed the relevant Senate committee one day—one day—for a hearing into that important bill. Similarly, with the IR legislation, which is 687 pages long with 565 pages of explanatory memorandum, they allowed approximately a week for public hearings. There was no time for people to really get an opportunity to read and consider the bill. Most people would take at least a week to read the explanatory memorandum and the legislation, let alone digest it all and deal with it in a properly considered public hearing.

I am very concerned about the approach this government is now adopting to Senate committee inquiries. It is arrogant, and it is treating the Senate committees of this parliament with contempt. I am privileged to be Chair of the Senate Finance and Public Administration References Committee. Earlier in my time in this parliament I was Chair of the Senate Foreign Affairs, Defence and Trade References Committee. Like many senators, I have spent all my years here being involved in many inquiries. We know that Senate committees play an invaluable part in exposing maladministration and cover-ups in the executive and the bureaucracy and in highlighting major issues affecting the community. They are an effective means also of involving the community through public hearings and submissions.

Over the past year, the Senate Finance and Public Administration References Committee has conducted a number of important inquiries, as have all Senate committees. I am concerned, as is the committee, about the constant failure of departments and ministers to
provide requested information to those committees. I am concerned and outraged at the approach adopted whereby questions are taken on notice and answers are in some cases either not provided or are provided on the day of the tabling of the report or following the tabling of the report. Let me give a couple of examples.

In the Regional Partnerships and Regional Solutions inquiry, the committee initially sought information from the Department of Transport and Regional Services regarding the operation of area consultative committees, or ACCs, particularly their involvement in consideration of grant applications. The department refused to provide the advice sought, so the committee then wrote to the 55 area consultative committees across this country requesting the information directly from them. There was a clear attempt by the department to prevent those area consultative committees from responding to the committee. They provided written advice to those committees which had the effect of inhibiting them from providing the information requested. The department gave the area consultative committees advice to the effect that, if they provided responses and documentation to the Senate committee, they might be in breach of privacy laws of this country. That was a totally false assertion. It misled those area consultative committees into thinking that they might have been committing an offence. We were forced to advise the area consultative committees that, when it comes to a Senate committee requesting such information, it overrides the provisions of the Privacy Act.

Here we had a major department interfering in the processes of a committee seeking to obtain relevant information to an inquiry—and it continued. At some hearings, departmental officials were unable to attend, despite being given proper notice. In some cases they were in attendance at the proceedings but were not authorised by the department to appear and give evidence. Area consultative committees are publicly funded and it was quite appropriate for the committee to have sought the information that it requested. The department’s interference was totally outrageous—indeed, I believe it almost constituted a contempt of the Senate, and that was a view that was certainly considered by the committee. When it came to answers to questions on notice, we found that we were waiting for information to be provided right up until the tabling of the report.

Similarly, in another inquiry the committee conducted, into issues surrounding the construction of roadworks at Gallipoli, I had two issues of concern. Firstly, the Department of Veterans’ Affairs took questions on notice at a public hearing on 17 June and the report was tabled on 13 October. The committee was not provided with any answers to those questions prior to the finalisation and tabling of the report, despite—

**Senator McGauran**—You didn’t get the answers you wanted.

**Senator FORSHAW**—We were provided with no answers at all, Senator McGauran.

**Senator McGauran**—You were on a fishing expedition.

**Senator FORSHAW**—You were not even on the inquiry, so you should just be quiet and listen. Serious questions were asked—nine questions were asked of the Department of Veterans’ Affairs, and they could not even respond to those nine questions. They were questions that they took on notice at the hearing. They had to be reminded of their obligation. The committee secretariat wrote to the department on 17 November after contact having been made with the department earlier reminding them to provide the answers. Eventually, on 2 December, we received answers to three of the nine questions asked, but the report had already been tabled,
on 13 October—again, a failure to respond to questions on notice. One starts to see a pattern. It may not be the departments—and I will come to that in a minute—but certainly at first instance it seems to be that depart-
ments are either not responding at all or are leaving it to the very last minute to provide the information critical to the committee’s deliberations.

There was another issue that arose during that inquiry. The committee sought information on the precise obligations of the Turkish government with respect to the maintenance of the Anzac site. This was an important is-

issue, because a large part of the public debate was around the fact that Gallipoli is certainly sovereign territory of Turkey and Australia cannot just tell it what to do there. However, Turkey also has obligations under the inter-
national treaty, the Treaty of Lausanne, which was entered into following World War I. Those obligations go to the maintenance and protection of battlefield sites and ensur-
ing that they are able to be visited by people from around the world, are respected and so on. A technical issue arose, so we sought information from the Department of Foreign Affairs and Trade as to what application the Treaty of Lausanne had. We received a reply, a letter dated 17 June, from the department of foreign affairs which said:

I am advised that such advice would be an in-
terpretation of the text of the treaty and would therefore amount to legal advice. I am further advised that under Senator Standing Order 73 the department is unable to provide legal advice for the committee.

Senator Ian Macdonald—Yeah.

Senator FORSHAW—I am glad the min-
ister says yes, because the department is ac-
tually wrong.

Senator Ian Macdonald—I’m sure they’ll be pleased to know your opinion.

Senator FORSHAW—You are a lawyer, Senator Macdonald, but you should listen and learn. Standing order 73 relates to the provision of legal advice in answers to ques-
tions in question time. It does not apply to legal advice that is sought from committee inquiries. There is a clear distinction. We advised the department of this and appar-
ently they thought we were probably right and they were wrong. Eventually we got an-
other letter back from the department, on 14 July, which said:

The Minister for Foreign Affairs has decided that this department should decline the committee’s request to provide the advice, on the grounds that it has been a longstanding practice accepted by successive Australian governments not to disclose legal advice which has been provided to govern-
ment, unless there are compelling reasons to do so in a particular case.

So they changed their excuse. They said, ‘There’s been this longstanding practice that we don’t provide it.’ That, again, is arrant nonsense. There is no longstanding conven-
tion or principle that departments decline to provide legal advice to committee inquiries. What an absolute nonsense. My colleague Senator Kirk is sitting here. I understand she is still a member of the Joint Standing Com-
mittee on Treaties—

Senator Kirk—No.

Senator FORSHAW—or she was a member of the committee on treaties. We have a committee of this parliament that looks at the meaning of treaties, and we have the department of foreign affairs saying, ‘We’re not able to tell you what the meaning of this particular treaty is.’ That is just hypo-
critical nonsense.

Finally, I turn to the report that we tabled yesterday on government advertising and accountability. This report was due to be ta-
bled last Thursday, 30 November, but it was delayed because of the government guillotin-
ing and gagging the IR debate and the Wel-
fare to Work bills. What is the situation with this inquiry? It has been going on for well over 12 months since the terms of reference were first laid down. Tourism Australia, which took questions on notice at a public hearing, provided their answers on 28 November, two days before the report was scheduled to be tabled but after the report had been finalised. They would have known, because they know what is involved in the preparation of Senate committee reports, that two days before the tabling date a report has usually been finalised and is on its way to the printers, which this report was.

At least Tourism Australia did provide the answers. The Department of the Prime Minister and Cabinet, which was the main department that appeared in the inquiry, representing a whole-of-government approach on government advertising accountability, provided some answers to questions on notice on 29 November. But there are still questions outstanding. The Department of Employment and Workplace Relations has 80 questions unanswered. The Department of the Prime Minister and Cabinet has 99 questions unanswered, even though the report has been finalised and tabled. I have questions on the Notice Paper of 20 July that remain unanswered. When I wrote directly to the minister here representing, Senator Abetz, I was told that those answers would be provided. They still have not been provided. These things are getting held up in ministers’ offices and being deliberately withheld from committees.

Avian Influenza
Questions on Notice

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (1.56 pm)—I thank those who have participated in this debate on matters of public interest. I was particularly interested in Senator Mason’s discussion on the avian influenza. As Senator Mason mentioned, the Australian government is very well prepared should there be any outbreak of avian influenza. We have purchased almost four million courses of antiviral drugs, we have thermal imaging screens available, we are stockpiling surgical masks, we have provided money for research and we have helped our neighbours. Australia is well placed. The recent operation we had, Exercise Eleusis, to test Australia’s ability to cope with the influenza, was a world first and has been looked at very closely by other world agencies.

I listened to Senator Forshaw complaining—the Labor Party speechwriters these days just write one speech for everyone—and giving misinformation about—

Senator Forshaw—Mr Acting Deputy President, I rise on a point of order. It is an offensive assertion that I did not write my speech. I did. I always write my own speeches, unlike you and most of your colleagues, Senator Macdonald.

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

Senator IAN MACDONALD—I was trying to save Senator Forshaw and let people know that not even he could have been silly enough to write a speech like the one he just gave. Senator Forshaw goes on about failure to answer questions that are put in estimates committees. Can I tell you one of the reasons for this.

Senator Forshaw—Mr Acting Deputy President, I rise on a point of order. My references were in relation to questions taken on notice in committee inquiries, not in estimates. The minister does not even bother to listen.

The ACTING DEPUTY PRESIDENT—Senator Forshaw, there is no point of order.
Senator IAN MACDONALD—Labor Party politicians ask the same question in successive estimates committees. The departments spend an enormous amount of time and money to provide answers and they are never even read by Labor Party questioners. The departments are continually saying, in a polite way, as they have to, ‘Senator, if you read the answers we gave you last time, you wouldn’t bother asking these questions.’ So many questions are written by staffers, and the Labor Party people at estimates committees have no idea what they are talking about. They have no idea of the questions they are asking. They simply churn out the information that staffers have written for them and they do not even understand the questions they are asking. Senator Forshaw simply cannot achieve anything at these estimates committees and has to find other excuses for why he cannot achieve anything from these committees.

The ACTING DEPUTY PRESIDENT—Order! The time for the debate has expired.

QUESTIONS WITHOUT NOTICE

Voluntary Student Unionism

Senator LUNDY (2.00 pm)—My question is to Senator Kemp, Minister for the Arts and Sport. Is the minister concerned that the government’s voluntary student unionism laws will effectively strip $30 million from sport and jeopardise the viability of more than $600 million worth of university sporting infrastructure? Doesn’t this mean that the proposed laws will simultaneously destroy university services and reduce Australia’s ability to compete at future sporting events like the Olympics and the Paralympics? What is the minister’s response to concerns raised by more than 40 prominent sporting identities, including John Coates, Liz Ellis, Rob de Castella, Shane Gould, Johnny Lewis and Phil Kearns, who have called for the introduction of a sports facilities and activities fee to enable universities to continue delivering sporting services in the future? What action has the minister taken to defend the role that universities play in sport, not only in the development of athletes but also in the support they give to Australia’s sporting community through facilities, clubs and services?

Senator KEMP—I thank Senator Lundy for that, I have to say, entirely predictable question. If ever there was a predictable question it is Senator Lundy’s question today. Let me give you an answer which may not be entirely predictable, Senator Lundy. The first thing you should know, Senator Lundy, is that no government has provided more funding for arts and sport than the Howard government. If you discuss this with the arts community and the sports community, as I do, and as you know—I say this somewhat modestly—I am a very accessible minister—

Opposition senators interjecting—

Senator KEMP—I think you will find that the arts community and the sports community believe that this government has delivered real gains in both those areas—real and positive gains, Senator Lundy.

The PRESIDENT—Minister, could you address your remarks through the chair and ignore the interjections?

Senator KEMP—in recent months I have lacked experience in answering questions from Senator Lundy so I may have strayed briefly from the standing orders, Mr President. I apologise for that. The other point I would make is this: not only have we delivered more funding for arts and sport than any other government in Australian history, and we have been rightly complimented on those initiatives by those two areas, equally this government is absolutely opposed to compulsorily acquired student funds being used by the junior roosters of the Labor Party to
pursue their political objectives. Over a long period of time we have seen a serious misuse—

Senator Lundy interjecting—

The PRESIDENT—Order! Senator Lundy, you have asked your question.

Senator Kemp—of student funds, typically by the Left of Australian politics. This is going to stop. This will not happen. The community expects this government to take action in this area and this government has my strong support in taking action to—

Senator Lundy—What about the price paid by sport?

Senator Kemp—It is well known, Senator Lundy—

Opposition senators interjecting—

The PRESIDENT—Order, senators on my left!

Senator Kemp—I am shocked by the reaction of the Labor Party. The only point I have made is that their junior roosters will not be able to acquire funds from students to pursue their political objectives.

Senator Chris Evans—Mr President, I raise a point of order going to relevance. I know that Senator Kemp, as he said, was prepared for the question. The question went to his response to the concerns raised by a range of prominent sporting identities. I ask you to bring him back to the question rather than indulge in the ongoing student politics debate that he seems so fond of.

The PRESIDENT—I hear your point of order, Senator Evans. The minister has one minute and 20 seconds left and I am sure he will be coming to that particular matter.

Senator Kemp—As distinct from Senator Evans’s comments, student politics are entirely relevant to this question. This question is about voluntary student unionism. I have indicated to you, Senator, and it will be no surprise to you, that I am a strong supporter of VSU and I have been for a very long period of time. It will equally be of no surprise to you that there are discussions at present. Senator Lundy, you would be aware of that. They have been reported in the press, undoubtedly, over the course of the day. Those discussions are continuing and we will see what the outcome of those discussions is.

Having said that, I want it to be absolutely clear to this chamber that this government is second to none in its commitment to Australian sport and to the arts community. We have delivered, as distinct from the Labor Party and, I might say, as distinct from the very ordinary policies that you in this role put forward in the last election.

Senator Lundy—What are you doing to defend sport?

Senator Kemp—Senator Lundy—

The PRESIDENT—Minister, ignore the interjections and address your remarks through the chair.

Senator Kemp—Senator Lundy continues to shout at me across the chamber and it is very distracting indeed. (Time expired)

Senator Lundy—It is very frustrating. Mr President, I ask a supplementary question but I am tempted to re-ask my first question as well. Can the minister confirm that the VSU legislation will directly affect more than 500,000 Australians, from Olympians to schoolchildren, who currently use university sporting services through the massive reduction in facilities and maintenance budgets that will result from the bill? Won’t the legislation also place at risk up to 1,400 sports scholarships awarded by universities? Can the minister now provide an absolute assurance that all university sporting facilities, both metropolitan and regional, will maintain their real funding under any government legislative changes?
Senator KEMP—Gee, Senator Lundy, that was a tough question! Senator Lundy, I am not sure that you listened to my earlier response. If you had you would have amended the supplementary question. It has always been a difficulty with members of the Labor Party—they do not listen to the detailed responses. Senator Lundy, I have indicated to you that this government is committed to VSU. I have indicated to you that discussions are presently occurring, which you are not party of because we want those discussions to be productive. As I said before, Senator Lundy, you do not need to lecture to me on any commitment to sport.

The PRESIDENT—Minister, I remind you to address your remarks through the chair.

Senator KEMP—This government, Senator Lundy, has delivered more to sport than any previous government in Australian history.

Economy

Senator FIFIELD (2.08 pm)—My question is to the Minister for Finance and Administration, Senator Minchin, representing the Treasurer. Will the minister inform the Senate of the results of today’s national accounts? What do the national accounts show about the underlying health and strength of the economy? Is the minister also aware of any recent data on Australia’s export sector? What are the policy implications of these figures?

Senator MINCHIN—Thank you, Senator Fifield, for that very good question. Indeed, today’s national accounts from the Bureau of Statistics show that the Australian economy grew by 0.2 per cent in the September quarter, a result of 2.6 per cent through the year to September. The biggest contribution to that growth came from business investment, which rose two per cent in the quarter, up 17 per cent for the year. That just confirms what I said yesterday about the significant investment boom that we have under way in this country.

In terms of what was a modest growth figure overall, the biggest factor in that in the September quarter was the impact of high petrol prices, of which I am sure we are all aware. That can be seen in analysis of these figures. Expenditure on transport services fell by 2.2 per cent in the quarter and expenditure on operation of vehicles was down 2.4 per cent. Despite that, household consumption was up by 0.6 per cent in the quarter and 2.7 per cent for the year, which shows that households are consolidating their expenditures after very significant increases in household consumption in recent years.

The slowdown overall in the housing sector is also evident in these figures. Dwelling investment fell by another half a per cent in the quarter to September, and that is consistent with data on house prices from around the country that we are seeing which indicates the softening in residential property that we do welcome. The good news is that, as the housing sector and household consumption comes off, strong investment growth is offsetting those effects on the economy. Net exports do continue to detract from growth, but the outlook for exports remains positive and the impact of all this investment in export industries is yet to be realised on the overall economy.

Our terms of trade remain at their highest level for some 30 years. As a result of that, real gross domestic income for Australia rose by 4.8 per cent for the year. In nominal terms, compensation for employees—something I know those opposite are concerned about, quite properly—grew by 1.9 per cent for the quarter. The measure of profit, which is private gross operating surplus—a term made famous by former Treasurer John Kerin—rose by 2.6 per cent in the
quarter, 17.6 per cent higher for the year. Of course, that is underpinning our overall revenues for the government at the moment. The national accounts confirm that inflation remains contained. The GDP deflator was up 0.8 per cent in the September quarter.

These figures suggest that we have moderate but solid performance in the economy. They do show the recent slowing in consumption and the current boom in investment driven by high commodity prices is funded in large measure by record company profits. These overall national accounts do confirm the need to maintain the reform agenda in this country. If we are to ensure that strengthening of our export performance, if we are to ensure that our productivity levels remain high, that unemployment remains the lowest for 30 years and that household incomes continue growing, we simply have to keep up the pressure on economic reform. And that is what this government is all about.

Senator STERLE (2.13 pm)—My question is to Senator Ellison, the Minister for Justice and Customs. Is the minister aware that this year’s Customs annual report shows that there were 83 fewer Customs surveillance flights and 87 fewer Customs vessels days at sea compared to last year? Can the minister confirm and explain why there has also been a dramatic reduction in the flying hours of military aircraft and the sea days of military patrol boats when they are supposedly part of the government’s strategy to protect our northern coast? Doesn’t this explain why the CEO of Customs, Mr Lionel Woodward, has said in the annual report: ‘Our compliance capabilities had been cut to the bone’? Given the conclusions in the annual report, can the minister indicate whether he endorses Mr Woodward’s comments?

Senator ELLISON—In real terms, funding for Customs has been increased since this government came to power by 80 per cent. That is an outstanding increase in Customs funding. Today I announced a further commitment by the Howard government for border protection and surveillance, with a $1 billion contract going to the preferred tenderer, Surveilliance Australia—$1 billion running from 2008 to 2020, which is going to see a doubling of the Dash 8 aircraft.

Senator Sterle does not like this answer. He asked about aerial surveillance, and I am answering by saying what the plan is from this government in relation to aerial surveillance—$1 billion from 2008 to 2020. That is a commitment of unprecedented proportions to aerial surveillance. We also signed a contract earlier this year for a helicopter service in the Torres Strait—an area of strategic importance for Australia. That is $100 million over 12 years. It provides intense surveillance on top of the high-frequency service wave radar trial we are conducting with Defence in the Torres Strait. One of the initiatives we had for the north-west—and Senator Sterle from Western Australia might be interested in this—is the Truscott base, which we spent money on so that we could have longer sorties. We can have a lesser number of shorter flights but longer flights in relation to putting our Dash 8s on station—
Senator Ludwig—Mr President, I rise on a point of order. It is relevance that I take a point of order on. The minister has been talking for a couple of minutes now but has failed to address the question that was asked. The question was whether the minister could confirm and explain why there has been a dramatic reduction in the flying hours of the Orion, and also whether the minister can explain Mr Lionel Woodward’s comments in the annual report about the compliance capabilities being ‘cut to the bone’. That was the point of the question.

The President—I am sure the minister is aware of the question. He has 2½ minutes to complete his answer.

Senator Ellison—I have been asked about border protection, aerial surveillance and maritime patrols. We have increased funding for that. It is the opposition who do not like it. They are the ones who come up with a coastguard in five different versions. They are the ones who want to gut Customs and gut the Navy by having another bureaucracy—a third bureaucracy—called a coastguard. What I have announced today is a further symmetry of Customs working with Navy and Air Force. What we have is a joint offshore protection command. But they do not want to hear about the initiative at Truscott Air Base, do they? No. We increased facilities there so that Dash 8 aircraft can fly out to the north-west, be on station longer and provide more surveillance time as a result of using the Truscott Air Base in the north-west. But, of course, they do not want to acknowledge or hear about that.

In relation to the recent initiative of $88 million we announced, we are going to have four inshore patrol boats in Broome—that may be of interest to Senator Sterle from Western Australia—Darwin, Gove and also Thursday Island. That will provide backup for our marine fleet, which is out there working hard to protect Australia’s border line. They are out there in an unprecedented fashion looking out for Australia’s borders to keep out illegal entrants, which they have had great success with, and illegal fishing, which is of high concern to us. The northern border is an absolute priority for us. In relation to the flying time, we have bases in Broome, Darwin, Cairns and Thursday Island. With the new initiatives we have in place and will have coming online, we will see increased capacity through higher and better technology and an increased capacity of our Dash 8s to stay out on station. What this spells is stronger border control brought forward and committed to by the Howard government.

Senator Sterle—Mr President, I ask a supplementary question. I take it from the extra $1 billion over 12 years that you acknowledge, Minister, that you have been a failure. Can the minister explain why the Howard government cut surveillance of our northern waters in the last financial year when we were in the middle of an illegal fishing plague? Why did the government, to use Mr Woodward’s words, decide to cut border protection compliance activities to the bone? Given the serious downgrading of surveillance last year, aren’t the measures announced by the minister today simply playing catch-up for all of the years that the government has ignored illegal fishing in Northern Australia?

Senator Ellison—Mr President, you could forgive me for having some scepticism about Senator Sterle’s assertion. He was the one who said that Storm Bay was off the north coast of Western Australia. It was Senator Johnston who revealed in that debate that Storm Bay was nowhere near there at all—it was in Fremantle. What a joke that was! So you need not think that I am going to accept what Senator Sterle says on face value. I can tell you that the Australian Cus-
toms Service is doing a mighty fine job looking after the borders of this country. I wonder why Labor will not acknowledge that? Why won’t they acknowledge the good work done by the men and women of the Australian Customs Service? Why don’t they have the good grace to acknowledge that?

Border Protection

Senator JOHNSTON (2.19 pm)—My question is to the Minister for Justice and Customs, Senator Ellison. Will the minister further update the Senate on the Australian government’s strong commitment to the protection of Australia’s borders and, in particular, to civil maritime surveillance? Is the minister aware of any other policies?

Senator ELLISON—That is a very good question from Senator Johnston, who has taken a very keen interest in border protection. As Senator Johnston is a senator from Western Australia, he takes a keen interest in our northern borders. As I said earlier, we announced today a preferred contractor for a $1 billion contract in relation to aerial surveillance for the years 2008 to 2020. Of course, that is an acknowledgment of the total commitment of the Howard government to the future. What we have said in this contract is that, if there is any new technology that comes on, it can be incorporated into that contract. What we are looking at is increased optical and radar technology on board our Dash 8s and forward-looking vision in relation to cameras. We are looking at real-time downloading and improving the communications system. This is vital in the current environment we find ourselves in. The Dash 8 is a great aerial platform. It can operate at low level and it also has long legs. As I mentioned earlier, some of them are increasing their capacity by 60 per cent so that they can stay out longer on station and carry out vital observations.

Senator Ludwig—Mr President, I rise on a point of order. My point of order is under section 196—tedious repetition. We have already heard this brief read out in the last answer. The minister should move on.

The PRESIDENT—There is also another standing order that talks about frivolous points of order.

Senator Sherry—He is reading the same answer!

Senator ELLISON—It is amazing. I have not even looked at it, despite the fact he says I am reading it. They are very sensitive today, Mr President, and so they should be. What they ought to do is acknowledge the good work that is being done by the Customs Service and Defence Force personnel in looking out for Australia’s borders. I will get back to the question. The question was about what we are doing in relation to ramping up border protection.

We are also trialling new technology, such as unmanned aerial vehicles. We are doing that as a high priority. That is a very important area. As well as that, we use about $1 million of satellite information each year. As a whole-of-government approach, we are looking at using satellites across the board, which is so important in this modern environment. It is very important, though, that we have, on the ground and in the air, that ready response, and the Dash 8 provides that. We also use P3s. What we can look forward to is increased surveillance under this contract.

Opposition senators interjecting—

The PRESIDENT—Order! Senator Carr, Senator Sherry and Senator Conroy, please keep quiet!

Senator ELLISON—The Director-General of Coastwatch, Rear Admiral Russ Crane, who is also the commander of the Joint Offshore Protection Command, was
with me today when we announced the contract. As he put it, there will be new technology used in our Dash 8s. What that demonstrated was the seamless operation we have, with Customs on the one hand and the Defence Force on the other. It is not a truncated operation with a third bureaucracy, such as a coastguard.

Senator Johnston asked what other policies there are. From Labor, we have had five coastguards, mark 1 courtesy of the Leader of the Opposition and mark 5 courtesy of the Leader of the Opposition. In between, we have had a variety of coastguards put forward by Labor in a thoroughly confused fashion. They want to gut Navy and gut Customs and put in another bureaucracy. What we demonstrated today is that Customs and the defence forces are working together. The Joint Offshore Protection Command is the whole-of-government approach to a matter of security which we need in this country. We do not need a disparate, confused version of five different coastguards, where we have seen the funding cut from $900 million down to $300 million. We are totally committed to border control, and this $1 billion contract demonstrates that.

Mr Robert Gerard

Senator FAULKNER (2.24 pm)—My question is to Senator Minchin, the Minister for Finance and Administration, and in his capacity as the Minister representing the Treasurer. Does the minister recall the public furore over Mr Robert Gerard’s secret channeling of $150,000 worth of donations to the South Australian Liberal Party in 1993? Is it true the minister wrote a memo in response to internal Liberal Party criticism of him over this matter which was quoted in the Adelaide Advertiser newspaper on 11 April 1995, in which he said:

I am dismayed by this extraordinary and gutless attempt to divert the blame for this debacle on to me and Grahame Morris.

Given this, and later publicity—

Senator Hill—I rise on a point of order. It seems that this question is certainly not directed to the minister in his portfolio responsibility.

Senator Chris Evans—He has not finished the question.

Senator Hill—He has said enough.

The PRESIDENT—I will listen to the rest of the question. There is no point of order.

Senator FAULKNER—Thank you very much, Mr President. Given this, and given later publicity over Gerard Industries’ sham tax arrangements in the Caribbean, how can the minister possibly maintain his support of the appointment of Mr Gerard to the Reserve Bank board?

Senator MINCHIN—I agree with Senator Hill that the first part of the question is out of order. Nevertheless, let me say that the matters to which you refer were actually put on the Senate record by one of your esteemed former colleagues, Senator Quirk, who read into the Senate Hansard the memo to which you refer. All I can say in this chamber is that that was an internal party matter in terms of the administration of donations to the South Australian Liberal Party which did not go at all to any question of propriety or legality on the part of Mr Gerard. It was much more a matter regarding the way in which the South Australian Liberal Party administered donations. It was not in any way any reflection on Mr Gerard and did not go to the question of whether he had or had not complied with relevant laws.

As to Mr Gerard’s fitness for the Reserve Bank board, I have said here on several occasions that I, as a member of the cabinet,
supported his appointment to the board when the Treasurer brought that recommendation to the cabinet—as did all cabinet members, as is on the public record. I did so, as did others, on the basis that I strongly supported the proposition that, if we are to have a Reserve Bank board advising the Reserve Bank governor, that board should be representative and should have representatives from the various sectors of the economy.

I for one as a South Australian strongly believe that the manufacturing sector and its interests should be reflected and represented in the Reserve Bank’s consideration of monetary policy in this country, and I was particularly enthusiastic about the proposition that a manufacturer from a smaller state—to wit, South Australia—should be on that board. Therefore, I was delighted to be in a position to support that appointment when that appointment came before the cabinet.

Senator FAULKNER—Mr President, I ask a supplementary question. Given Senator Minchin’s knowledge of Mr Gerard’s long history of financial dealings with the Liberal Party, can the minister now confirm that he did have reservations about Mr Gerard’s appointment to the Reserve Bank board but that he has allowed himself to be verbaled by Mr Costello as an enthusiastic supporter of Mr Gerard?

The PRESIDENT—I do not think that is a supplementary question. If you wish to answer it, you may.

Senator MINCHIN—I am disgusted by the proposition that anybody who donates to the private enterprise party of this country should be denied the opportunity ever to serve on a body like the Reserve Bank. That is absolutely and utterly outrageous coming from the Labor Party, given the political appointments they made to the Reserve Bank. They have a long history of appointing union mates to the Reserve Bank board. How dare you make such a suggestion.

Australian Electoral System

Senator BRANDIS (2.29 pm)—My question is to the Special Minister of State, Senator Abetz. Will the minister inform the Senate how the Howard government is moving to improve the integrity of Australia’s electoral system, creating a fairer system for all? Is the minister aware of any alternative policies?

The PRESIDENT—Senator Conroy interjecting—

The PRESIDENT—Senator Conroy, if you continue this disruption today I am going to ask you to leave the chamber. So come to order!

Senator ABETZ—I thank Senator Brandis for his question and acknowledge the fantastic work that he does on the Joint Standing Committee on Electoral Matters. I am delighted to inform the Senate that the government has agreed to proposed amendments to the Commonwealth Electoral Act which will strengthen and improve the integrity of Australia’s electoral system—improvements which will make Australia’s electoral system fairer for all. Time does not allow me to go into the full detail of the proposed changes. Suffice to say that I flagged the major components of our policy in a speech to the Sydney Institute some two months ago.

The integrity and robustness of the electoral roll is the cornerstone, the underpinning, of public confidence in our electoral system, and that is why the bill will, among other things, introduce a proof of identity requirement for people enrolling or updating their enrolment. To say that it is easier to get onto the electoral roll than to hire a video is glib but unfortunately true. We will also ensure that the Australian Electoral Commission has the necessary time to properly check the bona fides of enrolment applications by
closing the electoral roll for most people on the day of the issue of election writs. It is simply not acceptable that the Electoral Commission is forced to try to verify literally hundreds of thousands of enrolments in a massive one-week rush when it could be done much better by being spread over the rest of the year. However, the government does intend to allow an extra three days for change of address notifications, as well as allowing 17-year-olds turning 18 and residents who will become citizens during the election campaign to enrol.

We will also bring in laws in relation to donations and disclosure, bringing them into line with practices in the United Kingdom and New Zealand—both under Labour governments—providing a sensible balance between cutting red tape, providing transparency and ensuring privacy. Indeed, if the threshold was $10,000, we would not have had the farce of the Penny-gate raffle in South Australia, where a raffle was run at a level of $10,000 to try to get around that disclosure threshold. I am sure Senator Wong, with her personal experience in this area, will assist us in getting this through.

I was asked about alternate policies. There is one alternate approach to electoral laws in this country, and that was put to us by former senator Graham Richardson when he talked about the 1983 reforms that Mr Beazley introduced. He said that the reforms were introduced to ensure:

... that Labor could embrace power as a right and make the task of anyone trying to take it from us as difficult as we could.

That is what Labor did 20 years ago. What we as a government are now doing is rebalancing the field, making the playing field level again, to ensure that the people of Australia can have faith and confidence in the robustness of our electoral system.

Rendition Policy

Senator BOB BROWN (2.33 pm)—My question goes to the Minister representing the Attorney-General, who responded to a question from me in March on whether the government had ever been involved directly or indirectly in the US policy of rendition. The minister replied:

Not to the knowledge of this Department.

Is the minister aware of a report in the Washington Post on 18 November which said that the Americans and their counterparts at the centres ‘make daily decisions on when and how to apprehend suspects, whether to whisk them off to other countries for interrogation and detention’ et cetera? It goes on to say that the multinational counter-terrorist intelligence centre in Paris, codenamed Alliance Base, includes ‘representatives from Britain, France, Germany, Canada and Australia’. In light of that report, will the minister say what the involvement of Australia in this intelligence centre to prepare operations for rendition by the CIA exactly is? Can the minister tell the Senate whether any CIA planes have ever been allowed into Australian airspace or have used Australian facilities for this purpose?

Government senators—Time!

The PRESIDENT—Senator Brown, you were at least 25 seconds over time on that question. I ask you to make sure that you keep your questions shorter in the future.

Senator ELLISON—Senator Brown touches on a number of issues, and a number of them relate to intelligence matters which I think it is inappropriate to comment on. But I am not aware of the matters he has raised. He mentioned an answer that I gave back in March. I have no reason to change that position, but I will take it on notice and, if there is any reason to correct the record, I will do so. I will also look at that report in the Washington Post. However, I say to the Senate
that Senator Brown has raised some matters dealing with intelligence agencies in the area of operations, which we do not normally comment on.

**Senator BOB BROWN**—Mr President, I ask a supplementary question. In establishing that assurance, will the minister also consult with the minister for foreign affairs and the Prime Minister’s department to make sure that CIA flights involved in this policy of kidnapping people to be taken to centres for torture have not involved Australian airspace or Australian facilities anywhere in the world?

**Senator ELLISON**—Despite the fact that I do not represent the Prime Minister or the minister for foreign affairs in this chamber, I will take that on notice, and if there is anything I can say I will get back to the Senate.

**DISTINGUISHED VISITORS**

**The PRESIDENT**—Order! I would like to draw the attention of honourable senators to the presence in the President’s gallery of a delegation from the Defence and Security Committee of the National Assembly of the Socialist Republic of Vietnam led by Major-General Nguyen Kim Khanh MP, vice-chairman of the committee. On behalf of all senators I wish you a warm welcome to Australia and in particular to the Senate.

**Honourable senators**—Hear, hear!

**QUESTIONS WITHOUT NOTICE**

**Disaster Relief Arrangements**

**Senator FERGUSON** (2.37 pm)—My question is to the Minister for Family and Community services and Minister Assisting the Prime Minister for Women’s Issues, Senator Patterson. Will the minister outline to the Senate how the Howard government has improved arrangements to assist Australians who are affected by disasters, both in Australia and overseas? Is the minister aware of any alternative policies?

**Senator PATTERSON**—I thank Senator Ferguson for his question. It is an important question as we approach the one-year anniversary of the devastating Asian tsunami. All Australians, I am sure, were overwhelmed by the appalling tragedy that claimed the lives of not only Australian citizens but also thousands of people from other countries and nations. Further tragedies continued this year, with the London and Bali bombings. In those cases, the Australian government assisted those Australians affected by meeting reasonable costs not covered by insurance. The packages of assistance included medical costs, including all reasonable out-of-pocket health care expenses for Australians who were injured in the bombings and reasonable costs of counselling and psychological care for families of those affected. In addition, reasonable costs of counselling and psychological care for Australians who lost non-Australian family members and funeral costs for immediate family members or next of kin, where those costs were not met by a third party, were also paid for. In Bali the government also assisted with the medical evacuation and the reasonable travel costs for the return of people to Australia where they had no other means to pay for their travel.

Given the realities of the world in which we live, in which tragedies have recently occurred, I am putting in place new streamlined arrangements to provide rapid assistance to Australians directly affected by disasters here or overseas. These improved arrangements will deliver recovery assistance as fast as possible to those who need help. Australia’s response to events such as the Indian Ocean tsunami and the Bali and London bombings showed great cooperation across government. Having formally agreed plans in place will further enhance that responsiveness.
I will be introducing a bill next year to amend the social security laws to introduce a new Australian government disaster recovery payment. This payment will be $1,000 per adult and $400 per child. The payment will help people who are affected by domestic and overseas events. It will become one of a set of options available to the government when determining what assistance would best meet the needs and circumstances of people affected by a disaster. This payment may then also be complemented by a broader response, including case management and counselling support, travel assistance, medical care, assistance with funerals and associated costs and assistance with management of estates. The Australian government’s broader response to domestic and overseas disasters will be determined based on several factors, including the magnitude of the event, the number of Australians affected and the level of continued threat.

The Howard government’s assistance following a disaster is meant to complement, not replace, personal travel and other insurance. I encourage people to make sure they continue to take out adequate insurance, particularly before they travel. But, as we know, in some circumstances that insurance is negated. The Howard government is improving arrangements to support people who are affected by disasters to ensure that people have all the necessary assistance when they need it. The new measures will streamline this, and reduce the number of processes we have to go through to make sure that we respond as quickly as possible to assist those people who are facing trauma, including the victims, their families and close friends. It is a very important measure and I will commend it to the Senate next year. I am looking forward to bipartisan support for the measures.

Human Services

**Senator CARR** (2.41 pm)—My question without notice is to Senator Patterson in her capacity as both the Minister for Family and Community Services and Minister representing the Minister for Human Services. Can the minister confirm that the Minister for Human Services has spent more than $190,000 on legal advice in his bitter turf war with the Minister for Family and Community Services? Didn’t Mr Hockey clock up legal costs of over $140,000, in the four months from March to June 2005 alone, in his fight to wrest control of his portfolio from the minister? Isn’t this massive legal bill the result of two ministers being unable to amicably resolve the division of responsibilities between them? Will the minister now reveal how much she has spent on legal advice on her own powers and responsibilities in her fight to ward off Minister Hockey? Does the minister think that this is a responsible use of taxpayers’ money?

**Senator PATTERSON**—I would have thought Senator Carr had been here long enough not to fall into the trap of believing everything you read in the newspaper. It just shows that the opposition really have no policy and they want to believe everything they read in the newspaper. The claims in the *Daily Telegraph* today are wrong. The Department of Human Services did not have an internal legal branch until May 2005. So, from October, when the human services department was formed, to May 2005, they had no legal department.

There are always questions asked by departments and ministers to seek legal advice on a range of issues, and I will outline what the member for Prospect asked Mr Hockey’s department. He asked for all costs of any legal firm, barrister or other legal adviser engaged in relation to advice on the relationship, powers and interaction between the
Department of Human Services, the Minister for Human Services and any other government department, agency or minister. Minister Hockey’s direction to his department was to improve coordination between agencies and identify synergies to reduce expenses across agencies. The majority of the advice provided was on how Mr Hockey’s department and agencies could work together to provide savings to the Australian government.

So the story is absolutely baseless. The story is unfounded. The department had no legal services and contracted out its legal advice. Mr Hockey and I work in a very cooperative way. In fact, we meet on a very regular basis. This story has been beaten up and it has absolutely and totally misrepresented the answers to the questions. I think it shows that Labor have no policy. All they can do is poke around looking for some sort of conspiracy or myth making because they have no policy. All departments ask for legal advice, and that is exactly what Mr Hockey’s department did on a range of issues.

**Senator Carr**—Mr President, I ask a supplementary question. Could the minister inform the Senate how much money she has spent in her turf war with her colleague? Is she confirming that $192,000 was spent on services from the Australian Government Solicitor as well as lawyers from Clayton Utz and Phillips Fox? How can she explain to taxpayers why they should foot the $190,000 bill for this turf war between her and the Minister for Human Services? Isn’t Minister Hockey’s arrogant decision to spend $190,000 on an internal Liberal government’s squabble with a minister an appalling waste of taxpayers’ money?

**Senator Patterson**—I answered the question in the first part, and Senator Carr needs to go back and have a look at that. This was a range of advice that Mr Hockey had. As for the question about how much our department spent, my advice is: nothing. There is no turf war. Minister Hockey was asking for advice on the setting up of a new department.

**Live Animal Exports**

**Senator Bartlett** (2.45 pm)—My question is to the Minister representing the Minister for Agriculture, Fisheries and Forestry. I refer to cruelty charges laid against an exporter responsible for a shipment of live sheep aboard the *Al Kuwait*, alleging breaches of Western Australia’s Animal Welfare Act; namely, cruelty to an animal, transporting an animal in a way likely to cause harm and confining an animal in a way that is likely to cause harm. Does the federal government believe that all live export shipments out of Australia should be compliant with all federal and state laws, including animal welfare laws? What actions has the federal government taken since these charges were laid to ensure that all live exports out of Western Australia are not breaching animal welfare or other laws?

**Senator Ian MacDonald**—I thank Senator Bartlett for a question on an issue that I know he genuinely has concerns about. His concerns for live animal shipments and exports mirror those of the federal government. That is why we implemented the Keniry inquiry to look very closely into live cattle exports. We had a series of recommendations from the Keniry inquiry which have been implemented by the government. Senator Bartlett asked me whether the Commonwealth government support their own laws. Obviously, we do; that is why we pass them. We are very keen to ensure that all of those particular laws are followed and enforced. Indeed, we have a number of Commonwealth officials who continually check on those laws.
We have gone to extraordinary lengths to ensure that animals in transit are well looked after. It is very much in Australia’s interests, of course. Live animal exports are worth considerable amounts of money to Australia in export earnings. They are very important and a part of the mainstay of many rural and regional communities in our country. That is why, again, the federal government are so supportive of live animal exports and of the rural communities who support the growing and export of those animals.

Senator Bartlett also asked me about a particular court case in Western Australia. I must confess that I am not familiar with that case. I am sure that the minister, Mr McGauran, will be more familiar with that particular court case. I am not sure whether there was a specific question on the court case but I will have a look at Hansard and, if there was some other information you required about that, I will get an answer from Mr McGauran.

**Senator BARTLETT**—Mr President, I ask a supplementary question. I thank the minister for his answers to parts of the question. My supplementary question goes to the specifics of the charges that were laid just last month against a particular shipment on the *Al Kuwait* from 2003, given that that shipment had no particularly significant differences from most other voyages that leave Western Australia with livestock aboard. I ask the minister: what actions have the federal government and the department in particular taken in the months since these charges were laid to ensure that all future shipments out of Western Australia comply with Western Australian animal welfare laws? I am assuming that the minister’s support for those shipments complying with laws includes state laws as well as federal laws. Is the government giving consideration to introducing a moratorium on all future live exports out of Western Australia until it can be assured that animal welfare laws are not being breached?

**Senator IAN MACDONALD**—I did not quite catch the bit about a moratorium. We would not be supporting a moratorium on any live cattle exports unless there was very clear evidence that particular exporters were doing the wrong thing. It is not often, I have to say, that I have praise for any of the state Labor governments around Australia, but in this instance Mr Kim Chance and the Western Australian government are very sensible about the export of live cattle. They are as intense as the Commonwealth in ensuring that this is done correctly.

Senator Bartlett, you ask if I will make some further inquiries. I will refer that question to Mr McGauran and get back to you. Be assured that this is a very important industry for Australia. It employs a lot of Australians. It is all about real jobs and real wealth for our country. It is an activity and an industry that we very strongly support, but we share with you and with most Australians the concern that these exports are conducted in a humane way.

**Family Payments**

**Senator CHRIS EVANS** (2.50 pm)—My question is directed to Senator Patterson, the Minister for Family and Community Services and Minister representing the Minister for Human Services. Is the minister aware of the Treasurer’s policy proposal that family payments should be redirected away from ‘irresponsible’ parents to other family members who are caring for children more ‘responsibly’? Can the minister confirm that under the existing family payments system there is already scope for the government to direct payments to the adult who has day-to-day responsibilities for the care and welfare of a child and that this may include a grandparent, an uncle or an aunt? Did the Treasurer consult the minister, as the minister re-
sponsible for family payments, before publicly raising this proposal? More importantly, does the minister support Mr Costello’s proposal and, if so, can she explain how the government proposes to assess whether family payments are used in a responsible way and who would possibly be in a position to make such an assessment?

Senator PATTERSON—This government has always been focused on sound policies for children, beginning when we first came into government and found that only 53 per cent of our children were vaccinated. With very innovative policies we have increased that percentage up to the high nineties. We have a strong record on policies focusing on children. We have increased the number of child-care places. We are now giving families on average $7,700 in family payments. We have now a longitudinal study of Australian children to look at their development over a period of time, and we are rolling out an Australian early developmental index to look at how children are growing and how different communities are dealing with children. We are always focused on looking at policies about children.

Our new law reforms that the Attorney-General is rolling out are about focusing on children, reducing through our family relationship centres the likelihood of parents separating, and reducing the likelihood of children facing stress and anxiety when their parents separate. You can go through one after another of our portfolios—whether it is the Attorney-General’s, whether it is mine or whether it is health: we are focused on children.

Of course the Treasurer is focused on the best interests of children. He is the one who has delivered a sound economy that has meant that we can actually give families $7,700 on average in family payments. I would expect nothing less of the Treasurer or any of my colleagues. Senator Coonan, in her portfolio, has a measure that she has just launched to protect children from the internet. Every single one of my ministerial colleagues focuses on children. Including the Treasurer, all members of cabinet focus on every aspect of their portfolio that will improve the lot of children. It is only appropriate that all our members can have a discussion about it. The question I have been asked is totally hypothetical, but every one of my ministerial colleagues is focused on investing in children in Australia.

Senator Chris Evans—Mr President, I rise on a point of order. The question is on relevance. I do not doubt that the minister has a focus on helping children. There was no contention in my question that she does not. The question was about the Treasurer’s proposal, which has received wide publicity. Was the minister consulted and does she support the proposal? She has made no attempt to answer that. I ask you to draw her attention to the question and ask her to answer it. It is a genuine question and I would like to know the answer.

Senator PATTERSON—What I was doing was showing not only that we have ideas but also that we implement ideas. Way back when we first came to government we found 53 per cent of our children were not vaccinated, kids dying from measles and kids dying from whooping cough. What Labor left us was a shambles in terms of assistance to families and immunisation. I would expect all my colleagues to present and discuss ideas about ways in which we can improve the situation for children. That is what all my colleagues do and I welcome every discussion about that. I am very focused on children and very focused on their wellbeing—from a professional, parliamentary and political point of view. I welcome all debate about ways in which we can improve the lot of children in Australia.
Senator CHRIS EVANS—Mr President, I ask a supplementary question. I am disappointed that the minister did not address the issues. In the supplementary question I would like to draw her back to the key issue. Does she as minister support Mr Costello’s proposal and, if so, has she any ideas on how the government would be able to assess whether families are using their payments in a responsible way? If she does, who would possibly be in a position to make such an assessment? I do not know whether the minister is embarrassed by Mr Costello’s statements, but was she consulted and does she support them? That is the question.

The PRESIDENT—I ask the minister to answer the parts of the question that are relevant.

Senator PATTERSON—What I have on this side are lots of ideas and lots of discussion with my colleagues. I have seen not one idea from the other side about children—not one single thing since I have been in this portfolio about improving the lot of children, so I welcome discussions. On a regular basis I discuss issues with my colleagues, in particular the Treasurer. We are in constant discussion about issues right across the board—whether it is with Senator Vanstone on children in detention or with Senator Coonan on children on the internet—with every single one of my colleagues. I could talk to Senator Kemp about children in after-school sport. Every single one of them has an issue they focus on—or more than one—about children, and they continuously discuss them with me. Not one idea do I get from the other side.

Information Technology

Senator JOYCE (2.56 pm)—My question is to the Minister for Communications, Information Technology and the Arts, Senator the Hon. Helen Coonan. Will the minister advise the Senate of how the Howard-Vaile government is helping small information technology businesses grow and compete more efficiently? Is the minister aware of any alternative policies?

Senator COONAN—I thank Senator Joyce for a question that relates to IT. Interestingly, I have not had one question on information technology from the shadow minister since he has been in the portfolio, so I am particularly grateful to Senator Joyce, who has a great interest in improving outcomes for small business, particularly those in rural and regional Australia.

Last week, my colleague Senator Abetz and I announced reforms to make it easier for information and communications technology businesses to win government work. At the last election the government made a commitment to ease the burden on the ICT industry by requiring agencies to cap liability in the majority of contracts. Last week the government delivered on this commitment and more, and I have released for industry consultation a capping liability guide. The guide will help government procurement officers identify and manage risk in government ICT contracts and include sample clauses for ICT contracts. The government will also ensure that government agencies are required to cap liability in government ICT contracts. Understandably, this move has received a warm endorsement from industry. In a press release on 30 November 2005, the Australian Information Industry Association stated:

... the Federal Government’s decision to change its ICT contractual arrangements will help to pave the way for sustained growth in Australia’s ICT industry.

The government will also develop model contracts to dramatically simplify the government contracting process for small ICT firms. Research by my department has found that the percentage of SMEs obtaining gov-
ernment ICT contracts has been growing. About 30 per cent of contracts went to SMEs in 2002-03, up from 28 per cent in 2001-02. This clearly shows that the coalition government has a plan for the ICT sector and is getting on with the job. We are delivering on our election commitments and paving the way for sustained growth of the industry.

In stark contrast, Labor is showing a record level of uninterest in the Australian ICT industry. In fact, given Senator Conroy’s complete silence on ICT issues, the industry could be forgiven for wondering just who is responsible for ICT policy.

Senator Lundy—Don’t claim credit for them. It’s not your idea.

The PRESIDENT—Order!

Senator COONAN—I know Senator Lundy has terrible trouble letting go, but it is actually Senator Conroy’s responsibility. If Labor senators are feeling a bit lost about—

Opposition senators interjecting—

The PRESIDENT—Order! There is far too much noise in the chamber.

Senator COONAN—If those opposite are feeling a bit lost about the direction to take on ICT, I can give them a couple of examples. They should give up the proposal to slash expenditure in areas of government that coordinate ICT policies, which is a loopy idea they had. I refer also to the appalling decision to remove accelerated depreciation for software. Unfortunately for the industry, Labor has only shown prowess for factional fighting and backroom deals. We think the industry deserves better than the total uninterest and neglect it receives from the Labor Party. We will continue to deliver for small businesses in the ICT sector and throughout the economy because we believe that a strong economy produces a strong society.
reality, no matter what the debate was. It seems that there are only one or two on the other side of the chamber who realise the grave implications for young people and their families of this ideologically driven piece of legislation. The only problem is that the pack of adolescents that felt this way as young student activists never grew up. They are here now and they are still getting their kicks by bullying their colleagues in their own party room, and we end up reading about it. But like spoilt brats beating up on the wets, they want only their way, with no interest in compromise or common sense or the harm that VSU will cause for normal people going about their normal business of trying to get a decent university education.

It was the Labor Party that flushed them out. It was the Labor Party that, by moving our amendment, took the cover away from them on VSU, which was supposed to be about political campaigning by students. That was the big complaint. By moving an amendment to preserve a compulsory fee for student services, we flushed out those for whom it was about power and not practicalities. It was Labor that flushed out those for whom VSU was about ego, not an egalitarian educational experience for university students. They know, like we know, that the commonsense compromise for this divided rabble would be to support Labor’s amendment.

The Labor amendment introduces tough new accountability and reporting requirements to make sure that money collected through a student amenities fee is appropriately spent within the law. Our amendment also provides for a fair system of fee collection and for it to be on a pro rata basis for part-time, external and distance education. In other words, our amendment removes every single complaint that these ideologues have ever made. So let us forget about the pathetic pork that seems to be back on the table to try to solve this.

I say to those opposite: any pork barrel-lung will no doubt favour regional and rural universities—and I do agree that they are at a special disadvantage. But all the universities stand to be dramatically affected. And what about all the country kids who go to city universities? Arguably, they are the ones most in need of those services to be put in place as they orientate themselves around the campus and the city in which they are living. It is not good enough to offer subsidies to regional campuses. Universities are diverse communities, with rural students landing in the city for the first time and many from the city arriving in regional campuses for the first time. So student services are necessary no matter where the university is located. It is not good enough for those on the other side of the chamber, who represent young people from rural Australia, to allow support services and activities on any campus to be undermined.

What are we fighting for? A whole raft of student services, including clubs of common interest. I have played a special role in trying to highlight the damage to sport but it is also about the damage to health and medical services, accommodation and housing assistance, cultural and religious groups, counseling, dental care, orientation information, employment assistance—practical stuff.

(Time expired)

Senator FIFIELD (Victoria) (3.07 pm)—
On three occasions this parliament has had legislation introduced to give effect to freedom of choice and freedom of association, to end the practice whereby universities, student unions, student guilds or student associations can compel someone to join an organisation against their will and pay a fee for services that they may not want. At the heart of this bill is the principle of freedom of association. No-one should be compelled to
join an organisation against their will. The classic instance of where institutions will embrace the technicality of freedom of association but not embrace the principle of freedom of association takes place in Victoria. Under the Victorian legislation you do not have to join a student union against your will, you can opt out of a student union but you have to pay exactly the same fee. That is a con and a sham. It is time for universities and student associations to embrace the principle of freedom of choice.

What is the fear? The fear is that we cannot trust students. We can trust students to choose their university, their course and their subjects but their critical faculties depart them when it comes to the decision of whether or not to join a student union or association. If you can choose your course, your subjects and your institution, you should have the capacity and good judgment to decide whether you want to join a student union or association and whether you value the services that are paid for by those fees.

Those opposite have an incredibly pessimistic view of today’s students. I do not know if students have changed since I was at university, but I will let Senator Lundy in on a little secret: if you put a couple of thousand 18- to 23-year-olds together who are curious, frisky and energetic, you are going to have a vibrant campus life. You do not need a compulsory fee to generate a vibrant campus life. The onus should be on student organisations to convince students of the value of the services they provide. Motorist organisations like the NRMA and the RACV do not have the capacity to compel motorists to pay their fees; they have to convince motorists of the value of the services that they provide. It should be the same on university campuses. University unions and associations have the capacity to convince students of the value of the services they provide, and students have the capacity to determine for themselves whether they think that is value for money.

Senator Troeth and I took part in the Senate inquiry into the voluntary student unionism legislation, and what I found incredibly disheartening were the attitudes of some of the vice-chancellors. There was a very paternalistic attitude towards university students. In particular, the vice-chancellor of Swinburne University of Technology, Professor Ian Young, said:

This is a rather condescending comment, I am afraid, but when you have a group of 18- to 22-year-olds the reality is that their focus is very short term. They are interested in the here and now.

My response to the vice-chancellor was, ‘Yes, Vice-Chancellor, that is very condescending.’

Students have the capacity to determine what is in their interests. If as a year 12 student you are capable of deciding that you want to study medicine and that you want to become a medical specialist, you are taking a long-term view about your future. If you are capable of making those sorts of decisions as a year 12 student, surely you have the ability when you are at university to decide if you want to join a student union and whether you value the services that they provide. Students should have the right to decide.

We know why the ALP supports the sort of legislation that exists in Victoria; it is because we see things like the National Union of Students spending $250,000 of compulsorily acquired student funds at the last election on a party political campaign to put the coalition last. That is why senators opposite support a limited services fee model, because they know that money is fungible. Money collected compulsorily from students for one purpose will ultimately end up being spent on another purpose. It might be put into the amenities account but $1 in one account is
the same as $1 in another account. (Time expired)

Senator GEORGE CAMPBELL (New South Wales) (3.12 pm)—I also want to take note of the answer by Senator Kemp on voluntary student unionism. Like Senator Fifield, I took part in the inquiry.

Senator Ferguson interjecting—

Senator GEORGE CAMPBELL—I will have you know, Senator Ferguson, I did not go to university.

Senator Ferguson—Neither did I.

Senator GEORGE CAMPBELL—I left school at 13. I do not regard myself as being any less intelligent than any of you that did go to university. Senator Fifield says that at the heart of this bill is freedom of association. At the heart of this bill is pure ideology. It is about the government silencing dissent. It is about the government attacking its opponents in the community. It is about an obsession with the battles they lost on campus 30 years ago. It is about playing student politics instead of looking after students at university.

Senator Ferguson—Rubbish!

Senator GEORGE CAMPBELL—Do not take my word for it, Senator Ferguson. I will read you a quote from the Sydney Morning Herald on 22 June 2005. It said:

The Liberal senator Brett Mason said yesterday the right to choose whether to join a student union had been “burned into the psyches” of many Liberal MPs and voluntary unionism was an “issue of principle rather than pragmatic politics” for many.

While saying “revenge might be a little strong”, he said Liberal MPs viewed passing the bill unamended as a way of “evening the score” against their political rivals from universities of the 1970s and 80s.

If ever there was a statement about being ideologically driven, thank you very much for saying it, Senator Mason.

Let us look at some of the issues involved in this debate. If this bill passes the parliament, 4,200 jobs will be lost across the country and vital services including welfare support and advocacy will be jeopardised, as Senator Lundy has already pointed out. One of the issues that the vice-chancellors were really concerned about was the advocacy role of student unions, because they did not believe that they had the right to be judge and jury on students. They believed that students had the right to have independent advocacy in terms of their issues with the university, but that will be lost substantially as a result of this bill being passed. There are transport services, emergency financial assistance, child care, entertainment and sport. More importantly, this will add to making universities unattractive to international students.

There are two issues of importance and one was raised by the student association at the University of Southern Queensland, based in Toowoomba, who said, in evidence to the committee, that they were already taking steps to shut down the student association, because in Queensland they are incorporated and if the bill were passed they would be put in a position of trading insolvently. So they already had to take steps to shut down even before the bill was passed. Regional universities provide many facilities, including sporting facilities, which do not just service the university; they service the community. Thousands of dollars of assets are tied up in those organisations which provide effective services to the local community as well as to the student community of the university. No-one has given much regard to that aspect of the services that the universities provide to the students as well as to the community. This is all about ‘get square, get even’ for the past, in the same way that your industrial relations legislation...
is about ‘get square, get even’. (Time expired)

Senator MASON (Queensland) (3.17 pm)—Senator Fifield, my friend and colleague, has given an elegant and eloquent assessment of the government’s VSU legislation. As is common in this place, I need to give a little bit of context, a bit of history to the debate.

Senator Lundy—Just like back at university. Relive the moment, and you are, I can tell.

Senator MASON—Senator Lundy, a long time ago I was 17 years old and the ratbagtery that went on then still happens today. I was forced to pay compulsory union fees in the eighties, when the Left was still relevant—they are not any more—to an ANU student association that gave money to the PLO. I was 17 and I was forced to give money to a terrorist organisation. You might think, ‘Well, it’s a long time ago. So what?’ It can still happen today. Every time money is taken compulsorily from 17- and 18-year-olds by collectivists, it can be spent on any purpose. That is the problem.

Senator George Campbell interjecting—

Senator MASON—Money was spent then, as it can be today, on any sort of terrorist or other political organisation. We are talking about the eighties and, in those days, Senator George Campbell, you were relevant, but you are not relevant now.

Senator George Campbell interjecting—

Senator Lundy—You’re arrogant. Don’t be arrogant.

Senator MASON—You talk about great wars of ideology. The problem with your ideology is that it was wrong. It did not cut the mustard.

Senator George Campbell interjecting—

The DEPUTY PRESIDENT—Order, Senator George Campbell and Senator Lundy!

Senator MASON—It is not a matter of getting square at all; it is a matter of ensuring that this sort of thing never, ever happens again. That is the point. Quite frankly, if the Australian Labor Party were in government, do you think they would pass legislation banning student unions from giving money for political causes? They never, ever would, because it suits their political purposes. If you do not believe me, in the most recent federal election, last year, the member for Solomon, Mr Tollner, again had to put up with student money being used against him in a political campaign.

It is all very well for Senator Lundy and Senator Campbell to say, ‘Money should be spent on student amenities.’ As my friend Senator Fifield said, the money is fungible. As soon it can be used for, let us say, student services, student purposes or educational purposes, some student unions say it is in the interests of the education of students to fight and campaign against the government. They use compulsorily acquired money from 17-year-olds, most of whom these days vote for the coalition, to campaign against the coalition, and they think that is okay. That is the fraud of the Australian Labor Party in the 21st century: they come into this place and say, ‘You’re misrepresenting the case.’ Over 13 years, when the Australian Labor Party were in government, they had the opportunity to ensure that money was not taken from 17-year-olds or my father, who was a mature age student, and used for political purposes, and they did nothing. Why? Because it served their political purposes. It is time that was stopped and it must never happen again.

Senator Lundy—Mr Deputy President, I rise on a point of order. Is it in order for the...
senator to so aggressively point across the chamber at me and other senators? Is he al-
lowed to do that?

The DEPUTY PRESIDENT—There is no point of order.

Senator MOORE (Queensland) (3.21 pm)—I am also going to take part in this
debate on voluntary student unionism, but I think I might be a little quieter than the pre-
vious speaker. In the debate Senator Fifield quoted from the report that the committee
tabled. A range of opinions were brought forward in that report. One of the key aspects
of the evidence that was given was the amazing link that many cities and towns have with
the universities that are located within their boundaries. That was seen across the coun-
try. I will mention again the University of Southern Queensland, which is in my home
town, Toowoomba. I do not think even people from Queensland could accuse that uni-
versity campus of being a hotbed of political activity. I have at times thought that it would
be really useful if there could be some more political activity on that campus. But they
raised significant concerns from the point of view of the impact on their community of the
loss of a formal, secure money base that could be used for student amenities. That
was the basis of the evidence that they gave.

I have two nephews who attend that cam-
pus, and they have paid the fees that they
have been asked to pay for the last couple of
years. They may or may not take part in the
range of activities that are offered at that
campus. Nonetheless, the people who work
in the student association there can plan to
have a certain amount of income available to
look at the kinds of things that can be offered
on campus. They include the kinds of ser-
ves to which Senator Lundy referred—and
she concentrated on the area of sport. I know
the Queensland universities better than those in the other states, and I know that so much
of the funding that was available from that
particular income stream went to providing
really strong sporting services at the univer-
sities that were available to all students and
also to other people in the community who
had links to the university. Not all students
took up those services. We know that. But,
onetheless, there were facilities available—
football, squash, tennis and a whole range of
things—that were not able to be funded in
any other way.

Senator Brandis—But they all had to pay
for them whether they used them or not.

Senator MOORE—I will mention an-
other university service—one that is particu-
larly dear to my heart and may well be to
Senator Brandis as well—which is the fate of
the Schonell theatre on the University of
Queensland campus. Through you, Mr Dep-
uty President, maybe Senator Brandis will be
able to talk about that issue. That theatre and
entertainment complex, which has a long
history in the city of Brisbane in terms of
activity, location, performance and also so-
cial activity of all kinds around that area, is
under direct threat because the management
will not be able to see clearly into the future
if the stream of funding that is provided from
student union fees is to be withdrawn. They
are planning for their future, because they
know that in the current environment there is
the opportunity for legislation to pass that
will mean the end of this formal funding.
They do not see their future clearly.

In terms of the processes that occur on the
campuses themselves, I do not think anyone
has a lack of concern about the communica-
tions that take place. People who are asked to
pay money should have knowledge of how
that money is spent. No-one argues with that.
In fact, one of the key components of the
amendments to which both Senator Lundy
and Senator George Campbell referred was
to ensure that this kind of accountability
process could be enhanced. There have been cases in the past where people have felt that they were not sure what was happening with the money that they were paying as part of a student contribution to the wider activities of campus life. We have heard so much about different things that have worked and not worked in universities.

I am deeply concerned that, by withdrawing the security of knowing what money is going to be available, services will have to be cut or minimised. One of my major concerns about what will happen on some campuses is that services will be outsourced. The kinds of things that people can access now at universities, such as recreational services, food and even the kind of personal counseling that is available now on many campuses, will either not exist or will be outsourced and available in some kind of capital arrangement. I am worried that everyone seems to be saying that students are aged only between 17 and the mid-20s. We know that that is not true. The student population is of all ages.

I think we need to address those issues. We need to quite seriously make sure that people know where their money is going and understand the democratic process that takes place in electing student unions so that they have ownership of what happens with the funding. I think we have to acknowledge that, if there is not that secure knowledge within the university community about how much money they are going to have, there will be a tendency to withdraw services and to pull back. That would be very sad. (Time expired)

Question agreed to.

**Live Animal Exports**

**Senator BARTLETT (Queensland)** (3.27 pm)—I move:

That the Senate take note of the answer given by the Minister for Fisheries, Forestry and Conservation (Senator Ian Macdonald) to a question without notice asked by Senator Bartlett today relating to live sheep exports.

My question went to the charges that were laid in Western Australia just last month against the Australian exporter involved in a shipment aboard the MV *Al Kuwait* of over 100,000 sheep, from the end of 2003. I note that it took nearly two years, a lot of urging and pursuit through a lot of different channels to ensure that the allegations that were made to the police, the government and the state RSPCA were investigated and followed up. An enormous amount of evidence was collected as part of putting the case and the allegation to the Western Australian State Solicitor’s Office and the Western Australian police. It included people going to Kuwait with an investigator from Compassion in World Farming, meeting the Australian shipment on the MV *Al Kuwait* when it docked in Kuwait and documenting the condition of the sheep on arrival.

I know that Minister Macdonald is only representing the minister from the other place, but I was a little surprised that Minister Macdonald was not aware of this charge having been laid. My view and the Democrats’ view on the live export trade is no secret, nor is our opposition to it. I know that other senators are equally strongly supportive of it. I know that Senator Adams, who is in the chamber, is one of those. Whatever your view about it, I do not think there is much doubt that this case potentially has very far-reaching ramifications for the live export trade. The shipment, according to all the evidence that I am aware of from those who gathered it, was routine, with no unusual circumstances other than the fact that people were able to get the volume of evidence necessary. It has been described as a routine and industry typical shipment. This shipment has been charged with breaching a number of sections of the Western Australian
Animal Welfare Act, including sections relating to cruelty to animals, transporting an animal in a way that is likely to cause it harm, confining an animal in a way that is likely to cause it unnecessary harm and also not providing proper food.

Obviously, this matter is before the courts and it will be played out and we will see what the consequences will be. But given that there is clearly a prima facie case of a breach, or the Western Australian police would not have pressed charges, it is my view that the federal government, which, let us not forget, licenses and authorises all these exports, has an obligation to ensure that all future exports are compliant with not just federal law but state law and certainly Western Australian law, whether it is animal welfare or other laws. That is very important. I will certainly wait with interest to see what the minister comes back with. But I believe the federal government should be and indeed should have already been acting urgently to ensure that all future shipments are compliant with this Western Australian law, particularly given that this shipment, it appears, is not that different from most of the other shipments, apart from being slightly larger than the average, with over 100,000, although that is certainly not unique.

I will also briefly touch on the comments the minister made that this is an important industry and there are lots of jobs attached to it. We have had this debate before in the chamber and it is important to put a few things on the record. Since 2000 a few reports have been written on the economic impact of the live export trade. The government likes to quote the Hassell and Associates report even though a director of Hassell and Associates at the time was also chairman of LiveCorp, representing the live export industry. The fact is that the two other studies both directly contradict the Hassell and Associates report. The Heilbron report concluded that the live export trade correction could actually be losing Australia about $1.5 billion in lost GDP, $270 million in household incomes and some 10,500 jobs. Certainly the Australian Meatworkers Union would largely concur with that figure. So at a minimum there is certainly another side to these claims that it will cost too many jobs and too many dollars. There are credible reports out there that conclude that the trade actually costs jobs by continuing. (Time expired)

Question agreed to.

PETITIONS

The Clerk—Petitions have been lodged for presentation as follows:

Trade: Live Animal Exports
To the Honourable President and Members of the Senate in the Parliament assembled.
This petition of undersigned citizens of Australia calls on the Australian government to end the export of live animals from Australia to the Middle East.

Australia has strict laws to protect the welfare of animals—based on sound scientific research and community expectation. It is therefore ethically and morally unacceptable to export Australian animals long distances to countries where they will endure practices and treatment that would be unacceptable or illegal in Australia.

We, the undersigned therefore call on the Australian government to end this trade and in doing so restore Australia’s reputation as a compassionate and ethical nation.

by Senator Bartlett (from 560 citizens).
Information Technology: Internet Content
To the Honourable the President and Members of the Senate in Parliament assembled
We, the undersigned citizens of Australia draw to the attention of the Senate the common incidence of children being exposed to Internet websites portraying explicit sexual images. These images may involve children/teens, sexual violence, bestiality, and other disturbing material. Many such websites use aggressive, deceptive or intrusive techniques to induce viewing. We submit to the Senate that:

• Exposure to pornography is a form of sexual assault against children and should be considered, like all sexual abuse of children, as a serious matter causing lasting harm.
• It is not adequate to charge individual parents with the chief responsibility for protecting their children from Internet pornographers determined to promote their product, OR to expect parents to teach children to cope with the damaging effects of pornographic images AFTER exposure.
• It is the primary duty of community and Government to prevent children being exposed to pornography in the first place by placing restrictions on pornographers and those businesses distributing such material.
• Internet Service Providers (ISPs), should accept responsibility for protecting children from Internet pornography, including liability for harm caused to children by inadequate efforts to protect minors from exposure.

Your petitioners therefore, pray that the Senate take legislative action to restrict children’s exposure to Internet pornography. We support the introduction of mandatory filtering of pornographic content by ISPs and age verification technology to restrict minor’s access.

by Senator Heffernan (from 984 citizens).

Workplace Relations
To the Honourable President of the Senate and Members of the Senate assembled in Parliament:
The petition of certain citizens of Australia draws the attention of the Senate to the fact that Australian employees will be worse off as a result of the Howard Government’s proposed changes to the industrial relations system.
The petitioners call upon the Howard Government to adopt a plan to produce a fair industrial relations system based on fairness and the fundamental principles of minimum standards, wages and conditions; safety nets; an independent umpire; the right to associate; and the right to collectively bargain.
The Petitioners therefore ask the Senate to ensure that the Howard Government:

(1) Guarantees that no individual Australia employee will be worse off under proposed changes to the industrial relation system.
(2) Allows the National Minimum Wage to continue to be set annually by the independent umpire, the Australian Industrial Relations Commission.
(3) Guarantees that unfair dismissal law changes will not enable employers to unfairly sack employees.
(4) Ensures that workers have the right to reject individual contracts and bargain for decent wages and conditions collectively.
(5) Keeps in place safety nets for minimum wages and conditions.
(6) Adopt Federal Labor’s principles to produce a fair system based on the fundamental principles of minimum standards, wages and conditions; an independent umpire; the right to associate; and the right to collectively bargain.

by Senator Hurley (from 135 citizens).

Petitions received.

NOTICES
Presentation
Senator Bartlett to move on the next day of sitting:
That the Environment, Communications, Information Technology and the Arts References Committee be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 28 February 2006, from 4.30 pm to 9 pm, to take evidence for the committee’s inquiry into the
economic impact of salinity on the Australian environment.

**Senator Bartlett** to move on the next day of sitting:

That the time for the presentation of the report of the Environment, Communications, Information Technology and the Arts References Committee on the economic impact of salinity on the Australian environment be extended to 28 March 2006.

**Senator Allison** to move on the next day of sitting:

That the Senate—

(a) supports the statement by 18 prominent academics and medical professionals calling on the Government and all Australians to secure a healthy future for our children, grandchildren and generations to come by rejecting any role for nuclear power in Australia, opposing any expansion of uranium exports, vigorously pursuing the real, sustainable solutions to climate change, free of nuclear dangers, improving energy efficiency, managing energy demand, and massively investing in benign, renewable energy technologies;

(b) notes that their primary concerns with an expansion of nuclear power and uranium exports are:

(i) the failure of nuclear power to address climate change—nuclear power generation requires substantial fossil fuel inputs and takes many years to scale up and if nuclear power were used to generate all electricity currently consumed globally, we would exhaust all known recoverable supplies of uranium in just 9 years,

(ii) the increased risk of proliferation of nuclear weapons—the potential for use of nuclear weapons remains the greatest immediate threat to global health, and this risk is growing,

(iii) the potential misuse of Australian uranium—no absolute guarantees can be made that Australian uranium will not find its way into nuclear weapons,

(iv) the growing dangers of nuclear terrorism—there is clear evidence that in recent years terrorist groups have tried to acquire radioactive materials and nuclear weapons, constructing a simple nuclear weapon is technically easy if fissile material were obtained from the large existing stockpiles and the use of a radiological, or ‘dirty’, bomb is probably inevitable,

(v) the risk of nuclear accidents—as nuclear technology becomes more widespread, the chance of critical contamination of our environment becomes greater as no technology is immune from human or technical error, and serious nuclear accidents continue to occur, and

(vi) the unsolved problem of nuclear waste—the problem of nuclear waste is intractable; a burden irresponsibly imposed on countless future generations and no nation has in place a satisfactory plan to deal with the tens of tonnes of high-level radioactive waste produced by each nuclear power plant each year; and

(c) calls on the Government to:

(i) abandon research and plans to establish a nuclear power industry in Australia,

(ii) abandon plans to expand uranium mining and export in Australia,

(iii) take practical action to drive greater investment in clean renewable energy, energy efficiency and gas, and

(iv) increase research into ways to improve energy efficiency and to manage energy demand throughout industry and domestic power use.

**Senator Ellison** to move on the next day of sitting:

That the days of meeting of the Senate for 2006 be as follows:

**Autumn sittings:**

Tuesday, 7 February to Thursday, 9 February
Monday, 27 February to Thursday, 2 March
Monday, 27 March to Thursday, 30 March

**Budget sittings:**
Tuesday, 9 May to Thursday, 11 May

**Winter sittings:**
Tuesday, 13 June to Thursday, 15 June
Monday, 19 June to Thursday, 22 June

**Spring sittings:**
Tuesday, 8 August to Thursday, 10 August
Monday, 14 August to Thursday, 17 August
Monday, 4 September to Thursday, 7 September
Monday, 11 September to Thursday, 14 September
Monday, 9 October to Thursday, 12 October
Monday, 16 October to Thursday, 19 October
Monday, 6 November to Thursday, 9 November
Monday, 27 November to Thursday, 30 November
Monday, 4 December to Thursday, 7 December.

**Senator Nash** to move on the next day of sitting:
That the following bill be introduced: A Bill for an Act to remove the restrictions on access to RU486, and for related purposes, *Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005*.

**Senator Sherry** to move on the next day of sitting:
That there be laid on the table by the Minister representing the Treasurer, no later than 2.30 pm on Thursday, 8 December 2005, all correspondence in relation to the nomination and appointment of Mr Robert Gerard to the Board of the Reserve Bank of Australia, from 1 January 2003 until 1 December 2005, between:
(a) the Department of the Treasury and the Treasurer (Mr Costello);
(b) the Department of the Prime Minister and Cabinet and the Prime Minister (Mr Howard); and
(c) the Attorney-General (Mr Ruddock) and the Treasurer.

**Postponement**
The following items of business were postponed:

Business of the Senate notice of motion no. 2 standing in the name of Senator Bartlett for today, relating to proposing the disallowance of Schedule 7 of the Migration Amendment Regulations 2005 (No. 8), postponed till 8 December 2005.

Business of the Senate notice of motion no. 3 standing in the name of Senator Ludwig for today, proposing the disallowance of Schedule 7 of the Migration Amendment Regulations 2005 (No. 9), postponed till 7 February 2006.

Business of the Senate notice of motion no. 4 standing in the name of Senator McLucas for today, proposing the reference of a matter to the Community Affairs References Committee, postponed till 8 December 2005.

General business notice of motion no. 298 standing in the name of Senator Stott Despoja for 8 December 2005, proposing the introduction of the Privacy (Equality of Application) Amendment Bill 2005, postponed till 7 February 2006.

General business notice of motion no. 334 standing in the name of Senator Bartlett for today, relating to sexual assault on children in Australia, postponed till 8 February 2006.

General business notice of motion no. 349 standing in the name of Senator Stott Despoja for today, relating to Radio Adelaide, postponed till 8 December 2005.

General business notice of motion no. 350 standing in the name of Senator Nettle for today, relating to the death penalty, postponed till 8 December 2005.
SEXY HEALTH EDUCATION

Senator ALLISON (Victoria —Leader of the Australian Democrats) (3.33 pm) —I move:

That the Senate—

(a) notes:

(i) the Australian National University study of 795 students over the age of 15 that found that almost 30 per cent had unwanted sex as a result of being affected by alcohol or drugs and fewer than half regularly used condoms,

(ii) 67 per cent had sexual intercourse and 12 per cent had been with three or more partners in the previous 6 months,

(iii) more than 10 per cent tested positive for the human papilloma virus, which can cause genital warts or cervical cancer,

(iv) almost 4 per cent said they had previously been diagnosed with a sexually transmitted disease, approximately 2 per cent tested positive for herpes simplex 2 which causes genital herpes and 1 per cent had chlamydia, and

(v) the remarks by Professor Frank Bowdren, coordinator of the trial, that teenagers were starting to know about sexually transmitted diseases but are remarkably ignorant of contraception; and

(b) urges the Government to:

(i) work with the states to develop a national curriculum of sex and sexual health education and consider the need for better screening of sexually transmitted diseases, and

(ii) support the development of the human papilloma virus vaccine with a view to its widespread use.

Question negatived.

Senator HILL (South Australia —Minister for Defence) (3.33 pm) —by leave—I want to put on the record that the government’s opposition is not to the spirit of the motion moved by Senator Allison but to the fact the motion does not acknowledge that the government has already developed and implemented sex education programs in schools and the broader community. These materials have been provided to Senator Allison, so I do not quite understand why she proceeded with her motion. Secondly, the development of the human papilloma vaccine is being undertaken by CSL as a commercial project and has in principle support of government, and the government is already funding and implementing a pilot chlamydia screening project.

Senator ALLISON (Victoria —Leader of the Australian Democrats) (3.34 pm) —by leave—The minister did provide me with examples of the material which is provided for sex education, but my motion talks about sex education per se, which is much more than a few brochures. Whilst they are very good and important, my motion is about sex education.

COMMITTEES

Employment, Workplace Relations and Education References Committee

Reference

Senator MARSHALL (Victoria) (3.35 pm) —I move:

That the following matter be referred to the Employment, Workplace Relations and Education References Committee for inquiry and report by 17 August 2006:

The viability of a contract labour scheme between Australia and countries in the Pacific region, for the purposes of providing labour for selected rural industries, taking into account the following:

(a) labour shortages in rural and regional Australia;

(b) the availability and mobility of domestic contract labour, and the likely effects of such a scheme on the current seasonal workforce;
(c) social and economic effects of the scheme on local communities;
(d) likely technical, legal and administrative considerations for such a scheme; and
(e) the economic effects of the scheme on the economies of Pacific nations.

Question agreed to.

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

**Reference**

**Senator BARTLETT** (Queensland) *(3.35 pm)*—Noting that Senator Adams would like to move an amendment to this motion, I move:

That the following matter be referred to the Environment, Communications, Information Technology and the Arts References Committee for inquiry and report by 30 November 2006:

The funding and resources available to meet the objectives of Australia’s national parks, other conservation reserves and marine protected areas, with particular reference to:

(a) the values and objectives of Australia’s national parks, other conservation reserves and marine protected areas;
(b) whether governments are providing sufficient resources to meet those objectives and their management requirements, with particular reference to climate change, biodiversity and sustainable tourism;
(c) any threats to the objectives and management of our national parks, other conservation reserves and marine protected areas;
(d) the responsibilities of governments with regard to the creation and management of national parks, other conservation reserves and marine protected areas, with particular reference to long-term plans; and
(e) the record of governments with regard to the creation and management of national parks, other conservation reserves and marine protected areas.

**Senator ADAMS** (Western Australia) *(3.36 pm)*—by leave—I move:

Omit all words after “requirements” in paragraph (b).

Question agreed to.

Motion, as amended, agreed to.

**GOVERNMENT APPOINTMENTS**

**Senator MURRAY** (Western Australia) *(3.36 pm)*—I move:

The Senate expresses the view that all appointments made by the Government to public boards, authorities and agencies should have regard to specific principles and criteria, including that:

(a) no minister should be involved in an appointment where he or she has a financial or personal interest;
(b) all appointments should be on merit;
(c) except in limited circumstances, political affiliation should not be a criterion for appointment either way;
(d) the balance of skills on any board should be taken into account; and
(e) as are relevant to the appointment, explicit declarations be made by appointees with respect to conflicts of interest, ethical matters, and personal or business affairs.

Question agreed to.

**COMMITTEES**

**Community Affairs References Committee**

**Reference**

**Senator ALLISON** (Victoria—Leader of the Australian Democrats) *(3.37 pm)*—by leave—I, and also on behalf of Senators Stott Despoja, Crossin, Troeth, Stephens, Kirk, Adams, Payne and Nash, move the motion as amended:

That petitions tabled in the Senate on 6 December 2005 relating to the management and prevention of gynaecological cancers and sexually transmitted infections be referred to the Community Affairs References Committee for response to the Senate by the last sitting day in March 2006.
Question agreed to.

COMMUNITY RADIO STATION 4ZZZ-FM

Senator BARTLETT (Queensland) (3.38 pm)—I move:

That the Senate—

(a) notes that:

(i) 8 December 2005 is the 30th anniversary of the first official broadcast of community radio station 4ZZZ-FM from studios at the University of Queensland,

(ii) 4ZZZ was the first FM stereo radio station in Queensland, the first community broadcaster in Australia with journalists accredited by the (then) Australian Journalists Association, and the first mass-audience format community broadcaster in Australia, and

(iii) 4ZZZ has provided and continues to provide an important means of exposure for many Brisbane musicians, and an important independent local outlet for information and news;

(b) congratulates all those involved in establishing and maintaining this pioneering community-based radio station, now broadcasting from studios in Fortitude Valley in Brisbane; and

(c) expresses support for the ongoing development of community broadcasting in Australia as an important component in ensuring the community has access to a diverse and adequate range of information and entertainment.

Question agreed to.

ANNIVERSARY OF THE INVASION OF EAST TIMOR BY THE INDONESIAN MILITARY

Senator BOB BROWN (Tasmania) (3.39 pm)—by leave—At the request of Senator Nettle, I move the motion as amended:

That the Senate—

(a) notes that 7 December 2005 is the 30th anniversary of the invasion of East Timor by the Indonesian military;

(b) expresses its sincere condolences to the families of the 200 000 victims that have died following this invasion;

(c) notes:

(i) the New South Wales inquest into the deaths of the Australian and New Zealand journalists and camera operators in East Timor, known as the ‘Balibo 5’, will begin in 2006, and

(ii) that East Timor is still the poorest country in our region; and

(d) calls on the Government to:

(i) substantially increase Australian aid to East Timor, and

(ii) increase its foreign aid outlays to exceed the United Nations recommended target of 0.7 per cent of gross national product.

Question put.

The Senate divided. [3.44 pm]

(The President—Senator the Hon. Paul Calvert)

Ayes............ 7

Nees............ 49

Majority........ 42

AYES

Allison, L.F. Bartlett, A.J.J.
Brown, B.J. Murray, A.I.M.
Nettle, K. Siewert, R. *
Stott Despoja, N.

NOES

Abetz, E. Adams, J.
Barnett, G. Bishop, T.M.
Boswell, R.L.D. Brandis, G.H.
Brown, C.L. Calvert, P.H.
Campbell, G. Carr, K.J.
Chapman, H.G.P. Colbeck, R.
Crossin, P.M. Eggleston, A. *
Ellison, C.M. Ferguson, A.B.
Fielding, S. Fierravanti-Wells, C.
Fifield, M.P. Forschaw, M.G.
Hogg, J.J. Humphries, G.
Question negatived.

JOINT COMMITTEE ON THE PARLIAMENTARY LIBRARY

The PRESIDENT (3.48 pm)—I move:

(1) That:

(a) At the commencement of each Parliament, 6 Senators and 7 Members of the House of Representatives shall be appointed to meet together as a Joint Committee on the Parliamentary Library. The Senators and Members shall be appointed in accordance with the practice of their respective Houses and shall comprise: 3 Senators nominated by the Leader of the Government in the Senate, 2 Senators nominated by the Leader of the Opposition in the Senate, 1 Senator nominated by minority groups or independent Senators, 4 Members nominated by the Government whip or whips, and 3 Members nominated by the Opposition whip or whips or by any independent Member.

(b) The nomination by the minority groups and independent Senators shall be determined by agreement between them, and, in the absence of agreement duly notified to the President, any question of the representation on the committee shall be determined by the Senate.

(c) The members of the committee hold office as a joint committee until the House of Representatives is dissolved or expires by effluxion of time.

(d) The committee shall:

(i) consider and report to the Presiding Officers on any matters relating to the Parliamentary Library referred to it by the President or the Speaker;

(ii) provide advice to the President and the Speaker on matters relating to the Parliamentary Library;

(iii) provide advice to the President and the Speaker on an annual resource agreement between the Parliamentary Librarian and the Secretary of the Department of Parliamentary Services; and

(iv) receive advice and reports, including an annual report, directly from the Parliamentary Librarian on matters relating to the Parliamentary Library.

(e) The committee shall elect 2 of its members to be joint chairs, 1 being a Senator or Member, on an alternating basis each Parliament, who is a member of the government parties and 1 being a Senator or Member, on an alternating basis each Parliament, who is a member of the non-government parties, provided that the joint chairs may not be members of the same House. The joint chair nominated by the government parties shall chair meetings of the committee, and the joint chair nominated by the non-government parties shall take the chair whenever the other joint chair is not present.

(f) Each of the joint chairs shall have a deliberative vote only, regardless of who is chairing the meeting.

(g) When votes on a question before the committee are equally divided, the question shall be resolved in the negative.

(h) Three members of the committee shall constitute a quorum of the committee, but in a deliberative meeting a quorum of 3 members

Hurley, A. Johnston, D.
Joyce, B. Lightfoot, P.R.
Ludwig, J.W. Lundy, K.A.
Marshall, G. Mason, R.I.
McEwen, A. McLucas, J.E.
Moore, C. Nash, F.
O’Brien, K.W.K. Parry, S.
Payne, M.A. Polley, H.
Ronaldson, M. Santoro, S.
Sherry, N.J. Stephens, U.
Sterle, G. Trooth, J.M.
Trood, R. Watson, J.O.W.
Webber, R. Wong, P.
Wortley, D.

* denotes teller
shall include 1 member of each House of the government parties and 1 member of either House of the non-government parties.

(i) The committee may appoint subcommittees, consisting of 3 or more of its members, and refer to any such subcommittee any of the matters which the committee is empowered to consider.

(j) The quorum of a subcommittee shall be 2 members.

(k) The committee shall appoint the chair of each subcommittee, who shall have a deliberative vote only, and at any time when the chair of a subcommittee is not present at a meeting of the subcommittee the members of the subcommittee present shall elect another member of that subcommittee to act as chair at that meeting.

(l) Members of the committee who are not members of a subcommittee may participate in the public proceedings of that subcommittee, but shall not vote, move any motion or be counted for the purpose of a quorum.

(m) The committee and any subcommittee shall have power to meet in private or public session and to report from time to time.

(n) The President and the Speaker may attend any meeting of the committee as they see fit, but shall not be members of the committee and may not vote, move any motion or be counted for the purpose of a quorum.

(2) That a message be sent to the House of Representatives seeking its concurrence in this resolution.

Question agreed to.

COMMITTEES

Scrutiny of Bills Committee

Alert Digest

Senator EGGLESTON (Western Australia) (3.49 pm)—On behalf of the Deputy Chair, I present the Scrutiny of Bills Alert Digest No. 15 of 2005, dated 7 December 2005.

BUDGET

Consideration by Legislation Committees

Additional Information

Senator EGGLESTON (Western Australia) (3.49 pm)—On behalf of the Chair of the Economics Legislation Committee, Senator Brandis, I present additional information received by the committee relating to hearings on the 2004-05 budget estimates.

Consideration by Legislation Committees

Additional Information

Senator EGGLESTON (Western Australia) (3.50 pm)—On behalf of the Environment, Communications, Information Technology and the Arts Legislation Committee, I present additional information received by the committee relating to hearings on the 2005-06 budget estimates.

COMMITTEES

Legal and Constitutional Legislation Committee

Additional Information

Senator EGGLESTON (Western Australia) (3.50 pm)—On behalf of the Chair of the Legal and Constitutional Legislation Committee, Senator Payne, I present additional information received by the committee on its inquiry into the provisions of the Anti-Terrorism Bill (No. 2) 2005.

Senators’ Interests Committee

Register

Senator WEBBER (Western Australia) (3.50 pm)—On behalf of the Standing Committee of Senators’ Interests and in accordance with the Senate resolution of 17 March 1994 on the declaration of senators’ interests, I present the register of senators’ interests, incorporating statements of registrable interests and notifications of al-
Public Works Committee

Report

Senator TROETH (Victoria) (3.51 pm)—On behalf of the Parliamentary Standing Committee on Public Works, I present the 22nd report of 2005 on the proposed fit-out of new leased premises for the Australian Customs Service at Melbourne Docklands, Victoria. 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—

Mr President, on behalf of the Parliamentary Standing Committee on Public Works I present the Committee’s twenty-second report of 2005: Fit-out of New Leased Premises for the Australian Customs Service at 1010 La Trobe Street, Melbourne Docklands.

The Australian Customs Service has occupied its current headquarters at 414 La Trobe Street since 1992, and has a net lease due to expire on 31 May 2007. Customs is proposing to relocate to premises currently being constructed at 1010 La Trobe Street, Melbourne Docklands, also known as the Port 1010 Building. The estimated cost of the proposed works is $12.507 million.

Anticipated operational and administrative benefits expected to derive from relocation to the Port 1010 Building include:

• a cost effective property solution, with lower energy consumption and improved environmental initiatives;
• technological improvements in building services;
• increased efficiencies in infrastructure;
• inclusion of Customs requirements into base building, such as security and air-conditioning;
• improved provision for public contact;
• minimisation of the costs of internal churn through an open office fit-out; and
• efficiencies in work allocation and resource utilisation.

On Friday 11 November 2005, the Committee conducted inspections of Customs’ current premises as well as the construction site of the Port 1010 Building. The Committee also had the opportunity to inspect the Innovation Building, which provides an example of the proposed design for the Port 1010 Building. A confidential briefing and public hearing were held in Melbourne later that morning.

Prior to the inspection and hearing, Customs provided the Committee with a detailed confidential summary of Customs’ tender process and evaluation of offers. Noting that Customs staff may be deployed to the airport depending on work requirements, the Committee asked why the airport was not deemed a suitable relocation option. Customs responded that the indicative costs provided for relocation to the airport did not compare favourably with costs of relocation to a site in the Melbourne central business district. Customs House at Melbourne airport has very little spare space and headquarters relocation to the airport would necessitate a greenfield development to accommodate all Customs staff. Moving to the Digital Harbour Precinct in Melbourne Docklands represented a balance between maintaining close access to key stakeholders in the city; meeting the needs of staff travelling to the airport, waterfront or other agencies; and meeting the public transport needs of staff.

During its inspection of Customs’ current premises, the Committee was able to observe the National Monitoring Centre in operation. The Committee was impressed with the monitoring capabilities of the NMC, and acknowledges the importance of the facility. However, the Committee also noted that the current facility has a number of short comings in respect of workspace and air-conditioning. Customs assured the Committee that these issues would be addressed in the new Port 1010 Building where the NMC will be provided with double the amount of available floor space and a separate air-conditioning system capable of accommodating 24/7 operation and additional.
In considering the proposed fit-out, the Committee was pleased to discover that whilst the Port 1010 Building will comply with the Digital Harbour Precinct Environmental Management Plan, it will also exceed the required 4.5 star energy rating. Ecologically sustainable development features of the fit-out will also include:

- solar hot water heating panels to provide up to 75 per cent of the buildings hot water needs;
- building management systems for lighting and air-conditioning;
- sub-metering of electricity on each floor;
- high performance tap-wear in showers and bathrooms;
- environmentally friendly carpet tiles; and
- avoidance of workstations and joinery that may contain harmful toxins such as formaldehyde.

In 2005 the Public Works Committee has tabled twenty-three reports, including the report before the parliament today. In its examination of all works, the Committee remains concerned to ensure that departments do not commit to major contracts prior to the completion of a comprehensive parliamentary inquiry into the proposed works, as required under the Public Works Committee Act 1969. To this end the Committee questioned Customs as to how far contractual arrangements had progressed prior to parliamentary scrutiny. Customs informed the Committee that heads of agreement and agreement for lease had been signed in September and October respectively, however all such arrangements could be cancelled should the Parliament not be satisfied that the proposal was an appropriate expenditure of public funds.

Subject to parliamentary approval, Customs anticipate works to commence in March 2006, with base building completion by December 2006 and Customs occupancy from 1 April 2007.

Having given detailed consideration to the proposal, the Committee recommends that proposed fit-out of new leased premises for the Australian Customs Service, 1010 LaTrobe Street, Melbourne Docklands proceed at the estimated cost of $12.507 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.

Treaties Committee

Reports

Senator WORTLEY (South Australia)

(3.52 pm)—On behalf of the Joint Standing Committee on Treaties, I present the 69th and 70th reports of the committee, and seek leave to move a motion in relation to the reports.

Leave granted.

Senator WORTLEY—I move:

That the Senate take note of the reports.

Report 69 contains the findings and recommendations of the committee’s review of two treaty actions tabled in parliament on 13 September and 11 October 2005. The treaty actions relate to maintaining the moratorium on commercial whaling and measures to protect children from commercial sexual exploitation.

The amendments to the schedule to the International Convention on the Regulation of Whaling will maintain, for an additional year, the moratorium on commercial whaling which commenced in 1982. The International Convention for the Regulation of Whaling establishes an international system for the regulation of whale fisheries to ensure proper and effective conservation and development of whale stocks. Australia has been a signatory to the convention since it came into force in 1948 and, with the closure of the last Australian shore based whaling operation in 1979, remains a strong advocate of whale conservation.

The committee was concerned to learn that under Japan’s latest whaling for scientific research program its next whale harvest from Antarctic waters will more than double.
The committee was told that the number of minke whales harvested will increase from 440 last season to 935 this season. Japan will also harvest another 10 fin whales annually during its two-year program. At the end of its research program, Japan will harvest annually up to 50 fin whales and 50 humpback whales, along with 935 minke whales.

The committee discovered that Australia has developed non-lethal ways to conduct whale research. The committee was told that Japan has rejected use of such non-lethal methodologies and, despite concerns expressed to it by the International Whaling Commission, has proceeded to commence its latest whaling program. Australia is continuing to make representations both to Japan and within the commission to end whaling.

The second treaty examined by the committee, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, is designed to protect children from the worst forms of commercial sexual exploitation. The optional protocol obliges Australia to prohibit the sale of children, child prostitution and child pornography and any acts which may assist in the sexual exploitation of children.

Submissions received by the committee were supportive of the optional protocol, with one submission raising two issues. The first issue raised was whether the definition of ‘sale of children’ in article 2(a) could be misinterpreted to include the legitimate adoption of children. The second issue was whether the optional protocol includes provisions relating to advertising materials that depict or describe a person who is, or who appears to be, under the age of 18 in a sexual context or activity.

In relation to the first issue, the committee found that the definition of ‘sale of children’ under the optional protocol is limited by article 32 of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoptions. This interpretation allows a distinction to be made between the sale of children and the legitimate adoption of children where fees or costs may be incurred. In addition, the optional protocol contains provisions requiring states parties to criminalise the improper inducement of consent for adoption. Legislation between tiers of government differs on the second issue, but generally, under the optional protocol, states parties must take appropriate measures aimed at effectively prohibiting the production and dissemination of material advertising the offences described.

In conclusion, the committee believes it is in Australia’s interests for the treaties considered in report 69 to be ratified. I commend the report to the Senate and I seek leave to incorporate in Hansard the tabling statement for report 70.

Leave granted.

The statement read as follows—
Report 70 contains the findings and recommendation of the Committee’s review of the UNESCO International Convention Against Doping in Sport which was tabled in Parliament on 9 November 2005.

On 4 November 2005, Senator the Hon Rod Kemp, Minister for the Arts and Sport, advised the Committee that he had written to the Hon Alexander Downer MP, Minister for Foreign Affairs to request a National Interest Exemption for the proposed treaty action. Minister Kemp indicated that early ratification would allow Australia to have the Convention in place prior to both the commencement of the Turin Winter Olympics in February 2006 and the Melbourne Commonwealth Games in March 2006.

The Committee also received evidence at its public hearing that all countries that have signed the Convention are moving to ratify it before the end of the year.
The Committee has aimed to table its Report on the Convention early to allow Australia to ratify the Convention as soon as possible, even though under the Committee’s 20 sitting day period for inquiry, the Committee would not be required to report until May 2006.

The United Nations Educational and Scientific Cultural Organization International Convention Against Doping in Sport is designed to eliminate doping in sport and harmonise international anti-doping practices to ensure all athletes are subject to a comprehensive and fair testing regime.

The Convention was drafted in response to the Copenhagen Declaration on Doping in Sport, a non-binding agreement that recognises and supports the World Anti-Doping Code. The Code provides an international framework for anti-doping measures and regulations.

The Convention is an internationally recognised and legally binding agreement obliging Member States to implement the World Anti-Doping Code in their jurisdiction.

The Convention obliges Member States to:

- adopt measures, which may include legislation, regulation, policies or administrative practices, to give effect to the obligations in the Convention;
- restrict the availability of prohibited substances or methods to athletes including by taking measures against trafficking;
- facilitate doping controls and support national testing programs
- withhold financial support from athletes or support personnel who violate anti-doping rules; and
- withhold financial support from sporting organisations that are not in compliance with the Code.

In 2006, in line with the Australian Government’s 2004 policy Building Australian Communities Through Sport, and its commitment to strengthening its Tough on Drugs in Sport Strategy, it will establish the Australian Sports Anti-Doping Authority. The authority will investigate doping allegations, present doping cases before sporting tribunals and take over the policy development, approval and monitoring role of the Australian Sports Commission. In addition, the Authority will assume the functions of the Australian Sports Drug Agency and the Australian Sports Drug Medical Advisory Committee.

Australia is also assisting countries in the region to be Convention compliant by establishing the Regional Anti-Doping Organisation that will be based in Fiji. The Regional Anti-Doping Organisation will include 11 Oceania countries and will be funded by the World Anti-Doping Agency. The Committee supports Australia’s role in this project.

In conclusion, the Committee believes it is in Australia’s interest for the treaty considered in Report 70 to be ratified.

I commend the report to the Senate.

Question agreed to.

**DOCUMENTS**

**Register of Senate Senior Executive Officers’ Interests**

The DEPUTY PRESIDENT—I present the Register of Senate Senior Executive Officers’ Interests, incorporating statements of registrable interests and notifications of alterations of interests of senior executive officers lodged between 7 September and 5 December 2005.

**Responses to Senate Resolutions**

The DEPUTY PRESIDENT—I present a response from the Chief of the Defence Force—AG Houston AO, AFC—to a resolution of the Senate of 8 November 2005 concerning the death of Warrant Officer David Russell Nary.
COMMITTEES

Reports: Government Responses

Senator ELLISON (Western Australia—Minister for Justice and Customs) (3.57 pm)—I present the government’s response to the President’s report of 23 June 2005 on government responses outstanding to parliamentary committee reports and seek leave to incorporate the document in Hansard.

Leave granted.

The document read as follows—

GOVERNMENT RESPONSES TO PARLIAMENTARY COMMITTEE REPORTS RESPONSE TO THE SCHEDULE TABLED BY THE PRESIDENT OF THE SENATE ON 23 JUNE 2005

Circulated by the Leader of the Government in the Senate

Senator the Hon Robert Hill

7 December 2005

A CERTAIN MARITIME INCIDENT (Select)

A certain maritime incident

A response may be considered in due course.

ADMINISTRATION OF INDIGENOUS AFFAIRS

(Select)

After ATSIC – Life in the mainstream?

There were 13 recommendations made in the majority report. Of these, four were overtaken by the passage of the Aboriginal and Torres Strait Islander Amendment Act 2005 and are now obsolete. Another three are matters for the Parliament. The recommendation regarding supporting and funding a national Indigenous elected representative body has neither been accepted nor implemented. The remaining five recommendations remain under consideration. The response is expected to be tabled early next year.

ASIO, ASIS AND DSD (Joint, Statutory)

Private review of agency security arrangements

A response is being drafted for circulation to relevant agencies for comment.

Review of the listing of six terrorist organisations

A response is being prepared. It is expected to be tabled shortly.

Review of the administration and expenditure for ASIO, ASIS and DSD

The response was tabled on 10 November 2005.

Review of the listing of four terrorist organisations

A response is being prepared. It is expected to be tabled shortly.

AUSTRALIAN CRIME COMMISSION (Joint, Statutory)

Cybercrime

The response is expected to be tabled shortly.

Inquiry into the trafficking of women for sexual servitude

The response is in the final stages of clearance. It is expected the response will be tabled during the Autumn sittings 2006.

Examination of the annual report for 2003-2004 of the Australian Crime Commission

The response is currently being considered by government and is expected to be tabled in the near future.

COMMUNITY AFFAIRS LEGISLATION

Tobacco advertising prohibition

The Parliamentary Secretary to the Minister for Health and Ageing wrote to the Chair of the Senate Community Affairs Legislation Committee on 19 July 2005 advising “The Government has considered the report and will respond to the issues within the report during the debate of the Tobacco Advertising Prohibition (Film, Internet and Misleading Promotion) Amendment Bill 2004” which has yet to be introduced into Parliament.

COMMUNITY AFFAIRS REFERENCES

The patient profession: time for action – Report on nursing

The response was tabled on 10 November 2005.

A hand up not a hand out: Renewing the fight against poverty – Report on poverty and financial hardship

The redrafted response referred to in the earlier report to the Senate is close to completion and it is anticipated that a response will be tabled shortly.

Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children

The response was tabled on 10 November 2005.


The response was tabled on 10 November 2005.
The cancer journey: informing choice – Report on the inquiry into services and treatment options for persons with cancer
The draft is currently being considered by the Department and it is expected that the response will be tabled in the near future.

Quality and equity in aged care
A response is being drafted but the recommendations are broad in scope and cross-portfolio consultation is required. The response will be tabled in due course.

CORPORATIONS AND SECURITIES (Joint Statutory)
Report on aspects of the regulation of proprietary companies
The government is continuing to consider its response in light of international developments, in particular, the review of the New Zealand Financial Reporting Act.

CORPORATIONS AND FINANCIAL SERVICES (Joint Statutory)
Report on the regulations and ASIC policy statements made under the Financial Services Reform Act 2001
The government has responded in part to this report through changes to the Corporations Regulations and proposals to make further refinements to the regulation of financial services, which are currently being implemented. A combined response to this report and other reports by the Committee on certain financial services regulations, that takes into account these refinements, will be tabled following implementation of the changes to the law.

Review of the Managed Investments Act 1998
The government is considering its response in the context of ongoing refinements to financial services regulation affecting the operation of managed investment schemes. A response will be provided in due course.

Inquiry into Regulation 7.1.29 in Corporations Amendment Regulations 2003 (No. 3), Statutory Rules 2003 No. 85
The government has responded in part to this report through changes to the Corporations Regulations. A combined response to this report and other reports by the Committee on certain financial services regulations, that takes into account these refinements, will be tabled following implementation of the reforms to the law.

Money matters in the bush: Inquiry into the level of banking and financial services in rural, regional and remote areas of Australia
The response is being updated and will be finalised as soon as possible.

Report on the ATM fee structure
The response is to be combined with that for ‘Money Matters in the Bush’ and will be finalised as soon as possible.

Corporations Amendment Regulations 2003 (Batch 6); Draft Regulations: Corporations Amendment Regulations 2003/04 (Batch 7); and Draft Regulations: Corporations amendment Regulations 2004 (Batch 8)
The government has responded in part to this report through changes to the Corporations Regulations and proposals to make further refinements to the regulation of financial services, which are currently being implemented. A combined response to this report and other reports by the Committee on certain financial services regulations, that takes into account these refinements, will be tabled following implementation of the changes to the law.

Corporations Amendment Regulations 7.1.29A, 7.1.35A and 7.1.40(h)
The government has responded in part to this report through changes to the Corporations Regulations. A combined response to this report and other reports by the Committee on certain financial services regulations, that takes into account these refinements, will be tabled following implementation of the reforms to the law.

Corporate insolvency laws – A stocktake
The response was tabled on 13 October 2005.

Australian Accounting Standards tabled in compliance with the Corporations Act 2001 on 30 August and 16 November 2004
The response was tabled on 1 December 2005.

Exposure draft of the Corporations Amendment Bill (No. 2) 2005
The response is being prepared and will be tabled in due course.

Property investment – Safe as houses?
The government will consider the recommendations of the Ministerial Council of Consumer Affairs working group investigation and a response will be tabled in due course.

ECONOMICS REFERENCES
Report on the operation of the Australian Taxation Office
The response is being redrafted and will be tabled in due course.

Inquiry into mass marketed tax effective schemes and investor protection – Interim report; Second report: A recommended resolution and settlement; and Final report
Response are being updated to reflect most recent data and will be tabled in due course.

**EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION REFERENCES**

**Bridging the skills divide**
The response is being updated to reflect the Workplace Relations Amendment (Work Choices) Bill 2005 and is expected to be tabled shortly.

**Beyond Cole: The future of the construction industry: confrontation or co-operation?**
It is expected the Government’s response will be tabled shortly.

**Office of the Chief Scientist**
The response was tabled on 10 November 2005.

**Indigenous education funding – Interim report**
There are no recommendations to consider. A response is not required.

**Indigenous education funding – Final report**
The response is being finalised. It is anticipated that it will be tabled shortly.

**Unfair dismissal and small business employment**
The government is currently considering the recommendations made in the report and will respond shortly.

**Student income support**
The response is currently being drafted through a coordinated approach with relevant agencies. It will be tabled in due course.

**ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS REFERENCES**

**The value of water: Inquiry into Australia’s urban water management**
A response has been drafted and will be tabled in due course.

**Regulating the Range, Jabiluka, Beverley and Honey moon uranium mines**
Consultations are continuing. A response will be tabled in due course.

**The Australian telecommunications network**
The government is continuing to prepare a response to the report.

**Competition in broadband services**
The government is continuing to prepare a response to the report.

**Turning back the tide – the invasive species challenge: Report on the regulation, control and management of invasive species and the Environment Protection and Biodiversity Conservation Amendment (Invasive Species) Bill 2002**
Consultations are nearing completion. A response will be tabled in due course.

**A lost opportunity? Inquiry into the provisions of the Australian Communications and Media Authority Bill 2004 and related bills and matters**
The government’s response to this report was provided in March 2005 during the debate in the Senate on the Australian Communications and Media Authority Act 2005 and related Acts.

**Lurching forward, looking back: Budgetary and environmental implications of the Government’s Energy White Paper**
A response has been drafted and will be tabled in due course.

**FINANCE AND PUBLIC ADMINISTRATION REFERENCES**

**Staff employed under the Members of Parliament (Staff) Act 1984**
A response is being prepared and will be tabled as soon as possible.

**FOREIGN AFFAIRS, DEFENCE AND TRADE (Joint, Standing)**

**Near Neighbours – Good Neighbours: An inquiry into Australia’s relationship with Indonesia**
The response was tabled on 8 September 2005.

**Inquiry into Australia’s Maritime Strategy**
The report is being finalised and will be tabled as soon as possible.

**Inquiry into human rights and good governance education in the Asia Pacific region**
The response was tabled on 15 September 2005.

**Australia’s engagement with the World Trade Organization**
Statistical information for inclusion in the response is being reviewed and the response to the report will be tabled as soon as consultations have been completed.

**Expanding Australia’s trade and investment relations with the Gulf States**
The response was tabled on 1 December 2005.

**FOREIGN AFFAIRS, DEFENCE AND TRADE LEGISLATION**

The government response to this report was part of the debate of the Military Rehabilitation and Compensation Bill and the Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Bill 2004,
which received Royal Assent on 27 April 2004. There will be no further response.

FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES

Voting on trade: The General Agreement on Trade in Services and an Australia-US Free Trade Agreement

The response was tabled on 8 September 2005.

A Pacific engaged: Australia’s relations with Papua New Guinea and the island states of the south-west Pacific

The response was presented to the President of the Senate out of sitting on 24 June 2005 and tabled on 11 August 2005.

Taking stock: Current health preparation arrangements for the deployment of Australian Defence Forces overseas

The response was presented to the President of the Senate out of sitting on 4 November 2005 and tabled on 7 November 2005.

The effectiveness of Australia’s military justice system

The response was tabled on 5 October 2005.

FREE TRADE AGREEMENT BETWEEN AUSTRALIA AND THE UNITED STATES OF AMERICA (Select)

Final Report

The response is being considered by relevant portfolios. The response will be tabled as soon as consultations have been completed.

INFORMATION TECHNOLOGIES (Select)

In the public interest: Monitoring Australia’s media

The government is currently considering a response to the Committee’s report in the context of a number of subsequent reports raising related issues.

LEGAL AND CONSTITUTIONAL LEGISLATION


The recommendations were addressed during the debate of the bill.

LEGAL AND CONSTITUTIONAL REFERENCES

Reconciliation: Off track

The government is still considering its response.

Legal aid and access to justice

A response is being considered by government and is expected to be tabled shortly.

The road to a republic

The response will be tabled in due course.

They still call Australia home: Inquiry into Australian expatriates

The response is being finalised.

The real Big Brother – Inquiry into the Privacy Act 1988

A response is being considered by government and is expected to be tabled shortly.

MEDICARE (Senate Select)

Medicare – healthcare or welfare? and

Second report: Medicare Plus: the future for Medicare?

A combined response to both of these reports is currently being prepared and is expected to be tabled in the near future.

MIGRATION (Joint, Standing)

To make a contribution: Review of skilled labour migration programs 2004

The response was tabled on 1 December 2005.

MINISTERIAL DISCRETION IN MIGRATION MATTERS (Senate Select)

Report

The response is still being considered and will be tabled in due course.

NATIONAL CAPITAL AND EXTERNAL TERRITORIES (Joint, Standing)

Norfolk Island electoral matters

A draft response is being cleared through government. Tabling is expected in the near future.

Quis custodiet ipsos custodes? Inquiry into governance on Norfolk Island

The response was presented to the President of the Senate out of sitting on 27 October 2005 and tabled on 7 November 2005.

Norfolk Island: Review of the annual reports of the Department of Transport and Regional Services and the Department of the Environment and Heritage

The response was tabled on 11 August 2005.

Indian Ocean territories: Review of the annual reports of the Department of Transport and Regional Services and the Department of Environment and Heritage

The response was tabled on 5 September 2005 (in Senate).

Difficult choices: Inquiry into the role of the National Capital Authority in determining the extent of redevelopment of the Pierces Creek Settlement in the ACT

The response was tabled on 15 September 2005.

Antarctica: Australia’s pristine frontier – Report on the adequacy of funding for Australia’s Antarctic Program

The response was tabled in due course.
A response has been drafted and will be tabled in due course.

NATIVE TITLE AND THE ABORIGINAL AND TORRES STRAIT ISLANDER LAND FUND (Joint Statutory)
Second interim report for the s.206 inquiry: Indigenous land use agreements
The response was tabled on 10 November 2005.

Effectiveness of the National Native Title Tribunal in fulfilment of the Committee’s duties pursuant to subparagraph 206(d)(i) of the Native Title Act 1998
The response was tabled on 10 November 2005.

PUBLIC ACCOUNTS AND AUDIT (Joint Statutory)
Government business enterprises, December 1999 (Report No. 372)
The government is considering its response to outstanding recommendations and a response will be tabled in due course.

Access of indigenous Australians to legal services (Report No. 403)
The response is in an advanced stage of preparation.

RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION
An appropriate level of protection? The importation of salmon products: A case study of the administration of Australian quarantine and the impact of international trade arrangements
The response is expected to be finalised soon.

Biosecurity Australia’s import risk analysis for pig meat
A response is pending the completion of legal processes relating to the import risk analysis.

Administration of Biosecurity Australia – Revised draft import risk analysis for bananas from the Philippines
A response by the government is being prepared.

 Administration of Biosecurity Australia – Revised draft import risk analysis for apples from New Zealand
A response by the government is being prepared.

RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES
Rural water use
The response is expected to be tabled soon.

Australian forest plantations: A review of Plantations for Australia: The 2020 vision
The response is expected to be tabled in the near future.

Iraqi wheat debt – repayments for wheat growers
The response is being prepared and will be finalised as soon as possible.

SCRUTINY OF BILLS (Senate Standing)
Third report of 2004: The quality of explanatory memoranda accompanying bills
The response will be tabled in due course.

SUPERANNUATION AND FINANCIAL SERVICES (Senate Select)
Report on early access to superannuation benefits
The response has been updated and is currently with relevant agencies and departments for clearance.

SUPERANNUATION (Senate Select)
Planning for retirement
The response was tabled on 1 December 2005.

TREATIES (Joint, Standing)
Treaties tabled on 7 December 2004 (previously tabled in May and June 2004) (63rd Report)
Defence has implemented recommendations 6 and 7. No further response will be required.

Treaties tabled on 7 December 2004 (2) (64th Report)
The Committee recommended binding treaty action, therefore a response is not required.

Treaties tabled on 7 December 2004 (3) and 8 February 2005 (65th Report)
A response is being considered and will be finalised shortly.

Legal and Constitutional Legislation Committee
Membership

The DEPUTY PRESIDENT—The President has received a letter from a party leader seeking to vary the membership of a committee.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (3.59 pm)—by leave—I move:
That Senator Hurley replace Senator Crossin on the Legal and Constitutional Legislation Committee for the committee’s inquiry into the provisions of the Australian Citizenship Bill 2005 and a related bill.

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

EMPLOYMENT AND WORKPLACE RELATIONS LEGISLATION AMENDMENT (WELFARE TO WORK AND OTHER MEASURES) BILL 2005

Consideration of House of Representatives Message

Message received from the House of Representatives returning the Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005, and informing the Senate that the House has made the amendments requested by the Senate.

Third Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (4.00 pm)—I move:
That this bill be now read a third time.

Senator WONG (South Australia) (4.00 pm)—This is the return of the welfare to work legislation, the legislation which is being guillotined by this government—

The DEPUTY PRESIDENT—I have just been informed, Senator Wong, that time is up under the guillotine that applied to all stages of the bill, so I will put—

Senator WONG (South Australia) (4.00 pm)—I seek leave to make a short statement.

The DEPUTY PRESIDENT—The guillotine cuts in, and I do not think that option is available to the chair. I am informed that you can seek leave.

Leave granted.

Senator WONG—I want to make a short statement in relation to the passage of the Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005, which is about to be voted on in this chamber—legislation which will reduce payments and reduce the budgets of vulnerable Australian families. We have seen this government using its majority in the chamber to arrogantly and smugly push this legislation through. I do not think I have seen a government more arrogant and more smug than the Howard government was last night when it voted for its extreme welfare changes—changes which will ensure or create an American-style working poor in Australia.

What we saw last night and what we see now in the vote that is about to be had is not only the Howard government voting to lift money out of the pockets of sole parents and people with a disability in this country, not only did they vote to make it harder for these people to improve their skills so they can get a job, not only did they vote to make people accept jobs that pay dirt, but the Howard government also voted to make work less financially attractive for those on welfare. What greater symbol could there be than the Howard government voting to make work less attractive than welfare in this way. This is extreme legislation. This is legislation which does not improve the lot of those who are vulnerable in Australia. As I have said previously, the best the government can do is continue to iterate its mantra of ‘Welfare to work, welfare to work,’ without addressing the key policy issue, which is how you move people from welfare to work.

We heard in the committee inquiry into this bill that there is no evidence that dumping people onto the dole will help them get a job. Not once has any government minister nor any government backbencher who has voted like a foot soldier for this legislation...
never come before this chamber and provided evidence of how dumping a sole parent and her children or a person with a disability in this country onto the lower dole payment will help them get work. No-one has come forward from the government to justify that. This legislation at its core simply dumps into the future hundreds of thousands of vulnerable Australians onto the dole. We know on the government’s own figures that already by 2008 we will have I think it is 77,000 people with a disability in this country put onto a lower payment. Over 60,000 parents with children will be put onto a lower payment. I await government senators on that side telling this chamber how reducing the amount of money a parent has to put food on the table—

Senator Marshall—It will be a long wait.

Senator WONG—to pay for school costs, to pay for excursions and to pay for tutoring will help that parent get a job and, more importantly, how it will help that child. How is this going to help these children? It will not; it will simply make their lives more difficult and will make the lives of their family more difficult.

When I said I wait for a government senator or a minister to tell me how it will help families, Senator Marshall interjected that I will be waiting a long time. You are right, Senator Marshall. You are absolutely right: we will be waiting a long time, and so will the Australian people, because this government trumpets its rhetoric but the reality of what it imposes on Australia is vastly different. It says, ‘We are a family-friendly government,’ meanwhile taking away important payments from families who need support most.

The groups of Australians who will be affected by this legislation are amongst our most vulnerable, and they are not just some group that we never see: these are our neighbours, our sisters and brothers and our friends. These are people who struggle to live with a disability in this country. These are single parents struggling to bring their children up as best they can. What is this government doing to someone who lives with the cost of their disability?

Senator Marshall—Punishing them.

Senator WONG—Punishing them—that is exactly right, Senator Marshall—and taking money from them. How are they justifying it? They are not. They simply say, ‘We want to concentrate on people’s ability, not their disability.’ That is a sick joke. What a sick joke to take money from vulnerable Australians who are already struggling and say, ‘This is for your own good because we want to concentrate on your ability, not your disability.’ I think most Australians who struggle with living with a disability, with the additional costs of that and with the impediments that places on their ability to participate in paid work will know that this is nothing other than a sick joke from this government.

This government is fixated on its ideological obsessions. We saw that last week in the work choices bill. We see that in this legislation. No doubt we will see this later this week when they ram through their voluntary student unionism legislation. The worst thing about the passage of this legislation and the work choices legislation is that they will have the effect of creating a working poor in this society. We know that under this legislation welfare recipients such as a person with a disability will be put in a position of having to accept a job that pays like dirt or face eight weeks suspension of their dole. That is what this government is imposing with this legislation. They are removing the protection of awards, so someone will have to take a job at below award conditions or face losing the dole. What sort of work choice is that—
telling people you have no choice: you either work for below award conditions or you get nothing. It is a pretty big choice—not; it is absolutely no choice. The reality is that this will do nothing other than make the lives of vulnerable Australians harder.

What is so sad about the legislation that has gone through this parliament at lightning speed in the last week is that it really is about creating an American social model in Australia. We know that we in Australia have often looked to America for the good things, because there are great things about the United States, but we have also looked knowing that there are things they do that we do not want to do. We do not want to have working poor in this country. We do not want to have an insufficient social security net. The reason we do not want to have that is that we understand what that does to our community. We understand that we all pay in different ways if we allow the social security safety net to be too low or to be inadequate. This government is fixated on its ideological obsessions, and pity the vulnerable Australians who get in its way, because they will simply be overrun in the government’s desire to impose this radical agenda on Australia. This bill is un-Australian and it is unacceptable.

I want to reflect briefly on the government’s hypocrisy. In the same week that we have seen the passage of the work choices bill and this legislation, which will make life so much harder for vulnerable Australians, we have seen the government defending one of its millionaire mates. I think most Australians would see the breathtaking hypocrisy in the government’s desire to impose this radical agenda on Australia. This bill is un-Australian and it is unacceptable.

From our perspective in the opposition, we believe one of the best things that any government can do is to give people the opportunity to improve their skills so they can build a secure future for themselves and their families. That is good for them and good for the community. It is also good for the economy. That is one of the ways in which this package is not only socially irresponsible but economically irresponsible. I ask senators on the other side—those who do have a concern for poor and struggling Australians—to rethink their position on this legislation and consider not supporting the government’s legislation. This legislation will make life far harder for Australians who are already doing it tough.
Senator SIEWERT (Western Australia)  
(4.10 pm)—I seek leave to make a short statement.  

Leave granted.  

Senator SIEWERT—I was tempted to say that this is the final act in the farce that has been perpetrated by the welfare to work legislation, but unfortunately it will not be. What will be the final outcome of this legislation is that hundreds of thousands of Australians will lose income support and hundreds of thousands of Australian children will be forced into poverty or further into poverty. At a time when the Australian economy is booming, it is so distressing to see that we are forcing these families into poverty and that we are taking money off them. At the same time, the government is talking about tax cuts—tax cuts for the well-to-do, tax cuts for the well off, tax cuts for the people who can afford it. 

The people we are talking about here cannot afford it. They cannot afford to lose $29 a week and they cannot afford to undertake training to better their circumstances unless they are supported by a community that is just and fair. These acts are not the acts of a just and fair community. It distresses me that I have to be part of a process that treats people in this country this way. We are supposed to be building an economy so that we can look after the people in our society—look after the people who are vulnerable, look after the children and look after our future generations. What are we doing? Legislation is going through that actually hurts these people. It will hurt them. That is the unfortunate consequence of this legislation. 

The final act of this legislation will be that people will be forced further into poverty. When you combine it with work choices, we are developing a class of working poor. What we should be doing is investing the surpluses of this country into supporting these people. We all know the impact that poverty has. I am sure we have all seen the papers that talk about the consequences of poverty, about the ill health, about the continuing cycle unless we do something about it. Unless we actually provide training and resources to boost people’s skills, to help people and to provide incentives, we are not going to be doing anything for our future generations. This is wrong-headed legislation. 

It also distresses me that we were not given time to fully analyse it. I do not think that anybody knows all the contradictions and loopholes that are contained in this legislation because we just have not had enough time to deal with it. We have found the major ones but I can guarantee that there are lots of other ones in there that are going to have negative impacts. This legislation is not that of a caring and just society.

Senator BARTLETT (Queensland)  
(4.12 pm)—I also seek leave to make a brief statement.  

Leave granted.  

Senator BARTLETT—I follow on from the point Senator Siewert made. Because of the lack of time not just to debate but, more importantly, to actually scrutinise the legislation and the amendments, many of which were not circulated in the chamber until the day of the debate on the final or committee stage, it is guaranteed that there will be unintended consequences from this legislation. I know from my own past experience—including on bills and amendments I have supported, I might say, in the social security area and indeed my experience quite a long way back in the late eighties when I worked for the then Department of Social Security as a social worker—that this is an immensely complex area of law. It has become two, three, four times more complex than it was back in 1989 and 1990. The simple fact is that this legislation makes it more complex.
again. Frankly, I think we are getting to a stage where the whole social security income support arena has become so complex it is going to collapse in on itself. That is without adding the regulations and the guidelines that are still to be developed surrounding this whole new area. That is simply bad public administration and bad law in a general sense.

Frankly, I really think it is time that all of us from all sides commit to a major simplification of the social security arena. I noted the Treasurer a little while ago talking about thinning down the tax act to take out all the inoperative bits—I think there would be some of those in the Social Security Act. But it is more than just thinning down the inoperative bits. The anomalies, inconsistencies and unnecessary complexities that are contained in there need to be removed. This bill will add more to that, and I guess that would be unfortunate but acceptable if it were not for the core policy consequence of the bill, which, as stated yesterday, is to reduce the incomes into the future of many thousands of Australians—estimated to be 150,000, 160,000 or 170,000, depending on your figures. They are just the individual recipients. Of course, there would be many more children who would also be affected. That is simply unacceptable at a time when we have a budget surplus reputed to be $14 billion. To be cutting the incomes of so many of the poorest Australians is simply disgraceful.

It has to be said once again that at no stage in this debate did anyone from the government ever explain how cutting people’s incomes will assist them in getting a job. In fact, not only did they not explain it but they continually tried to pretend that that was not happening. We have had Minister Abetz avoiding 32 separate questions to him over a few months at question time where he was asked in different ways how it is that cutting people’s income will help them get a job.

Then we saw his extraordinary and quite bizarre performance last night during the committee stage when, again, his response was to dodge the questions and respond to those very serious concerns with attacks and smears on people on the other side of the chamber. That is particularly unfortunate, I guess, but we can all cope with that in this chamber. However, it is more the complete dishonesty underlying it that we cannot cope with and the complete pretence that even people who have their income cut and who do not end up with a job will somehow or other still be better off because of all this money that is being spent. I am sure that a lot of the money being spent on assistance programs is worth while, but it does not translate into food on the table. It might be money and it might be well-spent money, but there is still no money for those people who have had their income cut to buy food for their children, to assist them with health care, transport and with all of those other things, including high housing costs and everything else.

I said last night that it was the last chance for coalition senators to prevent this happening. Well, I was wrong. This is the last chance for any one individual coalition senator—that is all it will take—to stop this happening by voting against this legislation in the third reading and to make it clear that they will not support it until that iniquitous reduction of income is removed from the legislation.

I will conclude—and it is almost partially a point of order, I suppose—with a comment about this situation with regard to the passage of this legislation. I appreciate leave being given, but a third reading debate is prevented by virtue of a guillotine. That guillotine was passed on Monday. From memory, the content of that guillotine motion was that the remaining stages of the bill had to be voted on by, I think, 11 o’clock last night.
Obviously, that did not happen, and we are conducting the final vote on the legislation now. The advice about this guillotine motion came from the Clerk, and I would not in any way doubt the Clerk’s comprehension of this and presumably his knowledge of precedents for this. But it does present a situation where we are guillotining and basically prohibiting debate on the final stage of legislation when none of us on any side potentially know what is in the legislation that we are about to have a final third reading vote on. I remind senators that this vote will actually pass something into law. It is not just a vote to see who has bragging rights or something like that.

The precedent is what concerns me. Obviously, despite my strong opposition, I accept this is going to pass, unless there is a coalition senator who heeds my plea. But I am concerned for future precedents as well in situations where the government does not have such rigid control of both chambers, where, at a final stage of legislation, when we would not be in a position to know what was in it, an informed debate could not take place because of the interpretation of a previous guillotine motion. I raise that as a concern rather than anything else. I think it is something that does warrant further examination to avoid not just inadvertent scrutiny—the whole point of the government’s approach on this is to avoid inadvertent scrutiny—but inadvertent decisions, which is even worse. I think at least the government know what they are doing.

Senator Ellison—Mr Acting Deputy President, I rise on a point of order. Due to the circumstances, I have not raised this earlier. Leave was granted for a short statement, and I ask you to remind Senator Bartlett that his contribution is going on to eight minutes now, I estimate, and that is nearly half that of a second reading contribution.

Senator Wong—Mr Acting Deputy President, on the point of order: I acknowledge that the minister has shown some courtesy to senators in the chamber in allowing them to make a short statement. I remind him that this is in fact the third reading where, in normal circumstances, senators would be permitted to speak for 20 minutes, but due to your guillotine, Minister, that has been truncated. That is the context in which these statements are given.

The ACTING DEPUTY PRESIDENT (Senator Watson)—Senator Bartlett, would you be able to wrap up fairly shortly?

Senator BARTLETT—That probably emphasises my concern and the point I was making on what is, in some respects, an inadvertent double whammy in a guillotine. I do think it is a matter that needs further examination in a procedural sense outside the context of people’s views either way about this legislation.

In conclusion, I do think it is a great shame that the enormity of what is being done in this legislation has not had the sort of public scrutiny and public coverage that I believe it merits. I find it extraordinary that the government is actually getting away with reducing the income of 150,000 pensioners without particularly significant media coverage. I find it very unfortunate that somehow or other the latest leadership spats between Mr Costello and Mr Howard are deemed to be four, five or six times more important than 160,000 Australians losing a significant chunk of their income. I really think it is time we reassessed our priorities about what exactly is important—as opposed to perhaps interesting, exciting or newsworthy—because I think we are selling Australians short. Whatever your view is about the pros and cons of this legislation, it clearly affects many thousands of Australians. The latest little internal spats in any political party
might make great drama and soap opera but they do not change people’s lives one way or the other. I find it quite distressing that such immensely important legislation gets comparatively minor attention.

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

The Senate divided. [4.26 pm]
(The President—Senator the Hon. Paul Calvert)

Ayes………….. 34
Noes………….. 30
Majority………   4

AYES
Adams, J.
Boswell, R.L.D.
Calvert, P.H.
Cooran, H.L.
Ellison, C.M.
Fielding, S.
Fifield, M.P.
Humphries, G.
Joyce, B.
Lightfoot, P.R.
Mason, B.J.
Minchin, N.H.
Parry, S.
Payne, M.A.
Santoro, S.
Troeth, J.M.
Vanstone, A.E.
Stott Despoja, N.
Wong, P.

NOES
Allison, L.F.
Bishop, T.M.
Brown, C.L.
Carr, K.J.
Crossin, P.M.
Forshaw, M.G.
Hurley, A.
Ludwig, J.W.
Marshall, G.
Moore, C.
O’Brien, K.W.K.
Sherry, N.J.
Stephens, U.

P A I R S
Abetz, E.
Campbell, I.G.
Colbeck, R.
Ferris, J.M.
Hill, R.M.
Macdonald, I.

* denotes teller

Question agreed to.
Bill read a third time.

HIGHER EDUCATION SUPPORT AMENDMENT (ABOLITION OF COMPULSORY UP-FRONT STUDENT UNION FEES) BILL 2005

First Reading
Bill received from the House of Representatives.

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues) (4.30 pm)—I move:

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

Question agreed to.
Bill read a first time.

Second Reading
Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues) (4.30 pm)—I table a revised explanatory memorandum relating to the bill and move:

That this bill be now read a second time.
I seek leave to have the second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—
Student choice is one of the foundation principles underpinning the Australian government’s re-
forms of the higher education system. Choice in how people access higher education. Choice in how and when they make their financial contributions. Most importantly, choice in which goods and services they want, and which causes and organisations they support.

Freedom of association is a basic right that should be available to each and every Australian. In its first term of office our government extended freedom of association to workers. Yet students at Australia’s higher education institutions still do not have this right.

Australians demand the freedom to make choices in every aspect of their lives. Why should higher education be different? Yet it is different. At present, students have fewer freedoms than other Australians, because most must join a student organisation when they enrol at university.

This bill now before us will amend the Higher Education Support Act 2003, to insert new ‘fairness’ requirements into the Quality and Accountability requirements. An institution may have its approval as a higher education provider revoked if it does not comply with these requirements. Alternatively, it may be required to repay amounts to the Commonwealth or it may have its grants reduced.

The fairness requirements will ensure that higher education providers do not require students to be members of a student association, union or guild. It will ensure that institutions do not require students to pay any fees for non-academic services.

This bill will allow students to choose whether or not they belong to a student organisation. Students should not be compelled to pay fees for non-academic services.

Students should also enjoy the same consumer rights enjoyed by other Australians; namely to purchase only those services they want, whether they be on or off campus, and this legislation will give them that right. The compulsory general service fee charged on most Australian campuses requires students, as a condition of enrolment, to pay for services they may not need or want to use.

This is especially true for external students who never set foot on a campus, yet subsidise services they are unable to use.

The government believes that the primary purpose of a university is to provide higher education. Student organisations will always be free to recruit members and offer services to students, and if they are valued by students they will be viable. On-campus non-academic student services can also be supplied by voluntary organisations and commercial enterprises in the same way they are supplied in the rest of the Australian community.

Australian students currently pay between $100 and $577 a year in union fees as a condition of enrolment. This is a significant sum. These fees are unconnected to students’ academic courses and are charged without any regard for their ability to pay. Up-front non-academic fees are inequitable. They remain a financial obstacle to higher education for students on low incomes.

It is our belief that students will benefit considerably from this legislative change. Through the amendments of this bill students will be better able to manage their own financial affairs. Students themselves are best placed to know their own financial priorities.

Over many years the government has received much support for our policy to abolish compulsory union fees from those most affected by them. Many students believe, as the government does, that no student should be forced to become a member of a student union. Nor should they be forced to support a student organisation when they are either opposed to its activities or indifferent to its services. This bill reflects that ongoing support.

The government remains committed to the principles of freedom of association and freedom of choice in every aspect of Australian life. Australian higher education students should enjoy the same rights on campus as they enjoy off campus, and this legislation will give them that.

I commend the bill to the Senate.

Ordered that further consideration of this bill be adjourned to the first day of the next period of sittings, in accordance with standing order 111.
Senator SIEWERT (Western Australia) (4.31 pm)—I seek leave to amend business of the Senate notice of motion No. 1 standing in my name for today.

Leave granted.

Senator SIEWERT—I move:

That the following matter be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 30 March 2006:

The involvement of the Australian Wheat Board in the Iraq Oil-for-Food Programme between 1999 and 2003, and consequent revelations that such involvement led to payments that were directed towards the Iraqi Government, with particular reference to the conduct of Commonwealth regulators including the Department of Foreign Affairs and Trade, the Wheat Export Authority and any other relevant agencies.

The AWB is the exclusive manager and marketer of all Australian bulk wheat exports, through what is known as the single desk system. It is not my purpose here to attack the structure or the make-up of the AWB. While some have taken the opportunity to call for the abolition of the single desk in response to the revelations about the oil for food program, I make it clear that this is not my intention. Over nearly seven years of the oil for food program, the Australian Wheat Board supplied nearly 12 million tonnes of wheat over 41 contracts and 285 shipments. Contracts worth US$2.3 billion were signed between 1997 and 2003 and were paid out of an escrow account operated by the United Nations from Iraqi oil revenues.

Two years on, the corruption surrounding the Iraq oil for food program is a matter of record. It has tainted the United Nations at the highest level, a situation laid bare by the independent inquiry committee into the Iraq oil for food program, chaired by Paul Volcker. The Volcker committee established that the government of Iraq sold US$64.2 billion worth of oil to 248 companies and, in turn, 3,614 companies sold $34.5 billion worth of humanitarian goods to Iraq. Along the way, Volcker estimates the Iraqi government raked off around $US1.8 billion in illegal surcharges, after sales service fees and inland transportation fees.

The AWB’s part in this epidemic of corruption, knowingly or unknowingly, was a large one. The AWB was the single largest supplier of humanitarian goods under the program. As of 1999, the Iraqi Grain Board began to demand the company pay internal transportation fees to Alia, a Jordanian trucking outfit which, it transpires, was a front company with no trucking fleet and which was partly owned by the Iraqi transport ministry. Between 1999 and 2003, without signing a contract or performing any due diligence on Alia’s background, the AWB paid Alia US$221.7 million out of the UN escrow account for trucking fees and after sales service. Ten months after this deal commenced, the AWB contacted the Department of Foreign Affairs and Trade to check whether what it was doing was legal. Apparently, the word back from DFAT was ‘No problem’. Why did DFAT not check with the UN?

It has now been revealed—in fact, it was in today’s paper—that DFAT officials accompanied AWB officers to Iraq to help negotiate the wheat contracts which are now under investigation. This morning the Australian reported that the then Minister for Agriculture, Fisheries and Forestry, Warren Truss, was being given confidential briefings on the incentives that the AWB was offering to its buyers in Iraq and elsewhere. How did it happen that DFAT or the government did not start to worry about what was going on?
By this time, the UN had already concluded that deals with Alia would be a breach of sanctions, but we are told that this information was not passed on to the Australian government.

As far back as January 2000, a UN customs expert warned Australian diplomats that the Iraqi government was demanding US$700,000 from the Canadian Wheat Board to cover transport costs in Iraq. The Canadians raised this a number of times, but no-one seems to have found it odd that the AWB was up to its neck in a similar arrangement. The so-called shipping costs began at around $12 per metric tonne in 1999 and were hiked to $56 per metric tonne by 2003. At a time when the Australian government was being drawn deeper into an invasion of this troubled country, Alia was transferring nearly a quarter of a billion US dollars back to the Hussein regime on behalf of an Australian company.

The AWB has been at pains to point out that the Volcker report could not conclude that the AWB was knowingly involved in this colossal scam. Nevertheless, his report provides a worrying paper trail that exposes some extreme irregularities in the deal. In a nutshell, he found that if the AWB did not know what was going on, it certainly should have. By extension, government officials surely should have been aware of what was happening. My question, which this motion goes to the heart of, is: where were the regulators?

The United Nations has submitted itself to an embarrassing but long-overdue review of the program. According to a media statement by the UN Secretary-General on 27 October 2005:

... thorough reform of the management structures and practices of the United Nations, especially those that relate to oversight, transparency and accountability, is vital.

The Attorney-General duly announced an inquiry into certain Australian companies on 10 November, following calls from the Australian Greens and the Australian Labor Party for an immediate investigation. According to the Attorney-General’s media release of the same date, the inquiry will have the powers and immunities of a royal commission. If the UN is getting its house in order and the government’s inquiry into the AWB is underway, that leaves only one stone unturned: the regulatory bodies charged with preventing this sort of behaviour.

For all we know, there may be perfectly good reasons why government officials in DFAT, the Wheat Export Authority and the former cabinet minister did not know about this and why concerns were not raised, but we will not get to find out under the terms of reference of the government’s inquiry, because they have exempted themselves from this scrutiny. AWB executives and former officials have said that they welcome this inquiry, which is in stark contrast to the deafening silence coming from the government. Yesterday in the House of Representatives, Minister Mark Vaile noted:

... the government has announced and established a commission of inquiry with significant powers as far as this issue is concerned, and that is about to begin. We should leave it to that commission of inquiry to seek out the information and the evidence ...

The minister knows full well that this commission of inquiry has no power to investigate the role played by government officials. There may be nothing to hide, but the government are certainly giving us the opposite impression.

I attempted to put these questions to the Chairman of the Wheat Export Authority and his officials during supplementary estimates hearings last month, but was told at the time by the chair of the estimates committee, Senator Bill Heffernan, that the proper time
for such questions would be through the government’s inquiry. I am not having a go at the chair, because he obviously genuinely believed at the time that the inquiry, when called, would be a full inquiry. Unfortunately, that is not so. The government has specifically excluded questions about the role of Commonwealth regulators; it is strictly concerned with investigating what the AWB knew.

The points I did get to make during estimates raised more questions than answers. The WEA is in an interesting position. When the Australian Wheat Board was privatised in 1999, the WEA was hived off as its regulatory body, with responsibilities under the Wheat Marketing Act of 1989 to, amongst other things, ‘monitor, examine and report on the performance of AWB’. It has a role in monitoring compliance with the conditions of export consents issued, including pricing performance, supply chain and the operating environment. I do not accept the argument that, because the Wheat Board was privatised in 1999, all government responsibility ends there. The AWB holds a unique position, entrusted in large part with the welfare of nearly all Australian wheat growers as a consequence of its collective nature. This is why it has a regulatory body solely devoted to its activities.

Somehow, a quarter of a billion US dollars flew under this supposed regulatory radar, not into the pockets of AWB or Australian wheat growers but into the bank vaults of Saddam Hussein, who was being accused at the time by our government of being on the verge of blowing up the world. During estimates hearings, Senator Heffernan, the chair of the committee, assured me that we would leave no stone unturned to get to the bottom of this scandal. In moving this motion, I direct the question to the coalition and the members opposite: why have we only half an inquiry? What role did government officers and regulators play? Why weren’t gigantic warning signals rung when it is quite obvious that DFAT officials were in Iraq at the time that these contracts were being negotiated? This motion provides the Senate and the people of Australia with an opportunity to hear the other half of the story. This motion, as amended, does not cover the ground of the inquiry about to commence under the leadership of Mr Cole; it looks at the other side of the issue that the government refused to examine in this inquiry. I commend this motion to the Senate.

Senator McGauran (Victoria) (4.41 pm)—The government reject the Greens’ motion before the chamber relating to matters of the oil for food program, specifically the conduct of AWB management employees and the conduct of the Commonwealth regulators, in particular the Department of Foreign Affairs and Trade. We reject it out of hand. Anyone who has been listening to the presentation by the Greens senator will know that she has already made her conclusions. She ran every slur and assertion through the Senate. She has already written the report without any knowledge. I do not think she knows much about this other than what she has read in the newspaper or listened to the opposition saying. You ran that slur and allegation against Mr Truss in your dissertation, which is absolutely incorrect. Did you bother to hear the retort to that slur by Mr O’Connor? You did not.

Senator Siewert—Mr Acting Deputy President, on a point of order: I did not run any slur against Mr Truss; I said he was there. I did not run a slur.

The Acting Deputy President (Senator Watson)—There is no point of order. Senator McGauran, please address your remarks through the chair.

Senator McGauran—On that matter, Mr O’Connor suggested, as reported in to-
day’s *Australian*, that Mr Truss had been provided with regular confidential reports on kickbacks on offer. Within that is the suggestion that he kept it secret, that he knew and that there was a giant cover up. There was nothing of the sort. Mr O’Connor’s comments were deliberately put down to mislead. The truth of the matter is quite different, as the current Minister for Agriculture, Fisheries and Forestry has said publicly. The article says:

Minister Peter McGauran said Mr O’Connor’s comments were misleading. “The incentives to which the WEA referred in its annual report are listed and they cover items such as joint ventures, export credit breaks and staff exchanges,” he said. “The incentives referred to do not relate to monetary payments to third parties in overseas markets. The WEA’s reports do not contain the sort of information alleged (by Mr O’Connor).”

That has been the modus operandi of this whole issue—that is, to throw out the allegation without any evidence because you are running a political line. That is one very good reason why this government will reject the motion before the Senate as you want to shunt it off to a references committee where the majority is held by the opposition. If you do not think it is a stunt, just look at the reporting date. The report is to come down one day before the government’s independent inquiry by Commissioner Cole. That is to run interference with, distraction and even contradiction of the independent inquiry.

The government does not in any way seek to diminish an investigation into this matter. We believe that any material suggestion of improper behaviour by Australian companies overseas—particularly with respect to what we are talking about here—is a matter of public importance, is an offence under law and is worthy of an inquiry. In the matter before us, we are dealing with the good reputation of AWB directors, Australia’s good trade reputation and the good reputation of officers of the Department of Foreign Affairs and Trade. For that reason, when this matter came to light, the government quickly announced an independent inquiry with royal commission powers and immunities.

The commission was established in direct response to the United Nations’ request following the Volcker inquiry. The United Nations urged sovereign states to take action where inappropriate behaviour may have been carried out by companies falling within their sovereign jurisdiction. That is exactly what the government is doing. It is seeking to get to the truth of the matter through an independent, unbiased inquiry. The commission will be headed by New South Wales Supreme Court Judge of Appeal, the Hon. Terence Cole—who is known to all as the former royal commissioner inquiring into the building and construction industry. He is a well-respected man and a well-studied man in matters of royal commissions and getting to the bottom and to the truth of matters. We are concerned that the inquiry be conducted independently, in a timely fashion and in a comprehensive manner and should report by 31 March. The key fact here is that it is an independent inquiry—at arms-length from the government and certainly at arms-length from those opposite who seek to run their own inquiry and who have made their judgments prior to even having the reference before the committee.

It is worthy of note—and the Greens senator did say this—that the AWB welcome the federal government’s inquiry. Senator Siewert, they welcome it and, in doing so, are saying that they have nothing to hide. I will refer to their public comment. In relation to the government establishing this Cole inquiry, the AWB said on 1 November:

AWB will cooperate fully with the independent inquiry into the United Nations Oil-for-Food program announced by the Australian Federal Government yesterday.
It should be noted that the Volcker report did not find that AWB was knowingly involved in any scheme or arrangement to channel funds to the former Iraqi regime.

It is of concern to AWB that allegations are being made against the company and anticipates the inquiry to address them.

I suspect Senator O’Brien will also be speaking on this matter—

Senator O’Brien—Yes, I am. I am looking forward to it.

Senator McGauran—No doubt he will also raise the suggestion that the terms of reference of this independent inquiry are too narrow. We reject that claim. It ought to be noted that the Volcker inquiry found absolutely no criticism of the behaviour of the Australian government. That is the reason that the terms of reference are entirely appropriate. Your claim is exactly the reason that we are rejecting this motion—because you are on a fishing expedition. This motion is political. It is a far more serious matter than that. We have at hand the good reputation of AWB, the good reputation of DFAT and the good reputation of Australia as a trading nation. Do you think we would leave that in the hands of the references committee, a highly political and charged committee which—as shown already in the debate here today—has already made up its mind?

We are not going to indulge the opposition and the Greens in a fishing expedition, because DFAT have nothing to answer for—they are completely cleared. Nevertheless, it is feasible that the commissioner would seek some information from DFAT in relation to the process, and it would be entirely appropriate for them to cooperate with that. The government fully back the integrity of the officers of DFAT with regard to this matter and reject the innuendos being perpetrated, particularly by the shadow minister for foreign affairs, who has been scurrilous in this matter in basically accusing—certainly by innuendo and suggestion—that DFAT were aware of the illegal channelling of funds to the Iraqi government.

It is worth setting out the process and the role of the Department of Foreign Affairs and Trade in this matter so that it is properly understood what the exact role of DFAT was. I will refer to the Hansard where the Minister for Agriculture, Fisheries and Forestry let the lower house know of this matter. He said: Commercial suppliers would negotiate and agree on a contract with Iraqi counterparts. DFAT was not a party to the contract. The contract would be forwarded to DFAT for submission. DFAT would examine the contract paperwork. Once satisfied that this had been properly completed and that the transaction did not appear to infringe the United Nations sanctions regime, the documentation was submitted via the Australian United Nations mission to the United Nations Office of the Iraq Program and the 661 sanctions committee in New York. United Nations customs experts in the UN Office of the Iraq Program had responsibility for evaluating the price and value of contracts. Following contract approval by the United Nations, DFAT would issue an export permit authorising the export to Iraq.

As I said earlier, the government fully cooperated with the Volcker inquiry, which found no evidence of complicity on the part of the government. In fact, there was not a skerrick of evidence or suggestion that would bring the government under inquiry—except from those opposite who seek to sling mud and to descend this matter into a political issue. We happen to think that it is far more serious than that. We have set up an independent inquiry—not a political one.

I would add that what Senator Siewert neglects to note—something which Senator O’Brien will also neglect to note—is that this matter has already faced the parliament and a litany of questions. This issue was raised at recent estimates committees, where extensive questions were asked of the department and the Wheat Export Authority by none
other than the grand old inquisitor himself, Senator Faulkner. Senator Faulkner directed questions to Ms Gillian Bird, the Deputy Secretary of the Department of Foreign Affairs and Trade for possibly hours. After all that questioning, I think I would concur with the chair of the committee at that time, Senator Sandy Macdonald when he summed up the hours of questioning and said to Senator Faulkner:

You have made assertions, as is your wont. You are entitled to do that, as long as everyone understands what you do. I think the questions have been adequately addressed. You can seek further explanation, but you have had it.

You have had good explanation; that is the point he was making. There is a hell of a lot of difference between an assertion and evidence but, as Senator Macdonald said,

If you think that assertions are a way of making your case, proceed, but the questions have been fully explained.

So it is quite clear that on this matter there is no cover-up. There is no lid on this. It has been before the estimates committee and under heavy scrutiny. Of course, in the other committee to which Senator O’Brien and Senator Siewert belonged, the estimates committee on agriculture and transport, Senator Siewert also took to the Wheat Export Authority and asked her own litany of questions. So she cannot say she has been denied access on this matter at all.

But it is a little more serious when reputations are on the line, let alone the Australian market. Of course, through all your public posturing, the usual suspects, who are always trying to grab the Australian markets, in particular those in the Middle East, have taken full advantage of this, and you have succoured them.

The Australian government and the Australian Wheat Export Authority do not wish to jeopardise the integrity of the market in any way, and will not. It is worthy to quote the Volcker findings with regard to AWB Limited. And I will quote directly from those findings to put this matter in perspective and to try, in a probably hopeless attempt, to convince you to withdraw this motion—or to try at least to explain why this government will have no bar of this political exercise. I quote the Volcker inquiry in regard to AWB:

The evidence does not suffice to conclude that AWB had actual knowledge of Alia’s partial ownership by the government of Iraq, that it had actual knowledge of the fact that Alia did not actually perform trucking services for the AWB’s wheat or that it had actual knowledge of the fact that Alia remitted to the payments it received from AWB to the government of Iraq.

It went on to say:

On the other hand, it is discussed in detail below that numerous documentary and circumstantial warning signs placed at least some employees of AWB on notice that payments to Alia may have been illicitly funding the Iraqi regime.

And that is the full context of this. There is nothing to hide. And that is exactly why AWB, as I read out, welcomes this inquiry. I read the full brief. I bet Senator O’Brien thought I was going to stop a few sentences before that.

That is the full context of what Commissioner Cole will inquire into. There is no cover-up. The point is: it is an independent inquiry. We want this matter cleared up just as much as AWB does. But it is very convenient of the speakers on the other side to totally ignore the real culprits in all this.

In conclusion, let us not forget who the real culprits in this oil for food scandal are—the culprits are certainly not AWB Limited nor this government. The real culprits are the United Nations themselves, because what the Volcker inquiry really found was that there was corruption, nearly all the way to the top. Let us not put that aside—that there was a scandal involved in all this, and the corrup-
tion was very heavily weighted within the higher ranks of the United Nations itself.

The government is firm in its resolve to act upon the United Nations’ request to make this a transparent and independent inquiry, and to act upon its recommendations. This is in the interests of trade relations, in the best interests of AWB Limited and in the best interests of all involved in the oil for food program. Therefore, we reject this motion.

Senator O’BRIEN (Tasmania) (4.57 pm)—It is interesting to hear the comments from Senator McGauran—interesting that the government have chosen him to defend them on this motion. I would have perhaps expected Senator Heffernan, who knows a lot about the Wheat Export Authority and AWB to have been defending, on the basis of his in-depth knowledge, but the government have chosen not to ask him to do that.

We will be supporting this motion. We will be supporting this motion although we should not have to. We have to support this motion because the government has not done the right thing. When it devised the terms of reference for its inquiry into this matter, to be headed by Mr Cole, an inquiry by the Foreign Affairs Defence and Trade References Committee would not have been needed if those terms of reference had ensured that the actions of the Howard government and its agencies would be put under the microscope of that Cole inquiry. If the government had done that, we would not have needed an inquiry by a committee of this Senate, but it has not done that. It has given a very narrow focus through the terms of reference for the Cole inquiry which is devised to protect the government. So we can have no confidence that the Howard government’s involvement in the oil for food scandal will ever see the light of day through any actions of this government.

And who could be surprised that the government now oppose a motion that might have the effect of exposing their complicity or their knowledge in the matter. But, of course, we have heard from Senator McGauran today and he has been true to the script from this government. They are blame shifters: ‘Someone else is at fault. It was not us, it was not the AWB, it was not the Wheat Export Authority, it was the United Nations.’ The United Nations apparently were responsible for the deal for Alia to rake off $56 a tonne for trucking services they never delivered. How ridiculous.

Senator McGauran knows that is not true. He knows that it has no basis in fact, but he is prepared to put it forward as a justification for this shabby performance of the government, which is again hiding from scrutiny, using its numbers to block the scrutiny of the Senate—which the Labor Party warned the Australian people this government would do when it got the numbers in this place. This government is going to use its numbers to prevent its incompetence and its complicity in corruption from being exposed.

We know for a fact that in January 2000 the United Nations called the Australian government in New York and said: ‘We’ve got some concerns about what the Australian Wheat Board is up to in Iraq. We’ve got some concerns about the alleged use of Jordanian bank accounts.’ We now know the basis of those concerns. We know that those concerns were cabled back to Canberra from the Australian government’s mission in New York and that those concerns were distributed to various ministers’ offices at the time. Conveniently, none of that seemed to find its way into the defence by Senator McGauran. The facts, that have been well known, were not dealt with at all, because there is no answer to that. It clearly demonstrates that the government had knowledge that there were concerns at United Nations level about Jor-
dalian bank account involvement. Where is the company that Senator McGauran referred to based? Jordan, I think.

In 2003 Colin Powell was told by US Wheat Associates that Australian wheat contracts under the UN oil for food program were inflated by millions of dollars per shipload and that the excess may have gone into accounts of Saddam Hussein’s family. That was on the public record in 2003. US Wheat Associates were trying to convince the US government to take action. I happened to be the shadow minister for agriculture at that time, and I called for the government to investigate. Mr Vaile declined to investigate. He used a shabby device to try to pretend that we had not actually called for them to investigate. He reported this matter to the House of Representatives on 9 November, but the reality was that I had called on him to investigate more than two years before that, and he had declined to investigate. Let us examine why that might be.

Before I do that, let me also touch on something that has recently been revealed by the Prime Minister. He said, ‘Of course, we had Australian government officials travelling into Iraq with the Australian Wheat Board while commercial negotiations were taking place under the oil for food program.’ So we had officials of the Australian government as part of the negotiation. They knew what was going on.

Senator McGauran—you assert.

Senator O’Brien—The Prime Minister said that. What did successive ministers for agriculture, fisheries and forestry know, and what should they have known? As he was the Minister for Agriculture, Fisheries and Forestry for most of the period we are concerned with, I want to look at what the present Minister for Transport and Regional Services, Mr Truss, knew about AWB’s role in the oil for food scandal and what action, if any, he took.

The Wheat Export Authority is a statutory authority, and it reports to the Minister for Agriculture, Fisheries and Forestry. It liaises with the Department of Agriculture, Fisheries and Forestry. As far as I am aware, that is part of the government.

It was established in 1998-99, at the time the government privatised the Australian Wheat Board and handed over Australia’s single-desk marketing arrangements for wheat to AWB Ltd and to its international arm, AWB International. The functions and powers of the Wheat Export Authority are set out in the Wheat Marketing Act. In relation to those functions, the act has this to say:

(1) The Authority has the following functions:
(a) to control the export of wheat from Australia;
(b) to monitor nominated company B’s—

that is, AWB’s—

performance in relation to the export of wheat and examine and report on the benefits to growers that result from that performance.

In relation to the Wheat Export Authority’s powers, the act says:

The Authority has power to do all things that are necessary or convenient to be done in connection with the performance of its functions.

It goes on to say:

The Authority may direct nominated company B—

That is AWB again—

or a related body corporate of nominated company B, to give to the Authority: (a) information;

or (b) documents, or copies of documents, in the custody or under the control of nominated company B or the related body corporate;

The act also requires the Wheat Export Authority to prepare three reports every year on AWB’s performance. One is a report to Australian wheat growers, the second is an annual report, and, importantly, the third is a confidential report to the agriculture minister—at all material times Mr Warren Truss.
It is abundantly clear that this parliament has given the Wheat Export Authority the role of overseeing the activities of AWB Ltd and all the power it needs to carry out that function. We also know that at least once a year the Wheat Export Authority gives a confidential account of its activities to the agriculture minister and much less detailed reports to this parliament and to wheat growers. It is the authority’s 1999-2000 annual report that gives us some indication of the sorts of activities the Wheat Export Authority is interested in. The 1999-2000 annual report of the Wheat Export Authority tells us that it planned to employ a consultant in October 2000. The report also sets out the proposed duties of that consultant, and they include an examination of ‘incentives paid by AWB International compared with other competitors.’

During the recent estimates hearings that Senator McGauran spoke about, I asked a number of questions about the work of this consultant. I have to say that representatives of the Wheat Export Authority were not particularly forthcoming in relation to this matter and some of my questions were taken on notice. I look forward to getting answers to those questions. Nevertheless, the CEO of the Wheat Export Authority was able to confirm that the work undertaken by the consultant referred to in the 1999-2000 annual report is ongoing and that the results of his investigations have been included in the annual confidential report to the agriculture minister, Mr Warren Truss.

The question has to be asked: how much did the agriculture minister and the Wheat Export Authority know about the allegations made in the Age and in the Sydney Morning Herald yesterday of a culture within the AWB of providing kickbacks to authorities in a number of AWB overseas markets? The newspapers quoted former staff members of AWB as saying that substantial kickbacks went to officials in Pakistan, Indonesia and Yemen. It also beggars belief that an authority with the powers and resources of the Wheat Export Authority, with the clear role of overseeing AWB’s performance, did not know about those kickbacks and did not report them to the minister, especially since we know that the authority already had a particular interest in the ‘incentives’, as it described them, that AWB had offered to some of its customers.

It is true that, at the same estimates hearing, the chairman of the Wheat Export Authority, Mr Besley, told the committee that the authority had no particular knowledge of the payments AWB funnelled to Saddam Hussein under the oil for food program. According to Mr Besley, even the 400 per cent increase over two years in the cost of transporting wheat in Iraq did not ring alarm bells within the Wheat Export Authority. That is fabulous, isn’t it? Yet, in other evidence to the committee, Mr Taylor, CEO of the Wheat Export Authority, confirmed that contracts for the supply and delivery of wheat to Iraq were checked and crosschecked, and he went on to make the following rather curious statement:

From the material that WEA had before it, and from the assessments it had done, there had been no apparent impact on the pool of any additional services that may have been bundled with sales of wheat.

What did we just hear—a quarter of a billion dollars? A quarter of a billion dollars had ‘no apparent impact’. It appears from this that the authority was at least aware that there were so-called additional services provided for in the contract and that these additional services had been examined to determine if they had had an impact on the pool.

Mr Taylor also said that the authority compares all AWB contracts for the supply of wheat to its international customers and, in order to make the comparisons meaningful
and consistent, it does so on an FOB basis. Where contracts are not made on an FOB basis, then the authority examines them in detail so that they can be converted to FOB for comparison purposes. The oil for food contracts were not FOB; they included ‘additional services’. On the basis of the evidence provided then, it would have been the Wheat Export Authority’s practice to examine them in detail in order to convert them to FOB for comparison purposes.

At the very least we can confidently say that successive agriculture ministers and the Wheat Export Authority ought to have known what was going on in relation to AWB’s dealings in Iraq under the oil for food program. The Wheat Export Authority has a statutory duty to oversee the operations of AWB Ltd. It has all the power it needs to complete that task. It was interested in the so-called incentives AWB pays to attract and retain customers. It had access to all the relevant contracts. It makes an annual confidential report to the agriculture minister. So it is clear that the WEA knew or at least ought to have known what was going on in Iraq under the oil for food program. If the authority did know and did not tell the minister, then it has failed in its duty to protect the interests of wheat growers and the Australian public. If it really did not know, that is almost as bad, given its powers and what it said it pursued and inquired into.

As I said earlier, the Howard government was warned by the United Nations back in the year 2000 of concerns raised by the Canadian Wheat Board about the operation of the oil for food program and in May 2002 of similar concerns by the US General Accounting Office. And it has been clear, since at least the 2003 invasion of Iraq, that there have been problems for Australia in the Iraqi wheat market. For example, we have been losing market share to the United States and, even before the Volcker report, US wheat interests had been making a variety of allegations about the way AWB Ltd had been doing business in Iraq.

I do not have to make any comment on the validity of these allegations, but their very existence ought to have alerted the Wheat Export Authority to problems in the Iraqi market and, as a result, it would have been reasonable to expect the authority to pay particular attention to AWB’s performance in that market. We do have some evidence that the Wheat Export Authority did just that. In its 2004 growers report, the Wheat Export Authority included a section on difficulties being experienced by AWB in the Iraq wheat market. The section on Iraq was the only section dealing with an individual country. It does not refer to the oil for food program, but its very existence indicates that the Wheat Export Authority had been keeping a watchful eye on AWB’s performance in Iraq. Given that, there remain many unanswered questions about exactly what the Wheat Export Authority did know about the AWB involvement in the oil for food scandal and the $300 million that found its way into Saddam Hussein’s coffers.

There are also unanswered questions about what the Wheat Export Authority told the agriculture minister about that involvement. But, of course, this government has drawn up the terms of reference for the Cole inquiry so the Cole inquiry cannot inquire into what the minister knew. With all of those confidential reports protected by secrecy, the minister hides behind the terms of reference this government has drawn up for itself and then says, ‘But it’s not appropriate for us to have this inquiry because we’re having a thoroughgoing inquiry’—which just happens to protect the government from the scrutiny that it so richly deserves, and that the Australian public needs, so that we can get to the truth of this matter. That is, what did the minister know and when did the min-
ister know it? In 2000, when there were the first warning signs, what did the government do? What decisions did the government take? Why did the government not take action? Those questions will not be answered by the Cole inquiry because the Cole inquiry’s terms of reference were drawn up to shield the government from just such scrutiny. And then the government has the temerity to pretend that the Cole inquiry is a justification for this inquiry not going ahead.

We know the government has the numbers and that it will block this inquiry. We know the government will prevent the Senate from conducting the scrutiny that it ought to and that it has a responsibility to the Australian people to conduct, but the government will prevent it from doing that because this government is so arrogant in the way that it goes about its business in this place. It is making sure that the scrutiny that the parliament could apply to the executive government will not be applied. It is displaying an arrogance which I think will convey to the Australian people the fact that they made a decision that they ultimately will regret, and this government will pay for it at the next election.

In relation to Senator Siewert’s motion, I am not certain but I am given to understand that that may actually have been lodged before the government announced its terms of reference with its reporting date. So the coincidence that the reporting date for this inquiry predates the Cole inquiry reporting date by a day would be something that the government could have concocted but that Senator Siewert could not have known about and therefore could not have concocted. If that is the case, then frankly Senator McGau-ran owes an apology to Senator Siewert for misrepresenting the position of her motion before the Senate. Perhaps he will be man enough to give us that apology at the conclusion of this debate; perhaps he will not. Be that as it may, we will stand behind this motion because the government has not had the gumption to stand up to a proper inquiry. It has given the inquirer the power to compel and protect witnesses but it will not give it the power to ask the government the questions that need to be asked so that we know how complicit this government has been in the improprieties around AWB Ltd and the oil for food program.

Senator STOTT DESPOJA (South Australia) (5.16 pm)—I rise briefly on behalf of the Australian Democrats in my capacity as their foreign affairs spokesperson and, indeed, as a member of the Senate committee to which this reference will go if it is successful. I indicate our support for this motion. I do not intend to rehash the arguments in favour of the reference because I think Senator O’Brien and Senator Siewert have done a comprehensive job of explaining why this inquiry is necessary. I also do not wish to pre-empt in any way the outcome of this proposed inquiry. Suffice to say that the Democrats believe that there are a number of questions that still need to be answered in relation to this particular issue. Clearly one of them is to do with the role and responsibility of the government. That is what Senator Siewert’s motion intends the committee to examine. In relation to the time frames, the Australian Democrats’ understanding is that Senator Siewert put forward her time frame for this investigation and report before the government put forward its time frame. I am informed that we are correct, so I think that those who have made adverse comments in relation to the timing or the motivation of this motion should perhaps retract their statements because they are an unfair reflection.

I indicate that I, on behalf of the Democrats, had some concerns about the initial wording of this motion, in particular the original part (a), which talked about the conduct of AWB management and employees...
throughout this period. As senators would know, this motion has been amended to take into account the fact that there is an inquiry—the Cole inquiry has been proposed and will be under way. This motion now deals specifically with an area that is within our purview. It is within our responsibility—that is, the conduct of Commonwealth regulators, including the Department of Foreign Affairs and Trade, the Wheat Export Authority and any other relevant agencies—so it is thoroughly appropriate for the Senate Foreign Affairs, Defence and Trade References Committee to examine these particular issues.

If the government and honourable senators who are members of the government in this place are so sure that there is no case to be answered and there is nothing to hide—and I am not pre-empting this in any way—then they should say that they are quite comfortable putting the department and relevant agencies up for examination. They should not be scared of this inquiry; in fact, they should welcome it. They should welcome it in the sense that it gives the government an opportunity to show their hand, to make clear what dealings they had, how those dealings were conducted and what knowledge, if any, existed.

Senator McGauran—We welcome the royal commission.

Senator STOTT DESPOJA—I do not want to respond to that interjection, but, Madam Acting Deputy President Kirk, although you have heard today arguments as to why the Cole commission is an appropriate forum for some of the issues, I think that in fact, as of today’s revelations, it is exposed as having terms of reference that are not far ranging enough. I am conscious of the Prime Minister’s argument that he believes that the commission has enough teeth, but there are some of us in this place who believe there should be broader reflection, broader investigation, specifically when it comes to the role and responsibilities of government. That is what this motion seeks to do.

It is an important motion. These are not insubstantial issues. Let’s face it: this is a huge international scandal. The Volcker report has identified AWB as violators in this program. There are issues associated with that we should have clarified for a whole range of good governance, accountability and transparency reasons. That is what we seek to achieve here. I think also it is a reflection on government at the moment that people are actively and loudly questioning the role of departmental officers and officials. An article in the Independent Weekly from 27 November by Lee Eckermann, the national affairs writer for that newspaper, says:

AWB management, naturally enough, has claimed that the organisation was an unwitting dupe to the deception set up by others, that it was not aware of what was going on, and that the UN was to blame for AWB’s involvement in the scandal.

It goes on to say:

We are asked to believe that no one in the federal Department of Foreign Affairs and Trade, which sanctioned the AWB payments to the Jordanian transport company set up as the front for the kickbacks, knew anything of the affair. Nor did anyone at AWB get a sniff of anything untoward.

That is quite a reflection and raises quite a good question. It probably reflects a good deal of scepticism and concern in this chamber, let alone in the community and obviously in the fourth estate. Let’s face it—these implications and assertions need to be examined. I would have thought that good governance would dictate that we had an inquiry of this kind.

I will not go further into some of these issues, although I might say that there are a number of related issues, perhaps not ger-
mane or specific to this particular proposed reference. But the whole issue of postwar reconstruction contracts is something that is going to be under examination, not just in this country but more broadly. People have argued that this is potentially the tip of the iceberg. I am very conscious of the anticorruption watchdog Transparency International, who have indicated that, unless some steps are taken to have stricter and tighter rules for awarding those kinds of contracts, this scandal and others will just be the start. Again, that is not specific to this particular inquiry.

On the matter of process, I heard Senator O’Brien’s comments that the government had the numbers and obviously I heard Senator Julian McGauran’s contribution, which indicated the government’s ‘firm resolve’, I think it was, to oppose this motion.

**Senator McGauran**—It was our firm resolve to get to the bottom of the matter.

**Senator STOTT DESPOJA**—I am happy to take that interjection. ‘Get to the bottom of the matter’—I think that is what we are all hoping to achieve here; we just seem to have different ways of going about it. I acknowledge that. The fact that the government is not supportive of this motion is a bit of a red flag. People in the community who are observing and listening to the Senate, and members of the media, wherever they may be, should be very conscious of what is happening in the chamber today and in the last couple of weeks—the flagrant abuse and use of power and numbers in this place; the guillotines and the gagging; the way that we roll through legislation no matter how comprehensive, serious or significant—

**Senator Kemp**—Which the Democrats have supported before.

**Senator STOTT DESPOJA**—I will accept that interjection because I want to clarify a point. People in this place on all sides, including the Labor Party and the Democrats, have voted for the guillotine. I think I have voted for one in my life—on the legislation to do with research involving human embryos. There was a guillotine on that. I am not suggesting that in itself a guillotine is wrong. I am not suggesting that, when we have had days, potentially weeks, of comprehensive and satisfactory argument, or when we have debated individual amendments, or at least put them individually, as opposed to the sausage factory approach that we have seen in the last week, there are not occasions in which a guillotine is appropriate.

But I think we should make it very clear for the record that there have been very few occasions, if any, in this place where not only has a guillotine operated but it has operated so soon into the debate on a piece of legislation, without consultation, negotiation or information—particularly involving the opposition—in a way that has not only cut off the speakers list but has actually cut off debate on all or most of the amendments. It is also very rare for a guillotine to take place in this place without the support of another party. I am sure the Labor Party would be the first to admit that in most cases when we have seen the guillotine in the past they have joined with the coalition. This is what I find so interesting—the way the government conveniently ignore their history when they were in opposition, because they worked with the ALP in relation to the guillotine when the ALP were in government.

I do not want to be waylaid on this point, because I think honourable senators, the public and the media are quite conscious of what is happening in this place now. I think people have had the wake-up call. We need a check on executive power. They are not happy about what is going on. I think everyone acknowledges that a mandate to form govern-
ment with a majority in the Senate is one thing but to completely erode the house of review capabilities or responsibilities of a chamber is another.

The issue I want to draw attention to, which relates to this motion and the likely outcome of this vote, is the issue of committee references. I know on this side of the chamber non-government senators are awfully conscious of the number of committee references that seem to be getting opposed or knocked off. I can see Senator Marshall champing at the bit, ready to put forward what I and the Australian Democrats think is a first-class motion to do with an inquiry involving the CSIRO. It does not look like that is going to get up. I think Senator McLucas has a committee reference as well, and there are others that have been knocked off in recent days or weeks. On today's red we will see a number of proposed references completely knocked off.

That begs the question as to what role this government now envisages for the committee system. Certainly we have seen the role it envisages for the legislation committees—that is, to deal abruptly, inadequately and inconveniently with legislation that comes to this place; get it through; have a committee that preferably does not travel too far or take too many submissions over too long a period of time; and then see what it can do to inconvenience senators who might want to go to more than one committee. I look at you, Madam Acting Deputy President Kirk, and I refer that to Senator Siewert, who I know was feeling a bit angry about this issue today when accused of not attending the radioactive waste committee—never mind the fact that there were a few other committees on at the same time. Minor party senators certainly know better than most that when there are only, say, four of you, it is very difficult to get to every committee reference.

I think we have all seen the way this government wants its legislation committees to work, but how does it want its references committees to work—or does it want them to work? I do not think it wants them to work anymore. I think the government wants to close them down. I do not know about many of the committees that people are on in this place, but it seems to me that the references are drying up and any proposals that are coming from opposition are getting knocked off. The flimsy arguments being used to knock them off are a bit like the one we have just heard in relation to Senator Siewert's reference to the Foreign Affairs, Defence and Trade References Committee on the Australian Wheat Board issue.

I think it is a red flag, people. Perhaps it is something we should be keeping some interesting statistics on and checking on because I think you have seen it now. We have all seen it—the new role of the Senate: we will not do references inquiries; we will do rushed legislation inquiries. We will not do references inquiries, where, of course, the government does not have the numbers or the chair. So maybe we should be envisaging a bit of a change in the composition of those inquiries or those committees. Maybe we should be envisaging that most of the references, if any, are going to come from government. I am wondering what, if anything, they will involve.

We support this motion because it is a good motion. We are not pre-empting the outcome. We think that there are reasonable and legitimate grounds for an inquiry of this sort. The issues that we had some difficulties with in this motion have since been amended, and that is where this motion would have pre-empted the outcome of the Cole commission. It is something that we think is appropriate and we support, albeit arguing now for perhaps expanded terms of reference, particularly in light of today's
revelations. But this is a red flag: no more references inquiries, no more committee inquiries and no investigation into matters that the Senate has a responsibility to investigate. So this is the new curtailed, truncated Australian Senate. This is the new house of review provided we do not do any review. I commend the motion moved by Senator Siewert. She will have our vote, but I cannot say that it is looking too positive for the outcome.

Senator SIEWERT (Western Australia) (5.31 pm)—I wish to make a few comments to wrap up. Senator O’Brien and Senator Stott Despoja were right: I moved this motion on 8 November, which was before the government called its inquiry on 10 November. I left it on the Notice Paper because the government’s inquiry is not satisfactory. It does not fully investigate all the things that need to be investigated in this circumstance.

A very senior ex-government official, who probably would not want me to name him, once said to me—and he used vernacular which is not appropriate in this chamber, so I will try and substitute a word—’If it ever comes to deciding whether something was a stuff-up or a conspiracy, go for the stuff-up.’ Even if I went for the stuff-up in this process, should the government not be deeply concerned that the regulation and the regulatory process have failed? They failed—$US221.7 million flew to the Iraqi regime. That is a failure in regulation. Do the government not want to get this right? Do they not want to see where the process failed? The Cole commission will not do that. It will not look at the government regulators involved. So why do they not want to get it right? Even that question has to be asked: why do they not want to see where the problems are and fix them?

The point was also made that we got a chance in estimates. We did not. In estimates Senator Milne, Senator O’Brien and I were asked to stop questioning because we were told this would come out in any government inquiry. So we only got to ask a limited number of questions to the Wheat Export Authority.

Senator McGauran—it went on for hours.

Senator SIEWERT—I am sorry: I was there. I know what I was told and I was told that this would come out in the inquiry, and it did not. We stopped asking questions. We respected the fact that we were asked to stop asking questions because it would come out in the inquiry. It will not, and that is why we need this Senate inquiry to fully investigate this side of what happened. As I said, let us look at what stuff-ups occurred. Let us try and fix it because we never want this to happen again—I am not even going to speculate on the circumstances in which this could happen again. We want to know why regulation failed. If the WEA processes are not adequate to pick this sort of thing up, it needs to be fixed. If DFAT’s processes are not adequate to fix this up, it needs to be fixed. That is why we need this inquiry, and nothing that I heard from the other side of the chamber convinced me at all that this inquiry is not needed.

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

The Senate divided. [5.39 pm]
(The President—Senator the Hon. Paul Calvert)

Ayes…………… 32
Noes……………. 33
Majority………. 1

AYES

Allison, L.F. Bartlett, A.J.J.
Bishop, T.M. Brown, B.J.
Brown, C.L. Campbell, G.
The role and performance of the Commonwealth Scientific and Industrial Research Organisation (CSIRO) in the light of current Government policy, and the organisation’s attempts at refocusing its research endeavours, taking into account the following:

(a) the evolving role of CSIRO as a public research institution, and the ability of CSIRO to initiate and manage change;

(b) the challenge of commercialisation, enhancement of the CSIRO ‘brand’, and the dilemma of choosing a national or global approach to research development;

(c) intellectual property concerns, including the rewarding of researchers;

(d) managing competition in the research sector, including competition between public research bodies, between the CSIRO and the private research sector, and the obligation of CSIRO to cover the research spectrum; and

(e) management culture within the CSIRO, including its corporate profile, communication performance and community engagement, and its capacity to instil a modern research culture and to recruit and retain research personnel.

On Tuesday, the Employment, Workplace Relations and Education References Committee agreed, with government party senators dissenting, to seek the approval of the Senate to an inquiry into the operation of the CSIRO. The terms of reference have been circulated to all senators and are included in today’s Notice Paper.

There is nothing particularly remarkable about this reference. It follows the familiar course of similar inquiries into the operations of statutory organisations. It will scrutinise, in the usual way, the implementation of government policy and the strategies adopted by CSIRO to attract investment and order its research priorities. It will take a look at how CSIRO appears to be coping with the pressures of change, which a great many organisations are faced with in their quest for effi-
ciency and the culture change necessary to keep any organisation viable. In the case of CSIRO, there is a public interest issue at stake. It is impossible to ignore the political turmoil surrounding CSIRO. Judging from commentary in the media—much of which is critical, even alarmist—it is clear that a wide-ranging inquiry into the role and performance of Australia’s oldest and premier scientific research agency is well overdue.

CSIRO has a long and illustrious history dating back to 1926. The quality of its scientists is renowned. Their work was grounded in the ethos of fearless scientific inquiry. CSIRO has a proud record of service to both the Australian people and major industry sectors such as agriculture. Its main role has been to carry out research which businesses cannot or will not do. Until recently, CSIRO took comfort in being reliably funded by government, which meant it did not have to waste time and resources making money for itself. But how times have changed.

The requirement by government for CSIRO to find a substantial and increasing proportion of its funding from commercial sources has profoundly changed the way it functions. CSIRO operates increasingly in a globally competitive commercial environment. How it responds to the challenge posed by this new reality will largely determine its future. CSIRO’s current focus on projects, which it calls flagships, gives a clear indication of how management is responding to the dual challenge of declining government funding and raising resources from the private sector. Yet concerns have been raised that the flagships are top-down and highly managed projects which are turning the creativity of former years into internally destructive competition between groups forced to cope with instability and decline.

I want to say something about the terms of reference. The strategic direction taken by CSIRO’s management has come under the spotlight in recent years. There is a concern that much of the foundation on which CSIRO’s reputation has been built is now endangered. While CSIRO remains the biggest force in science and innovation in Australia, there are signs it is losing the respect and the traditional network of support that protected it from reforming ministers. Commentators view CSIRO differently now from the way they did a generation ago. At its peak, CSIRO was a national icon that ensured a viable economy sustained by a thriving rural sector. Its capacity to use the talent of its staff allowed a range of public goods—for example, providing high-quality, disinterested scientific advice to the government and to the public, undertaking non-commercial public interest research and educating Australians about science and technology. It is widely believed now that all this has changed; that CSIRO has abandoned its historical role of research for all Australians in favour of becoming an institution that does consultancies for clients.

To be fair, CSIRO has been starved of funds over the past eight or so years, leaving the organisation demoralised and confused, with critical research abandoned. Management has been forced to cut back on the core activities of its research divisions and rely increasingly on commercially generated funds. Between 1996 and 2002, over 1,000 staff left the organisation, with nearly 700 retrenchments over the past three years alone. CSIRO has largely lost its corporate memory as a result of these departures. The trend is set to continue. Over this period there has been a doubling in the number of contracts compared to permanent positions and an increase in the use of cheaper, post-doctoral candidates with a preference for
technical, prescriptive and short-term research projects.

I will make some brief comments also about the core issue underpinning the committee’s terms of reference. Opposition senators are concerned about the role of CSIRO and its strategic direction, which has been the subject of much commentary and speculation in the media. The main issue involves a movement away from CSIRO’s traditional role of public interest research and public service. There is a widely held view that in its bid to increase external earnings, CSIRO researchers seek solutions which have more to do with corporate survival than the public interest. Scientists have expressed concern that more time is spent chasing dollars than doing basic research. The opposition does not want to see CSIRO shift from a powerhouse of public good research towards being just another consulting firm. Yet it appears that the shift has already begun. A focus on short-term commercial funding has created all sorts of problems, not least that it has led to uncertainty in staffing and planning.

The problems afflicting CSIRO are symptoms of a wider crisis inflicted by the government on the public sector research and educational institutions. Damage has been caused by shrinking Commonwealth funding, forcing institutions like CSIRO to rely on private sources of income through research and consultancies. CSIRO’s overemphasis on commercialisation is only one of a number of problems which seem to plague the organisation, including: a reliance on consultants, often with doubts about tendering processes; a failure to respond to the strategic needs of industry, especially in manufacturing; a reliance on a number of narrowly based flagship programs; and a decline in staff morale as a result of asset stripping and over 1,000 job losses, especially in regional areas. These issues need to be brought out into the open.

While commercialisation of some of its operations and research functions is regarded as desirable, CSIRO remains dependent for much of its functioning on parliamentary appropriations. The government has allocated $1.8 billion over the next three years, with an additional $305 million for its flagship programs. While some glimpses of CSIRO operations and expenditure may be gleaned from an examination of the estimates, the committee takes the view that a more considered and systematic inquiry into the organisation is warranted. It will be only the second inquiry into the CSIRO by a Senate committee. The last was in 1994 when the Senate Economics References Committee looked at the CSIRO’s administration and funding of rural research.

I have to say that I do not know the reasons for the government’s opposition to this reference. When the matter was briefly discussed at our Tuesday meeting, I did not press the deputy chair, Senator Troeth, for the reasons why the government party room rejected the idea. Normally, you would expect some discussion about these things at such a meeting. When I advised the committee that the proposed terms of reference were in fact negotiable in the usual way and that those which were unpalatable to the government could perhaps be reworded or even dispensed with, the answer we received indicated that no terms of reference would be acceptable. I wonder what government members will say in this debate. Perhaps we will learn something today that we could not find out at our committee meeting. The absence of soundly based information must inevitably lead to speculation. The most obvious thought that comes to mind is that Minister Nelson does not want a committee trampling around his patch; that he has plans for CSIRO and they may be obstructed by the light shed on CSIRO’s current operations by a Senate inquiry.
The central issue here is that, in opposing this reference, government party senators are repudiating the notion of the Senate as a house whose purpose is to scrutinise the operations of government. If the CSIRO is to be broken up and its funding distributed around the leading research universities or other research institutions then the issue should be widely debated through the parliamentary process. This goes to the core of our purpose for being here. We are paid to do this. It is not for the government alone to determine what is in the public interest.

As I noted, large amounts of public money are spent on the CSIRO. The Senate has an obligation and a responsibility to regularly scrutinise the expenditure of large sums of money and to ensure that government policy is appropriately implemented by the CSIRO. It is an inquiry that is clearly worth doing. It has significant merit. I have gone through many of those issues today in my contribution, but I am concerned that the government will simply vote against this without articulating any genuine or concerned reason why such a reference is not palatable to the government. I note that last time the committee of which I am chair—I am also deputy chair of the legislation committee—put up a reference which the government was opposing, the government did not engage in the debate at all. In fact, it simply gagged the debate before it put on the public record the reasons for opposing that reference.

I sincerely hope that the government does not intend to simply gag this debate also. It is worthy of serious debate. If there are genuine reasons why the government does not want to proceed based on the terms of reference that I have proposed, again I invite it to discuss those concerns with me or the shadow minister—or in fact any member of the opposition or the minor parties—and we may be able to negotiate appropriate terms of reference that also accommodate some of the concerns that the government have. I make that offer again very sincerely.

I will listen with interest to the government response about why they feel they cannot proceed with this inquiry. I hope they do not simply gag the debate. I hope they have more respect for Senate processes and debate this out fully and frankly and put their concerns on the public record. In time, if they do that, we may in fact find ourselves next year back in the chamber with agreed terms of reference to enable us to conduct a very worthwhile inquiry into this very worthy organisation.

Generally, in my experience in my just under four years in this place, in every instance where the Senate has conducted such an inquiry it has been a worthwhile inquiry. While not every member of the committee has agreed on every aspect, I think the fact that there is scrutiny of such an organisation and that recommendations will come out of it can only go to assisting the public good. Such an inquiry can only go to assisting the scrutiny of such an organisation. That scrutiny in itself will assist CSIRO to focus on the problems and the challenges that lie ahead for it as an organisation. I cannot for the life of me—and certainly no reasons have been presented to me by the government—find what the government possibly has to hide. What could CSIRO possibly have to hide not to make this a worthy inquiry by the Senate Employment, Workplace Relations and Education References Committee?

Senator TROETH (Victoria) (5.56 pm)—The government, in relation to CSIRO’s performance, as Senator Marshall well knows, has absolutely nothing to hide. The government believes that anything that the opposition would want to know about the achievements and performance of CSIRO can be achieved through the estimates proceedings.
Senator Marshall would know very well that CSIRO ranks in the top one per cent of world scientific institutions in 12 of 22 research fields. It transfers knowledge through over 4,000 scientific publications, over 8,000 client reports and around 240 media releases. CSIRO is Australia’s leading patenting enterprise, holding over 3,900 granted or pending patents. It produced 4,121 publications in 2004, up from 3,946 in the year 2003. It is the largest single participant in the cooperative research centre program and participates in 49 of the 69 centres. That is as at June 2005.

Worldwide, CSIRO is involved in over 750 current or recently completed research activities, working with leading scientific organisations in the US, Japan, Europe and Asia. It offers more than 50 specialised technical and analytical services and, as an organisation that has been in existence for a very long time, as Senator Marshall detailed, you would expect that those services would be offered to clients in an effort to maximise the intellectual potential that has been built up in the CSIRO. It hosts three major national research facilities—including the Australian Animal Health Laboratory at Geelong, which I have visited and which I consider to be an outstanding facility—and over 30 other research facilities, such as the CSIRO Discovery Centre, which is frequented by students of all ages.

That brings me to another point which Senator Marshall would well know. In terms of public good, as well as the services it provides to clients, CSIRO is outstanding. For instance, CSIRO education involves over 700,000 students, parents and teachers each year in activities that encourage appreciation of science. It jointly produces the Totally Wild science program, which reaches an audience of 400,000 each week.

It has an internationally and highly regarded brand and reputation, and the association of that brand with high quality science could not be more apparent, for example, than in the case of the CSIRO total wellbeing diet, which has sold more than 300,000 copies in Australia and over 50,000 copies overseas. This is an example of an organisation that is participating in public good. At a time when we are all very concerned about national eating habits and the increasing obesity of the Australian population, this is a very good example of a scientific research institution putting out something for the public good. So I think we can say that that has been well and truly dealt with.

Senator Marshall knows as well as I do that the extensive questioning—for something like an hour and a half—in the last round of estimates hearings means that many of these questions can be brought out in the public arena and pursued at future estimates proceedings. As a government, we have increased the funding over successive years from $500.3 million in 1999-2000 to $568.6 million in 2003-04. As Senator Marshall talked about a series of reforming ministers, I point out to him that we would not want a reforming minister like Kim Beazley, who demonstrated his lack of support for science when, as finance minister in 1995, he cut $20 million per annum from CSIRO’s base funding. That was restored by the coalition in 1996. CSIRO is an institution that the government regards highly. There is always room for improvement, and we will bring that out through increases to the funding, which will enable the facility itself to make further improvements to the way in which it runs things. The government does not support this reference and sees no need for it.

With regard to the references program being cut out completely, as Senator Stott Despoja detailed in her earlier speech, Senator Marshall knows very well that there is an
other reference on the Notice Paper to which the coalition has agreed. We talked together about suitable forms of reference and ultimately came up with a reference which was suitable to both. Of course the government regards the reference activities of the committees as very important. That is why we agreed on that one. We do not agree with this one and that is the reason we are opposing it.

Senator BARTLETT (Queensland) (6.02 pm)—We have a motion before us from Senator Marshall in his capacity as chair of the Senate Employment, Workplace Relations and Education References Committee. It seeks to inquire into the role and performance of the Commonwealth Science and Industrial Research Organisation, including the organisation’s attempts at refocusing its research endeavours. Given the desirability of having a clear outcome on this committee referral and another that is before us, I will try to address both referrals to save time and to be cooperative, facilitative and all of those things, as many of my comments will relate to both.

I am not a member of this particular committee. The Democrat member on it is Senator Andrew Murray, so I cannot speak for him in terms of his participation in any relevant meetings with regard to this reference. But I was interested to hear the government representative’s justification for not looking into this matter. It sounded to me like a very defensive reasoning, which was basically: ‘CSIRO is great. It is doing fabulous things so what do we need to inquire into it for?’ I think that is a pretty reasonable shorthand summary of what Senator Troeth said. I do not dispute that CSIRO is doing a lot of good things, but I also hope no-one in this chamber would dispute that it is an unbelievably important organisation in so many ways. In many ways, in the role it can play in the future, it is more important than ever.

We all know how important the issue of research is. Public research institutions, and the role they play, are changing and there is a lot of debate about that. Some of that debate is political and partisan but a lot of it is not. A lot of that debate is genuine casting around for how the role of public research institutions such as CSIRO can be made as effective as possible. I really cannot see why it would not be beneficial to the community as a whole and to the public good for this inquiry to go ahead. If another inquiry was under way, if a House of Representatives inquiry had just happened or if there were some other mechanism doing this sort of job then those things would be fair enough explanations. But to just say, ‘You can ask the questions you want in estimates,’ is inadequate and also less than encouraging when I continue to read comments by the Leader of the Government in the Senate musing aloud about curtailing the role of estimates in various ways.

So, on the face of it, I certainly cannot see any reason why this would not be a valuable inquiry. The Democrats, because we are few in numbers and, sadly, at the moment fewer in numbers than we have been for quite a while, find it very hard to fully participate as much as we would like in all of the inquiries. So I cannot guarantee that we would be able to participate as comprehensively as we would like in this inquiry, but we certainly do not see any reason not to support it going ahead. It is an issue that is of value and interest to people across the political spectrum. It is not predominantly a partisan issue and it is one that the committee process would benefit from.

I also think it is important to emphasise the broader picture of what has happened with the Senate, Senate references committees and Senate inquiries since July when the government got control of the Senate. The Prime Minister, when he discovered that he
had the narrowest of majorities required to control the Senate after the last election, pledged that he would use his new found power responsibly and that the Senate would still be able to perform its valuable role of scrutiny and review.

I will not rerun the arguments we have had in other contexts in the last week or two about how that promise has clearly been more honoured in the breach than in its keeping. But while there has been a lot of tension about the inadequate inquiries into some of the major pieces of legislation, what perhaps has slipped beneath the radar somewhat is the fairly continual number of examples where Senate inquiries have been prevented from occurring, and that is the other side of the Senate committee role. One is to look properly at legislation and scrutinise it adequately. Clearly, that role has been severely curtailed in a number of cases. The broader Senate references inquiries have also been curtailed far more regularly than occurred in the past.

I am not going to stand here and say that every single Senate committee inquiry for the last 20 years has been immensely valuable and of great worth. Clearly, there have been some inquiries that the world could have survived without, but the vast majority have made a valuable contribution. Even those that have had partisan components to them and have had separate reports from different party perspectives have still served valuable purposes and performed a valuable role. If there was one area in which I would say things have fallen down, it has been at the government’s end in responding and treating seriously the work of Senate committee inquiries, including ones that produce unanimous reports.

That curtailment of the role of Senate committees is of serious concern. If we look at the number of referrals to Senate committees by members of non-government parties in the first half of this year, a period when we had far fewer sitting days than what we have had in the second half of the year, we see that 11 referrals were agreed to and six were negatived. On top of that, six other referrals to other Senate and joint committees were agreed to and two were negatived. I concede that a couple of those were references to the Privileges Committee and the Procedure Committee and one of them was to refer a bill, so those were a bit more procedural than normal. I should also say that one of those referrals that was opposed was an attempt of mine to refer a bill. That referral was ruthlessly and callously opposed by the Labor Party, which did not allow that bill to be examined by a committee.

Even taking those legislative and procedural matters out of the count, there were 13 committee reference motions that were agreed to and adopted by the Senate and seven that were knocked back, almost all of which were put up by the Greens. I am not sure what that says; it is just a fact. They include matters such as industrial agreement making, the impact of toxic dust in the workplace, the operation of the Migration Act, the Vivien Solon and Chen Yonglin cases, the Anzac Cove road works, the impact of salinity, the operation of the wine industry, the telecommunications regulatory regime, duties of Australian personnel in Iraq, services and treatment for cancer sufferers, ADF Air Force issues, governance for Indian Ocean territories and the mental health select committee.

I cannot see any of those that one would say was a waste of time or not of value. Many of them are still going. Some of them are not. There were a few that were fairly partisan and heated. The Anzac Cove one springs to mind but, as a participant in that inquiry, I cannot see how anyone could say that was not of value and did not relate to an...
issue that was of genuine concern to the Australian people and remains so. The industrial agreement making inquiry was one that people had preconceived views about but, again, I would suggest that it produced very valuable information about how agreement making had been operating to date. It was particularly valuable given what then occurred with the government’s proposals around the restructuring of workplace agreements.

The point I am making is that, in the first part of this year, the Senate agreed to 13 different motions from non-government senators to establish inquiries into substantive broader policy issues or references and negatived seven, which shows that it is quite possible to have a view that an inquiry is not desirable at a particular point in time or that there are valid reasons for knocking it back. If you look at what has happened since July, you will see that we have had only six referrals agreed to, counting two that were agreed to today, I might say, and 12 knocked back—extraordinarily including one referral to the Privileges Committee. We have gone from 13 yeses and seven noes in the first half of the year to six yeses and 12 noes in the second half of the year. I think that is a pretty stark statistic reflecting the significant reversal that has occurred.

I am not saying that all 12 of those were highly valuable inquiries that were outrageously knocked back, but some of them certainly were valuable. I have included in that statistic the manufacturing inquiry that has yet to be knocked back but that I gather is about to be. At this stage, the motion to examine the Commonwealth-State Disability Agreement is also likely to be knocked back, so there is a bit of an assumption there that they will be knocked back. The reality behind that statistic is quite clear. It is also worth considering, in looking at the consequences of that, that the Senate Rural and Regional Affairs and Transport References Committees is working fine, in contrast to the unsuccessful nature of the Greens’ motion. The Greens-chaired Senate rural and regional affairs committee has been quite successful in constructively getting together a couple of references in the last couple of months. Aside from the fantastic symbiotic working relationship between Senator Siewert and her deputy chair, Senator Hefernan—who are obviously kindred spirits in every way—we have different circumstances in some of the other committees.

For example, when the Senate Legal and Constitutional References Committee finishes its inquiry into the Migration Act in a week or two, it will have no references at all over the break. In effect, the Senate Foreign Affairs, Defence and Trade References Committee will have a new inquiry into naval ship building. The Senate Finance and Public Administration References Committee will have no references at all. The Senate Economics References Committee will have no references at all if the motion from the chair of that committee that is up next is knocked back, as I understand is going to be the case. The Senate Employment and Workplace Relations References Committee will have the one reference that was agreed to an hour or two ago but will not have this second reference. It is quite feasible for a committee to cope with more than one issue at a time. The committees I have been on in the past have had two or three inquiries running at any one time. The Senate Community Affairs References Committee has the toxic dust and the petrol sniffing inquiries, both of which are scheduled to wind up in March.

One could say that there is a fairly light workload for those committees, and I do not believe that that is a good circumstance. I think it leaves some of those committees open to unfair but easy attacks from some who might want to run stories or suggest stories that committee chairs are getting paid,
whatever it is extra they are paid, without actually doing any work and that we have committee secretariats that are not having significant workloads to deal with. I think those sorts of stories are quite easy to run without having to put the reason behind the workload—which is that consistent attempts to have matters examined have been knocked back by the government. That is, I believe, a worrying development. I would not over-dramatise it and say that it is at a stage where it is critical, but it is moving in that direction. I think it is already far enough down that road to recognise some warning signs and to redress that problem.

I cannot see why the reference of this matter regarding the CSIRO and—in speaking to the next motion—the reference of the matter referred to in the next motion and the motion regarding the disability agreement, which has been postponed, would not be valuable contributions to the public debate. Senate committees are a lot more than just chances for senators to push our wheelbarrows and pet theories and have a few staged photo opportunities; they are valuable opportunities for the committee to contribute and to pull together information about important public policy issues and to point people in some possible directions for the future.

All of us know that whether or not an inquiry is valuable is not, by and large, going to come down to what is in the terms of reference. The general direction and the issues to be covered are important, but the fact is that, if there is a genuine desire by all parties to enable a range of information to be presented, to enable all views to be put forward and to ensure that there is a genuinely informative and fact-based report at the end of it all, you will get a good inquiry. And whether or not there are quibbles over one or two lines in the terms of reference is not going to matter at the end of the day if the committee is prepared to work together constructively.

So, if there are problems with particular parts of the terms of reference, that can be addressed. If there are problems with other parallel inquiries already happening, that should be stated. But to just say, ‘The CSIRO is doing great and we don’t need to look at it and if you have any questions ask them at estimates,’ is not sufficient. If you look at some of the other reasons that have been put forward for negating some of the inquiries that have been knocked back by the government, I think they have been just as flimsy. It basically boils down to issues the government does not want examined.

Clearly, the government did not want the Australian Wheat Board issue examined. That was unacceptable, I believe, but understandable from the point of view of the government trying to protect its political backside. Frankly, I cannot see the motivation with the CSIRO reference. I am sure there are some political points that can be scored there but it is not a matter where the government has a raging bushfire running up its backside at the moment and it has to try to cover it. Nor is the matter referred to in the next motion—that is, an inquiry into barriers to the deployment of competitive manufacturing technologies. There is no raging bushfire there that the government has to protect its political neck over. Unless there is one it knows will be lit if it is examined, I really cannot see any justification for knocking back some of these inquiries.

It is becoming extremely serious. It is a more low-key but nonetheless very clear-cut example of the government’s use of its Senate majority to prevent the exercise of the Senate’s responsibilities to examine important public policy issues. If you have in the space of the first half of the year, 13 positive references and seven negatives and then there is a turnaround to six positives and 12 negatives, that is a pretty stark statistic that sends a dangerous message, which I believe
raise genuine and serious concerns and needs to be reversed as soon as possible.

Senator CARR (Victoria) (6.19 pm)—I support the recommendation of the Senate Employment, Workplace Relations and Education References Committee to undertake an inquiry into the role and performance of the CSIRO. I have looked at the terms of reference. There is nothing particularly exceptional or revolutionary here. There is nothing that should worry anybody who actually knows anything about the CSIRO or has any genuine due regard for the CSIRO—unless this government has plans afoot to dismantle the CSIRO.

What really troubles me about the puerile and facile comments made by the Chair of the Senate Employment, Workplace Relations and Education Legislation Committee, Senator Troeth, is just how little she appreciates the value of the CSIRO. She lists off all the statistics as if some sort of PR machine has ground into action in the minister’s office, but the fact is that the CSIRO is one of the world’s leading public research agencies. If we were serious about defending that, we would want the public to know what work is being done there and what the dangers are.

This is not just a case of letting the government do whatever it likes; this is an important issue which warrants serious public evaluation and public debate. This is one of the major organisations in this country when it comes to our innovation regime. This is one of the most fundamental organisations to ensuring this country’s future. But what does the government do? It runs away from a simple inquiry about what is actually going on in the CSIRO. The most facile defence is that you can ask questions at Senate estimates. I can tell the Senate—if they are not already aware—that I have done that for a few years now.

Senator Troeth—Yes, we know.
that I feel as if the answers that I have been given over a number of years have been misleading. The question arises as to whether or not there has been a case of deliberate misleading, because we now know that for the future there is no guarantee of the quality and the range of research that the CSIRO is able to undertake. What we have seen is a succession of externally imposed financial targets, and an attempt being made by the management of CSIRO to meet those targets which has failed abysmally.

For the past six months, we have seen the minister for education flying kites about the future of CSIRO. We have seen the minister actually seeking to raise the question of whether or not the CSIRO will continue to exist as an independent research organisation. He has proposed that the CSIRO—this is the way I read his comments—should be broken up. That is the pattern that was followed in New Zealand. That is exactly the pattern that was followed there. The privatisation of the New Zealand equivalent of the CSIRO occurred under a conservative government and it has meant that the New Zealand equivalent of the CSIRO has effectively struggled ever since. That organisation is not able to fulfil its charter obligations.

Proposals are now being floated in this country that similar action should be taken here. It is not just a question of people on this side of the chamber expressing concern. I can tell you that if you were to scratch the surface you would find woolgrowers, other people in agriculture and manufacturers all over the country who are very, very concerned about the directions that are being pursued by this government. I ask you this: how do you reckon we got the information about what was going on if people were not genuinely concerned about what is happening under this government?

Since the recruitment of the current management of the CSIRO, a series of external researches into the public and political perceptions of the CSIRO has been commissioned by the management. As I say, one of those documents came our way and we canvassed it at the Senate committee. It showed stunning results about what was occurring within the government in terms of its attitude to the CSIRO. The research confirmed that, while the CSIRO was regarded very highly in terms of public esteem, within the cabinet room the CSIRO did not have that same level of support. The CSIRO was actively disliked by influential coalition politicians, who were sympathetic to the proposals to break it up and privatise it.

These are internal documents which were tabled at the Senate estimates committee. They have never been refuted, and their accuracy has never been denied. They highlight the attitude of the government in regard to the strategies they have been pursuing towards the CSIRO.

It seems that, in response, the management of the CSIRO sought to undertake a series of political actions to try to placate the coalition government, by being more committed to the government’s ideological agenda than even, I suggest, the government itself. These are, of course, the new leadership principles being pursued within the CSIRO. What worries me is that that has led to what is effectively a crisis within the organisation. I know that is a much overused word, but I do believe there is a case to be argued that there is a crisis within the CSIRO.

Firstly, let me argue the point in regard to the inappropriate business model that is being pursued by the management of the CSIRO and by this government. Revenue raising has become more important than the uses to which the revenue itself is being put.
The business model has been elevated so that the non-research activities of CSIRO have become more important than its research based operations.

A perception has spread throughout the organisation that revenue generation is more important than basic research. It is a business model which has been premised on an exponential growth in non-appropriation revenue—a goal which simply has not been able to be met and which could not be met. That point was made over a number of years.

We now have a situation where the CSIRO, which used to have a healthy balance sheet, is negotiating with Treasury for a deficit this year—a deficit which I understand to be in the order of $17.3 million for 2005 and 2006. You have to ask yourself how that $17 million proposition came about. I say to you that there has been an attempt by senior executives in the CSIRO to appease the coalition.

It has been claimed that the budget would reach $1.3 billion dollars and that 60 per cent—60 per cent of $1.3 billion—would come from non-appropriation resources. The original figure of $1.3 billion has been replaced with a reduced target. But even then management is falling short of its targets. Scientific programs have been compromised in the rush towards commercialisation—and the most crude form of commercialisation, I might say. The budgets of research divisions have been cut, and research programs have been abandoned. We had the unedifying spectacle recently of another internal memo detailing the downgrading of a series of research areas. Long-term scientific research is being compromised by short-term commercial considerations.

Staff numbers are under threat as a result of the failure to raise the projections in regard to the external revenue. Despite the fact that the government has officially abandoned external revenue targets, they are still applied internally within the CSIRO. What an extraordinary proposition. We have a situation where Robin Batterham, who was a very strong advocate for the CSIRO securing triennial funding, was able to do an internal review which highlighted the deficiencies within the organisation. The government held up triennial funding for three years in a bid to force the CSIRO to its will.

We now have a situation where a series of research positions across the organisation are being offered increasingly on a short-term contract basis. So the level of job security is falling off, and the level of confidence that staff are able to enjoy has fallen off accordingly. All of this can be demonstrated by the internal CSIRO documents.

The only area where there is substantial growth is in the Business Development and Commercialisation units. Basic research scientists feel as if their work is not valued. Some $15 million is now spent on staff costs—an increase of some $10 million over the past four years. That goes directly to those business development units. It is an indictment of the management style that has led to that situation. More money is being invested in business development and there is effectively a reduction in terms of priorities for basic research.

The next thing I want to talk about—something directly affected by the things I have mentioned—is staff morale. CSIRO executives may well try to fudge all the different staff surveys, but the fact remains that all the surveys reveal that staff remain cynical about the strategies that are being adopted by the CSIRO, they remain unconvinced that the current leadership of the CSIRO can deliver results and they believe that standards have actually fallen. These are not just schoolboys and schoolgirls; these are our leading scientists. They are standing up
inside the CSIRO and telling it as it is. Who wants to listen to them? Certainly not this government.

There is a widespread belief that commercialisation has resulted in some senior staff adopting the high lifestyle of the private sector in terms of management and the way in which they run the CSIRO. Concerns are justified about the role and performance of CSIRO. It concerns me that CSIRO executive management seem to have mortgaged CSIRO’s future to the success of their flagships program. The flagships program was designed to cement additional funding from the government. It is true that CSIRO has received additional funding for the flagships program, but it has all come with strings attached. CSIRO has been reallocated $710 million of appropriation funding to the flagships program over seven years. Has this target announced by the Prime Minister been reached during the first two years?

Now, since things are doing so well, the management has had to launch yet another review of how these programs are working. In the final three years of the flagships funding, a total of $165 million is subject to review. We have a situation where CSIRO’s main targets, laid down by the Prime Minister, have not been met. The impact is that CSIRO research has now been placed in a situation where, if that money is withdrawn, basic research targets will be further endangered. There is a serious undermining of the way in which CSIRO has traditionally been able to meet its social and civic obligations to the Australian people. The bulk of CSIRO’s research programs remain outside the flagships, but the opportunities for scientists to collaborate across divisions have been made more difficult as a result of the flagships processes.

It is somewhat ironic that the current management came to office on the basis that they were going to build one CSIRO. That was the mantra of the new management. In fact, what has occurred is a reinforcement of the research silos and exactly opposite to what the policy objectives were at the time.

We have seen a series of shonky arrangements entered into with regard to consultancies. I point to the infamous case of Ian Dean as an example, whereby 18 or 19 individual consultancy contracts were let—a total of some $750,000—and undertaken without tender. Ian Dean was a close personal friend of senior management and was not even on a short list of so-called expert panels. As a result, serious concerns are being expressed within the CSIRO about due probity on those arrangements. Serious issues have been raised about the appointment of the Director of Communications as well as the rapid growth in the number of very senior administrative positions.

Failures in management are highlighted and epitomised by the failure to develop the CSIRO’s web site—a $14 billion project—which is several years overdue.

Senator Stephens—It has just come on.

Senator CARR—Senator Stephens reminds me, and I saw an item in the press just this week, that they have only just switched it on. This is not what you would call evidence that points to confidence in the current management arrangements at the CSIRO.

If there is a strong belief in the positions that are being put about the importance of CSIRO, then an inquiry is an opportunity to get to the bottom of some of these problems. It provides an opportunity for us to defend public research and the importance of the CSIRO in an environment where it would appear that CSIRO’s basic core functions are being placed under stress as a result of government policies.

I am troubled that this government feels that it can behave in such a high-handed
manner. Its proposition is, ‘Go along and ask whatever you like at the Senate estimates committees’—when clearly the situation warrants something much more serious than a series of questions at Senate estimates, no matter how long they took—whereby the department take on notice anything they do not like, they choose to answer when it suits them, the answers are so heavily vetted that they become meaningless and serious questions can of course be put off and not addressed.

Australians have a right to get value for money out of this incredibly important national icon. This inquiry is an opportunity to allow Australians to see what is actually going on. This is an opportunity, as I say, to get to the bottom of what are some pretty fundamental problems emerging within the CSIRO. These are not problems that have been created by the CSIRO; these are problems that have arisen from a government policy which essentially has been predicated on hostility towards the CSIRO. Former senator Richard Alston, for instance, made it perfectly clear what he thought of the CSIRO, and his attitudes have lived on within this government to the point now where the major research universities are being lined up to carve up the CSIRO. This is not a response that this country can afford. The CSIRO is far too important an organisation to be allowed to go the way of the New Zealand scientific research organisation.

Senator STEPHENS (New South Wales) (6.38 pm)—I too rise to speak in support of Senator Marshall’s motion that this matter, the role and performance of the CSIRO, be referred to the Senate Employment, Workplace Relations and Education References Committee for inquiry and report by June next year. I do so as the shadow parliamentary secretary for science and water, and as someone who not only recognises the importance of the CSIRO and its international reputation as a research centre of excellence but also recognises that what has been going on in the CSIRO for the last several months is undermining public confidence in that institution.

We have heard a lot from the speakers this afternoon about the concerns that are being raised both within and outside the CSIRO—concerns about changes in its strategic direction and concerns that the work of the CSIRO in addressing the issues of public good and public interest research is being undermined to the extent that the CSIRO is now being used as just another consultancy firm. I waited for Senator Troeth, as the Chair of the Senate Employment, Workplace Relations and Education Legislation Committee, to give us a reasonable explanation of why these terms of reference were not acceptable to the government. I was very disappointed by what she had to say, because it was a very flippant response—that there was nothing to hide, and anything we wanted to know could be found out through the estimates process. I think if Senator Troeth had closely read the terms of reference proposed she would see that they seek to address serious public policy issues and that there are things there that actually do not come under the remit of Senate estimates.

It is of great concern to me that we could be looking at the government only accepting terms of reference for inquiries that suited the government’s interests and certainly did not address what I would see as the public interest, the public good. As Senator Bartlett pointed out in his interesting statistics—I was very pleased that he made the effort to make those calculations; I appreciated that, Senator Bartlett—the fact that we have completely reversed the picture over six months and now have only six references that were approved by the government and 12 references that were refused by the government is just another step in the process of silencing
dissenting voices. It is about denying those people a voice and denying them the opportunity to articulate the things that they are worried about in a whole range of Senate inquiries. It also undermines the work of the senators themselves and the way in which they engage with the electorate and with peak organisations right across the eight Senate references committees, so it is very disturbing.

Even more disturbing were some comments that Senator McGauran made in the previous debate, on Senator Siewert’s motion on a reference to a committee. He said, and the Hansard will prove me correct, that the government was not about indulging the opposition—as if that is the reason why references are proposed in this place. He said the government was not prepared to allow a ‘fishing expedition’ and was not prepared to ‘indulge the opposition’ in what are politically motivated inquiries. Yet that does this place a huge disservice. We know that both the inquiries that have been proposed—and the next one, which is under my name and is not being accepted by the government—are really about pursuing future public policy and future public policy issues.

Mr Acting Deputy President, I am not sure if you have ever read a book called The Clock of the Long Now—Time and Responsibility. It is written by a fellow called Stewart Brand and in it he quotes mathematician and physicist Freeman Dyson, who says:

The destiny of our species is shaped by the imperatives of survival on six different time scales. To survive means to compete successfully on all six time scales. But the unit of survival is different on all six time scales.

On a time scale of years, the unit is the individual. On a time scale of decades, the unit is the family. On a time scale of centuries, the unit is the tribe or the nation.

On a time scale of millennia, the unit is the culture.

On a time scale of tens of millennia, the unit is the species.

On a time scale of eons, the unit is the whole web of life on our planet.

Every human being is the product of adaptation to the demands of all six time scales. This is why conflicting loyalties are deep in our nature. In order to survive, we have needed to be loyal to ourselves, to our families, to our tribes, to our cultures, to our species and to our planet. If our psychological impulses are complicated, it is because they were shaped by complicated and conflicting demands.

Surely that relates so clearly to the work at the CSIRO and the extent to which we draw on the CSIRO and its exemplary work over past decades to enhance our understanding of our world.

Senator Carr raised the issue of what is going on in terms of public administration within the CSIRO. I want to reflect on some of the information that is now in the public domain and the concerns that has raised for me. We know that the CSIRO reported in its 2004-05 annual report a 73 per cent increase in its deficit, from $5.3 million to $9.2 million. For the current financial year the CSIRO has been given permission to operate with a deficit, as Senator Carr reminded us, of $17.3 million. Before the last two financial years the CSIRO had run a surplus for the previous four years to the tune of $10 million. The chief financial officer did not believe that this was a major deficit, but we can certainly beg to differ.

At a supplementary estimates hearing the minister revealed that he had not been made aware of the latest financial situation prior to the release of the annual report. I find that a staggering admission and something very difficult to believe. At the same time, Senator Carr reminded us that the number of senior executives earning salaries above $300,000
doubled in the 2003-04 financial year, and now senior executive salaries are upwards of $10 million a year. As Senator Carr said, it is the corporatisation of a public institution that is leading to some very disturbing issues and a distressed organisation. We know from previous comments from Senator Marshall that there have been 1,000 job losses and 700 redundancies from the CSIRO. The intellectual capacity and the intellectual provenance that has gone from the CSIRO through this process is quite extraordinary.

We know, for example, that highly talented and reputable scientists—such as climate change scientist Dr Graham Pearman, wildlife ecologist Dr Jeff Short and feral pest control scientist Dr Roger Pech—have recently been dismissed, and that is despite the CSIRO asserting that they have increased the proportion of their budget that goes directly to science. Now we know, again through a leaked report, that the CSIRO has flagged a significant shift in its research priorities away from crop and livestock and renewable energy. This is of great concern to us, and the investigation that would have occurred through a reference to the committee would have given people a lot of confidence about the future of the CSIRO. It would have actually made a difference; it would have allowed us to consider how the CSIRO can be empowered to maintain its reputation internationally and to continue to lead internationally in the areas of science and innovation.

As Senator Marshall said, the CSIRO is a national icon. It depends on the capacity of its staff. It has done amazing public good. It has maintained its reputation for public interest research in the past and it should not be just another consultancy firm. Senator Troeth reminded us today that the CSIRO has actually produced 8,000 client reports, which just goes to show the extent to which the pressure is being placed on researchers at the CSIRO to pursue that consultancy role. The loss in all of that is public interest and public good. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**DOCUMENTS**

**The ACTING DEPUTY PRESIDENT (Senator Ferguson)**—Order! It being 6.50 pm, the Senate will proceed to the consideration of government documents.

**Commonwealth Ombudsman: Report 001/2005**

**Senator BARTLETT** (Queensland) (6.52 pm)—I move:

That the Senate take note of the document.

This document is the first of the documents that have been produced by the Commonwealth Ombudsman as assessments of detention arrangements for people who have been in detention for more than two years, some of whom had been in detention for much longer than that. The Prime Minister announced that the Commonwealth Ombudsman would be tasked with conducting reports into each individual case.

This particular report, report No. 1, the first one under the new section 486O of the Migration Act, concerns a 36-year-old man from Iran who arrived in Australia in June 2000. He was in immigration detention at Curtin, Port Hedland and Baxter through to the middle of this year. He was admitted to the Glenside psychiatric hospital in Adelaide in July of this year and was released on a removal pending visa in August 2005. As the minister notes in a separately tabled document, that person was granted a removal pending visa and he departed voluntarily.
from Australia on 23 August 2005. I guess in that sense that case was resolved before the Ombudsman’s report was tabled. I would note a couple of other extra things, though. The Ombudsman’s report is dated 12 October 2005 and yet it was only made public and tabled yesterday, 6 December. That certainly gives me some pause for thought as to why it would take that long for it to be made public.

The second document is likewise dated 12 October. The point does need to be made that, whilst the person in this case has now voluntarily left Australia—it does not say where to, and I guess that is not particularly an issue—once all the legal processes had been gathered, this person, for the non-offence of seeking protection, was basically jailed for five years. Towards the end of that period he was sufficiently unhealthy, almost certainly as a direct consequence, that he had to be admitted to the Glenside psychiatric hospital in Adelaide. The Ombudsman’s report details the hospitalisation requirements. He spent 32 days at Glenside and was also hospitalised in earlier periods. He suffered from severe major depression with some elements of post-traumatic stress disorder and was at risk of suicide if returned to detention. Other medical issues are detailed that I will not go through. This document does not have any identifying details, so there are no privacy issues.

I think the detail in the Ombudsman’s report clearly shows that the time in detention was a significant factor in the impact on the health of this person detailed as Mr X. I guess we did not need an Ombudsman’s report to tell us that, but, again, I think that each time these are tabled we should think why that sort of damage needs to be done to somebody purely because they are seeking protection. I believe that we need to do more to ensure that that sort of situation, a five-year imprisonment, does not occur in the future for people purely for seeking protection.

Question agreed to.

**Commonwealth Ombudsman: Report 002/2005**

**Senator BARTLETT** (Queensland) (6.57 pm)—I move:

That the Senate take note of the document.

I think, given what all of these people have been through, it is appropriate where possible to draw attention to each of their individual experiences. In this case, the person is a single man aged around 24 from the republic of Afghanistan. He arrived in Australia in December 2000 and was detained at Woomera and Baxter detention centres until 2005—again, that is a period of nearly five years in jail, in immigration detention.

What is even more concerning in regard to this case is that it has now been established, or the current operational fact is, that this person is assessed as being an Afghan national, a Shiah Muslim of Hazara ethnicity. Clearly he is one of the people who were suspected of not being a genuine Afghan and being possibly a Pakistani. This was given great play a few years ago by the immigration minister, who regularly inferred through public statements in a range of forums and through the media that a huge number of fake Afghans who were really Pakistanis were coming in and rorting the system and that we had to crack down on this. Allegedly there was a huge concern amongst the Afghan community of Australia that a lot of fake Afghans were pretending for the sake of getting a protection visa.

It is bad enough that somebody is wrongly accused of being from a nation that they are not from but when the consequence of that wrongful accusation is continual imprisonment, year after year, it becomes very serious. It is another reason why the general
principle of opposing people being jailed without trial, without charge and without serious concerns for community safety should be upheld and fought for in all circumstances, whether it is immigration law, the Crimes Act, security laws, ASIO laws or whatever. Once it becomes acceptable, as it clearly has in the immigration area, for it to be done to one group of people when there is uncertainty or suspicion, then it can very easily be applied in other areas.

More concerning is that this person has now been recognised as a citizen of Afghanistan. He has brothers and sisters living in Afghanistan. His nationality has been verified by the government of Afghanistan, and he was recognised as a citizen of Afghanistan in July this year. That is a good thing and, as the minister has now advised in a separately tabled statement, this person has now been granted a temporary protection visa. That is good: he has now got a temporary protection visa. He is out in the community. He can get on with starting to rebuild his life. He still has the problem of his visa only being temporary. He still has that uncertainty for his future. He still has the problems attached to that in terms of having more difficulty in accessing services.

We have somebody who has been verified by the government of Afghanistan as an Afghan citizen. We also, as is noted in this report, had a person whose circumstances as a Shiah Muslim of Hazara ethnicity were verified by the United Nations High Commissioner for Refugees, who also said that the claims of Hazara Shias are genuine and valid. So there is information from the international body with specialty in refugee circumstances verifying that Hazara Muslim Shias in Afghanistan have genuine risk of persecution and information verifying that he is actually from where he said he was from: Afghanistan. Yet because this was not accepted by the department until July this year he paid the price of over 4½ years in jail. As this report also notes, there were significant health and welfare consequences.

I also note the experience of his solicitor who, when he made an FOI request, was given the file of a completely different person. That does not fill me with great confidence about the competence of the immigration department either. It is another circumstance of immense damage having been done to a person because of the inhumane components of our migration law. That is unacceptable. Nobody should have to be jailed for that length of time purely on the basis of what has turned out to be a wrongful suspicion about their nationality. I would suggest, given—*(Time expired)*

Question agreed to.

Commonwealth Ombudsman: Covering Statement

Senator BARTLETT (Queensland) (7.02 pm)—I move:

That the Senate take note of the document. Flowing on from what I was just saying, it is hard to come to any conclusion other than that the political message continually being sent by the minister for immigration that there are a huge number of people who are pretending to be Afghans and who are actually from Pakistan would have influenced the decision making of immigration department officials, who are looking at people from Afghanistan. If your minister, your boss, is saying, ‘There are a whole lot of fake Afghans out there who are really Pakistanis,’ and you are looking at claims from someone who claims to be an Afghan, then I do not think it takes any great conspiracy theory or leap of imagination to think that many public servant decision makers, when there is less than 100 per cent certainty about these things, would err on the side of saying: ‘This is probably one of those fake Afghans I keep hearing about.’ That, again, shows that the
responsibility for the problems that developed in the immigration department and the poor culture in the immigration department must be traced back directly to the government policies, the minister at the time and the legislation which allowed that sort of decision to result in somebody being jailed for 4½ years on completely baseless suspicions, as it turned out.

The document I am taking note of here is the overall statement by the Commonwealth Ombudsman—it would have been better if this one had been first, probably—about all of those reports. I have just spoken to the first two that have been tabled, but this document covers the other reports the Ombudsman will be tabling in the future. As this covering statement says, the new section of the Migration Act requires:

... the Commonwealth Ombudsman, upon receipt of a report from the Minister’s Department (DIMIA), to provide the Minister with an assessment of the appropriateness of the arrangements for the detention of a person who has been in detention for two years or more.

As at 29 June this year, when this function of the Ombudsman commenced, there were 149 people who had been in detention for more than two years for whom reports were to be prepared no later than 29 December 2005. We have had two tabled and we are now into December. As I said previously, those two were tabled on 12 October, so there may well be others which have been subsequently provided but not tabled. It is also worth noting that, during the six months subsequently, as many as 50 other people in detention have become subject to the reporting obligation. So we have around 200 people that the Ombudsman has to examine individually. They are individual cases. He, to his credit, is being very thorough. He is trying to ensure that each person has the opportunity to have an interview and for other material to be examined. The assessment of the appropriateness of those arrangements must be provided in a report and that must be tabled in the parliament.

This is a welcome role. It should be emphasised that the Ombudsman’s recommendations do not have any weight, any standing or any legal requirement. The first two reports the minister has tabled indicate what has happened to both of those people, including that one person has got a temporary protection visa and the other has left the country. So the first two have already been resolved in one way or another.

Whilst this is a valuable mechanism, particularly valuable in providing an oversight of the human consequences of the policy of the past few years, again I think it has to be emphasised that this is not just a matter of looking at the mess that was created. The act is still the same. The same thing can still happen. The same thing has already happened, with seven asylum seekers from West Timor, for no reason at all and at great public cost, bundled up and shipped off to Christmas Island to be detained over there so that they are out of the sight of scrutiny. The act is still the same. There might be a few other mechanisms for scrutiny, and that is always welcome, but the potential for unnecessary harm being done to people who do not have legal rights to properly appeal decisions and due process still exists in the act. Until we change the act then these sorts of, I might say, extremely arduous processes of oversight will continue.

The expense involved in all this is enormous and it is another indictment on the government that it should be necessary that this quite enormous almost redoing of every single individual case has to be done because of the incompetence that has occurred to date. I seek leave to continue my remarks. (Time expired)

Leave granted; debate adjourned.
Consideration

The following government documents tabled today were considered:

Human Rights and Equal Opportunity Commission—Report—No. 31—Inquiry into a complaint by Mr Zacharias Manongga, Consul for the Northern Territory, Consul of the Republic of Indonesia that the human rights of Indonesian fishers detained on vessels in Darwin Harbour were breached by the Commonwealth of Australia. Motion to take note of document moved by Senator Bartlett. Debate adjourned till Thursday at general business, Senator Bartlett in continuation.

Australian Rail Track Corporation Limited (ARTC)—Report for 2004-05. Motion to take note of document moved by Senator Webber. Debate adjourned till Thursday at general business, Senator Webber in continuation.

The following orders of the day relating to government documents were considered:


General business orders of the day nos 40 to 42, 44, 45, 47, 48 and 53 relating to government documents were called on but no motion was moved.

NOTICES

Presentation

Senator Troeth to move on the next day of sitting:

That when a bill for an Act to repeal ministerial responsibility for approval of RU486 is introduced into the Senate, the bill be referred immediately to the Community Affairs Legislation Committee for inquiry and report by the second sitting day in 2006.

ADJOURNMENT

Senator EGGLESTON (Western Australia) (7.08 pm)—I have recently been advised of a dispute involving a general aviation company called Polar Aviation Pty Ltd, which operates out of Port Hedland, and the Civil Aviation Safety Authority, CASA, which I want to speak about today. The company has been involved in a long-running dispute with CASA, which has dragged on for about 19 months, still with no end in sight.

Polar Aviation and its managing director, Mr Clark Butson, are a Pilbara success story. The company commenced operations in Port Hedland almost 25 years ago with just one
aircraft. Today, it owns four single engine aircraft and four twin engine aircraft, which are available for charter, along with a training aeroplane. This is a company that is committed to the Pilbara, employing eight full-time people. Until its difficulties with CASA, Mr Butson had held the chief pilot and chief flying instructor positions since the inception of the company. I have to say that it would be hard to find someone with more experience and expertise. He has 18,000 hours of flying experience and 8,000 hours of instruction experience, and has held a grade 1 instructor rating for decades. Hundreds of people have learnt to fly at Polar’s flying school.

While I was on the Port Hedland town council, I was for several years the chair of the management committee of the Port Hedland International Airport and I can verify that Polar Aviation was a well-regarded general aviation company and that Mr Butson had an excellent professional reputation. Polar Aviation has a commendable safety record, clocking up in the order of 4,500 flying hours annually without any accidents whilst servicing the Pilbara and the north-west in general. Indeed, in all of the years that it has held an air operator’s certificate for its air work, charter work and flying school, there has been not a single accident and only two incidents, when just a pilot was on board.

CASA undertakes regular audits of organisations which hold air operator’s certificates, and, up until May 2004, I am advised by Polar Aviation, the outcomes of the audits were favourable. However, at the audit in May 2004, a wholly regrettable and unfortunate incident occurred, which Polar believes has coloured CASA’s attitude towards the company. According to information I have received from Polar, Mr Butson became involved in three very heated arguments with an auditor, and I am told that the audit team left the premises of Polar Aviation smirking.

Subsequent to this incident, CASA has issued Polar with eight aircraft survey reports and no less than 14 requests for corrective action and three audit observations. In responding to these demands, Polar has argued that CASA failed to take account of changes that had occurred and were continuing to occur within the company, such as the progress which had been made in converting the lessons for the general flying progress test to a web based format, the conversion of the company’s operations manual to a web format, revised procedures for the rostering of pilots and a commitment to an electronic format for internal administration.

Polar Aviation responded to the requests for corrective action by CASA and commented on the audit observations that were made. Then, on 16 July 2004, CASA issued the company with three separate show cause notices concerning the air operator’s certificate and revocation of the chief pilot and chief flying instructor positions. These corrective action requests represented a huge workload for a small company that was still trying to work its way through the previous requests for corrective action. By 7 September 2004, CASA had acquitted all but three of the RCAs, and by 2 December 2004 only one RCA remained unresolved—that pertaining to competency based training, even though Polar Aviation had developed a computer based manual for the purpose of providing CBT and is one of the five per cent of flying schools around the nation which are CBT compliant.

On 18 October 2004, there was a meeting of seven CASA personnel and two representatives from Polar. The meeting lasted 4½ hours and I am advised that Polar came away from the meeting with the distinct impression that matters would be resolved relatively quickly. Given this, as well as the substantial progress that had been made in responding to CASA’s demands, Polar Aviation
was surprised when on 18 January 2005 it was advised by the regulator that its air operator’s certificate had been revoked, as had the chief pilot and chief flying instructor positions held by Mr Butson.

Polar commenced action in the Administrative Appeals Tribunal about this. Subsequently, CASA offered to issue an air operator’s certificate provided that a new chief pilot, approved by CASA, was appointed. In fact, a chief pilot acceptable to CASA was found but, in the last business hour of the day in which the air operator’s certificate was due to expire, CASA changed its mind and said it would only issue another air operator’s certificate if Polar discontinued its action in the Administrative Appeals Tribunal and agreed to an enforceable voluntary undertaking, which the company refused to do.

On 2 February 2005, CASA announced that it would not renew Polar Aviation’s air operator’s certificate. However, on 11 February, the Administrative Appeals Tribunal decided to hear the company’s further complaints and restored the air operator’s certificate pending a complete hearing, which occurred in the first week of August 2005. I am advised that the Administrative Appeals Tribunal agreed that the claims that CASA made against Polar Aviation in regard to safety were not credible. I am further informed that the evidence of CASA’s WA area manager was not compelling and that when he was asked under cross-examination at the Administrative Appeals Tribunal to define the term ‘safety culture’, he was unable to do so. According to Polar Aviation, faced with the inept display by the WA area manager, CASA’s lawyers sought to arrange a compromise with the company. This was done and the Administrative Appeals Tribunal ordered CASA to reinstate the authority of chief flying instructor to Mr Butson and directed CASA to issue an air operator’s certificate for Polar.

The Administrative Appeals Tribunal also directed CASA to employ its best endeavours to assist the company back to normal operations. Although CASA had told the Administrative Appeals Tribunal that it wanted the matter speedily resolved, it decided to appeal the AAT’s decision to the Federal Court. However, the court found in favour of Polar Aviation and awarded full costs against CASA.

Polar Aviation thought this brought the matter to an end, but on 2 September this year CASA decided to impose a number of unusual conditions on the company’s air operator’s certificate. Moreover, according to Polar, CASA continues to flout the orders of the Administrative Appeals Tribunal by refusing to allow the flying school to operate. Meanwhile, CASA’s actions against the company continue to take their toll, with legal costs in the order of $20,000 per month. To date, it has cost Polar Aviation in the order of $350,000 to challenge CASA’s decisions.

Mr Butson is convinced that CASA’s actions amount to a vendetta against him and his company, having its genesis in the heated argument that he had with the auditors in May 2004. Aviation sources have told me that it is customary for CASA to audit an air operator every three years. Yet, in a period of just 15 months, CASA conducted three audits on Polar Aviation. To me, Mr Butson’s claim that CASA has failed the test of an impartial regulator seems not unreasonable. It seems difficult not to conclude that the behaviour of CASA in this matter warrants further investigation.

Senator Johnston

Senator STERLE (Western Australia) (7.18 pm)—On 10 November 2005, Senator Johnston said to the Senate:

Senator STERLE (Western Australia) (7.18 pm)—On 10 November 2005, Senator Johnston said to the Senate:
Senator Sterle, I am saying to you: go home and do your homework, because you have an opportunity in opposition.

Well, Madam Acting Deputy President, I want to make the most of my opportunity, so I have taken Senator Johnston's advice on board. I went home and I did my homework on Senator Johnston. I did my homework on Senator Johnston's political campaigning for his factional allies within the Western Australian branch of the Liberal Party. I learned that Senator Johnston has a pretty dismal record when it comes to campaigning. I learned of his failed campaign to install friend and close factional ally Mr Andrew Murfin into the seat of Swan during the last federal election. Senators might remember the sleazy shambles that was the 'Murfin for Swan' campaign. Salvation Army Major Neil Venables was so troubled by Mr Murfin shamelessly campaigning in his Salvo's gear that he told the media:
We have told him he is not to use the Salvation Army or our uniform in his campaigning as a Liberal candidate. The Salvation Army is non-political and this is totally inappropriate.

I learned of Senator Johnston's failure to install friend and close factional ally Colin Edwardes into the Western Australian state seat of Kingsley during the 2005 state election. Losing Kingsley was quite a feat, considering that it was a blue-ribbon Liberal seat from which Colin Edwardes's own wife had just retired.

I learned of Senator Johnston's role on Team Blue—the brains trust behind the slaughter of the Western Australian Liberal Party at the 2005 WA state election. Team Blue were responsible for formulating the central campaign strategy for the Colin Barnett-led Liberal opposition. The suicidal centrepiece of Team Blue's strategy was the uncosted and unfunded proposal for a water canal from the Kimberley to Perth, which was affectionately referred to as the cane toad super highway by me and my Labor mates. It was a mystery to us in the Labor Party why Team Blue chose to adopt such a risky strategy. Maybe Senator Johnston's first speech gives us a clue. In that speech, Senator Johnston told the Senate:

I have great concern that we may not see the likes of such a project or, for that matter, a project like the Ord River scheme again.

Could the senator's nostalgia for the Ord River scheme have clouded his judgment on the canal project? We can only guess.

For people who think that everything that Senator Johnston touches turns to mud, I will concede that he was successful in installing at least one of his friends and close factional allies into the Western Australian parliament. Senators might know Mr Peter Collier as the man who got into trouble for forging the signature of Mr Peter Getgood on a Liberal Party membership application form without his knowledge in the year 2000. Despite such scandalous and possibly criminal behaviour, Senator Johnston and his factional cronies did the numbers to dump sitting Liberal member of the Western Australian Legislative Council, Mr Alan Cadby—

Senator McGauran—I rise on a point of order, Madam Acting Deputy President.
There was an obvious reflection on the senator when the speaker mentioned ‘possibly criminal behaviour’, and that is a slur.

The ACTING DEPUTY PRESIDENT (Senator Moore)—Senator Sterle, are you prepared to withdraw the comment about ‘possibly criminal behaviour’?

Senator STERLE—Yes, Madam Acting Deputy President. As it turned out, the Labor Party is eternally grateful for Senator Johnston’s giving Alan Cadby the back of the axe, because within months of being dropped from the ticket Mr Cadby crossed the floor and voted with Labor to pass the one vote, one value legislation which anti-Labor parties had previously managed to block for over 100 years.

I also did my homework on Senator Johnston’s business dealings—in particular, his business dealings with close friend and business partner Nik Zuks. Senators might remember Nik Zuks from his time as managing director of Kingstream Steel, which recently went into administration. Senators might also remember Kingstream Steel as the company that kicked in $28,000 to get Yaburara native title off the ground. Many Western Australians were puzzled why Nik Zuks would invest so much money into the Yaburara native title claim, given that he has been reported as describing native title as ‘legal extortion’ which is the result of ‘stupid legislation’ given to Aborigines by politicians—puzzled, that is, until it was revealed that the Yaburara native title claim overlapped Kingstream’s major competitor, Austeel.

Senators might well ask what all this has to do with Senator Johnston. The Yaburara coincidentally retained the services of law firm Macdonald Rudder to manage their claim, who coincidently appointed then state president of the Liberal Party David Johnston as their lawyer. According to an affidavit by the Yaburara’s accountant, Mr Johnston and Macdonald Rudder kept more than $1 million of the Yaburara’s money for their fees and disbursements. One of these disbursements was—wait for it—to Nik Zuks of Kingstream, who was personally paid $90,000. What a cunning deal: Mr Zuks’s company paid $28,000 in seed money for the Yaburara claim; he personally received a $90,000 kickback from Mr Johnston’s law firm; and Mr Johnston’s—

Senator Coonan—Madam Acting Deputy President!

The ACTING DEPUTY PRESIDENT—I think that has to be withdrawn, Senator.

Senator STERLE—No worries, Madam Acting Deputy President. It appears that Senator Johnston continued his relationship with Nik Zuks, who remained a non-executive director of New Millennium Resources—of which Senator Johnston was chairman—until 2004. And this was all in spite of the fact that Kingstream Steel fell into administration in November 2001, owing more than $6 million, at around the same time Nik Zuks’s private company Greenshaw went into liquidation.

So, what did I learn about Senator Johnston? I learned he has a spectacularly unsuccessful campaign record and a fairly dodgy business history.

The ACTING DEPUTY PRESIDENT—Senator, I think you need to withdraw that last comment.

Senator STERLE—I will withdraw that.

Senator Coonan—I would like to raise a point of order, Madam Acting Deputy President. This is the third time in a 10-minute speech that it has been necessary to call Senator Sterle to order for making unparliamentary remarks and reflecting on a senator. I think he has gone very close to the wind in reflecting on someone who may well want to have the record corrected in any event. It
behoves all of us to be very careful about the kinds of allegations and conclusions you draw from such a cursory examination as has been described. I would be very grateful if you would draw to Senator Sterle’s attention that we do have some propriety and some standards in how these matters are put on the record in the Senate.

The ACTING DEPUTY PRESIDENT—Senator Sterle, you have withdrawn comments as required. Please consider your future comments.

Senator STERLE—I will. In conclusion, I would like to thank Senator Johnston for the challenge. He may have told the Senate that ‘hell would have to freeze over before anyone in the government listened to Senator Sterle’, but, through you, Madam Acting Deputy President, I would like to offer him some friendly advice: if Senator Johnston is going to dish it out, he had better be prepared to cop it as well.

Turkey

Senator BARTLETT (Queensland) (7.27 pm)—Tomorrow in the Great Hall in Parliament House we will be having a reception and lunch with the Prime Minister of Turkey, Mr Erdogan. I think it is actually the first time a Turkish Prime Minister has visited this country, I normally do not speak a lot on foreign affairs matters; it is not my portfolio area. But I had the privilege—and it certainly was a privilege—to have been part of a parliamentary delegation to Turkey just last month. Like many parliamentarians who have been on overseas delegations, I believe that, while some of the overseas trips, I think we would all have to admit, are less than useful, those that are useful can be immensely valuable and immensely informative. Certainly this visit to Turkey was both informative and incredibly useful.

I think there are a lot of opportunities for Australia and Turkey to have far greater links, at a community level as well as a business and political level. We have that unique link of our history regarding Gallipoli, but we do need to make sure that our links, our relationship and our perceptions of each other are far broader than that particular very significant event. In saying that, I think we need to not gloss over some of the issues that are present in Turkey today: human rights issues and issues that need to be resolved from the past—in the same way, I must say, that we should not gloss over flaws and unresolved issues in regard to our own nation’s history.

I will not speak about that tonight due to time limitations, but I use the example of the outrageous situation in Queensland and other states where we have still not provided full recompense for wages stolen from Aboriginal people. That is not even a matter of compensation but simply of paying people the wages they are entitled to. That is one small example but it is a very important reflection of many other areas of unacknowledged and unredressed injustice against Indigenous Australians. So, while I note some of those problems and unresolved issues in Turkey, I certainly do not do so with any inference that somehow Australia is without fault either.

Issues that relate to the role, position and treatment of the Kurdish minority in sections of Turkey are a double-edged sword. A small minority of people from a Kurdish background engage in occasional acts of violence, which do not do their cause any good. That does not negate some of the injustices perpetrated against them but I think responding to those through violent acts is not helpful, is counterproductive and cannot ever be supported. But there are still issues which are clearly still very touchy and very immediate issues in modern Turkey.

The Turkish occupation of part of the island of Cyprus is another issue that is very
immediate. I am a person who has always thought that it was pretty cut and dried about the inappropriate occupation of Cyprus by the Turks. Having said that, I think the unfortunate rejection of the referendum a few years ago by the Greek Cypriots, despite the involvement of the United Nations and Kofi Annan, does make the situation a little bit murkier. The referendum was recommended, and the Turkish side of the divided island voted in favour of it. They did what was required there for a whole bunch of reasons. The no vote from the other side has left things in a much more difficult situation and makes it a little bit harder to be unequivocal in criticising Turkish actions, despite my continuing belief that some things done in the past cannot be supported. There are certainly also freedom of speech issues in Turkey that need to be addressed.

Having mentioned all of those issues, one thing that happened in the week before our delegation got to Turkey was that agreement was reached to start negotiations for Turkey to gain entry to the European Union. My personal view is that that would be immensely valuable, not just for Turkey but also for Europe and the entire globe. Turkey exists in an incredibly significant region and geography is something we cannot escape. It is a key part of not just our history but also our destiny. The geography of Turkey is quite unique and extremely significant. Turkey is often talked about as a crossroads but it is also referred to as a bridge between East and West, between Muslim and Christian, between Europe and Asia and between different periods of history. For that reason, entry to the EU presents a magnificent opportunity for some of the misunderstandings, differences of opinion and conflicts of the current era and, indeed, of the past to be resolved by shifting from being a bridge to actually being included and being much more part of a harmonious integration, rather than simply a narrow bridge. I believe it would present a real opportunity to start to water down and remove some of the clear tensions that exist between parts of the Islamic world and parts of the Western world.

Turkey is very much Western in the way it operates and in its mindset, even though only a small percentage of it, from Istanbul to the west, is on the European continent. The fact that Turkey is so determinedly, one might say almost obsessively, secular is a key part of that. There are strong historical reasons for that. From an Australian perspective, it seems a bit too obsessive. The strong concern about the wearing of headscarves in any official building, for example, is because of a symbolic link that has to official Islam. The understandable apprehension of having Islamic involvement in an official sense in government activities has led to a situation where that needs to perhaps be watered down and made more realistic, but one cannot be critical of that because of the history. As a country that shares a border with Iran, Iraq, Syria, parts of Europe, and some other countries to the east, as well as with the Black Sea, it is understandable that a particular desire not to go down the unfortunate road that countries like Iran have gone down could lead to taking a very determined approach against even the faintest recognition of religious involvement in government activities.

I believe that Europe needs to be much stronger in embracing the desire of the Turkish government and sections of Turkish society to unite with Europe. I have come back to where I started from: that Australia has a unique link with Turkey, not to mention a significant Turkish diaspora in Australia. If we can build on that unique history and assist in being part of Turkey moving, as I hope it does, to being part of Europe and to being a more significant strategic player on the global scene then it can assist Australia as well—Australia having been being part of
that and having a special link to Turkey—as it becomes more significant and more crucial as that bridge between all those different parts of our modern world. That is not to negate or ignore some of the human rights issues that I believe are still genuine and significant, but to recognise that we have that ability to engage. I believe it is an opportunity that we should seriously and proactively go towards. The parliamentary delegation was a key part of that.

Lots of countries have had battles and wars over the years and, over time, in many cases the hatred and the tensions have dissipated. Gallipoli and the link between Australia and Turkey is one of those rare ones where even almost at the time of the battle, and certainly very soon afterwards, the positive feelings between each country were present. It is hard to overstate what a positive foundation that presents to us. But it is only a foundation. We must do a lot more to build on it. I welcome the Turkish leader to the country and hope that that will be another part of strengthening and broadening the links. Tourists from Australia going to Turkey certainly want to go to Gallipoli and many other places. (Time expired)

Religious Festivals

Senator SANTORO (Queensland) (7.37 pm)—The Senate’s final sitting week before Christmas seems an appropriate time to make some comments in the adjournment debate about the place of that Christian religious festival in the Australian tradition. At the weekend, we read in the Brisbane newspaper the Sunday Mail that an Islamic think-tank would like to strike the term ‘Christmas’ from the Australian language. It is firmly disputed that this call was in fact made, at least in the form it was reported, or for that matter that it was made by the Forum on Australia’s Islamic Relations. Nonetheless, I believe there are some things we could profitably consider about our Christmas tradition in the context of the multicultural nature of Australian society today.

We are a multicultural country and the better for it. We are a tolerant country and the better for that too, but we need to remember that Australia’s tolerance comes from its Christian foundations. That is a fact. It might be an unpalatable fact to the tiny minority of Australians for whom secularism is now a fundamentalist faith or the even more minuscule minority from non-Christian traditions who want to re-engineer our country, but it is a fact nonetheless. It is true that Christmas has become just a shopping festival for many Australians, but that does not mean that practising Christians cannot observe and celebrate the religious festival from which the secular Christmas of modern times has come. It does not mean that the family nature of Christmas—a time when the season in the Southern Hemisphere makes it possible for families to holiday together—is devalued or, even less, that it is increasingly ignored. Nor does it mean that other faiths are marginalised.

In the Australian tradition, Christmas is a summertime festival. Whatever else it is—and it remains primarily a religious occasion for a great many people—it is a convenient calendar marker to begin the annual summer break with a lot of parties and, for many, a spending spree. Practising a religion is not compulsory in Australia. Here, no-one is penalised for non-observance, but having a Christmas binge at the shops or anywhere else is not compulsory either. Some of those who say it is past time to drop what they assert is our national pretence of Christianity would do well to consider the genesis of the fundamental freedoms our society offers to everyone—that is, anyone from anywhere who observes the law and takes part, however peripherally, in our culture.
Australia today is a haven for people from every culture and ethnic or national group. Everyone is free to exercise their own religious or social belief systems. That is real multiculturalism at work in practical terms. The only trouble with multiculturalism as a concept—and it is only a very a minor problem—is that too many people from minority groups within Australian society attempt to use it as an excuse to get ahead of change, to lead change rather than facilitate it. They should be resisted. In Britain, as we know, some local governments have decided that Christmas is Winterval. In America, it is the season of Kris Kringle. But in Australia there is no constituency for such tampering with traditions.

It might be an anachronism, although I do not think it is, but Christmas trees, Father Christmas and all the other paraphernalia of a popular festival of the human spirit continue to hold sway. It would indeed be absurd, as maintained by Queensland Churches Together—representing 11 Christian denominations, including the Roman Catholic, Anglican and Uniting churches—to change the name of Christmas. Christmas is a family celebration. As Family Council of Queensland President, Alan Baker, remarks, it would be impertinent to suggest it should be called anything else. I suggest that we are indebted to the President of the Islamic Council of Queensland, Abdul Jalal, who says of the proposal to discard the term ‘Christmas’ that Muslims have no right to question what Christians call Christmas. He might have added that Muslims have no wish to make such a demand in any case, except that this is self-evident.

We certainly do need to be responsive to change in our society, as long as this takes proper account of the time frames over which substantial social change and changes in practice and habit generally take place. We need to be inclusive too. I believe that, generally speaking, we as Australians are. Non-Christian religious communities celebrate their own festivals and expressions of faith with perfect freedom and with the support of the Australian community at large. I think particularly of Ramadan in the Islamic community and Hanukkah in the Jewish community. That is as it should be. The Christmas season, that time when the vast majority of Australians celebrate the fundamental corporeal and spiritual benefits of life, is as good an opportunity as any to remind ourselves of that.

HIV-AIDS

Senator KIRK (South Australia) (7.42 pm)—I want to take the opportunity this evening in the few minutes that I have remaining to highlight the global HIV-AIDS crisis. I fear and am very much concerned that the HIV-AIDS epidemic continues to outstrip global and national efforts to contain it. It continues to pose a severe threat to future generations. Madam Acting Deputy President Moore, I am aware of the fact that both you and Senator Payne have spoken in this past week about this important issue. I do not want to repeat what you have both said, but want to raise this evening the important work that has been done by a number of organisations. I want to pay particular tribute to Oxfam Australia and to a couple of its representatives I met last week here in Canberra, Alison Wells and Matthew Willman, who were both here for an exhibition showing here in Canberra called A Positive View.

Many senators would have been to see that exhibition. It was a photographic exhibition that toured Australia and finished up here in Canberra last week. It was a collection of 40 images that showcased the work of Oxfam Australia’s community based partners in South Africa in responding to HIV-AIDS. The photographs were taken by Matthew...
Willman, who was here in Canberra, along with another photographer, Paul Weinberg. They really were wonderful photographs. Madam Acting Deputy President Moore, I can see that you saw them. They were powerful, emotive and engaging, and they showed a range of contexts, people and the activities of Oxfam Australia’s partner organisations in the community and how they work in South Africa. They showed the reality of the lives that people living with HIV and affected by AIDS face and their strength and resilience in responding to the daily challenges of the epidemic and the poverty in which they live.

In the time I have available to me, I want to draw the Senate's attention to what a huge problem HIV-AIDS is, particularly on the African continent, and point out the important role that Australia could play in contributing funding to help combat this problem. It is estimated that the number of people living with HIV globally has reached its highest level ever, with an estimated 40.3 million people living with HIV. Nearly half of these are women. To put that into perspective, that is approximately two times the population of Australia. So twice the number of people living in Australia are infected with HIV.

Sadly, just this year, 4.9 million were newly infected with HIV, with over half of them being young people aged between 15 and 24. Of that number, 65 per cent reside in sub-Saharan Africa, and in East Asia and South-East Asia—who, of course, are our regional neighbours—1.13 million were infected. A staggering 3.1 million people died of AIDS-related illnesses this year, including more than half a million children under the age of 15. The question is: what is the world community doing about it and where is the response at now? It is quite shocking to realise the amount of money that is estimated to be required over the next few years to address this global problem. For example, it is estimated that, in 2006, $14.9 billion will be required—and the figures just increase in the years after that.

Due to the time available to me, I am going to have to skip through the notes that I have here, but what I want to draw attention to tonight is the question of Australian aid to Africa. Australian aid to Africa for HIV and AIDS fell from $111 million in 1994-95 to just $69 million in 1998-99—that is close to being halved—and it has stayed at or below that figure in the years 2001 to 2005. In percentage terms, Australian aid for Africa has fallen from above six per cent of the total aid budget to below four per cent. This decline has occurred at a time when we have had domestic economic growth and budget surpluses in Australia and at a time when other donors—for example, the UK, the USA and the EU—are increasing their funding for Africa in light of the urgent problem of Africa’s limited progress towards the MDGs. The Australian government seems to view other donors’ increased support as justification for not increasing funding from Australia.

Tonight I want to draw the Senate’s attention to the imperative, especially at a time of economic growth for Australia, not only to focus on the Asia-Pacific region, as important as it is—of course we have to focus our attention on our neighbours—but also to realise that there is a tragic circumstance occurring in Africa and we really should be contributing funds to that area comparable to the funds being contributed by nations such as the UK, the USA and the European Union.

Senate adjourned at 7.48 pm

DOCUMENTS
Tabling
The following government documents were tabled:
Australian Communications and Media Authority—Reports for 2004-05—
   National Relay Service provider performance.

Telecommunications performance.
Australian Institute of Aboriginal and Torres Strait Islander Studies—Report for 2004-05.
Australian Rail Track Corporation Limited (ARTC)—Report for 2004-05.
Department of Family and Community Services—Report for 2004-05—Corrigenda.


Human Rights and Equal Opportunity Commission—Report—No. 31—Inquiry into a complaint by Mr Zacharias Ma
   nongga, Consul for the Northern Territory, Consul of the Republic of Indonesia that the human rights of Indonesian fishers de
   tained on vessels in Darwin Harbour were breached by the Commonwealth of Australia.

Tabling
   The following documents were tabled by the Clerk:
      Fisheries Management Act—Southern and Eastern Scalefish and Shark Fishery Management Plan 2003—Determinations—
      2006 SESSF D3—Overcatch and Undercatch—2006 Season
         [F2005L03904]*.
      2006 SESSF TAC D1—Total Allowable Catch Determination—2006 Season
         [F2005L03894]*.
      2006 SESSF TAC D2—Total Allowable Catch Determination for Non-Quota Species—2006 Season
         [F2005L03903]*.

Law and Justice Legislation Amendment (Serious Drug Offences and Other Measures) Act—Select Legislative Instrument 2005 No. 293—Law and Justice Legislation Amendment (Serious Drug Offences and Other Measures) Transitional Regulations 2005 [F2005L03950]*.
Services Trust Funds Act—Royal Australian Navy Relief Trust Fund Regulations 1951—Royal Australian Navy Relief Trust Fund Rules [F2005L03672]*.
Support Accommodation Assistance Act—Supported Accommodation Assistance (Form of Agreement) Determination 2005 [F2005L03886]*.

Governor-General’s Proclamation—Commencement of Provisions of an Act
Australian Workplace Safety Standards Act 2005—Sections 3 to 9—1 January 2006 [F2005L03859]*.
Australian Competition and Consumer Commission—Report to the Australian Senate on anti-competitive and other practices by health funds and providers in relation to private health insurance for the period 1 July 2004 to 30 June 2005.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Defence Headquarters Joint Operations Command**

*(Question No. 1065)*

Senator Mark Bishop asked the Minister for Defence, upon notice, on 8 August 2005:

1. When will an announcement be made on the successful tender for the Defence Headquarters Joint Operations Command in Bungendore, New South Wales.
2. Can information be provided on the updated time frame for the design process, including: (a) the construction phase; (b) installation of internal fit-out; and (c) occupation.
3. (a) What was the original announced cost of the project; and (b) what is the current estimated cost of the project, including: (1) construction, (ii) infrastructure, and (iii) installation of internal fit-out.
4. What funding commitments will be made by the Commonwealth Government to assist local communities which will be affected by: (a) the construction process; and (b) a fully-operating headquarters.
5. What funding estimates have been made for road upgrades to: (a) Kings Highway through Queanbeyan and Bungendore; (b) Canberra Avenue, Queanbeyan; (c) other roads in New South Wales and the Australian Capital Territory which will have increased traffic due to commuters from the Canberra area; and (d) in particular, the four rural intersections in Weetalabah, Captains Flat Road, the Ridgeway and Regents Drive.
6. (a) On how many occasions have meetings been held with the Australian Capital Territory Government; and (b) what funding is expected to be provided by the Australian Capital Territory Government for road access from the Australian Capital Territory.
7. What commitments for road funding have been obtained from the New South Wales Government.
8. Are the costs of all road funding, transport and community assistance included within the total current estimated costs; if not, why not.
9. (a) How many Australian Defence Force (ADF) and Australian Public Service (APS) personnel are estimated to be housed in the new complex; and (b) what proportion of these personnel will be required to undertake shift work.
10. How many ADF personnel employed at the current operations headquarters sites will be required to relocate.
11. What is the estimated travel time by road from: (a) Canberra Airport compared with the same travel to Russell Hill; and (b) between Russell Hill and the new site.
12. Given the likely significant relocation of ADF families to the shire, what planning and funding has been allocated to Palerang Council to assist with improvements to local services, including: (a) sporting and leisure facilities; (b) childcare facilities; (c) preschool facilities; and (c) school places.
13. What plans exist for the purchase and/or construction of housing in the shire by the Defence Housing Authority.
14. What planning and funding has been allocated for the introduction of a public transport system to service the new headquarters site.
15. Will ADF and APS personnel who will work at the new site be provided with a transport allowance.
(16) (a) What studies have been completed to investigate claims by the University of Sydney’s Molonglo Radio Observatory that radio frequency interference from the new headquarters will impact negatively on its operations; and (b) what were the findings.

(17) (a) What landscaping of the headquarters site has recently been completed; (b) what types of plants were included; (c) what is the purpose of the trees included in the landscape design; (d) what was the cost; and (e) does the cost of landscaping form part of the overall cost of the project or is it a separate expenditure.

(18) Was recent landscaping undertaken to form a buffer for the increased radio frequency interference from the headquarters; if so: (a) how many years will it take for the trees to adequately provide a buffer to protect the operations of the project; and (b) what other actions have been taken.

(19) (a) What studies have been completed to investigate the impact of aerial spraying by neighbouring properties on the headquarters when it is fully operational; and (b) what are the findings.

Senator Hill—The answer to the honourable senator’s question is as follows:

(1) An announcement on the successful tenderer is anticipated early in 2006.

(2) The time frame for the project is:
(a) the construction period of approximately 26 months, inclusive of approximately four months of detailed design activities commencing in early to mid-2006;
(b) the internal fit-out period is included within the construction period in (a), and the installation of the command, control, communications, computer and intelligence systems is anticipated to require four months after the construction period; and
(c) occupation is anticipated by mid to late-2008 following the installation of the command, control, communications, computer and intelligence systems.

(3) (a) The original announced project cost was $200 million (2001-02, constant prices); and
(b) the current estimated cost is $301 million (2003-04, constant prices), including (i) construction and (ii) infrastructure and internal fit-out of approximately $221 million; and (iii) procurement and installation of the command, control, communications, computer and intelligence systems of approximately $80 million.

(4) No funding commitments have been made to local communities.

(5) No funding estimates have been made for possible road improvements. The Project Office is waiting the completion of a Roads and Traffic Authority, New South Wales report into the section of the Kings Highway between Queanbeyan and Bungendore, which includes the four rural intersections at Weetalabah, Captains Flat Road, the Ridgeway and Regents Drive, and some other local roads in New South Wales. The report is anticipated to be available before the end of 2005.

(6) (a) The Project Office met with Australian Capital Territory officials on 5 May 2004, 23 November 2004 and 31 January 2005; and
(b) Australian Capital Territory Government funding for road improvements has not been discussed as the assessment of the possible impact of the Headquarters traffic on the road systems is ongoing, and linked to the assessment currently being undertaken by the Roads and Traffic Authority, New South Wales, which is anticipated to be available before the end of 2005.

(7) A road funding commitment has not been discussed with the New South Wales Government as the Roads and Traffic Authority, New South Wales assessment of the affected section of the Kings Highway and local roads has not been completed.

(8) The current project cost estimate does not include funding for road improvements, transport or community assistance. Road improvements were not included, as the traffic assessment undertaken for the draft Environmental Impact Statement indicated that the Headquarters traffic could be ac-
commodated within the current capacity of the road network. Funding for a transport service to the Headquarters site was not included as any service would be provided by a commercial provider at its risk. Funding for community assistance was not included as the vast majority of staff would occupy housing provided by the Defence Housing Authority in Canberra and Queanbeyan in already-established or newly-developed locations, or seek private housing solutions where the development approval would have included consideration of a provision for community assistance.

(9) (a) The new Headquarters staff structure is for an estimated 675 Australian Defence Force (ADF) personnel and 75 Australian Public Service (APS) personnel to work at the new facility; and
(b) An estimated 60 ADF and APS staff will undertake the shift component of watch keeping duties.

(10) An estimated 650 ADF personnel would be required to relocate from the current Headquarters to the new Headquarters.

(11) The estimated travel time by road from:
(a) Canberra Airport to the Headquarters site is 20 minutes, and from Canberra Airport to Russell Hill is 10 minutes; and
(b) from Russell Hill to the Headquarters site is 30 minutes.

(12) Defence does not anticipate any significant relocation of ADF families to the Palerang Shire. The Defence Housing Authority is providing housing solutions for staff in Canberra and Queanbeyan and has no plans to purchase and/or construct housing in the shire. The small number of staff who might choose to reside in the shire would do so in already-established housing locations, in which the Palerang Council would have considered the funding of local services as part of the development approvals for those areas.

(13) The Defence Housing Authority is providing housing solutions for staff in Canberra and Queanbeyan and has no plans to purchase and/or construct housing in Palerang Shire.

(14) Any public transport service to the new Headquarters site would be provided by a commercial provider at its risk. The Project Office has held initial discussions with local bus companies which have expressed an interest in establishing a service, and has been approached by a developer who is assessing the economic viability of providing a railcar service using the existing railway infrastructure.

(15) There has been no decision on the provision of allowances for the new site.

(16) (a) As part of the site selection activities, the University of Sydney Molonglo Observatory Synthesis Telescope conducted a limited study, funded by Defence, where a transmitter was sited at the proposed site and measurements of the impact of increasing radio frequency interference upon observations were taken at the telescope. The University also conducted modelling on how signals dissipate with distance (path loss).
(b) The study indicated that a transmitter of five milliwatts operating over one hour would impact significantly on the telescope’s observations. The assessment provided by the University of Sydney is that radio frequency interference generate by the headquarters would be about one tenth of the tested power level (about half of one milliwatt). Although the telescope is able to observe one half of one milliwatt of power output, advice from the University of Sydney is that this level of power should not impact significantly on the telescope’s observations.

(17) (a) The current landscaping activities are to:
(i) determine the types of local native plant species (fast-growing shrubs, and trees) that are suited to planting on the site by both tube stock and direct-seeding methods;
(ii) begin to establish tree screens as part of measures noted in the final Environmental Impact Statement to mitigate possible radio frequency interference on the Molonglo Observatory Synthesis Telescope and the visual impact of the site from some residents at Carwoola;

(iii) establish wildlife corridors linking ecological units of remnant vegetation; and

(iv) restore ecological values, particularly through the re-establishment of Yellow Box (Eucalyptus melliodora) habitat;

(b) the types of plants include an understorey of Silver Wattle (Acacia dealbata), Ploughshare Wattle (Acacia gunnii) and Red-leaved Wattle (Acacia rubida); and an overstorey of Apple Box (Eucalyptus bridgesiana), Red Peppermint Stringy Bark (E. macrorhyncha), Brittle Gum (E. mannifera), Yellow Box (E. melliodora), Red Box (E. polyanthemos), Scribbly Gum ((E. rossii), Candlebark (E. rubida) and Blakely’s Red Gum (E. Blakelyii);

(c) the purpose of the tree screen is as noted in (a) above;

(d) the contracted cost is $116,400 (less GST), which includes site preparation, temporary fencing to keep out stock, weed control, planting and maintenance; and

(e) the cost of the landscaping is included in the overall project costs.

(18) The current landscaping activities are associated with the establishment of a tree screen to mitigate possible radio frequency interference on the Molonglo Observatory Synthesis Telescope.

(a) Advice from the University of Sydney is that screen would begin to cause significant attenuation of radio frequency interference from the site after approximately two to three years when the wattles reach at least one metre in height; and

(b) Other activities that have been undertaken include the replacement of the site boundary fence with one that meets Defence standards and the establishment of a surface and groundwater monitoring program. A small remote weather monitoring station is planned to be installed during October and November 2005.

(19) (a) No studies have been undertaken regarding the impact of aerial spraying by neighbouring properties.

The only aerial spraying activity advised to the Project Office, and noted in the final Environmental Impact Statement, is the aerial spreading of fertilisers (superphosphate). The activity is usually conducted from a small airstrip on the property immediately to the south of the Headquarters site that services both that property and the property immediately to the east of the Headquarters site. Advice to the Project Office is that these activities might be conducted annually, although this would depend on a number of factors, including the property owner’s paddock rotation plans, annual rainfall, stock numbers and the cost of fertiliser and aerial spreading. The landowners have indicated that they will advise the Headquarters when aerial spreading of fertilisers is planned.

**Australian Defence Force: Incapacity Pay**

*(Question No. 1096)*

Senator Mark Bishop asked the Minister for Defence, upon notice, on 18 August 2005:

(1) (a) How many former Australian Defence Force personnel are currently in receipt of incapacity pay under each category A, B, and C; and (b) what is the fortnightly and annual rate of pension paid.

(2) (a) What was the annual reduction in outlays resulting from reduction in pensions following review in 2004; and (b) what is the estimated reduction in future liability.

(3) In how many of the reviewed cases where reductions occurred, was the primary disability related to mental illness.
(4) (a) In 2004, how many cases of payments were suspended due to non-compliance with terms and conditions; and (b) of those cases, how many had payment restored.

Senator Hill—The answer to the honourable senator’s question is as follows:

(1) (a) Categories A, B and C relate to the invalidity classifications under the military superannuation schemes. There are 2,827 former Australian Defence Force (ADF) members receiving Class A invalidity benefits, which include a pension. There are 2,965 former ADF members receiving Class B invalidity benefits, which also include a pension. Since 1992, 3,457 former ADF members have been discharged with Class C invalidity. Class C invalidity benefits do not include a pension. Information about the number of former ADF members initially classified as Class A or B on discharge and subsequently reclassified as Class C is not readily available.

(b) The amount of pension paid to former members assessed as Class A or B varies based on matters such as the individual’s salary and the military superannuation scheme to which they belong. Consequently, the actual fortnightly and annual rates vary for each person.

(2) (a) and (b) The information sought in the honourable senator’s question is not readily available. To collect and assemble such information solely for the purpose of answering the question would be a major task, and I am not prepared to authorise the expenditure and effort that would be required.

(3) The medical details of ADF members, including reasons for medical discharge, are held on personal files and are not readily available.

(4) (a) Six.

(b) None.

Environment: Handfish

(Question No. 1351)

Senator Bob Brown asked the Minister for the Environment and Heritage, upon notice, on 8 November 2005:

With reference to the recovery plan for four species of handfish in Tasmania: (a) what is the impact of fish farms on the four species of handfish and, if this is not known, will it be added to the recovery plan; (b) what percentage of the known habitat of each species is in a protected marine area or habitat; and (c) what, in monetary or other terms, will the Government contribute to the 5-year recovery plan.

Senator Ian Campbell—The answer to the honourable senator’s question is as follows:

(a) The experts consulted for the recovery plan did not identify adverse impacts from fish farms on any of the four species of handfish in Tasmania.

(b) I have been advised that none of the four species of handfish listed under the EPBC Act have been recorded within marine protected areas. However, this is a question for the Tasmanian Government as known sites of handfish populations are within their jurisdiction.

(c) The Recovery Plan will be allocated appropriate levels of funding from the Natural Heritage Trust.

Aboriginal Land Rights

(Question No. 1354)

Senator Crossin asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 8 November 2005:

(1) Was the Government forced to pulp tens of thousands of copies of a brochure designed to promote the virtues of the proposed amendments to Aboriginal Land Rights; if so, why.

(2) Was the pulping due to a lack of communication between the Northern Territory and Federal Governments.
(3) (a) How many copies were pulped; (b) what was the cost of the pulping; and (c) who requested or
instigated the pulping.
(4) Were the brochures pulped because the wording could have been seen as a land grab.
(5) Did the Government distribute the initial brochure in order to assess public opinion.
(6) With whom were consultations held before publishing the initial brochure.
(7) Who made the decision to publish the original version of the brochure.
(8) Was the brochure reprinted in an amended form; if so, when, and to whom was it sent.
(9) Can the Government confirm that the brochure is causing considerable concern at communities and
Indigenous organisations; if so, has any follow up or further explanation been undertaken, or is any
planned, and if so by whom.
(10) Does the Government agree that if land is to be leased, much work will need to be done in relation
to survey, establishing accurate boundaries, and assessing the value for lease purposes as none of
this is done in most communities; who will do this and how will the work be funded.
(11) Will funds be taken from the Aboriginal Benefit Account; if so, why is this justified if Indigenous
people disagree with the scheme.
(12) (a) In what ways will such a scheme as town leases genuinely help Indigenous people; and (b)
where will Indigenous people get the money to buy houses on Community Development Employ-
ment Projects wages where there is no ‘real’ economy.
(13) If land is leased and businesses established, will the permit system be retained for access to Abo-
riginal land; if so, how will this be done to control access but still allow viable business operations
(e.g. a business at Wadeye might require people to drive through a number of other Indigenous
communities, how will the permit system allow for this).

Senator Vanstone—The answer to the honourable senator’s question is as follows:

(1) The Government was not forced to pulp tens of thousands of brochures. The Office of Indigenous
Policy Coordination (OIPC) decided to reprint 10 000 brochures. Through an administrative over-
sight the brochure was printed before the Northern Territory Government had an opportunity to
provide its comments.
(2) Due to an administrative oversight the Northern Territory Government had not been provided with
the opportunity to comment on the first draft.
(3) (a) 10 000. (b) Approximately $2 700. (c) The brochures were pulped and reprinted by decision of
OIPC after considering the views of a senior official in the Northern Territory Chief Minister’s De-
partment.
(4) No. The minor changes between the printed and reprinted brochures were to clarify the new In-
digenous land tenure scheme in the Northern Territory to prevent any misunderstanding.
(5) No.
(6) The OIPC consulted the Attorney-General’s Department, the Department of Family and Commu-
nity Services and Indigenous Business Australia (IBA).
(7) The OIPC.
(8) The brochure was reprinted in its amended form in early October and about 10 000 copies were
distributed mainly to Indigenous organisations in the Northern Territory and through Indigenous
Coordination Centres in the NT, as well as to a range of other interested people such as Northern
Territory parliamentarians.
(9) No. Consultations with individual communities are planned as part of establishing the new scheme.
(10) Survey work will need to be undertaken before a head lease can be finalised. The Australian Government is in discussions with the Northern Territory Government regarding the process for undertaking this work and funding requirements.

(11) Initially funds from the Aboriginals Benefit Account (ABA) will be used to establish the new scheme. The ABA is for the benefit of Indigenous people living in the Northern Territory. The scheme is designed to be self-funding in the longer term with sub-lease payments covering the costs of the scheme.

(12) (a) The new scheme is designed to make the process simpler for those wishing to secure a long term lease for home ownership or business purposes which will help stimulate economic development in townships on Aboriginal land. Indigenous individuals can then either: purchase an existing dwelling and borrow to renovate the property; or build a new house if the land is vacant. The IBA home ownership programme will provide home loans for these purposes. The individual and their family benefit because their living conditions are improved as they can control who lives in their house, they are building an asset for their future, and they experience improved physical conditions due to the renovation or new house. The community benefits because the proceeds from the sale of the property to the individual go back into more housing for the community.

(b) Depending on their individual circumstances, Indigenous people on CDEP will not be excluded from participating in the IBA programme and purchasing their own home. Preliminary analysis by IBA would indicate that people on moderate incomes (such as those on CDEP) can afford the flexible IBA loan/grant package. IBA will act responsibly as a lender and take other relevant factors into consideration when approving a loan, such as other financial obligations, rental and financial history, to ensure that the loan payments will be affordable.

(13) The Land Rights Act (section 70) provides appropriate access to leased land (by lessees and other persons). Similar arrangements would apply to head-leases.